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REPORT OF THE

MINNESOTA LEGISLATIVE

INTERIM COMMISSION

ON

ELECTION LAWS

1961

Interim Commission Report

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Submitted to

THE LEGISLATURE OF THE

STATE OF MINNESOTA

1961

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REPORT OF THE

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ON

ELECTION LAWS

February, 1961

TO THE GOVERNOR OF THE STATE OF MINNESOTA
AND THE MEMBERS OF THE LEGISLATURE:

Gentlemen:

In accordance with Extra Session Laws of Minnesota 1959, Chapter 82, the Election Laws Commission transmits herewith its report on the revision of election laws.

Respectfully submitted,

Chris L. Erickson
Chairman

ELECTION LAWS COMMISSION

Senate

Claude H. Allen
Chris L. Erickson, Chairman
Franklin P. Kroehler
Vladimir Shipka
Donald O. Wright

House of Representatives

Robert Latz, Secretary
Martin J. McGowan, Jr.
Julian O. Newhouse
Rodney N. Searle
F. Gordon Wright, Vice-Chairman

Executive Secretary
Paul David McRoberts

INTRODUCTION

The Election Laws Commission created by Extra Session Laws 1959, Chapter 82, is a continuation of the interim study commission originally established by the 1957 Legislature for the purpose of "revising, clarifying, and codifying the statutes of this state pertaining to elections."

In Minnesota Statutes 1957, the election laws consisted of 13 chapters or subjects. Seven of these chapters, namely those dealing with, (1) definitions, (2) registration of voters, (3) primary elections, (4) general and special elections, (5) conduct of elections, (6) municipal elections, and (7) the selection of United States Senators, were considered by the 1957 interim commission, and its recommendations were adopted by the succeeding Legislature as Laws 1959, Chapter 675.

The 1959 Minnesota Election Law was a repeal of all of the prior-existing elections laws and a re-enactment of the same with substantial changes being made in the seven subjects listed above. As a result, it was the task of the present interim commission to study the remaining six subjects in order to bring the job as near to completion as possible.

Subsequent to the initial organizational meeting, the commission met monthly for the next fifteen months. The meetings were held for the purpose of considering those parts of the election laws that relate to (1) corrupt practices, (2) penal provisions, (3) presidential elections, (4) voting machines, (5) absent voting, and (6) elections contests. In addition, the commission also discussed several miscellaneous matters that were brought to its attention. The necessity of further study of other subjects was also noted, but the limitations of time prevented their consideration. All of the commission's meetings were open to the public, and persons representing every interested organization were given the opportunity to be heard. Much of the testimony was taken down verbatim and appears in the minutes of the meetings. In the study of absent voting and voting machines the public officials who are most directly affected by these laws were polled for their comments and suggestions.

The recommendations of the commission are contained in this report in the form of bills to amend the present law. Where it was felt to be necessary comments are inserted to explain the purpose of the amendments. The bills follow the form prescribed by the legislature except that where the changes from the present law would be indicated by striking through language to be removed and by underscoring new language, in this report the language to be stricken appears within parentheses in capital letters, and new matter is printed in italics.

A BILL FOR AN ACT

RELATING TO ELECTIONS; AMENDING LAWS 1959, CHAPTER 675, ARTICLE XII, SECTION 2, AS AMENDED, SECTION 3, SECTION 5, SECTION 6, SECTION 8, SECTION 9, SECTION 14, SECTION 15, SECTION 20, SECTION 27, SECTION 28, SECTION 30, SECTION 31, SECTION 36, SECTION 39, LAWS 1959, CHAPTER 675, ARTICLE XI, SECTION 11, AND REPEALING LAWS 1959, CHAPTER 675, ARTICLE XII, SECTION 4, SECTION 18, SECTION 26, AND SECTION 29.

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

Section 1. Laws 1959, Chapter 675, Article XII, Section 2, as amended by Extra Session Laws 1959, Chapter 51, Section 1, is amended to read:

Sec. 2. [211.02] [LEGAL EXPENSES.] (NO CANDIDATE FOR NOMINATION OR ELECTION TO ANY ELECTIVE OFFICE IN THIS STATE COMING WITHIN THE PROVISIONS OF THIS ARTICLE SHALL DIRECTLY OR INDIRECTLY PAY, EXPEND, OR CONTRIBUTE ANY MONEY OR OTHER VALUABLE THING, OR PROMISE TO DO SO, EXCEPT FOR THE FOLLOWING PURPOSES, WHICH ARE HEREBY DECLARED TO BE LEGAL EXPENSES.)

(1) FOR THE CANDIDATES' NECESSARY PERSONAL TRAVELING EXPENSES, FOR POSTAGE, TELEGRAPH, TELEPHONE, OR OTHER PUBLIC MESSENGER SERVICE;)

(2) FOR RENT AND NECESSARY FURNISHINGS OF HALL OR ROOM DURING SUCH CANDIDACY, FOR THE DELIVERY OF SPEECHES, AND FOR RADIO BROADCASTING, RELATIVE TO PRINCIPLES OR CANDIDATES;)

(3) FOR PAYMENT OF SPEAKERS AND MUSICIANS AT PUBLIC MEETINGS, AND THEIR NECESSARY TRAVELING EXPENSES;)

(4) PRINTING AND DISTRIBUTION

OF LISTS OF CANDIDATES, SAMPLE BALLOTS, PAMPHLETS, NEWSPAPERS, CIRCULARS, CARDS, HAND BILLS, POSTERS AND ANNOUNCEMENTS RELATIVE TO CANDIDATES, OR PUBLIC ISSUES OR PRINCIPLES;)

(5) FOR COPYING AND CLASSIFYING ELECTION REGISTERS, FOR MAKING CANVASSES OF VOTERS AND FOR CHALLENGERS AT THE POLLS;)

(6) FOR FILING FEES TO THE PROPER PUBLIC OFFICER, AND IF NOMINATED AT ANY PRIMARY FOR CONTRIBUTIONS TO THE PARTY COMMITTEE;)

(7) FOR CAMPAIGN ADVERTISING IN NEWSPAPERS, PERIODICALS, OR MAGAZINES PURSUANT TO THE PROVISIONS OF SECTION 32 OF THIS ARTICLE.) *The expenditure of money or other thing of value by any candidate, personal campaign committee, party committee, or political committee for political purposes other than those provided in this section is prohibited:*

(a) Salaries, wages, and fees;

(b) Communications, mailing, transportation, and travel;

(c) Campaign advertising;

(d) Printing;

(e) Office and other space and necessary equipment, furnishings, and supplies incidental thereto;

(f) Other expenses, not included in the above, which are reasonably related to the conduct of election campaigns.

COMMENT: Under existing law the candidate, in his personal efforts toward being elected, is limited in the purposes for which he can make disbursements to limited enumerated legal expenditures, while his personal campaign committee or a party committee is permitted to spend money for a considerably greater number of purposes. For example, a candidate probably cannot pay for the cost of maintaining a campaign headquarters and for clerical assistance, while his personal campaign committee and a party committee are permitted to do so. At the same time some doubt exists as to whether there are any limitations at all on the purposes for which a volunteer committee can make disbursements except as to those

disbursements that are expressly prohibited. The reason for making this distinction is not known, and the amendment is intended to permit expenditures in several broad areas of activity so long as they are not illegal and are reasonably related to campaigning; and there is no discrimination as to how the campaign is organized, whether personally by the candidate or otherwise.

Sec. 2. Laws 1959, Chapter 675, Article XII, Section 3 is amended to read:

Sec. 3. [211.03] *Subdivision 1. [PRINTED PAID ADVERTISEMENTS, IDENTIFICATION.]* No publisher of a newspaper, periodical, or magazine shall insert either in the advertising columns of such newspaper, magazine, or periodical, or elsewhere therein, any matter paid or to be paid for which is intended or tends to influence directly or indirectly any voting at any primary or general election unless at the head or the foot of the matter is printed in pica capital letters the words "Paid Advertisement," and unless there is a statement at the head or the foot of the matter of the amount paid or to be paid therefor, or a statement that the same is to be paid at regular advertising rates, the name (AND ADDRESS) of the candidate in whose behalf the matter is inserted and of any other person, IF ANY, or the names of the officer and the committee authorizing the publication (AND THE NAME OF THE AUTHOR THEREOF.)

Subd. 2. [RADIO AND TELEVISION ADVERTISEMENTS, IDENTIFICATION.] No radio or television facility nor an agent or employee thereof shall broadcast or cause to be broadcast, any matter, paid for or to be paid for, which is intended or tends to influence, directly or indirectly any voting at any election or primary unless such broadcast shall include a statement, oral or visual, disclosing that the broadcast is a paid political broadcast and giving the name of the candidate in whose behalf the matter is broadcast and the name of any committee and secretary thereof or the name of any other person authorizing the broadcast. The broadcasting facility shall keep a record of such broadcast for not less than one year after such broadcast is made.

COMMENT: Subdivision 1. The proper identification of the source of advertisements in newspapers and periodicals is clarified. Subdivision 2. New matter is inserted in the law to require the identification of radio and TV political broadcasts as to the fact that they are paid for, their source, and in whose behalf.

Sec. 3. Laws 1959, Chapter 675, Article XII, Section 5, is amended to read:

Sec. 5. [211.05] [COMPENSATION EXCEPT FOR "PAID ADVERTISEMENT" PROHIBITED.] No owner, publisher, editor, reporter, agent, or employee of any newspaper or periodical or radio or television broadcasting business shall directly or indirectly solicit, receive, or accept any payment, promise, or compensation, nor shall any person pay or promise to pay, or in any manner compensate any such owner, publisher, editor, reporter, agent, or employee directly or indirectly for influencing or attempting to influence through any (PRINTED) matter in such newspaper or periodical or radio or television broadcast any voting at any election or primary through any means except through the matter inserted in such newspaper or periodical or stated on such radio or television broadcast as "PAID ADVERTISEMENT," and so designated as provided by this article.

COMMENT: The present section prohibiting the insertion of matter in a newspaper or periodical that is paid for with the intention of influencing voting, without labeling the matter as a "paid advertisement," is enlarged in its application to include radio and TV broadcasts.

Sec. 4. Laws 1959, Chapter 675, Article XII, Section 6, is amended to read:

Sec. 6. [211.06] [EXPENDITURES, LIMITS ON.] No disbursement shall be made and no obligation, express or implied, to make such disbursement, shall be incurred by (OR ON BEHALF OF) any candidate or his personal campaign committee for any office under the constitution or laws of this state, or under the ordinance of any municipality of this state in his campaign for nomination and election, which shall be in the aggregate in excess of the amounts herein specified:

(1) (a) For governor, \$7,000, and in addition, five cents for each of the total number of persons who voted in the state at the last general election;

(2) (b) For other state officers, \$3,500, and in addition, five cents for each of the total number of persons who voted in the state at the last general election;

(3) (c) For state senator, \$800, and in addition, five cents for each of the total number of persons who voted in the district at the last general election;

(4) (d) For member of house of representatives, \$600, and in addition, five cents for

each of the total number of persons who voted in the district at the last general election;

(5) FOR PRESIDENTIAL ELECTOR-AT-LARGE, \$500, AND FOR PRESIDENTIAL ELECTOR FOR ANY CONGRESSIONAL DISTRICT, \$100;)

(6) (*e*) For any county, city, village, or town officer, for any judge or for any officer not hereinbefore mentioned, who, if nominated and elected, would receive a salary, a sum not exceeding one-third of the salary (TO WHICH EACH PERSON WOULD, IF ELECTED, BE ENTITLED DURING THE FIRST YEAR OF HIS INCUMBENCY IN SUCH OFFICE) *for the office in the year that the election is held, with the minimum sum allowed, \$100.* If such person, when nominated and elected, would not receive a salary, a sum not exceeding one-third of the compensation which his predecessor received during the first year of such predecessor's incumbency, *with the minimum sum allowed, \$100.* If such officer, when nominated and elected, would not receive a salary and if such officer had no predecessor, and in all cases not specifically provided for, \$100, and no more.

COMMENT: The limitations on the amount of money that a candidate may spend in his campaign for nomination and election are increased. As to the principal offices, the factor of the number of voters is introduced by adopting a stated limit for the particular office plus an additional amount equal to a number of cents multiplied by the number of voters based on the last general election. As an example, a candidate for governor is presently limited to \$7,000. Under the proposed formula, based on the 1,577,509 persons who voted in the 1960 general election, a candidate would be permitted to spend \$85,875.45.

Sec. 5. Laws 1959, Chapter 675, Article XII, Section 8, is amended to read:

Sec. 8. [211.08] [CAMPAIGN LITERATURE, IDENTIFICATION OF SOURCE.] Any person or committee who shall publish, issue, *post*, or circulate, or cause to be published, issued, *posted*, or circulated, otherwise than in a newspaper, as provided in section 3 of this article, any literature, *campaign material*, or any publication, *including but not limited to cards, flyers, signs, banners, leaflets*, tending to influence voting at any primary or election which fails to bear on the face thereof the name and address of the author, the name and address of the candidate in whose behalf the same is published, issued, *posted*, or circulated, and the name and address of any other person or committee causing the same

to be published, issued, *posted*, or circulated, and any person, firm, corporation or committee who shall knowingly make or publish or cause to be published, any false statement in relation to any candidate or proposition to be voted upon, which statement is intended to or tends to affect any voting at any primary or election, shall be guilty of a misdemeanor; provided, nothing herein contained shall be construed as modifying or repealing any of the provisions of section (10 OF THIS ARTICLE) 11 of article XI.

COMMENT: The kinds of campaign literature, other than paid advertising, that must be identified as to their source is clarified and at the same time the requirement that the address of the candidate must appear is omitted. A misreference to another section is corrected.

Sec. 6. Laws 1959, Chapter 675, Article XII, Section 9, is amended to read:

Sec. 9. [211.09] *Subdivision 1.* [PROHIBITED DISBURSEMENTS, UNLAWFUL TO SOLICIT OR RECEIVE.] No person shall solicit, receive, or accept any money, property, or other thing of value, or any promise or pledge thereof, constituting a disbursement prohibited by this article.

Subd. 2. [CONTRIBUTION, LIMITS ON.] No person, firm, association, or co-partnership shall disburse, expend, or contribute in any manner for political purposes during any primary election, a sum of money in excess of \$100 for any one candidate, office, or issue nor an amount in excess thereof in any general or other election except through a party or political committee.

COMMENT: Subdivision 2. That part of this section which was previously left out of the law by a typographical omission is reinserted. The provisions formerly limited the amount of money that could be contributed by a person or association to \$50 unless the contribution was made to a volunteer committee. As it has been reinserted the amount is increased to \$100 in a primary or a general election for each candidate, office, or issue, unless the contribution is made to either a party or a political committee. The result is to permit larger individual contributions without having to contribute to a political committee.

Sec. 7. Laws 1959, Chapter 675, Article XII, Section 14, is amended to read:

Sec. 14. [211.14] *Subdivision 1.* [PAYMENT FOR LOST TIME PROHIBITED.] It shall be unlawful for any person to pay another for any loss or damage due to attendance at the polls, or in registering.

Subd. 2. [PAYMENT FOR PERSONAL SERVICE PROHIBITED, EXCEPTION.]

No person shall pay for personal service to be performed on the day of a caucus, primary, convention, or any election, for any purpose connected therewith, tending in any way, directly or indirectly, to (EFFECT) affect the result thereof, except for the hiring of persons whose sole duty it is to act as challenger and watch the count of official ballots.

Subd. 3. [POLITICAL BADGES AND INSIGNIA, FURNISHING OR WEARING NEAR POLLS PROHIBITED.]

No person shall buy, sell, give, or provide any political badges, buttons, or other insignia to be worn at or about the polls on the day of any primary or election and no such political badge, button, or other insignia shall be worn at or about the polls on any primary or election day.

Subd. 4. [TRANSPORTATION OF VOTERS PROHIBITED.]

No person or committee, or organization shall convey or furnish any vehicle for conveying or bear any portion of any expense of conveying any voter to or from the polls, but this provision shall not apply to persons in the same household, nor shall it prohibit two or more voters from providing (JOINT) transportation for themselves by mutual agreement at their own expense.

COMMENT: The only changes made are to correct a typographical error and clarify the language.

Sec. 8. Laws 1959, Chapter 675, Article XII, Section 15, is amended to read:

Sec. 15. [211.15] Subdivision 1. [SOLICITING VOTES NEAR POLLING PLACE PROHIBITED.]

It shall be unlawful (OR) for any person within 100 feet of the building in which any polling place is situated on the day of any primary or election to ask, solicit, or in any manner try to induce or persuade any voter on such primary or election day to vote for or refrain from voting for any candidate or the candidates of any political party or organization, or any measure submitted to the people; and, upon conviction thereof, he shall be punished by a fine of not less than \$5 nor more than \$100 for the first offense, and for the second and each subsequent offense occurring on the same or different election days, he shall be punished by a fine as aforesaid or by imprisonment

in the county jail for not less than five nor more than 30 days or by both such fine and imprisonment.

Subd. 2. [ELECTION DAY, CERTAIN CAMPAIGNING PROHIBITED.]

Any person who shall at any place on the day of any primary or election broadcast by television or radio any material intended or which tends to influence the voting at any election or circulate or distribute, or cause to be circulated or distributed, any campaign cards, candidates' cards, placard or campaign literature of any kind whatsoever shall be guilty of a misdemeanor. Nothing herein contained shall be construed as modifying or repealing the provisions of (SECTION 5 OF ARTICLE XI) section 6 of article XI.

COMMENT: Subdivision 2. The prohibition on circulating campaign literature on election day is enlarged to include radio or TV broadcasts tending to influence voting.

Sec. 9. Laws 1959, Chapter 675, Article XII, Section 20, is amended to read:

Sec. 20. [211.20] Subdivision 1. [STATEMENTS OF CANDIDATES, PERSONAL CAMPAIGN COMMITTEES AND PARTY COMMITTEES.]

Every candidate, and the secretary of every personal campaign and party committee, shall, (ON THE LAST MONDAY IN AUGUST,) on or before the tenth day following the primary, (ON THE THIRD MONDAY IN OCTOBER,) eight days before the general election, and on or before the tenth day following the general election, file a financial statement verified by the candidate or the secretary of the committee, as the case may be, which shall show in itemized detail all transactions, all disbursements, and all obligations to make disbursements, for political purposes. Each statement, after the first, shall contain a summary of all preceding statements.

Subd. 2. [FILING STATEMENTS, INFORMATION REQUIRED.]

The statement of any candidate and the statement of his personal campaign committee shall be filed with the filing officer of such candidate. The statement of every state committee and of every congressional committee shall be filed with the secretary of state. The statement of every party committee for a legislative district shall be filed with the filing officer of the candidate for senator or representative in such legislative district. The statement of every other party committee shall be filed

in the office of the county auditor of the county within which, or for a subdivision within which, such disbursements were made. Each statement shall give in full detail:

(1) (a) Every sum of money and all property, and every other thing of value, received by such candidate or committee during such period from any source whatsoever which he or it uses or has used, or is at liberty to use for political purposes, together with the name of every person or source from which each was received and the date when each was received, together with the total amount received from all sources in any amount or manner;

(2) (b) Every promise or pledge of money, property, or other thing of value, received by such candidate or committee during such period, the proceeds of which he uses or has used, or is at liberty to use for political purposes, together with the names of the persons by whom each was promised or pledged, the special purposes for which each was promised or pledged, and the date when each was so promised or pledged, together with the total amount promised or pledged from all sources in any amounts or manner;

(3) (c) Every disbursement by such candidate or committee for political purposes during such period, together with the name of every person to whom the disbursement is made, the specific purpose for which each was made, and the date when each was made, together with the total amount of disbursements made in any amounts or manner; and

(4) (d) Every obligation, expressed or implied, to make any disbursement incurred by such candidate or committee for political purposes during such period, together with the names of the person or persons to or with whom each such obligation has been incurred, the specific purposes for which each was made, and the date when each was incurred, together with the total amount of such obligations made in any amounts or manner.

Subd. 3. [STATEMENTS OF POLITICAL COMMITTEES.] Statements shall also be made by any (OTHER) political committee showing the total amount of receipts and disbursements, and for what purpose such disbursements were made. Such statement shall be filed with the auditor of the county in which such committee has its head-

quarters within 30 days after any primary or election.

Subd. 4. [ELECTIONS IN CERTAIN MUNICIPALITIES, STATEMENTS TO BE FILED.] Every candidate (FOR NOMINATION AT A PRIMARY MUNICIPAL ELECTION, OR AT A SPECIAL MUNICIPAL ELECTION, OR AT A GENERAL MUNICIPAL ELECTION IN CITIES OF THE FIRST CLASS,) and the secretary of every personal campaign committee or campaign committee in every primary municipal election, special municipal election, or regular municipal election in all municipalities having more than 20,000 inhabitants, (AND THE SECRETARY OF EVERY PERSONAL CAMPAIGN COMMITTEE OR CAMPAIGN COMMITTEE, ON THE SECOND SATURDAY OCCURRING AFTER SUCH CANDIDATE OR PERSONAL CAMPAIGN COMMITTEE OR CAMPAIGN COMMITTEE HAS FIRST MADE A DISBURSEMENT OR FIRST INCURRED ANY OBLIGATION, EXPRESSED OR IMPLIED, TO MAKE A DISBURSEMENT FOR POLITICAL PURPOSES, AND THEREAFTER, ON THE SECOND SATURDAY OF EACH CALENDAR MONTH, UNTIL ALL DISBURSEMENTS SHALL HAVE BEEN ACCOUNTED FOR, AND ALSO ON THE SATURDAY PRECEDING ANY PRIMARY MUNICIPAL ELECTION, SPECIAL MUNICIPAL ELECTION, OR GENERAL MUNICIPAL ELECTION IN CITIES OF THE FIRST CLASS,) shall file a financial statement, as follows:

(a) Seven days before the primary;

(b) Seven days after the primary;

(c) Seven days before the regular or special election; and

(d) Seven days after the regular or special election.

The statement shall be verified upon the oath of such candidate, such personal campaign committee, or campaign committee, as the case may be, (WHICH STATEMENT) and shall cover all transactions made up to and including the third day before the filing of the statement and not accounted for and reported upon in statements theretofore filed, except that no transactions shall be made thereafter which are not included in the final statement. The statements required by this subdivision shall disclose the same information required in subdivision 2 of this section. Each statement after the first shall contain a summary of all preceding statements and summarize all items theretofore reported under the provisions of this

section. Blanks for all these statements shall be prepared by the secretary of state, and copies thereof, together with a copy of this section, shall be furnished, through the auditor, or otherwise, as the secretary of state may deem expedient, to the secretary of every committee and to every candidate, upon the filing of nomination papers by such candidate, and to all other persons required by the charter of such municipalities or any election law applicable to such municipality, in which any municipal primary election, special municipal election, or (GENERAL) *regular* municipal election is being held or is to be held under the provisions of any such municipal charter, or applicable law, and to all other persons required by law to file such statements who may apply therefor. The provisions hereof relating to the filing of verified statements of expenditures shall be in addition to requirements contained in the charter of any municipalities requiring the filing of verified statements of expenditures in connection with any municipal primary election, special municipal election, or (GENERAL) *regular* municipal election held or to be held (IN CITIES OF THE FIRST CLASS) under any such municipal charter or applicable law. The verified statements so required shall be filed with the proper filing officer of any such municipality.

COMMENT: Subdivision 1. The times for filing statements of receipts and expenditures by candidates, personal campaign committees, and party committees are changed so that the reports will be filed ten days after the primary, eight days before the general election, and ten days after the general election. The pre-primary filing is eliminated.

Subdivision 4. The requirement of filing statements of receipts and disbursements by all candidates and committees in elections in cities of the first class is enlarged to include elections in all municipalities over 20,000. The number of reports required has been reduced from seven to four with the four reports to be made seven days before and seven days after the primary and regular municipal elections. The statements are to include all transactions made through the third day before filing so that if an election is held on a Tuesday, the statement filed the week before or the week after the election would include transactions made through the end of the previous week.

Sec. 10. Laws 1959, Chapter 675, Article XII, Section 27, is amended to read:

Sec. 27. [211.27] [POLITICAL CONTRIBUTIONS BY CORPORATIONS PROHIBITED.] No corporation doing business in this state shall pay or contribute, or offer, consent, or agree to pay or contribute, di-

rectly or indirectly, any money, property, free service of its officers or employees or thing of value to any political party, organization, committee, or individual for any political purpose whatsoever or to promote or defeat the candidacy of any person for nomination, election, or appointment to any political office. If any corporation shall be convicted of violating any of the provisions of this (ARTICLE) *section*, it shall be subject to a penalty in the amount not exceeding \$10,000 to be collected as other claims or demands for money are collected; and, if a domestic corporation, in addition to that penalty, it may be dissolved; and, if a foreign or non-resident corporation, in addition to that penalty, its right to do business in this state may be declared forfeited.

COMMENT: The section containing the prohibition upon political contributions by corporations is amended to clarify that the penalty provided in that section is for violation of the prohibition stated therein.

Sec. 11. Laws 1959, Chapter 675, Article XII, Section 28, is amended to read:

Sec. 28. [211.28] [CORPORATIONS, VIOLATIONS, PENALTIES.] Any officer, employee, agent, or attorney or other representatives of any corporation, acting for or in behalf of such corporation who shall violate the provisions of *section 27* of this article shall be punished upon conviction by a fine of not less than \$100 nor more than \$5,000 or by imprisonment in the state prison for a period of not less than one nor more than five years or by both such fine and imprisonment.

COMMENT: A clarification similar to the one made in the previous section is made in this section to provide that the penalty for violation by an agent of the corporation relates to the prohibition contained in the previous section.

Sec. 12. Laws 1959, Chapter 675, Article XII, Section 30, is amended to read:

Sec. 30. [211.30] [CORPORATIONS, AIDING VIOLATIONS, CROSS MISDEMEANOR.] Any person or persons who shall aid, abet, or advise a violation of the provisions of *section 27* of this article shall be guilty of a gross misdemeanor (; AND, UPON CONVICTION THEREOF, BE PUNISHED AS PROVIDED IN THIS ARTICLE.)

COMMENT: A clarification similar to that made in the previous section is made in this section to indicate that it is the violation of the prohibition upon political contributions by corporations that is referred to in this section. Also the general statutes of the state provide for the punishment of gross misdemeanors while the election laws do not, and accordingly certain unnecessary language is eliminated.

Sec. 13. Laws 1959, Chapter 675, Article XII, Section 31, is amended to read:

Sec. 31. [211.31] [CORPORATIONS, VIOLATIONS, WHERE PROSECUTED.] Violations of the provisions of *section 27* of this article may be prosecuted in the county where such payment or contribution is made or services rendered or in any county wherein such money has been paid or distributed.

COMMENT: A determination was made that the violations referred to in this section for the purpose of indicating where a prosecution should be instituted, were also in reference to the violation of the prohibition upon political contributions by corporations, and a change similar to those made in the previous few sections was made here.

Sec. 14. Laws 1959, Chapter 675, Article XII, Section 36, is amended to read:

Sec. 36. [211.36] [DISQUALIFIED CANDIDATE NOT TO HOLD POSITION.] A candidate elected to an office, and whose election thereto has been annulled and set aside for any offense mentioned in this article, shall not, during the period fixed by law as the term of such office, be appointed or elected to fill any vacancy which may occur in such office. A candidate or other person who is (REMOVED FROM OR DEPRIVED OF HIS OFFICE FOR) *convicted of any offense mentioned in this article*, shall not, during the period (REMAINING AS THE UNEXPIRED TERM OF SUCH OFFICE, OR DURING THE PERIOD FIXED BY LAW AS THE NEXT ENSUING TERM OF SUCH OFFICE) *fixed by law as the term of the office with respect to which the election was held and said offense was committed*, be appointed or elected to fill any vacancy (WHICH MAY OCCUR) in such office. Any appointment or election to an office made in violation of or contrary to the provisions of this section shall be void.

COMMENT: This section provides that a candidate who is convicted of a violation of the corrupt practices act should not be permitted to profit by his wrongdoing and is therefore ineligible to hold office. The amendment clarifies what the disabling period should be with respect to the term of office sought in the election.

Sec. 15. Laws 1959, Chapter 675, Article XII, Section 39, is amended to read:

Sec. 39. [211.39] [VIOLATIONS OF CORRUPT PRACTICES ACT, PENALTY.] Any person violating any provisions of this article, except as otherwise provided herein, shall, upon conviction thereof, be (PUNISHED BY IMPRISONMENT IN THE COUNTY JAIL FOR A PERIOD OF NOT LESS THAN ONE MONTH NOR MORE THAN ONE YEAR OR BY IMPRISONMENT IN THE STATE PRISON FOR A PERIOD OF NOT LESS THAN ONE YEAR NOR MORE THAN THREE YEARS OR BY A FINE OF NOT LESS THAN \$25 NOR MORE THAN \$1,000 OR BY BOTH SUCH FINE AND IMPRISONMENT *guilty of a gross misdemeanor*; and no person so convicted shall be permitted to take or hold office to which he was elected, if any, or receive the emoluments thereof.

COMMENT: The punishment for violation of any provision of the corrupt practices act is stated to be a gross misdemeanor unless a particular provision provides otherwise. The amendment has the effect of requiring a convicted person to be punished according to the punishments provided generally for gross misdemeanors instead of permitting a very wide range of discretion as to punishment.

Sec. 16. Laws 1959, Chapter 675, Article XI, Section 11, is amended to read:

Sec. 11. [210.11] [DEFAMING CANDIDATES, VIOLATION, PENALTY.] Every person who writes, prints, posts, or distributes, or causes to be written, printed, posted, or distributed, any circular, poster, or other written or printed matter, *containing false information with respect to the personal or political character or acts of any candidate*, which is designed or tends to elect, injure or defeat any candidate for nomination or election to a public office (BY REFLECTING ON HIS PERSONAL OR POLITICAL CHARACTER OR ACTS,) shall be guilty of a gross misdemeanor.

COMMENT: The provision relating to defamatory circulars which on its face seems to prohibit the publication of all matter harmful to a candidate regardless of its truth, is amended to conform to the legislature's intent to prohibit the dissemination of false information about a candidate.

Sec. 17. Laws 1959, Chapter 675, Article XII, Section 4, Section 18, Section 26, and Section 29, are hereby repealed.

COMMENT: The sections repealed are numbers 211.04, 211.18, 211.26, and 211.29.

A BILL FOR AN ACT

RELATING TO ELECTIONS; AMENDING LAWS 1959, CHAPTER 675, ARTICLE X, SECTIONS 2, 3, 7, 9, AND 10; REPEALING LAWS 1959, CHAPTER 675, ARTICLE X, SECTIONS 4, 5, 6, AND 8, AND ARTICLE XI, SECTION 35.

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

Section 1. Laws 1959, Chapter 675, Article X, Section 2, is amended to read:

Sec. 2. [209.02] [ELECTION CONTESTS.] (ANY 25 VOTERS OF THE STATE, OR OF ANY POLITICAL SUBDIVISION THEREOF, MAY CONTEST THE RIGHT OF ANY PERSON TO NOMINATION, POSITION, OR OFFICE FOR WHICH THESE VOTERS HAD THE RIGHT TO VOTE, ON THE GROUND OF DELIBERATE, SERIOUS, AND MATERIAL VIOLATION OF THE PROVISIONS OF THE MINNESOTA ELECTION LAW OR OF ANY OTHER PROVISIONS OF LAW RELATING TO NOMINATIONS AND ELECTIONS. ANY DEFEATED CANDIDATE FOR A NOMINATION, POSITION, OR OFFICE MAY MAKE THE CONTEST. THE PROCEEDING SHALL BE COMMENCED BY PETITION FILED IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE CANDIDATE WHOSE ELECTION IS CONTESTED RESIDES, AND THE CONTEST SHALL BE CARRIED ON ACCORDING TO LAW.)

(IN CASE OF CONTESTS OVER NOMINATION, THE COURT SHALL PROOUNCE WHETHER THE INCUMBENT OR TESTANT WAS DULY NOMINATED, AND THE PERSON SO DECLARED NOMINATED SHALL HAVE HIS NAME PRINTED ON THE OFFICIAL BALLOTS.)

Subdivision 1. [CONTEST, WHO MAY INSTITUTE, GROUNDS.] Any voter, including a candidate, may contest the nomination or election of any person for whom he had the right to vote, who is declared nominated or elected to a state, county, legislative, or municipal, or district

court office, or the declared result of a constitutional amendment or other question voted upon at an election by proceeding as provided in this article. The contest may be brought over an irregularity in the conduct of an election or canvass of votes or on the grounds of deliberate, serious, and material violations of the provisions of the Minnesota Election Law.

Sub. 2. [CONTEST, NOTICE FILED, WHERE BROUGHT.] The contestant shall file a written notice of contest specifying the points upon which the contest will be made with the clerk of the district court of the county in which the candidate whose election is contested resides; or in the case of a state office, in any district court of the state, and in that case the place of trial may be changed as in civil actions. If the contest relates to a constitutional amendment or other question to be voted for statewide or to a question to be voted for in more than one county, then the notice of contest shall be filed in the district court of Ramsey County, and the place of trial may be changed as in civil actions.

Subd. 3. [NOTICE OF CONTEST, FILING, SERVICE.] The notice of contest shall be filed within ten days after the canvass is completed, except that if the contest relates to a primary election, the time for filing the notice of contest shall be limited to five days. Within the same period copies thereof shall be served upon the candidate whose election is contested and upon the official authorized to issue the certificate of election. When the contest relates to a constitutional amendment or other question to be voted for statewide or to a question to be voted for in more than one county, the secretary of state shall be designated the contestee, and a copy of the notice of contest shall be served upon him within ten days, or five days in the case of a primary, after the canvass is completed. When the contest relates to a question that affects a single county or a single municipality, the county auditor or the clerk of the municipality, as the case may be, shall be designated the contestee, and a copy of the notice of contest shall be served upon him within ten days, or five days in the case of a primary, after the canvass is completed. In all cases where the contest relates to an irregularity in the conduct of the election or canvass of votes a copy of the notice of contest shall also be served within

ten days, or five days in the case of a primary, after the canvass is completed upon the clerk of the municipality in which the irregularity is said to have existed.

Subd. 4. [NOTICE OF CONTEST, HOW SERVED.] Service of the notice of contest shall be made in the same manner as provided for the service of summons in civil actions. In all cases two copies of the notice shall be furnished the official authorized to issue the certificate of election at the time of service upon him, and the official shall send one copy thereof by registered mail to the contestee at his last known address. If the sheriff is unable to make personal or substituted service upon the contestee, then the affidavit of the sheriff to that effect and the affidavit of the official authorized to issue the certificate of election that he sent a copy to the contestee by registered mail to his last known address shall be sufficient to confer jurisdiction upon the proper court to hear and determine the contest.

Subd. 5. [VIOLATION OF LAW AS GROUNDS FOR CONTEST, HOW COMMENCED.] If the contest is brought on the grounds of deliberate, serious, and material violation of the provisions of the Minnesota Election Law, the contest shall be commenced in the manner provided in this section; except that if the ground of action is discovered from statement of receipts and disbursements required to be filed by candidates and committees, the action may be commenced and the notice filed and served within ten days after the filing of such statements, except in the case of primaries, the time shall be limited to five days.

Subd. 6. [CONTEST OF NOMINATION.] If a nomination is contested, the court shall decide which candidate was nominated, and that candidate shall be entitled to have his name printed on the official ballots.

COMMENT: General. Under existing law there are at least three different procedures applicable to commencing an election contest by court action. The way to begin a contest depends largely on the grounds for contest and the kind of office in question. A prospective contestant who chooses the wrong procedure finds that he is prevented from carrying on the contest. The amendment provides one uniform way of commencing a contest which is applicable whether the grounds relate to misconduct on the part of the candidate or his agents, or to a question over who received the most votes, and also to all kinds of offices. The notice of contest, manner of service, time of commencement, place of action, as well as what is sufficient to confer jurisdiction upon the court to determine the contest, are all provided for in the amendment. It is important to keep in mind that while one procedure would govern all contests, in the case of contests over legislative offices the

courts are limited by a subsequent section because by provision of the constitution, the legislature is the final judge over the election of its members. The contest law does not apply for similar reasons to final elections in the case of congressional offices.

In the bill amending the election contest law, similar provisions found in different sections are merged, and the redundant sections are repealed.

Sec. 2. Laws 1959, Chapter 675, Article X, is amended by adding a section to read:

[209.03] [CONTESTEE, ANSWER.] When the contestee desires to offer testimony on points not specified in contestant's notice, he shall file and serve on the contestant notice thereof specifying such additional points. All notices subsequent to the original notice of contest shall be served in such manner and within such times as the court may by order direct.

COMMENT: The amendment indicates that an answer is not necessary but that a contestee can raise additional issues by serving a responsive pleading. In addition the manner of serving such additional pleadings is left to the court. The amended section makes uniform two slightly differing provisions.

Sec. 3. Laws 1959, Chapter 675, Article X, is amended by adding a section to read:

[209.04] [PLEADINGS, TRIAL PROCEDURE.] The notices shall be treated as the pleadings in the case, and may be amended in the discretion of the court. The contest proceedings shall be brought on for trial by either the contestant or contestee as soon as practicable within 20 days after the filing of the notice of contest at a general or special term of the court, or if there is none, the judge shall set a special term to be held within that time. The matter shall be tried by the court in the manner provided for the trial of civil actions so far as practicable.

COMMENT: The amendment clarifies the remaining procedure in the course of a contest after it has been commenced and indicates that the rules of civil procedure should govern except where the election contest law provides otherwise.

Sec. 4. Laws 1959, Chapter 675, Article X, Section 3, is amended to read:

Sec. 3. [209.05] [CONTEST, GUARD OF BALLOTS.] (IN COUNTIES HAVING A POPULATION OF 200,000 OR MORE, AND IN ALL CITIES OF THE FIRST CLASS ANY CANDIDATE FOR OFFICE AT ANY ELECTION, UPON DEMAND MADE UPON THE CUSTODIAN OF THE BAL-

LOTS, SHALL BE ENTITLED, EITHER BY HIMSELF, OR HIS DULY AUTHORIZED AGENT, OR AGENTS, NOT EXCEEDING TWO AT ANY ONE TIME, TO MAINTAIN CONTINUOUS, VISUAL WATCH OVER THESE BOXES AT ALL HOURS OF THE DAY AND NIGHT UNTIL THE EXPIRATION OF THE TIME FOR INSTITUTING CONTESTS; AND, IN CASE OF THE INSTITUTING OF CONTEST OR CONTESTS, EITHER PARTY TO SUCH CONTEST, UPON DEMAND UPON THE CUSTODIAN OF THE BALLOTS AND UPON NOTICE TO THE OPPOSING PARTY TO SUCH CONTEST, SHALL BE ENTITLED BY HIMSELF, OR HIS DULY AUTHORIZED AGENT OR AGENTS, NOT EXCEEDING TWO AT ANY ONE TIME, TO MAINTAIN AN ACTUAL, VISUAL WATCH OVER SUCH BALLOT BOXES AT ALL HOURS OF THE DAY AND NIGHT. IN EVENT OF SUCH DEMAND, EITHER BY CANDIDATE OR PARTY TO A CONTEST, THE CUSTODIAN OF SUCH BALLOTS SHALL BE AUTHORIZED TO APPOINT SOME SUITABLE PERSON AS WATCHMAN OVER SUCH BALLOT BOXES DURING SUCH HOURS AS HE SHALL DEEM NECESSARY, IN ORDER TO PREVENT LEAVING THE SAME IN THE SOLE CUSTODY OF SUCH CANDIDATE OR CONTESTANT, OR HIS AGENT OR AGENTS.)

In any election, upon demand made of the custodian of the ballots and upon notice to the opposing party, a continuous visual guard over the ballots at all hours of the day and night may be kept by a candidate until the expiration of the time for instituting contests, and in case of a contest it may be kept by any party thereto. The guard may be maintained either by the candidate or other party himself or by each of their duly authorized agents not exceeding two for each party at any one time. In event of such demand, the custodian of the ballots shall appoint some suitable person as guard over the ballots during such hours as he shall deem necessary in order to prevent leaving the same in the sole custody of the candidate or other party or the agents of one of them.

COMMENT: This clarifies the circumstances under which persons other than election officials may keep a guard over the ballots after the election and during the contest period.

Sec. 5. Laws 1959, Chapter 675, Article X, Section 9, is amended to read:

Sec. 9. [209.06] [CONTEST, RECOUNT OF BALLOTS.] (AFTER A CONTEST HAS BEEN INSTITUTED, EITHER PARTY MAY HAVE THE BALLOTS INSPECTED BEFORE PREPARING FOR TRIAL. THE PARTY APPLYING FOR SUCH INSPECTION SHALL FILE WITH THE CLERK A VERIFIED PETITION, STATING THAT HE CANNOT PROPERLY PREPARE HIS CASE FOR TRIAL WITHOUT AN INSPECTION OF SUCH BALLOTS, AND THEREUPON THE JUDGE OF THE COURT SHALL APPOINT THREE PERSONS, FOR A COUNTY OR MUNICIPAL OFFICE, OR OTHER QUESTION SUBMITTED TO POPULAR VOTE IN ANY COUNTY OR MUNICIPALITY, ONE SELECTED BY EACH OF THE PARTIES AND A THIRD BY THOSE TWO BY WHOM SUCH INSPECTION SHALL BE MADE. IF THE CONTEST RELATES TO A STATE OFFICE, OR TO THE DECLARED RESULT UPON A CONSTITUTIONAL AMENDMENT OR OTHER QUESTION SUBMITTED TO POPULAR VOTE THROUGHOUT THE STATE A JUDGE OF THE COURT SHALL ISSUE AN ORDER DIRECTING THAT ALL BALLOTS PERTAINING TO SUCH CONTEST BE FORTHWITH TRANSMITTED TO THE SECRETARY OF STATE BY THE SEVERAL COUNTY AUDITORS OF THE STATE. SUCH BALLOTS, TOGETHER WITH THE SEALED ENVELOPES IN WHICH THEY WERE RETURNED BY THE JUDGES, SHALL BE PROPERLY BOXED AND SEALED BEFORE SHIPMENT. THEY SHALL BE SHIPPED BY EXPRESS AND IT SHALL BE THE DUTY OF THE TRANSPORTATION COMPANY HAVING IN CHARGE THE TRANSPORTATION OF SUCH BALLOTS TO PROPERLY SAFEGUARD THE SAME FROM THE TIME THEY ARE RECEIVED UNTIL THEY ARE DELIVERED TO THE SECRETARY OF STATE. THE ORDER MAY BE SERVED UPON THE SEVERAL COUNTY AUDITORS BY REGISTERED MAIL. SUCH ORDER MAY BE MODIFIED AS TO THE MOST POPULOUS COUNTIES AND PROVISIONS MADE FOR INSPECTING THE BALLOTS OF SUCH COUNTIES AT THE COUNTY SEATS THEREOF. BEFORE SUCH ORDER IS ISSUED THE APPLICANT THEREFOR SHALL DEPOSIT WITH THE SECRETARY OF STATE A SUM OF MONEY SUFFICIENT TO PAY ALL EXPENSES CONNECTED WITH THE TRANSPORTATION OF SUCH BALLOTS. NO COMPENSATION SHALL BE

ALLOWED THE COUNTY AUDITOR FOR HIS SERVICES IN PREPARING SUCH BALLOTS FOR SHIPMENT. IN STATE CONTESTS THE JUDGE OF THE COURT SHALL APPOINT AS MANY SETS OF THREE PERSONS AS MAY BE NECESSARY TO EXPEDITIOUSLY COUNT AND INSPECT THE BALLOTS IN THE OFFICE OF THE SECRETARY OF STATE, OR ELSEWHERE. SUCH INSPECTORS SHALL BE SELECTED IN THE SAME MANNER AS FOR COUNTY OR MUNICIPAL CONTESTS. CONTESTS FOR DISTRICT JUDGE, OR OTHER OFFICES NOT SPECIFICALLY PROVIDED FOR HEREIN, SHALL BE CONDUCTED UNDER THIS SECTION, THE PROCEDURE THEREFOR TO BE FIXED BY THE COURT. INSPECTION OF BALLOTS SHALL BE CONDUCTED IN THE PRESENCE OF THE LEGAL CUSTODIAN OF THE BALLOTS AND THE PARTY APPLYING THEREFOR SHALL FILE WITH THE CLERK A BOND IN THE SUM OF \$250, IF THE CONTEST BE WITHIN A SINGLE COUNTY; OTHERWISE SUCH BONDS SHALL BE IN A SUM TO BE FIXED BY THE COURT IN ITS DISCRETION, WITH TWO SURETIES, AND CONDITIONED THAT HE WILL PAY THE COSTS AND EXPENSES OF SUCH IN CASE HE FAILS TO MAINTAIN HIS CONTEST. IF THE CONTESTANT PREVAILS IN HIS CONTEST THE COST SHALL BE TAXED AGAINST THE CONTESTEE. IN CASE EITHER PARTY NEGLECTS OR REFUSES TO NAME AN INSPECTOR, HE SHALL BE NAMED BY THE JUDGE. THE COMPENSATION OF INSPECTORS SHALL BE THE SAME AS FOR REFEREES, UNLESS OTHERWISE STIPULATED. ANY COURT OF PROPER JURISDICTION MAY ORDER THE RETURN OF ANY BALLOTS TO THE COUNTY FROM WHICH THEY WERE SENT, AFTER INSPECTION, IF NECESSARY TO BE USED IN ANY OTHER CONTEST PROCEEDING. THE SECRETARY OF STATE SHALL PRESERVE ANY BALLOTS IN HIS POSSESSION UNTIL THE NEXT GENERAL ELECTION, UNLESS OTHERWISE DIRECTED BY ORDER OF COURT.)

Subdivision 1. RECOUNT, APPOINTMENT OF INSPECTORS.] After a contest has been instituted, either party may have the ballots inspected before preparing for trial. The party applying for such inspection shall file with the clerk of district court in which the contest is brought a verified petition, stating that he cannot properly

prepare his case for trial without an inspection of such ballots and designating the precincts in which he desires to have ballots inspected, and thereupon a judge of the court wherein the trial of such case is pending shall appoint three persons for a legislative, county, municipal, district court or other office not specifically provided for herein, or for any question voted upon at a county or municipal election, one selected by each of the parties and a third by those two by whom such inspection shall be made. In case either party neglects or refuses to name an inspector, he shall be named by such judge. The compensation of inspectors shall be the same as for referees, unless otherwise stipulated.

Subd. 2. [RECOUNT, BOND, TAXING OF COSTS.] The party applying for the inspection shall file with the clerk of district court a bond in the sum of \$250 if the contest be within a single county; otherwise the bond shall be in a sum to be fixed by the court in its discretion, with such sureties as shall be approved by the court, and conditioned that he will pay the costs and expenses of such in case he fails to maintain his contest. If the contestee succeeds, costs of the contest shall be taxed against the contestant. If the contestant succeeds, costs of the contest shall be taxed against the contestee, except that if the contestee loses because of an error in the counting of ballots or canvass of the returns or by reason of any other irregularity in the election procedure, costs shall be taxed, in the discretion of the judge, upon those municipalities responsible for errors which resulted in the reversal of the prior results of the election.

Subd. 3. [RECOUNT OF BALLOTS, STATEWIDE ELECTION.] If the contest relates to a state office or to the declared result of a constitutional amendment or other question voted upon at a statewide election, the party applying for the inspection shall designate the precincts in the counties in which he desires the inspection to be made; and the court shall order the appointment of as many sets of three inspectors as may be necessary to expeditiously count and inspect the ballots, and the ballots shall be inspected in the office of the county auditor who is the legal custodian of the ballots in question. The inspectors in a state contest shall be selected in the manner provided in subdivision 1 of this section.

Subd. 4. [RECOUNT OF BALLOTS, REPORT OF INSPECTORS.] The inspection shall be made in the presence of the legal custodian of the ballots, and the inspectors shall recanvass the votes cast for the parties to the contest or the question in issue in accordance with the rules for counting ballots provided in the Minnesota Elec-

tion Law. They shall make a written report of such recanvass and report the number of votes cast for each of the parties to the contest for each precinct that is recounted and report any disputed ballots upon which the inspectors cannot agree.

COMMENT: The section provides the manner for recounting ballots in the case of a contest. It is permitted to recount only those ballots in precincts where an error or miscount is thought to have been made. Where ballots are to be recounted in a statewide election, it would no longer be necessary to ship all of the ballots to the office of the secretary of state, but rather the ballots should be inspected in the office of the auditor of the county in which the ballots are voted. The person who desires to recount ballots must post bond to cover the costs; and if the contestant wins, the costs are taxed against the contestee unless the reversal results from an error in counting ballots in which case it would be unjust to require the contestee to pay for the mistake of persons for whom he is not responsible.

Sec. 6. Laws 1959, Chapter 675, Article X, is amended by adding a section to read:

[209.07] [CONTEST, DETERMINATION.] *Upon a determination of the contest by the court, after the time for appeal has expired or in case of an appeal, after the final judicial determination of the contest, the official authorized to issue the certificate of election shall issue the certificate to the person entitled thereto; except that if a contestant succeeds in a contest where there is no question as to which of the candidates received the highest number of votes cast at the election, the contestant shall not, by reason of the disqualification of the contestee, be entitled to the certificate of election.*

COMMENT: The section clarifies what has been held by our courts, that the successful contestant, if he happens to be the next highest candidate is not entitled to the office because of the disqualification of the contestee. Naturally this is not the case where a person who was previously declared elected is determined by the court not to have received the highest number of votes.

Sec. 7. Laws 1959, Chapter 675, Article X, Section 10, is amended to read:

Sec. 10. [209.09] [APPEAL TO SUPREME COURT.] When an appeal is taken to the supreme court from the determination of the district court in any contest instituted under (SECTION 8 OF) this article, the party appealing shall file in the district court a bond in such sum, not less than \$500, and with such sureties, as shall be approved by the judge, conditioned for the payment of

all costs incurred by the respondent in case appellant fails on his appeal. The notice of appeal shall be served and filed no later than ten days in case of a general election and no later than 5 days in case of a primary election after the entry of the determination of the district court in the contest. The return of such appeal shall be made, certified, and filed in the supreme court as soon as practicable and in any event within 15 days after service of notice of appeal. The appeal may be brought on for hearing in the court at any time when it is in session, upon (TEN DAYS') such notice from either party, as the court may determine which notice may be served during term time or in vacation; and it may be heard and determined summarily by the court.

COMMENT: The amendment clarifies the manner and time of appealing the district court's decision to the supreme court.

Sec. 8. Laws 1959, Chapter 675, Article X, Section 7, is amended to read:

Sec. 7. [209.10] [CONTEST OF LEGISLATIVE OFFICE.] *Subdivision 1. [LEGISLATIVE CONTEST, DUTIES OF COURT, TRANSMITTAL TO PROPER HOUSE.] When the contest relates to the office of state senator or representative, the only question to be tried by the court, notwithstanding any other provision of law, shall be the question as to which of the parties to the contest received the highest number of votes legally cast at the election, and as to who is entitled to receive the certificate of election. The judge trying the proceedings shall make findings of fact and conclusions of law upon the question so tried. Further evidence upon the points specified in the notices, including but not limited to the question as to the right of any person to nomination or office on the ground of deliberate, serious, and material violation of the provisions of the Minnesota Election Law, shall be taken and preserved by the judge trying the contest, or under his direction by some person appointed by him for that purpose, but the judge shall make no finding or conclusion thereon. After the time for appeal has expired, or in case of an appeal, after the final judicial determination of the contest, upon application of either of the parties to the contest, the clerk of the district court shall transmit all the files and records of the proceedings with all the evidence taken to the presiding officer of the house by which the contest is to be tried.*

Subd. 2. [LEGISLATIVE CONTEST, HEARING, PROCEDURE.] In hearing the

contest, the house *or senate* shall proceed as follows:

(1) (a) At the time appointed, the parties shall be called, and, if they appear, their appearance shall be recorded;

(2) (b) If the presiding officer be a party, a speaker pro tem shall be elected to preside;

(3) (c) The contestant's evidence shall be submitted first, followed by that of the (CONTESTANT) *contestee*, and the (CONTESTEE) *contestant* shall open the argument, and close the same after the contestee has been heard;

(4) (d) The vote upon the contest shall be viva voce, any member may offer reasons for the vote he intends to give, and a majority of the votes given shall decide; but no party to the contest shall vote upon any question relative thereto; and

(5) (e) The clerk or secretary shall enter the proceedings in the journal.

COMMENT: The amendment places together in one section the provisions that are applicable only to contests over legislative offices. The intent is clarified that in election contests over legislative offices, the court is limited to decide only questions relating to the number of votes received by the candidates, and as to matters going to the conduct of the candidates and their agents, the court can only hear the evidence and record it.

In Subdivision 2, a typographical error which occurred in the 1959 enactment is corrected, and some clarifying changes are made.

Sec. 9. *Laws 1959, Chapter 675, Article X, Section 4, Section 5, Section 6, and Section 8, and Article XII, Section 35, are hereby repealed.*

COMMENT: The sections repealed are numbers 209.04, 209.05, 209.06, 209.08, and 211.35.

A BILL FOR AN ACT

RELATING TO ELECTIONS; AMENDING LAWS 1959, CHAPTER 675, ARTICLE II, SECTION 17; ARTICLE III, SECTION 4, SUBDIVISION 1, SECTION 6, SUBDIVISION 1, SECTION 9, SUBDIVISION 1, SECTION 10, SECTION 11, SUBDIVISION 2, SECTION 12, SUBDIVISION 1, SECTION 13, SUBDIVISIONS 1 AND 3; ARTICLE IV, SECTION 41, SUBDIVISION 2; ARTICLE V, SECTION 24, SUBDIVISION 1; ARTICLE VII, SECTION 1, SECTION 7, SUBDIVISION 3, SECTIONS 10 AND 21, SECTION 22, SUBDIVISIONS 2 AND 3; ARTICLE VIII, SECTION 5, SUBDIVISION 1, SECTIONS 15 AND 18; AND ARTICLE IX, SECTIONS 4 AND 5; REPEALING LAWS 1959, CHAPTER 675, ARTICLE III, SECTION 11, SUBDIVISION 3, AND SECTION 12, SUBDIVISION 2; AND ARTICLE VII, SECTION 23.

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

Section 1. Laws 1959, Chapter 675, Article III, Section 10, is amended to read:

Sec. 10. [202.10] [NOMINATING PETITION, FORM.] The nominating petition may consist of one or more writings and shall contain the name of the person nominated, the office for which he is nominated, the party or political principle he represents, expressed in not more than three words, and his place of residence, with street and number thereof, if any. *In case of presidential electors, the names of the candidates for president and vice-president shall be added to the party or political designation. Only one petition shall be required for the nomination of each group of presidential electors which shall be the number to which the state is entitled.*

COMMENT: This changes the section of the primary election law which provides for the nomination by petition of candidates by groups that are not recognized in the law as political parties. The form of the nominating petition is changed to clarify the intent that candidates for presidential electors may likewise be nominated by petition. It is also provided that one petition is sufficient to nominate an entire slate of electors and that the nominating group shall present a full slate

of candidates for that office. The right to nominate candidates by petition in presidential elections has always been recognized in this state although whether one petition was sufficient for an entire slate of electors was not clear because of other language in the law; and the omission of certain language from the 1959 law raised issues as to the rights of minority political groups in this respect. An opinion of the attorney general on the subject indicated that the laws relating to the nomination of presidential electors were in need of improvement.

Sec. 2. Laws 1959, Chapter 675, Article IX, Section 4, is amended to read:

Sec. 4. [208.04] [PREPARATION OF BALLOTS.] When presidential electors are to be voted for, a vote cast for the party candidates for president and vice-president shall be deemed a vote for that party's electors as filed with the secretary of state. The secretary of state shall cause the names of the candidates of each political party *and those nominated by petition* to be printed in capital letters, set in ten-point type, before the party designation. To the left of, and on a line of such surnames, near the margin, shall be placed in a square or box, in which the voter may indicate his choice by marking an "X", and one such mark opposite the candidate's name of any one party shall be counted as a vote for each elector in the party group on file with the secretary of state.

The form for the Presidential Ballot shall be as follows:

Put an (X) opposite the name of the Presidential Candidate you wish to vote for, in the box indicated by the arrow.

PRESIDENTIAL BALLOT

Mark (YOU) *your* (X) in one Box Only

STEVENSON and KEFAUVER -

Democratic-Farmer-Labor

EISENHOWER and NIXON - Republican

The relative position of the several candidates shall be determined by the rules applicable to other state officers. The state ballot, with the required heading, shall be printed below the presidential ballot with a space between one inch in width.

COMMENT: The amendment is made to clarify the fact that presidential candidates nominated by petition shall appear on the election ballot. The clarification is necessary because of the 1957 change in the law to provide that only the names of the candidates for president and vice-president should appear on the ballots instead of the slates of nominees for presidential electors.

Sec. 3. Laws 1959, Chapter 675, Article IX, Section 5, is amended to read:

Sec. 5. [208.05] [STATE CANVASSING BOARD.] The state canvassing board at its meeting on the second Tuesday after each such general election shall open and canvass the returns made to the secretary of state for presidential electors, and prepare a statement of the number of votes cast for the several persons receiving votes for these offices, and declare the person or persons receiving the highest number of votes for each office duly elected. When it appears that more than the number of persons to be elected as presidential electors have the highest and an equal number of votes, the secretary of state, in the presence of the board shall decide by lot which of such persons shall be declared elected. The governor shall transmit to each person so declared elected a certificate of election, signed by him, sealed with the state seal, and countersigned by the secretary of state; and immediately after the canvass is completed he shall cause a statement of their election to be published in one or more of the newspapers printed (AT THE STATE CAPITOL) in the county of the state capital.

COMMENT: The statement of the names of persons chosen as presidential electors which is required to be published following the report of the state canvassing board is amended to provide that it be printed in one or more of the newspapers printed in the county wherein the state capital is located, instead of in a newspaper printed at the state capitol.

Sec. 4. Laws 1959, Chapter 675, Article VII, Section 1, is amended to read:

Section 1. [206.01] [DEFINITIONS.] Subdivision 1. The words used in this article have the meanings prescribed to them in article I.

Subd. 2. The word "ballot" or "ballot labels," as used in this article, shall be defined as that portion of the cardboard, paper or other material, within the ballot frames, containing the names of the candidate, the official title, party designation, or a statement of a proposed constitutional amendment or other question or proposition, with the

word "Yes" for voting for any question or the word "No" for voting against any question.

Subd. 3. The term "question" means a statement of any constitutional amendment, proposition or other question appearing on the machine and to be submitted to the voters at any election.

Subd. 4. The term "protective counter" means the separate counter built into the voting machine which cannot be reset, and which records the total number of movements of the operating mechanism.

Subd. 5. The term "public counter" means the counter which shows during any period of voting the total number of voters who have operated the machine during the period of voting.

Subd. 6. The term "primary lever" means the lever which the voter must operate in a political party primary to unlock the voting levers assigned to the candidates of the political party in the primary of which the voter wishes to vote.

Subd. 7. The term "voting lever" means the lever which the voter must turn down over the name of the candidate and leave there in order to cast a vote for the candidate.

Subd. 8. The term "operating lever" means the lever which the voter must move to the right to close the curtains of the machine and to unlock the machine to permit voting thereon, and which the voter must move to the left to open the curtains of the machine and to record his vote.

COMMENT: Two separate sections containing definitions of terms applicable to the chapter on voting machines are merged into one section.

Sec. 5. Laws 1959, Chapter 675, Article VII, Section 7, Subdivision 3, is amended to read:

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

COMMENT: The form of the presidential ballot appearing on voting machines is clarified as to what should be printed when candidates nomi-

nated by petition are on the ballot. The section is made to conform to amendments made in other parts of the law.

Sec. 6. Laws 1959, Chapter 675, Article VII, Section 10, is amended to read:

Sec. 10. [206.095] [BALLOTS USED UPON ADOPTION OR REJECTION OF AN ORDINANCE.] In any city of the first class operating under a home rule charter, wherein voting machines are used in the elections, when the question at issue in an election is the adoption or rejection of an ordinance proposed by petition of the voters of said city, or where an ordinance passed by the council has been referred for submission to the voters of said city based on a petition of the voters for that purpose, or in any case when by voluntary reference the council submits an ordinance to the vote of the people, as provided in the home rule charter of any city, the ballots used in voting upon such measure shall state briefly the general nature thereof without the necessity of setting forth the full title of said ordinances (, SAID BALLOTS TO BE COLORED IN THE SAME MANNER AS CONSTITUTIONAL AMENDMENTS).

COMMENT: The amendment eliminates a provision in this section that is inconsistent with another provision requiring that the color of the paper used on the part of the voting machine ballot where questions are to be voted upon should conform to the color of paper ballots used on the same kind of question.

Sec. 7. Laws 1959, Chapter 675, Article VII, Section 21, is amended to read:

Sec. 21. [206.20] [ACCESSIBILITY; INSTRUCTIONS; ASSISTANCE TO VOTERS.] *Subdivision 1.* The voting machine or machines shall be so placed and protected that each machine shall be accessible to only one voter at a time and in full view of all of the election officers and watchers at the polling place. A judge shall inspect the face of each voting machine after each voter has voted to see that the ballot labels are in their proper places and that the machine has not been injured or tampered with. During elections the door or other compartment of the machine shall not be (LOCKED) *unlocked* or opened or the counters exposed except by a custodian or other authorized person, a statement of which shall be made and signed by the custodian or authorized person and attached to the returns.

Subd. 2. For the instruction of the voters there shall be, so far as practicable in each polling place, at least one mechanical model being a mechanical reproduction of a portion of the face of the voting machine. Such model furnished shall be located during the election in some place which the voter must pass to reach the machine and every voter before entering the booth shall be instructed regarding its operation and such instruction illustrated on the model and the voter given the opportunity to personally operate the model. The voter's attention shall also be called to the diagram on the face of the machine so that the voter becomes familiar with the location of the questions and the names of the offices and candidates. At least one judge shall remain in constant attendance at the instruction model and diagram and occupy himself at all times with the duties of instructing the voters. If any voter after entering the voting machine booth shall ask for additional instruction in operating the machine such instruction shall be given him by two judges belonging to opposite political parties, if such there be. After giving such instruction such judges shall retire from the voting machine booth and such voter shall thereafter proceed to vote alone and in secrecy. If any voter at a primary election after entering the voting machine booth and setting the primary lever of a party so as to release the candidates of such party for voting, and turning down levers over the names of candidates, but before recording the votes for any candidates, shall state to the judges that he wishes to enter the primary of a different political party, the entire election board shall go to such machine and shall see that all voting levers have been returned to the unvoted position so that no votes may be cast for any candidates or for or against any questions or other propositions, and such voter shall then be permitted to return the operating lever to its original position and start from the beginning once more. In each such case the entire election board shall sign a certificate stating what was done and such certificate shall be returned with the official returns of the primary.

Subd. 3. When any voter states under oath that he cannot read English, or that he is physically unable to operate the voting machine in order to record his vote thereon, he may call to his aid one or more of the judges, who shall prepare his ballot on the machine as he may desire, and in as secret a manner as circumstances permit. When he

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

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

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

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

Subd. 7. If any voting machine being used in any election shall become out of order during such election it shall be repaired if possible or another machine substituted as

promptly as possible. In case such substitution or repair cannot be made, paper ballots printed or written, and of any suitable form may be used for the taking of votes and for such purpose voting machine sample ballots may be used.

COMMENT: A correction is made in a word that was misprinted in the course of enacting the 1959 law.

Sec. 8. Laws 1959, Chapter 675, Article VII, Section 22, Subdivision 2, is amended to read:

Subd. 2. [STATEMENTS OF CANVASS.] In each (DISTRICT) *precinct* where voting machines are used, statements of canvass shall be printed to conform with the type of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be printed next to the candidate's name on the statements of canvass. The arrangement of the names on the statement of canvass for each precinct shall conform exactly with the arrangement of the names on the voting machines to be used in such precinct. Such statements of canvass shall provide for the entry of the number of votes for each candidate and the "yes" and "no" of each question as shown on each machine used in the precinct; also for the absent voters' ballots and total number of votes, by such ballots and by machine, for each candidate and upon each question. Upon completion of the canvass the election judges shall enclose the statements of canvass in sealed envelopes without sewing with twine or sealing with wax. Such official statements of canvass may be opened by the authorities in charge of elections before the official canvass for the purpose of checking additions and compiling the unofficial returns and preparing the official records. Such official statements of canvass shall be used in lieu of the summary sheets which shall be dispensed with when voting machines are used.

COMMENT: The word "precinct" is substituted for "district" to comply with the new definitions in the Minnesota Election Law.

Sec. 9. Laws 1959, Chapter 675, Article VII, Section 22, Subdivision 3, is amended to read:

Subd. 3. [OPENING OF MACHINES.] The voting machines shall remain locked against use for a period of at least 30 days and as much longer as may be necessary or

advisable because of any existing or threatened contest over the result of the election, except that at any time, upon the order of any judge of a court having jurisdiction any voting machine may be opened and all data and figures therein examined; provided, that any voting machines used at (A PRIMARY) an election may be opened ten days following such (PRIMARY) election for an election which is to be held on a day which is within (45) 50 days after the day upon which such (PRIMARY) election is held; provided, further, that any voting machine used at a primary election, or a general election, in a village may be opened (10) ten days following such primary election and 20 days following such general election if such opening becomes necessary in order to prepare the voting machines so used at such primary election or general election for a village election which is to be held on a day which is within 30 days after the day upon which such primary or general election is held.

COMMENT: The requirement that, after an election, voting machines remain locked for a period of 30 days is relaxed to provide that where machines are needed for any election to be held within 50 days after the previous election, the machines may be opened ten days after the election wherein they were used. Under existing law the machine can only be opened when a general election follows within 45 days after a primary; and this failed to provide for the numerous cases of village elections being held approximately one month after the general election.

Sec. 10. Laws 1959, Chapter 675, Article VIII, Section 5, Subdivision 1, is amended to read:

Subdivision 1. [APPLICATION, DELIVERY.] If any application is made either in person or by mail more than 30 days before election, the auditor shall file the same and forthwith on the delivery to him of the ballots, shall mail to the applicant without charge, at the address specified in the application one each of the several ballots the applicant is entitled to vote upon at the next election; also the envelope hereinafter specified. If the application is made within 30 days of the election, he shall forthwith upon receipt of such application or as soon thereafter as ballots are available, mail, or deliver to the applicant, without charge, if he apply therefor in person, and fill out and sign the application blank specified in section (2) 3 of this article, one each of the several ballots the applicant is entitled to vote upon at the next election; also the envelopes hereinafter specified.

COMMENT: The amendment takes care of an apparent inconsistency between this section in which it is provided that if an application for absentee ballots is received within 30 days before an election, the official should immediately mail ballots to the applicant, and another section which requires all persons charged with preparation of ballots to deliver them to the official who will mail them to absent voters 15 days before the election.

Sec. 11. Laws 1959, Chapter 675, Article II, Section 17, is amended to read:

Sec. 17. [201.17] [FAILURE TO VOTE, REGISTRATION REMOVED.] *Subdivision 1. [NOT VOTING IN FOUR YEARS.]* At the close of each calendar year the commissioner shall check the registration file for the purpose of eliminating excess names; and, to that end, shall examine the registration file, and whenever it appears that a registered voter has not voted at an election at least once in four consecutive calendar years his card shall be taken from the original and duplicate registration files and destroyed, and a printed postal card notice of these facts, and that the voters must register in order to vote in the precinct at any ensuing election, shall be sent to the last known address of the voter.

Subd. 2. [LATE ABSENTEE BALLOTS, REGISTRATION SAVED.] The county auditor in each county wherein any municipality has voter registration shall report to the commissioner of registration any absentee ballots received by the auditor and not counted for any reason in the election for which the ballot was intended, furnishing the name and address of such absentee voter, and when so reported the commissioner shall credit the voter with participation in such election for all purposes set forth in this section.

COMMENT: The situation frequently arises that absentee ballots are received too late on election day or thereafter to be counted. Technically the voter has failed to vote at that election, and the voter is never notified that his ballots were not counted. The voters' registration laws provide that a person's permanent registration shall be cancelled if he fails to vote at least once in four years. The amendment is intended to provide that the commissioner of registration in each municipality is to be notified that ballots were received from an absent voter which were not counted, and that for registration purposes, the voter should be credited with voting at that election.

Sec. 12. Laws 1959, Chapter 675, Article VIII, Section 15, is amended to read:

Sec. 15. [207.15] [ABSENT VOTING,

MUNICIPAL ELECTIONS, DUTIES OF CLERKS.] In the case of city elections in all cities, or village or town elections in all villages and towns operating under the "Austral-ian Ballot System," (VOTER'S) voters' appli-cations for ballots shall be filed with the city or village or town clerk, no fees shall be re-quired to be paid therefor, and the duties prescribed in this (PART) article for the county auditor shall be performed by the city or village or town clerk, provided, however, that such duties may be, upon agreement, combined and performed by one of such officers. The cost of carrying out the pro-visions of this article for any such city or village or town election shall be paid by the city or village or town in which the same is held.

COMMENT: The section is clarified to explain the function of municipal clerks in municipal elections with respect to absent voting. While absent voting laws are applicable to township municipal elections, this section has never men-tioned towns even though the other kinds of municipalities are enumerated therein.

Sec. 13. Laws 1959, Chapter 675, Article VIII, Section 18, is amended to read:

Sec. 18. [207.18] [ARMED FORCES DE-FINED.] The term "armed forces" as used in sections 16 to 29 of this article shall refer to and include the Army and Navy, the Air Force, the Marine Corps and the Coast Guard of the United States, or the Merchant Marine of the United States, or the American Red Cross, the Society of Friends, the Women's Auxiliary Service Pilots, the Salvation Army, the United Service Organizations and all other persons connected in any capacity with the Army or Navy of the United States, including all civilian employees of the United States Government or the spouses or depend-ents of such persons if actually accompany-ing such persons and residing with them.

COMMENT: This amendment enlarges the appli-cation of the so-called "Armed Forces" absent voters law to include civilian employees in addi-tion to the other stated classifications of persons who can vote by absentee ballot within the provi-sions of this law. The armed forces absent voters law is intended to provide an accelerated kind of absent voting for persons in the service of the federal government. No permanent registration is required, and the application for ballots by or on behalf of an eligible person takes the place of permanent registration. Also one application is sufficient to provide the voter with ballots for both the primary and general elections. The system complies in most respects to the federal voting assistance program, and by federal regulation

there is no postage for the transmittal of ballots in the case of the categories of persons included within the federal program.

Sec. 14. Laws 1959, Chapter 675, Article IV, Section 41, Subdivision 2, is amended to read:

Subd. 2. [BALLOT, FORM.] The official ballot shall contain the names of all candi-dates for each judicial office, and it shall state the number of justices or judges to be elected and the number of candidates for whom an elector may vote. The official ballot shall designate each office as:

"For the office of associate (or chief justice) of the supreme court to which was elected
name of justice
for the regular term," or "to which
..... was appointed."
name of justice

or in the case of the district court:

"for the office of judge of the district court of judicial district
number
to which
name of judge
was elected for the regular term," or "to
which
name of judge
was appointed,"

as the case may be. The ballots for both the primary and general elections shall show the names of the justice (OF) or judge whose successor is to be elected at the gen-eral election, and in the case of a district court judge, the number of the judicial dis-trict, in the spaces provided for that pur-pose. Where voting machines are used and the statements provided in this section can-not be inserted because of length, the desig-nation shall be:

"Successor to
name
elected (or appointed)."

The office of judge of the district court of Hen-nepin County, Juvenile Court Division, shall also be designated on the ballot in conformity with Laws 1959, Chapter 685, Section 3.

COMMENT: A section of the law relating to the "alley" plan for the selection of judges is qualified to comply with the 1959 Juvenile Court Act which provides for the election of a district court judge who is designated on the ballot as a judge of the juvenile court division.

Sec. 15. Laws 1959, Chapter 675, Article V, Section 24, Subdivision 1, is amended to read:

Subdivision 1. [ENVELOPES.] Except in cities of the first (CITIES) class and in counties having a population of 200,000 or more, after the canvass has been completed and in the presence of all the judges, the ballots cast shall be removed from the ballot boxes and placed in envelopes and sealed. Each judge shall write his name upon the envelope over the sealed part in such a way that the envelope cannot be opened without disturbing the continuity of the lines in the writing. The envelopes shall be of a heavy paper, (REINFORCED BY CLOTH AT ALL FOLDS,) of the same color as the ballots to be placed therein, and of a size suitable to hold all the ballots without folding. The official charged with printing the ballots shall furnish the envelopes required in this section. The number of ballots in each envelope, the kind thereof, the name of the town, village, or city, and the number of the precinct shall be plainly written upon the envelopes. The unused and spoiled ballots or returns may not be placed in the envelopes.

COMMENT: In the rural areas of the state, paper ballots are placed in envelopes instead of being stored in sealed ballot boxes. It was brought to the commission's attention that the requirement that the envelopes be cloth reinforced resulted in an excessive cost for each envelope. Since the ballots are required to be kept for only one year after the election, the cloth reinforced envelopes seemed to be unnecessary.

Sec. 16. Laws 1959, Chapter 675, Article III, Section 4, Subdivision 1, is amended to read:

Subdivision 1. [FILING, DATE.] Not more than 90 nor less than (50) 56 days before the primary election any eligible person who desires to have his name placed on the primary ballot as a candidate for any elective office to be filled at the general election, except presidential electors, shall file his affidavit with the secretary of state when to be voted for in more than one county, and with the county auditor when to be voted for in a single county stating the following:

(a) That he is a qualified voter in the subdivision where he seeks nomination;

(b) The name of his political party if for a partisan office;

(c) The office for which he desires to be a candidate;

(d) That he has not filed as a candidate for any other office at the same primary election;

(e) If for a partisan office, that he affiliated with his political party at the last general election, and either that he did not vote thereat or voted for a majority of the candidates of the political party at the election, and intends to so vote at the ensuing election.

COMMENT: The total time in which to file an affidavit of candidacy for the state primary election is reduced from 40 days to 34. As a result, filings will close eight weeks before the primary instead of approximately seven. The time gained is expected to help the election officials, particularly the auditors, in preparing the ballots and getting voting machines ready and delivered in time for the primary election.

Sec. 17. Laws 1959, Chapter 675, Article III, Section 6. Subdivision 1, is amended to read:

Subdivision 1. [AFFIDAVIT OF WITHDRAWAL.] No candidate may withdraw his name from the primary ballot unless he files an affidavit with the secretary of state or with the county auditor, as the case may be, within (FIVE) six days after the last day for filing for the office, requesting the officer to withdraw affiant's name from the ballot.

COMMENT: The amendment changes the time to file an affidavit of withdrawal of candidacy to the Monday following the last day to file. If the last day to file is changed as provided in the previous section and the last day to withdraw is not changed, the day in question would always be a Sunday.

Sec. 18. Laws 1959, Chapter 675, Article III, Section 9, Subdivision 1, is amended to read:

Subdivision 1. [NUMBER OF SIGNERS.] (AFTER THE HOLDING OF THE REGULAR PRIMARY ELECTION) A petition for nomination of a candidate may be signed by electors resident within the district or political division from which the candidate is presented, as follows:

(a) If for a state office on a state ticket, equal to one percent of the entire vote of the state cast at the last preceding general election, or 2,000, whichever is the lesser;

- (b) If for a congressional or judicial district office, by five percent of the entire vote cast in the district at the last preceding general election, or 1,000, whichever is the lesser;
- (c) If for a county or legislative office, by ten percent of the entire vote cast in the county, ward, or other election precinct at the last preceding general election, or 500, whichever is the lesser.

COMMENT: Amendment removes the restriction that nominating petitions can only be filed after the primary.

Sec. 19. Laws 1959, Chapter 675, Article III, Section 11, Subdivision 2, is amended to read:

Subd. 2. [TIME OF SIGNING.] (NO PERSON MAY SIGN A NOMINATING PETITION UNTIL AFTER THE DATE OF THE PRIMARY ELECTION.) *Nominating petitions for partisan offices may be signed and filed during the period allowed by law for the filing of affidavits of candidacy by candidates at the state primary election, and no nominating petition may be signed or filed thereafter except in the case of a vacancy in a nomination. With respect to candidates for presidential electors, nominating petitions may be filed up to and including primary election day.*

COMMENT: The amendment permits nominating petitions for partisan offices to be filed during the same period that candidates may file affidavits of candidacy for the primary election, except that nominating petitions for presidential electors can be made up to primary election day. The supreme court has indicated that the short time permitted under present law for political groups to circulate and file nominating petitions after the primary, does not give the court adequate time to judiciously consider the cases that are brought to determine whether the candidate nominated by petition may have his name appear on the general election ballot. The requirement of existing law that nominating petitions can be filed only after the primary apparently goes back to the time when the primary was held in June instead of September. Nominating petitions are a substitute for nominations by primary elections and are used by the political groups that do not have sufficient voting strength to be recognized as a political party and thereby be entitled to a place on the primary ballot. It must be kept in mind that the change relates only to partisan offices, as there is no nomination by petition for nonpartisan offices unless a vacancy occurs in a nomination previously made. In the case of a vacancy in a nomination for a nonpartisan office, by operation of existing provisions, nominating petitions may be filed up to a few days before the general election if there

is no candidate who was next highest at the primary to fill the vacancy.

Sec. 20. Laws 1959, Chapter 675, Article III, Section 12, Subdivision 1, is amended to read:

Subdivision 1. [ADDRESS, OATH.] After the signature of each signer there shall be written his postoffice address. Following the facts required to be stated in each petition signed by the voter shall be an oath in the following form: "I solemnly swear (or affirm) that I know the contents and purpose of this petition, that I (DID) *do not intend to* vote at the (PRECEDING) primary election *for the office for which this nominating petition is made*, and that I signed the same of my own free will." No signature shall require notarization or certification before any officer, but each signer in so signing shall be guilty of perjury for making a false oath therein.

COMMENT: The oath that is signed on the nominating petition is amended to comply with the change in the previous sections.

Sec. 21. Laws 1959, Chapter 675, Article III, Section 13, Subdivision 1, is amended to read:

Subdivision 1. [FILING, ACKNOWLEDGMENT OF FILING, FEE.] Nominating petitions for names to be placed on the state white ballot shall be filed with the secretary of state (ON OR BEFORE 39 DAYS BEFORE THE GENERAL ELECTION). The secretary of state shall give or send to the person filing the petition an acknowledgment thereof on the same day it is received, and he shall file and preserve the nominating petitions, subject to public inspection. No filing of any nominating petition is effective unless at the time thereof the prescribed fee is paid or tendered.

COMMENT: The section is amended to comply with changes in other sections to permit nominating petitions for partisan offices to be filed only before the primary election.

Sec. 22. Laws 1959, Chapter 675, Article III, Section 13, Subdivision 3, is amended to read:

Subd. 3. [TIME.] *Except with respect to the nomination of candidates for presidential electors, no nomination for any office may be made either by nominating petition or otherwise*

later than (39 DAYS BEFORE THE GENERAL ELECTION) *the last day for filing affidavits of candidacy at the state primary election, except nominations to fill a vacancy in a nomination previously made.*

COMMENT: The section is amended to comply with changes in previous sections to permit nominating petitions for partisan offices to be filed before the primary and no later.

Sec. 23. [REPEALER.] *Laws 1959, Chapter 675, Article III, Section 11, Subdivision 3, Section 12, Subdivision 2, and Article VII, Section 23, are hereby repealed.*

COMMENT: The repealed sections are numbers 202.11 Subd. 3, 202.12, Subd. 2, and 206.22.