

Sec. 25. EASEMENT ON STATE LAND BORDERING PUBLIC WATER; WASHINGTON COUNTY.

(a) The commissioner of natural resources shall issue an easement on land bordering public water that is described in paragraph (c). The easement shall be issued to the current owners of Lots 7 and 8, Block 2 of Demontreville Highlands and Lots 2, 3, 4, and 5, Block 1, Demontreville Highlands 5th Addition. The easement is for the purpose of the easement holders jointly erecting and maintaining one dock from the property described in paragraph (c). The dock may not exceed 30 feet in length and six feet in width and overnight mooring of watercraft is prohibited.

(b) The easement must be in a form approved by the attorney general for consideration of the easement preparation and recording costs. The attorney general may make necessary changes in the legal description to correct errors and ensure accuracy. The easement will expire as to each owner when they convey their ownership interest in the property described in paragraph (a).

(c) The land upon which an easement is to be issued is located in Washington County and is described as: Part of Government Lot 6, Section 5, Township 29 North, Range 21 West, being the South 45 feet lying East of the existing centerline of Demontreville Trail North subject to easements of record.

Sec. 26. REPEALER.

Minnesota Statutes 2004, section 84.033, subdivision 2, is repealed.

Sec. 27. EFFECTIVE DATE.

Sections 1 to 21 and 23 to 26 are effective the day following final enactment.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 8:30 a.m.

CHAPTER 162—H.F.No. 874

An act relating to elections; setting standards for and providing for the acquisition of electronic voting systems; appropriating money from the Help America Vote Act account; amending Minnesota Statutes 2004, sections 201.022, by adding a subdivision; 204B.14, subdivision 2; 206.56, subdivisions 2, 3, 7, 8, 9, by adding subdivisions; 206.57, subdivisions 1, 5, by adding a subdivision; 206.61, subdivisions 4, 5; 206.64, subdivision 1; 206.80; 206.81; 206.82, subdivisions 1, 2; 206.83; 206.84, subdivisions 1, 3, 6; 206.85, subdivision 1; 206.90, subdivisions 1, 5, 6, 8, 9; proposing coding for new law in Minnesota Statutes, chapter 206.

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

Section 1. Minnesota Statutes 2004, section 201.022, is amended by adding a subdivision to read:

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Subd. 3. CONSULTATION WITH LOCAL OFFICIALS. The secretary of state must consult with representatives of local election officials in the development of the statewide voter registration system.

Sec. 2. Minnesota Statutes 2004, section 204B.14, subdivision 2, is amended to read:

Subd. 2. **SEPARATE PRECINCTS; COMBINED POLLING PLACE.** (a) The following shall constitute at least one election precinct:

- (1) each city ward; and
- (2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than June 1 of any year:

(1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;

(2) for two contiguous precincts in the same municipality that have a combined total of fewer than 500 registered voters; ~~or~~

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section 473.121, subdivision 2, that are contained in the same county; or

(4) for noncontiguous precincts located in one or more counties.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A polling place combined under clause (4) must be approved by the governing body of each participating municipality and the secretary of state and may be located outside any of the noncontiguous precincts. A municipality withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than May 1 of any year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place established under clause (2) where one of the precincts has fewer than ten registered voters, in which case the results of that precinct must be reported in the manner specified by the secretary of state.

Sec. 3. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

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Subd. 1a. ASSISTIVE VOTING TECHNOLOGY. “Assistive voting technology” means touch-activated screen, buttons, keypad, sip-and-puff input device, keyboard, earphones, or any other device used with an electronic ballot marker that assists voters to use an audio or electronic ballot display in order to cast votes.

Sec. 4. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

Subd. 1b. AUDIO BALLOT READER. “Audio ballot reader” means an audio representation of a ballot that can be used with other assistive voting technology to permit a voter to mark votes on a nonelectronic ballot or to securely transmit a ballot electronically to automatic tabulating equipment in the polling place.

Sec. 5. Minnesota Statutes 2004, section 206.56, subdivision 2, is amended to read:

Subd. 2. AUTOMATIC TABULATING EQUIPMENT. “Automatic tabulating equipment” includes apparatus machines, resident firmware, and programmable memory units necessary to automatically examine and count votes designated on a ballot cards, and data processing machines which can be used for counting ballots and tabulating results.

Sec. 6. Minnesota Statutes 2004, section 206.56, subdivision 3, is amended to read:

Subd. 3. BALLOT. “Ballot” includes ballot cards and paper ballots, ballot cards, the paper ballot marked by an electronic marking device, and an electronic record of each vote cast by a voter at an election and securely transmitted electronically to automatic tabulating equipment in the polling place.

Sec. 7. Minnesota Statutes 2004, section 206.56, subdivision 7, is amended to read:

Subd. 7. COUNTING CENTER. “Counting center” means a place selected by the governing body of a municipality where an a central count electronic voting system is used for the automatic processing and counting of ballots.

Sec. 8. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

Subd. 7a. ELECTRONIC BALLOT DISPLAY. “Electronic ballot display” means a graphic representation of a ballot on a computer monitor or screen on which a voter may make vote choices for candidates and questions for the purpose of marking a nonelectronic ballot or securely transmitting an electronic ballot to automatic tabulating equipment in the polling place.

Sec. 9. Minnesota Statutes 2004, section 206.56, is amended by adding a subdivision to read:

Subd. 7b. ELECTRONIC BALLOT MARKER. “Electronic ballot marker” means equipment that is part of an electronic voting system that uses an electronic ballot display or audio ballot reader to:

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- (1) mark a nonelectronic ballot with votes selected by a voter; or
- (2) securely transmit a ballot electronically to automatic tabulating equipment in the polling place.

Sec. 10. Minnesota Statutes 2004, section 206.56, subdivision 8, is amended to read:

Subd. 8. **ELECTRONIC VOTING SYSTEM.** "Electronic voting system" means a system in which the voter records votes by means of marking or transmitting a ballot, which is designed so that votes may be counted by automatic tabulating equipment in the polling place where the ballot is cast or at a counting center.

An electronic voting system includes automatic tabulating equipment; nonelectronic ballot markers; electronic ballot markers, including electronic ballot display, audio ballot reader, and devices by which the voter will register the voter's voting intent; software used to program automatic tabulators and layout ballots; computer programs used to accumulate precinct results; ballots; secrecy folders; system documentation; and system testing results.

Sec. 11. Minnesota Statutes 2004, section 206.56, subdivision 9, is amended to read:

Subd. 9. **MANUAL MARKING DEVICE.** "Manual marking device" means any approved device for directly marking a ballot by hand with ink, pencil, or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

Sec. 12. Minnesota Statutes 2004, section 206.57, subdivision 1, is amended to read:

Subdivision 1. **EXAMINATION AND REPORT BY SECRETARY OF STATE; APPROVAL.** A vendor of an electronic voting system may apply to the secretary of state to examine the system and to report as to its compliance with the requirements of law and as to its accuracy, durability, efficiency, and capacity to register the will of voters. The secretary of state or a designee shall examine the system submitted and file a report on it in the Office of the Secretary of State. Examination is not required of every individual machine or counting device, but only of each type of electronic voting system before its adoption, use, or purchase and before its continued use after significant changes have been made in an approved system. The examination must include the ballot programming; electronic ballot marking, including all assistive technologies intended to be used with the system; vote counting; and vote accumulation functions of each voting system.

If the report of the secretary of state or the secretary's designee concludes that the kind of system examined complies with the requirements of sections 206.55 to 206.90 and can be used safely, the system shall be deemed approved by the secretary of state, and may be adopted and purchased for use at elections in this state. A voting system not approved by the secretary of state may not be used at an election in this state. The secretary of state may adopt permanent rules consistent with sections 206.55 to 206.90 relating to the examination and use of electronic voting systems.

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Sec. 13. Minnesota Statutes 2004, section 206.57, subdivision 5, is amended to read:

Subd. 5. VOTING SYSTEM FOR DISABLED VOTERS. In federal and state elections held after December 31, 2005, and in county, municipal, and school district elections held after December 31, 2007, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Sec. 14. Minnesota Statutes 2004, section 206.57, is amended by adding a subdivision to read:

Subd. 7. ELECTION ASSISTANCE COMMISSION STANDARDS. If the federal Election Assistance Commission has not established by January 1, 2006, standards for an electronic ballot marker or other voting system component that is required to enable a voting system to meet the requirements of subdivision 5, the secretary of state may certify the voting system on an experimental basis pending the completion of federal standards, notwithstanding subdivision 6. Within two years after the Election Assistance Commission issues standards for a voting system component used in a voting system authorized under this subdivision, the secretary of state must review or reexamine the voting system to determine whether the system conforms to federal standards.

Sec. 15. Minnesota Statutes 2004, section 206.61, subdivision 4, is amended to read:

Subd. 4. ORDER OF CANDIDATES. On the "State Partisan Primary Ballot" prepared for primary elections, and on the white ballot prepared for the general election, the order of the names of nominees or names of candidates for election shall be the same as required for paper ballots. More than one column or row may be used for the same office or party. Electronic ballot display and audio ballot readers must conform to the candidate order on the optical scan ballot used in the precinct.

Sec. 16. Minnesota Statutes 2004, section 206.61, subdivision 5, is amended to read:

Subd. 5. ALTERNATION. The provisions of the election laws requiring the alternation of names of candidates must be observed as far as practicable by changing the order of the names on an electronic voting system in the various precincts so that each name appears on the machines or marking devices used in a municipality substantially an equal number of times in the first, last, and in each intermediate place in the list or group in which they belong. However, the arrangement of candidates' names must be the same on all voting systems used in the same precinct. If the number of names to be alternated exceeds the number of precincts, the election official responsible for providing the ballots, in accordance with subdivision 1, shall determine by lot the alternation of names.

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If an electronic ballot marker is used with a paper ballot that is not an optical scan ballot card, the manner of alternation of candidate names on the paper ballot must be as prescribed for optical scan ballots in this subdivision. If a machine is used to securely transmit a ballot electronically to automatic tabulating equipment in the polling place, the manner of alternation of candidate names on the transmitting machine must be as prescribed for optical scan ballots in this subdivision.

Sec. 17. Minnesota Statutes 2004, section 206.64, subdivision 1, is amended to read:

Subdivision 1. **GENERAL PROVISIONS FOR ELECTRONIC SYSTEM VOTING.** Each electronic voting system booth must be placed and protected so that it is accessible to only one voter at a time and is in full view of all the election judges and challengers at the polling place. The election judges shall admit one individual at a time to each booth after determining that the individual is eligible to vote. Voting by electronic voting system must be secret, except for voters who need request assistance. A voter may remain inside the voting booth for ~~three minutes~~ the time reasonably required for the voter to complete the ballot. A voter who refuses to leave the voting booth after a reasonable amount of time, but not less than three minutes, must be removed by the election judges.

Sec. 18. Minnesota Statutes 2004, section 206.80, is amended to read:

206.80 ELECTRONIC VOTING SYSTEMS.

(a) An electronic voting system may not be employed unless it:

- (1) permits every voter to vote in secret;
- (2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;
- (3) provides for write-in voting when authorized;
- (4) automatically rejects by means of the automatic tabulating equipment, except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;
- (5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote; and
- (6) automatically rejects, by means of the automatic tabulating equipment, all votes cast in a primary election by a voter when the voter votes for candidates of more than one party; and
- (7) provides every voter an opportunity to verify votes recorded on the permanent paper ballot or paper record, either visually or using assistive voting technology, and to change votes or correct any error before the voter's ballot is cast and counted, produces an individual, discrete, permanent, paper ballot or paper record of the ballot cast by the voter, and preserves the paper ballot or paper record as an official record available for use in any recount.

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(b) An electronic voting system purchased on or after the effective date of this section may not be employed unless it:

(1) accepts and tabulates, in the polling place or at a counting center, a marked optical scan ballot;

(2) creates a marked optical scan ballot that can be tabulated in the polling place or at a counting center by automatic tabulating equipment certified for use in this state; or

(3) securely transmits a ballot electronically to automatic tabulating equipment in the polling place while creating an individual, discrete, permanent paper record of each vote on the ballot.

Sec. 19. [206.805] STATE VOTING SYSTEMS CONTRACTS.

Subdivision 1. CONTRACTS REQUIRED. (a) The secretary of state, with the assistance of the commissioner of administration, shall establish one or more state voting systems contracts. The contracts should, if practical, include provisions for maintenance of the equipment purchased. The voting systems contracts must address precinct-based optical scan voting equipment, ballot marking equipment for persons with disabilities and other voters, and assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines. The contracts must give the state a perpetual license to use and modify the software. The contracts must include provisions to escrow the software source code, as provided in subdivision 2. Bids for voting systems and related election services must be solicited from each vendor selling or leasing voting systems that have been certified for use by the secretary of state. The contracts must be renewed from time to time.

(b) The secretary of state shall appoint an advisory committee, including representatives of the state chief information officer, county auditors, municipal clerks who have had operational experience with the use of electronic voting systems, and members of the disabilities community to advise the secretary of state in reviewing and evaluating the merits of proposals submitted from voting equipment vendors for the state contracts.

(c) Counties and municipalities may purchase or lease voting systems and obtain related election services from the state contracts.

Subd. 2. ESCROW OF SOURCE CODE. The contracts must require the voting system vendor to provide a copy of the source code for the voting system to an independent third-party evaluator selected by the vendor, the secretary of state, and the chairs of the major political parties. The evaluator must examine the source code and certify to the secretary of state that the voting system will record and count votes as represented by the vendor. Source code that is trade secret information must be treated as nonpublic information, in accordance with section 13.37. Each major political party may designate an agent to examine the source code to verify that the voting system will record and count votes as represented by the vendor; the agent must not disclose the source code to anyone else.

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Sec. 20. Minnesota Statutes 2004, section 206.81, is amended to read:

206.81 ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.

(a) The secretary of state may approve certify an electronic voting system for experimental use at an election prior to its approval for general use.

~~(b) The secretary of state must approve one or more direct recording electronic voting systems for experimental use at an election before their approval for general use and may impose restrictions on their use. At least one voting system approved under this paragraph must permit sighted persons to vote and at least one system must permit a blind or visually impaired voter to cast a ballot independently and privately.~~

~~(e) Experimental use must be observed by the secretary of state or the secretary's designee and the results observed must be considered at any subsequent proceedings for approval certification for general use.~~

~~(d) (c) The secretary of state may adopt rules consistent with sections 206.55 to 206.90 relating to experimental use. The extent of experimental use must be determined by the secretary of state.~~

Sec. 21. Minnesota Statutes 2004, section 206.82, subdivision 1, is amended to read:

Subdivision 1. **PROGRAM.** A program or programs for use in an election conducted by means of an electronic voting system or using an electronic ballot marker shall be prepared at the direction of the county auditor or municipal clerk who is responsible for the conduct of the election and shall be independently verified by a competent person designated by that official. The term "competent person" as used in this section means a person who can demonstrate knowledge as a computer programmer and who is other than and wholly independent of any person operating or employed by the counting center or the corporation or other preparer of the program. A test deck prepared by a competent person shall be used for independent verification of the program; it shall test the maximum digits used in totaling the returns and shall be usable by insertion during the tabulation process as well as prior to tabulation. A test deck must also be prepared using the electronic ballot marker program and must also be used to verify that all valid votes counted by the vote tabulator may be selected using the electronic ballot marker. The secretary of state shall adopt rules further specifying test procedures.

Sec. 22. Minnesota Statutes 2004, section 206.82, subdivision 2, is amended to read:

Subd. 2. **PLAN.** The municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which an electronic voting system is used in more than one municipality and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than

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60 days before the first election at which the municipality uses an electronic voting system. Prior to July 1 of each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the Department of Administration or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

Sec. 23. Minnesota Statutes 2004, section 206.83, is amended to read:

206.83 TESTING OF VOTING SYSTEMS.

Within 14 days before election day, the official in charge of elections shall have the voting system tested to ascertain that the system will correctly mark or securely transmit to automatic tabulating equipment in the polling place ballots using all methods supported by the system, including through assistive technology, and count the votes cast for all candidates and on all questions within 14 days prior to election day. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by (1) processing a preaudited group of ballots punched or marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes; and (2) processing an additional test deck of ballots marked using the electronic ballot marker for the precinct, including ballots marked or ballots securely transmitted electronically to automatic tabulating equipment in the polling place using the electronic ballot display, audio ballot reader, and any assistive voting technology used with the electronic ballot marker. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election. After the completion of the test, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

Sec. 24. Minnesota Statutes 2004, section 206.84, subdivision 1, is amended to read:

Subdivision 1. **INSTRUCTION OF JUDGES, VOTERS.** The officials in charge of elections shall determine procedures to instruct election judges and voters in the use of electronic voting system manual marking devices and the electronic ballot marker, including assistive voting technology.

Sec. 25. Minnesota Statutes 2004, section 206.84, subdivision 3, is amended to read:

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Subd. 3. **BALLOTS.** The ballot information must be in the same order provided for paper ballots, except that the information may be in vertical or horizontal rows, or on a number of separate pages. The secretary of state shall provide by rule for standard ballot formats for electronic voting systems. Electronic ballot displays and audio ballot readers shall be in the order provided for on the optical scan ballot. Electronic ballot displays may employ zooms or other devices as assistive voting technology. Audio ballot readers may employ rewinds or audio cues as assistive voting technology.

Ballot cards may contain special printed marks and holes as required for proper positioning and reading of the ballots by electronic vote counting equipment. Ballot cards must contain an identification of the precinct for which they have been prepared which can be read visually and which can be tabulated by the automatic tabulating equipment.

Sec. 26. Minnesota Statutes 2004, section 206.84, subdivision 6, is amended to read:

Subd. 6. **DUTIES OF OFFICIAL IN CHARGE.** The official in charge of elections in each municipality where an electronic voting system is used shall have the voting systems put in order, set, adjusted, and made ready for voting when delivered to the election precincts. The official shall also provide each precinct with a container for transporting ballot cards to the counting location after the polls close. The container shall be of sturdy material to protect the ballots from all reasonably foreseeable hazards including auto collisions. The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open the election judges shall compare the ballot cards used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for the purpose. The certification must be filed with the election returns.

Sec. 27. **[206.845] BALLOT RECORDING AND COUNTING SECURITY.**

Subdivision 1. PROHIBITED CONNECTIONS. The county auditor and municipal clerk must secure ballot recording and tabulating systems physically and electronically against unauthorized access. Except for wired connections within the polling place, ballot recording and tabulating systems must not be connected to or operated on, directly or indirectly, any electronic network, including a local area network, a wide-area network, the Internet, or the World Wide Web. Wireless communications may not be used in any way in a vote recording or vote tabulating system. Wireless, device-to-device capability is not permitted. No connection by modem is permitted.

Transfer of information from the ballot recording or tabulating system to another system for network distribution or broadcast must be made by disk, tape, or other physical means of communication, other than direct or indirect electronic connection of the vote recording or vote tabulating system.

Subd. 2. **TRANSMISSION TO CENTRAL REPORTING LOCATION.** After the close of the polls, the head election judge must create a printed record of the results

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of the election for that precinct. After the record has been printed, the head election judge in a precinct that employs automatic tabulating equipment may transmit the accumulated tally for each device to a central reporting location using a telephone, modem, Internet, or other electronic connection. During the canvassing period, the results transmitted electronically must be considered unofficial until the canvassing board has performed a complete reconciliation of the results.

Sec. 28. Minnesota Statutes 2004, section 206.85, subdivision 1, is amended to read:

Subdivision 1. **DUTIES OF RESPONSIBLE OFFICIAL.** The official in charge of elections in a municipality where an electronic voting system is used at a counting center must:

(a) be present or personally represented throughout the counting center proceedings;

(b) be responsible for acquiring sufficient facilities and personnel to ensure timely and lawful processing of votes;

(c) be responsible for the proper training of all personnel participating in counting center proceedings and deputize all personnel who are not otherwise election judges;

(d) maintain actual control over all proceedings and be responsible for the lawful execution of all proceedings in the counting center whether or not by experts;

(e) be responsible for assuring the lawful retention and storage of ballots and read-outs; and

(f) arrange for observation by the public and by candidates' representatives of counting center procedures by publishing the exact location of the counting center in a legal newspaper at least once during the week preceding the week of election and in the newspaper of widest circulation once on the day preceding the election, or once the week preceding the election if the newspaper is a weekly.

The official may make arrangements with news reporters which permit prompt reporting of election results but which do not interfere with the timely and lawful completion of counting procedures.

Sec. 29. Minnesota Statutes 2004, section 206.90, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** For the purposes of this section, "optical scan voting system" means an electronic voting system approved for use under sections 206.80 to 206.81 in which the voter records votes by marking with a pencil or other ~~writing instrument~~ device, including an electronic ballot marker, a ballot on which the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No" are printed.

Sec. 30. Minnesota Statutes 2004, section 206.90, subdivision 5, is amended to read:

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Subd. 5. **INSTRUCTION OF JUDGES, VOTERS.** In instructing judges and voters under section 206.84, subdivision 1, officials in charge of election precincts using optical scan voting systems shall include instruction on the proper mark for recording votes on ballot cards marked with a pencil or other writing instrument and the insertion by the voter of the ballot card into automatic tabulating equipment that examines and counts votes as the ballot card is deposited into the ballot box.

Officials shall include instruction on the insertion by the voter of the ballot card into an electronic ballot marker that can examine votes before the ballot card is deposited into the ballot box.

Sec. 31. Minnesota Statutes 2004, section 206.90, subdivision 6, is amended to read:

Subd. 6. **BALLOTS.** In precincts using optical scan voting systems, a single ballot card on which all ballot information is included must be printed in black ink on white colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink.

On the front of the ballot must be printed the words "Official Ballot" and the date of the election and lines for the initials of at least two election judges.

When optical scan ballots are used, the offices to be elected must appear in the following order: federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices.

On optical scan ballots, the names of candidates and the words "yes" and "no" for ballot questions must be printed as close to their corresponding vote targets as possible.

The line on an optical scan ballot for write-in votes must contain the words "write-in, if any."

If a primary ballot contains both a partisan ballot and a nonpartisan ballot, the instructions to voters must include a statement that reads substantially as follows: "THIS BALLOT CARD CONTAINS A PARTISAN BALLOT AND A NONPARTISAN BALLOT. ON THE PARTISAN BALLOT YOU ARE PERMITTED TO VOTE FOR CANDIDATES OF ONE POLITICAL PARTY ONLY." If a primary ballot contains political party columns on both sides of the ballot, the instructions to voters must include a statement that reads substantially as follows: "ADDITIONAL POLITICAL PARTIES ARE PRINTED ON THE OTHER SIDE OF THIS BALLOT. VOTE FOR ONE POLITICAL PARTY ONLY." At the bottom of each political party column on the primary ballot, the ballot must contain a statement that reads substantially as follows: "CONTINUE VOTING ON THE NONPARTISAN BALLOT." The instructions in section 204D.08, subdivision 4, do not apply to optical scan partisan primary ballots. Electronic ballot displays and audio ballot readers must follow the order of offices and questions on the optical scan or paper ballot used in the same precinct, or the sample ballot posted for that precinct.

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Sec. 32. Minnesota Statutes 2004, section 206.90, subdivision 8, is amended to read:

Subd. 8. **DUTIES OF ELECTION OFFICIALS.** The official in charge of elections in each municipality where an optical scan voting system is used shall have the electronic ballot marker that examines and marks votes on ballot cards or the machine that securely transmits a ballot electronically to automatic tabulating equipment in the polling place and the automatic tabulating equipment that examines and counts votes as ballot cards are deposited into ballot boxes put in order, set, adjusted, and made ready for voting when delivered to the election precincts.

Sec. 33. Minnesota Statutes 2004, section 206.90, subdivision 9, is amended to read:

Subd. 9. **SPOILED BALLOT CARDS.** Automatic tabulating equipment and electronic ballot markers must be capable of examining a ballot card for defects and returning it to the voter before it is counted and deposited into the ballot box and must be programmed to return as a spoiled ballot a ballot card with votes for an office or question which exceed the number which the voter is entitled to cast and at a primary a ballot card with votes for candidates of more than one party.

Sec. 34. **APPROPRIATIONS.**

Subdivision 1. ASSISTIVE VOTING TECHNOLOGY. (a) \$29,000,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties for the following purposes:

(1) to purchase electronic voting systems equipped for individuals with disabilities that meet the requirements of Minnesota Statutes, section 206.80, and have been certified by the secretary of state under Minnesota Statutes, section 206.57; the systems may be either ballot marking equipment for persons with disabilities and other voters or assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines;

(2) to defray operating costs of the assistive voting equipment purchased under clause (1), up to \$600 per polling place per year; and

(3) to the extent that money remains after purchasing an assistive voting system for each polling place, to purchase precinct-count or central-count optical scan electronic voting systems.

This appropriation is available until June 30, 2009.

(b) "Operating costs" include actual county and municipal costs for hardware maintenance, election day technical support, software licensing, system programming, voting system testing, training of county or municipal staff in the use of the assistive voting system, transportation of the assistive voting systems to and from the polling places, and storage of the assistive voting systems between elections.

(c) The secretary of state shall allocate the amount to each county in proportion to the number of precincts used by the county in the state general election of 2004.

New language is indicated by underline, deletions by strikeout.

Subd. 2. OPTICAL SCAN EQUIPMENT. \$6,000,000 is appropriated from the Help America Vote Act account to the secretary of state for grants to counties to purchase optical scan voting equipment. Counties are eligible for grants to the extent that they decide to purchase ballot marking machines and as a result do not have sufficient Help America Vote Act grant money remaining to also purchase a compatible precinct-based optical scan machine or central-count machine. These grants must be allocated to counties at a rate of \$3,000 per eligible precinct until the appropriation is exhausted, with priority in the payment of grants to be given to counties currently using hand- and central-count voting systems and counties using precinct-count optical scan voting systems incompatible with assistive voting systems or ballot marking machines. This appropriation is available until June 30, 2009.

Subd. 3. GRANT APPLICATION. To receive a grant under subdivision 1 or 2, a county must apply to the secretary of state on forms prescribed by the secretary of state that set forth how the grant money will be spent, which must be in accordance with the plan adopted under section 35. A county may submit more than one grant application, so long as the appropriation remains available and the total amount granted to the county does not exceed the county's allocation.

Subd. 4. REPORT; AUDIT RECORDS. Each county receiving a grant under subdivision 1 or 2 must report to the secretary of state by January 15, 2006, the amount spent for the purchase of each kind of electronic voting system and for operating costs of the systems purchased. The secretary of state shall compile this information and report it to the legislature by February 15, 2006.

In addition to the report required by this section, each county receiving a grant under this act must maintain financial records for each grant sufficient to satisfy federal audit standards and must transmit those records to the secretary of state upon request of the secretary of state.

Subd. 5. ACCESS TO POLLING PLACES. \$290,000 is appropriated from the Help America Vote Act account to the secretary of state to make grants to counties and municipalities to improve access to polling places for individuals with disabilities, to be available until June 30, 2007.

Subd. 6. ADMINISTRATIVE COSTS. \$3,000,000 is appropriated from the Help America Vote Act account to the secretary of state for the following purposes, to be available until June 30, 2007:

(1) \$1,218,000 to maintain the statewide voter registration system and to develop the capacity to handle registration and election transactions at the polling place;

(2) \$20,000 to verify voter registration data against the Department of Public Safety driver's license and Social Security number database;

(3) \$200,000 to make the statewide voter registration system available for use by local election officials;

(4) \$440,000 to assist local election officials using the statewide voter registration system;

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(5) \$79,000 to develop and operate the system for matching Social Security numbers against driver's license records;

(6) \$83,000 for the state court administrator to automate the interchange of information between the state courts and the statewide voter registration system;

(7) \$200,000 to administer implementation of the Help America Vote Act and to audit the grants to counties and municipalities under this section;

(8) \$120,000 to process complaints received under Minnesota Statutes, section 200.04;

(9) \$40,000 to establish the state voting systems contracts required by new Minnesota Statutes, section 206.805, and to administer the grants to counties and municipalities under this section;

(10) \$200,000 to train local election officials on the use, maintenance, and implementation of the new electronic voting systems purchased with the appropriations in this section; and

(11) \$400,000 to educate voters on how to vote using the new electronic voting systems purchased with the appropriations in this section.

Subd. 7. USE OF BALANCE. Any balance remaining in the Help America Vote Act account after previous appropriations and the appropriations in this section is reserved for future appropriations to supplement those made in subdivisions 1 and 2 of this section.

Sec. 35. LOCAL EQUIPMENT PLANS.

(a) The county auditor shall convene a working group of all city, town, and school district election officials in each county to create a local equipment plan. The working group must continue to meet until the plan is completed, which must be no later than September 15, 2005, or 45 days after state certification of assistive voting systems, whichever is later. The plan must:

(1) contain procedures to implement voting systems as defined in Minnesota Statutes, section 206.80, in each polling location;

(2) define who is responsible for any capital or operating costs related to election equipment not covered by federal money from the Help America Vote Act account; and

(3) outline how the federal money from the Help America Vote Act account will be spent.

(b) A county plan must provide funding to purchase either precinct-based optical scan voting equipment or assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines for any precinct whose city or town requests it, if the requesting city or town agrees with the county on who will be responsible for operating and replacement costs related to the use of the precinct-based equipment.

(c) The plan must be submitted to the secretary of state for review and comment.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) The county board of commissioners must adopt the local equipment plan after a public hearing. Money from the Help America Vote Act account may not be expended until the plan is adopted. The county auditor shall file the adopted local equipment plan with the secretary of state.

Sec. 36. MAIL BALLOTING.

Nothing in this act is intended to preclude the use of mail balloting in those precincts where it is allowed under state law.

Sec. 37. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 11:10 a.m.

CHAPTER 163—H.F.No. 225

An act relating to data practices; making technical, conforming, and clarifying changes to the Minnesota Government Data Practices Act; defining terms; classifying, regulating, and reviewing access to and dissemination of certain data; providing notice of breaches in security; regulating certain fees; providing for the conduct of certain board and council meetings; modifying provisions regulating motor vehicle and driver applications and records; regulating disclosure of nonidentifying sales tax returns; modifying vehicle accident reports and procedures; providing for treatment of data held by the comprehensive incident-based reporting system; regulating use of Social Security numbers; classifying certain animal health data; defining terms and regulating data privacy practices for wireless telecommunications; providing for a review of the handling of genetic information; amending Minnesota Statutes 2004, sections 3.978, subdivision 2; 11A.24, subdivision 6; 13.01, subdivisions 1, 3; 13.02, subdivision 7; 13.03, subdivisions 1, 2, 3, 4, 5, 6, 8; 13.04, subdivisions 2, 4; 13.05, subdivisions 1, 4, 6, 7, 8, 9; 13.06, subdivisions 1, 2, 3, 4; 13.07; 13.072, subdivision 4; 13.073, subdivision 3; 13.08, subdivisions 1, 2, 5; 13.32, by adding a subdivision; 13.37, subdivisions 1, 2, 3; 13.3805, by adding a subdivision; 13.43, subdivisions 1, 2, 3; 13.46, subdivision 4; 13.591, by adding subdivisions; 13.601, by adding a subdivision; 13.635, by adding a subdivision; 13.643, by adding a subdivision; 13.72, by adding subdivisions; 13.82, subdivisions 1, 16; 16C.06, subdivision 5; 116J.68, by adding a subdivision; 116L.03, by adding a subdivision; 116L.665, by adding a subdivision; 116M.15, by adding a subdivision; 116U.25; 168.346; 168A.04, by adding a subdivision; 169.09, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, by adding subdivisions; 171.07, subdivisions 1, 3; 171.12, subdivision 7; 270B.01, subdivision 5; 270B.03, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 13; 41A; 299C; 325E; repealing Minnesota Statutes 2004, sections 13.04, subdivision 5; 169.09, subdivision 10; 170.55.

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

Section 1. Minnesota Statutes 2004, section 3.978, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.