Office of the Revisor of Statutes

Minnesota Session Laws - 2006, Regular Session

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Key: (1) ~~language to be deleted~~ (2) new language

CHAPTER 242--S.F.No. 2743

An act relating to elections; providing for data privacy in certain voter records; regulating a Web site; changing certain election law provisions; setting the criteria for voting systems to be used in elections; establishing a voting machines options working group; providing appointments; amending Minnesota Statutes 2004, sections 201.061, subdivision 1; 202A.155; 203B.02, subdivision 1; 203B.06, subdivision 3; 203B.11, subdivision 4; 204B.40; 204C.07, by adding a subdivision; 204C.15, subdivision 1; 211A.02, subdivision 2; Minnesota Statutes 2005 Supplement, sections 10.60, subdivisions 3, 4; 10A.01, subdivision 26; 201.061, subdivision 3; 204C.10; 206.56, subdivisions 1b, 3, 7a, 7b, 8; 206.61, subdivision 5; 206.80; 206.805, subdivision 1; 206.82, subdivision 2; 206.83; 206.90, subdivision 8; proposing coding for new law in Minnesota Statutes, chapters 13; 204C; 206; proposing coding for new law as Minnesota Statutes, chapter 5B; repealing Minnesota Statutes 2004, section 204C.50, subdivisions 3, 4, 5, 6; Minnesota Statutes 2005 Supplement, section 204C.50, subdivisions 1, 2.

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

Section 1. **[5B.01] FINDINGS; PURPOSE.**

The legislature finds that individuals attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for data without disclosing the location of a victim of domestic violence, sexual assault, or stalking; to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, or stalking; and to enable program participants to use an address designated by the secretary of state as a substitute mailing address for all purposes.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 2. **[5B.02] DEFINITIONS.**

(a) For purposes of this chapter and unless the context clearly requires otherwise, the definitions in this section have the meanings given them.

(b) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(c) "Applicant" means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in section 524.5-102.

(d) "Domestic violence" means an act as defined in section 518B.01, subdivision 2, paragraph (a), and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(e) "Eligible person" means an adult, a minor, or an incapacitated person, as defined in section 524.5-102 for whom there is good reason to believe (i) that the eligible person is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for his or her safety or the safety of persons on whose behalf the application is made.

(f) "Program participant" means an individual certified as a program participant under section 5B.03.

(g) "Stalking" means acts criminalized under section 609.749 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 3. **[5B.03] ADDRESS CONFIDENTIALITY PROGRAM.**

Subdivision 1. **Application.** The secretary of state shall certify an eligible person as a program participant when the secretary receives an application that must contain:

(1) the name of the eligible person;

(2) a statement by the applicant that the applicant has good reason to believe (i) that the eligible person listed on the application is a victim of domestic violence, sexual assault, or stalking, (ii) that the eligible person fears for the person's safety or the safety of persons on whose behalf the application is made, and (iii) that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime;

(3) a designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(4) the mailing address where the eligible person can be contacted by the secretary of state, and the phone number or numbers where the applicant or eligible person can be called by the secretary of state;

(5) the physical address or addresses of the eligible person, disclosure of which will increase the risk of domestic violence, sexual assault, or stalking;

(6) a statement whether the eligible person would like information on becoming an ongoing absentee ballot recipient pursuant to section 5B.06; and

(7) the signature of the applicant, an indicator of the applicant's authority to act on behalf of the eligible person, if appropriate, the name and signature of any individual or representative of any person who assisted in the preparation of the application, and the date on which the application was signed.

Subd. 2. **Filing.** Applications must be filed with the secretary of state and are subject to the provisions of section 5.15.

Subd. 3. **Certification.** Upon filing a completed application, the secretary of state shall certify the eligible person as a program participant. Program participants shall be certified for four years following the date of filing unless the certification is canceled, withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

Subd. 4. **Changes in information.** Program participants or applicants must inform the secretary of state of any changes in the information submitted on the application.

Subd. 5. **Designated address.** The secretary of state must designate a mailing address to which all mail for program participants is to b sent.

Subd. 6. **Attaining age of majority.** An individual who became a program participant as a minor assumes responsibility for changes in information and renewal when the individual reaches age 18.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 4. **[5B.04] CERTIFICATION CANCELLATION.**

(a) If the program participant obtains a legal change of identity, the participant loses certification as a program participant.

(b) The secretary of state may cancel a program participant's certification if there is a change in the mailing address, unless the program participant or the person who signed as the applicant on behalf of an eligible person provides the secretary of state with at least two days' prior notice in writing of the change of address.

(c) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The secretary of state shall cancel certification of a program participant who applies using false information.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 5. **[5B.05] USE OF DESIGNATED ADDRESS.**

(a) When a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant.

(b) A program participant may use the address designated by the secretary of state as the program participant's work address.

(c) The Office of the Secretary of State shall forward all mail sent to the designated address to the proper program participants.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 6. **[5B.06] VOTING BY PROGRAM PARTICIPANT; USE OF DESIGNATED ADDRESS BY COUNTY AUDITOR.**

A program participant who is otherwise eligible to vote may register with the secretary of state as an ongoing absentee voter. The secretary of state shall determine the precinct in which the residential address of the program participant is located and shall request from and receive from the county auditor or other election official the ballot for that precinct and shall forward the absentee ballot to the program participant with the other materials for absentee balloting as required by Minnesota law. The program participant shall complete the ballot and return it to the secretary of state, who shall review the ballot in the manner provided by section 203B.24. If the

ballot and ballot materials comply with the requirements of that section, the ballot must be certified by the secretary of state as the ballot of a program participant, and must be forwarded to the appropriate electoral jurisdiction for tabulation along with all other ballots. The name and address of a program participant must not be listed in the statewide voter registration system.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 7. **[5B.07] DATA CLASSIFICATION.**

All data related to applicants, eligible persons and program participants is private data as defined by section 13.02, subdivision 12. A consent for release of information from an applicant, eligible person, or program participant is not effective.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 8. **[5B.08] ADOPTION OF RULES.**

Enactment of this section satisfies the requirements of section 14.388, subdivision 1 for the enactment of rules to facilitate the administration of this chapter by state and local agencies.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 9. Minnesota Statutes 2005 Supplement, section 10.60, subdivision 3, is amended to read:

Subd. 3. **Prohibitions.** (a) A Web site or publication must not include pictures or other materials that tend to attribute the Web site or publication to an individual or group of individuals instead of to a public office, state agency, or political subdivision. A publication must not include the words "with the compliments of" or contain letters of personal greeting that promote an elected or appointed official of a state agency or political subdivision.

(b) A Web site, other than a Web site maintained by a public library or the election-related Web site maintained by the office of the secretary of state or the Campaign Finance and Public Disclosure Board, may not contain a link to a Weblog or site maintained by a candidate, a political committee, a political party or party unit, a principal campaign committee, or a state committee. Terms used in this paragraph have the meanings given them in chapter 10A, except that "candidate" also includes a candidate for an elected office of a political subdivision.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2005 Supplement, section 10.60, subdivision 4, is amended to read:

Subd. 4. **Permitted material.** (a) Material specified in this subdivision may be included on a Web site or in a publication, but only if the material complies with subdivision 2. This subdivision is not a comprehensive list of material that may be contained on a Web site or in a publication, if the material complies with subdivision 2.

(b) A Web site or publication may include biographical information about an elected or appointed official, a single official photograph of the official, and photographs of the official performing functions related to the office. There is no limitation on photographs, Webcasts, archives of Webcasts, and audio or video files that facilitate access to information or services or inform the public about the duties and obligations of the office or that are intended to promote trade or tourism. A state Web site or publication may include photographs or information involving civic or charitable work done by the governor's spouse, provided that these activities relate to the functions of the governor's office.

(c) A Web site or publication may include press releases, proposals, policy positions, and other information directly related to the legal functions, duties, and jurisdiction of a public official or organization.

(d) The election-related Web site maintained by the office of the secretary of state shall provide links to:

(1) the campaign Web site of any candidate for legislative, constitutional, judicial, or federal office who requests or whose campaign committee requests such a link and provides in writing a valid URL address to the office of the secretary of state; and

(2) the Web site of any individual or group advocating for or against or providing neutral information with respect to any ballot question, where the individual or group requests such a link and provides in writing a valid Web site address and valid e-mail address to the office of the secretary of state.

These links must be provided on the election-related Web site maintained by the office of the secretary of state from the opening of filing for the office in question until the business day following the day on which the State Canvassing Board has declared the results of the state general election, or November 30 of the year in which the election has taken place, whichever date is earlier. The link must be activated on the election-related Web site maintained by the office of the secretary of state within two business days of receipt of the request from a qualified candidate or committee.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 26, is amended to read:

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

(1) payment for accounting and legal services;

(2) return of a contribution to the source;

(3) repayment of a loan made to the principal campaign committee by that committee;

(4) return of a public subsidy;

(5) payment for food, beverages, entertainment, and facility rental for a fund-raising event;

(6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;

(7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;

(8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;

(9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

(11) costs of child care for the candidate's children when campaigning;

(12) fees paid to attend a campaign school;

(13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(14) interest on loans paid by a principal campaign committee on outstanding loans;

(15) filing fees;

(16) post-general election thank-you notes or advertisements in the news media;

(17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(18) contributions to a party unit;

(19) payments for funeral gifts or memorials; ~~and~~

(20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents; and

(21) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. **[13.805] ADDRESS CONFIDENTIALITY DATA CODED ELSEWHERE.**

Subdivision 1. **Scope.** The section referred to in subdivision 2 is codified outside this chapter. This section classifies address confidentiality program data as other than public.

Subd. 2. **Address confidentiality program.** Data maintained by the Office of the Secretary of State regarding the address confidentiality program are governed by section 5B.07.

EFFECTIVE DATE. This section is effective September 1, 2007.

Sec. 13. Minnesota Statutes 2004, section 201.061, subdivision 1, is amended to read:

Subdivision 1. **Prior to election day.** At any time except during the 20 days immediately preceding any regularly scheduled election, an eligible voter or any individual who will be an eligible voter at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application as described in section 201.071,

subdivision 1, and submitting it in person or by mail to the county auditor of that county or to the Secretary of State's Office. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. An improperly addressed or delivered registration application shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence. A state or local agency or an individual that accepts completed voter registration applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten days after the applications are dated by the voter.

For purposes of this section, mail registration is defined as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2005 Supplement, section 201.061, subdivision 3, is amended to read:

Subd. 3. **Election day registration.** (a) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

(1) presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;

(2) presenting any document approved by the secretary of state as proper identification;

(3) presenting one of the following:

(i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 and certified to the county auditor in the manner provided in rules of the secretary of state; or

(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) having a voter who is registered to vote in the precinct, or who is an employee employed by and working in a residential facility in the precinct and vouching for a resident in the facility, sign an oath in the presence of the election judge vouching that the voter or employee personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day. A voter who is registered to vote in the precinct may sign up to 15 proof-of-residence oaths on any election day. This limitation does not apply to an employee of a residential facility described in this clause. The secretary of state shall provide a form for election judges to use in recording the number of individuals for whom a voter signs proof-of-residence oaths on election day. The form must include space for the maximum number of individuals for whom a voter may sign proof-of-residence oaths. For each proof-of-residence oath, the form must include a statement that the voter is registered to vote in the precinct, personally knows that the individual is a resident of the precinct, and is making the statement on oath. The form must include a space for the voter's printed name, signature, telephone number, and address.

The oath required by this subdivision and Minnesota Rules, part 8200.9939, must be attached to the voter registration application and the information on the oath must be recorded on the records of both the voter registering on election day and the voter who is vouching for the person's residence, and entered into the statewide voter registration system by the county auditor when the voter registration application is entered into that system.

(b) The operator of a residential facility shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration.

(c) "Residential facility" means transitional housing as defined in section 256E.33, subdivision 1; a supervised living facility licensed by the commissioner of health under section 144.50, subdivision 6; a nursing home as defined in section 144A.01, subdivision 5; a residence registered with the commissioner of health as a housing with services establishment as defined in section 144D.01, subdivision 4; a veterans home operated by the board of directors of the Minnesota Veterans Homes under chapter 198; a residence licensed by the commissioner of human services to provide a residential program as defined in section 245A.02, subdivision 14; a residential facility for persons with a developmental disability licensed by the commissioner of human services under section 252.28; group residential housing as defined in section 256I.03, subdivision 3; a shelter for battered women as defined in section 611A.37, subdivision 4; or a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for the homeless.

(d) For tribal band members, an individual may prove residence for purposes of registering by:

(1) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual; or

(2) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, signature, and picture of the individual and also presenting one of the documents listed in Minnesota Rules, part 8200.5100, subpart 2, item B.

(e) A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration application.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 202A.155, is amended to read:

202A.155 INTERPRETER SERVICES; CAUCUS MATERIALS.

A communicatively impaired individual who needs interpreter services at a precinct caucus shall so notify the major political party whose caucus the individual plans to attend. ~~Written~~ Notice must be given by ~~certified~~ letter or electronic mail to the ~~county or legislative district committee~~ state office of the major political party ~~at least 30 days~~ before the precinct caucus date. The major political party~~, not later than 14 days before the precinct caucus date,~~ shall promptly attempt to secure the services of one or more interpreters if available and shall assume responsibility for the cost of the services if provided. The state central committee of the major political party shall determine the process for reimbursing interpreters.

A visually impaired individual may notify the county or legislative district committee of the major political party whose precinct caucus the individual plans to attend, that the individual requires caucus materials in audio tape, Braille, or large type format. Upon receiving the request, the county or legislative district committee shall provide all official written caucus materials as soon as they are available, so that the visually impaired individual may have them converted to audio tape, Braille, or large print format prior to the precinct caucus.

Sec. 16. Minnesota Statutes 2004, section 203B.02, subdivision 1, is amended to read:

Subdivision 1. **Unable to go to polling place.** (a) Any eligible voter who reasonably expects to be unable to go to the polling place on election day in the precinct where the individual maintains residence because of absence from the precinct~~,~~; illness, including isolation or quarantine under sections 144.419 to 144.4196 or United States Code, title 42, sections 264 to 272; disability~~,~~; religious discipline~~,~~; observance of a religious holiday~~,~~; or service as an election judge in another precinct may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

(b) If the governor has declared an emergency and filed the declaration with the secretary of state under section 12.31, and the declaration states that the emergency has made it difficult for voters to go to the polling place on election day, any voter in a precinct covered by the declaration may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2004, section 203B.06, subdivision 3, is amended to read:

Subd. 3. **Delivery of ballots.** (a) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

~~(a)~~ (1) Mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

~~(b)~~ (3) Deliver the absentee ballots directly to the voter if the application is submitted in person; or

~~(c)~~ (4) Deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots to a voter who is a patient in a health care facility, as provided in section 203B.11, subdivision 4, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(b) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.13, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

Sec. 18. Minnesota Statutes 2004, section 203B.11, subdivision 4, is amended to read:

Subd. 4. **Agent delivery of ballots.** During the four days preceding an election and until 2:00 p.m. on election day, an eligible voter who is a patient of a health care facility, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4, may designate an agent to deliver the ballots to the voter from the county auditor or municipal clerk. A candidate at the election may not be designated as an agent. The voted ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m. on election day. The voter must complete an affidavit requesting the auditor or clerk to provide the agent with the ballots in a sealed transmittal envelope. The affidavit must include a statement from the voter stating that the ballots were delivered to the voter by the agent in the sealed transmittal

envelope. An agent may deliver ballots to no more than three persons in any election. The secretary of state shall provide samples of the affidavit and transmission envelope for use by the county auditors.

Sec. 19. Minnesota Statutes 2004, section 204B.40, is amended to read:

204B.40 BALLOTS; ELECTION RECORDS AND OTHER MATERIALS; DISPOSITION; INSPECTION OF BALLOTS.

The county auditors, municipal clerks, and school district clerks shall retain all election materials returned to them after any election for at least 22 months from the date of that election. All election materials involved in a contested election must be retained for 22 months or until the contest has been finally determined, whichever is later. Abstracts filed by canvassing boards shall be retained permanently by any officer with whom those abstracts are filed. Election materials no longer required to be retained pursuant to this section shall be disposed of in accordance with sections 138.163 to 138.21. Sealed envelopes containing voted ballots must be retained unopened, except as provided in this section, in a secure location. The county auditor, municipal clerk, or school district clerk shall not permit any voted ballots to be tampered with or defaced.

After the time for filing a notice of contest for an election has passed, the secretary of state may, for the purpose of monitoring and evaluating election procedures: (1) open the sealed ballot envelopes and inspect the ballots for that election maintained by the county auditors, municipal clerks, or school district clerks ~~for the purpose of monitoring and evaluating election procedures.~~; (2) inspect the polling place rosters and completed voter registration applications; or (3) examine other forms required in the Minnesota election laws for use in the polling place. No inspected ballot or document may be marked or identified in any manner. After inspection, all ballots must be returned to the ballot envelope and the ballot envelope must be securely resealed. Any other election materials inspected or examined must be secured or resealed. No polling place roster may be inspected until the voting history for that precinct has been posted. No voter registration application may be inspected until the information on it has been entered into the statewide registration system.

Sec. 20. **[204C.035] DECEPTIVE PRACTICES IN ELECTIONS.**

Subdivision 1. **Criminal penalty.** No person shall knowingly deceive another person regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election, with the intent to prevent the individual from voting in the election. A violation of this section is a gross misdemeanor.

Subd. 2. **Reporting false election information.** Any person may report to the county auditor or municipal clerk an act of deception regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election. The election official to whom the report was made shall provide accurate information to the person who reported the incorrect information in a timely manner, and may provide information about the act of deception and accurate information to mass media outlets in any affected area. The county attorney may subsequently proceed under subdivision 1.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to offenses committed on or after that date.

Sec. 21. Minnesota Statutes 2004, section 204C.07, is amended by adding a subdivision to read:

Subd. 5. **Prohibited challenges.** Challengers and the political parties that appointed them must not compile lists of voters to challenge on the basis of mail sent by a political party that was returned as undeliverable or if receipt by the intended recipient was not acknowledged in the case of registered mail. This subdivision applies to any local, state, or national affiliate of a political party that has appointed challengers, as well as any subcontractors, vendors, or other individuals acting as agents on behalf of a political party. A violation of this subdivision is a gross misdemeanor.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to offenses committed on or after that date.

Sec. 22. Minnesota Statutes 2005 Supplement, section 204C.10, is amended to read:

204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.

(a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or ~~convicted of a felony without having civil rights restored~~ has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than $10,000, or both."

(b) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth.

(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

EFFECTIVE DATE.
This section is effective July 1, 2006.

Sec. 23. Minnesota Statutes 2004, section 204C.15, subdivision 1, is amended to read:

Subdivision 1. ~~**Interpreters;**~~ **Physical assistance in marking ballots.** A voter who claims a need for assistance because of inability to read English or physical inability to mark a ballot may obtain the aid of two election judges who are members of different major political parties. The election judges shall mark the ballots as directed by the voter and in as secret a manner as circumstances permit. If the voter is deaf or cannot speak English or understand it when it is spoken, the election judges may select two individuals who are members of different major political parties to ~~act as interpreters~~ provide assistance. The ~~interpreters~~ individuals shall assist the ~~individual~~ voter in marking the ballots. A voter in need of assistance may alternatively obtain the assistance of any individual the voter chooses. Only the following persons may not provide assistance to a voter: the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate for election. The person who assists the voter shall, unaccompanied by an election judge, retire with that voter to a booth and mark the ballot as directed by the voter. No person who assists another voter as provided in the preceding sentence shall mark the ballots of more than three voters at one election. Before the ballots are deposited, the voter may show them privately to an election judge to ascertain that they are marked as the voter directed. An election judge or other individual assisting a voter shall not in any manner request, persuade, induce, or attempt to persuade or induce the voter to vote for any particular political party or candidate. The election judges or other individuals who assist the voter shall not reveal to anyone the name of any candidate for whom the voter has voted or anything that took place while assisting the voter.

Sec. 24. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 1b, is amended 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~~.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 25. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 3, is amended to read:

Subd. 3. **Ballot.** "Ballot" includes paper ballots, ballot cards, and 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~~.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 26. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 7a, is amended 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~~.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 27. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 7b, is amended 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~~:~~

~~(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~~.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 28. Minnesota Statutes 2005 Supplement, 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, 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.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 29. Minnesota Statutes 2005 Supplement, 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.

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.~~

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 30. Minnesota Statutes 2005 Supplement, 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, 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;

(6) automatically rejects 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.

(b) An electronic voting system purchased on or after June 4, 2005, may not be employed unless it:

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

(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~~.

EFFECTIVE DATE.
This section is effective the day following final enactment.

Sec. 31. Minnesota Statutes 2005 Supplement, section 206.805, subdivision 1, is amended to read:

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, and 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. All counties and municipalities are members of the cooperative purchasing venture of the Department of Administration for the purpose of this section. For the purpose of township elections, counties must aggregate orders under contracts negotiated under this

section for products and services and may apportion the costs of those products and services proportionally among the townships receiving the products and services. The county is not liable for the timely or accurate delivery of those products or services.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 32. Minnesota Statutes 2005 Supplement, section 206.82, subdivision 2, is amended to read:

Subd. 2. **Plan.** (a) Subject to paragraph (b), 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 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.

(b) Systems implemented by counties and municipalities in calendar year 2006 are exempt from paragraph (a) and section 206.58, subdivision 4, if:

(1) the municipality has fewer than 10,000 residents; and

(2) a valid county plan was filed by the county auditor of the county in which the municipality is located.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 33. Minnesota Statutes 2005 Supplement, 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. 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.

EFFECTIVE DATE.

This section is effective the day following final enactment.

Sec. 34. **[206.89] POSTELECTION REVIEW OF VOTING SYSTEMS.**

Subdivision 1. **Definition.** For purposes of this section "post election review official" means the election administration official who is responsible for the conduct of elections in a precinct selected for review under this section.

Subd. 2. **Selection for review; notice.** At the canvass of the state primary, the county canvassing board in each county must set the date, time, and place for the postelection review of the state general election to be held under this section.

At the canvass of the state general election, the county canvassing boards must select the precincts to be reviewed. The county canvassing board of a county with fewer than 50,000 registered voters must select at least two precincts for postelection review. The county canvassing board of a county with between 50,000 and 100,000 registered voters must select at least three precincts for review. The county canvassing board of a county with over 100,000 registered voters must select at least four precincts. The precincts must be selected by lot at a public meeting. At least one precinct selected in each county must have had more than 150 votes cast at the general election.

The county auditor must notify the secretary of state of the precincts that have been chosen for review and the time and place the postelection review for that county will be conducted, as soon as the decisions are made. The secretary of state must post this information on the office Web site.

Subd. 3. **Scope and conduct of review.** The county canvassing board shall appoint the post election review official as defined in subdivision 1. The post election review must be conducted of the votes cast for President or governor; United States Senator; and United States Representative. The post election review official may conduct postelection review of the votes cast for additional offices.

The postelection review must be conducted in public at the location where the voted ballots have been securely stored after the state general election or at another location chosen by the county canvassing board. The post election review official for each precinct selected must conduct the postelection review and may be assisted by election judges designated by the post election review official for this purpose. The party balance requirement of section 204B.19 applies to election judges designated for the review. The postelection review must consist of a manual count of the ballots used in the precincts selected and must be performed in the manner provided by section 204C.21. The postelection review must be conducted in the manner provided for recounts under section 204C.361 to the extent practicable. The review must be completed no later than two days before the meeting of the state canvassing board to certify the results of the state general election.

Subd. 4. **Standard of acceptable performance by voting system.** A comparison of the results compiled by the voting system with the postelection review described in this section must show that the results of the electronic voting system differed by no more than one-half of one percent from the manual count of the offices reviewed. Valid votes that have been marked by the voter outside the vote targets or using a manual marking device that cannot be read by the voting system must not be included in making the determination whether the voting system has met the standard of acceptable performance for any precinct.

Subd. 5. **Additional review.** (a) If the postelection review reveals a difference greater than one-half of one percent, the post election review official must, within two days, conduct an additional review of at least three precincts in the same jurisdiction where the discrepancy was discovered. If all precincts in that jurisdiction have been reviewed, the county auditor must immediately publicly select by lot at least three additional precincts for review. The post election review official must complete the additional review within two days after the precincts are selected and report the results immediately to the county auditor. If the second review also indicates a difference in the vote totals compiled by the voting system that is greater than one-half of one percent from the result indicated by the postelection review, the county auditor must conduct a review of the ballots from all the remaining precincts in the county. This review must be completed no later than six weeks after the state general election.

(b) If the results from the countywide reviews from one or more counties comprising in the aggregate more than ten percent of the total number of persons voting in the election clearly indicate that an error in vote counting has occurred, the post election review official must conduct a manual recount of all the ballots in the district for the affected office. The recount must be completed and the results reported to the appropriate canvassing board no later than ten weeks after the state general election.

Subd. 6. **Report of results.** Upon completion of the postelection review, the post election review official must immediately report the results to the county auditor. The county auditor must then immediately submit the results of the postelection review electronically or in writing to the secretary of state not later than two days before the State Canvassing Board meets to canvass the state general election. The secretary of state shall report the results of the postelection review at the meeting of the State Canvassing Board to canvass the state general election.

Subd. 7. **Update of vote totals.** If the postelection review under this section results in a change in the number of votes counted for any candidate, the revised vote totals must be incorporated in the official result from those precincts.

Subd. 8. **Effect on voting systems.** If a voting system is found to have failed to record votes accurately and in the manner provided by the Minnesota election law, the voting system must not be used at another election until it has been examined and recertified by the secretary of state. If the voting system failure is attributable to either its design or to actions of the vendor, the vendor must forfeit the vendor bond required by section 206.57 and the performance bond required by section 206.66.

Subd. 9. **Costs of review.** The costs of the postelection review required by this section must be allocated as follows:

(1) the governing body responsible for each precinct selected for review must pay the costs incurred for the review conducted under subdivision 2 or 5, paragraph (a);

(2) the vendor of the voting system must pay any costs incurred by the secretary of state to examine and recertify the voting system; and

(3) the secretary of state must reimburse local units of government for the costs of any recount required under subdivision 5, paragraph (b).

Subd. 10. **Time for filing election contest.** The appropriate canvass is not completed and the time for notice of a contest of election does not begin to run until all reviews under this section have been completed.

Sec. 35. **[206.895] SECRETARY OF STATE MONITOR.**

The secretary of state must monitor and evaluate election procedures in precincts subject to the audit provided for in section 206.89 in at least four precincts in each congressional district. The precincts must be chosen by lot by the State Canvassing Board at its meeting to canvass the state general election.

Sec. 36. Minnesota Statutes 2005 Supplement, 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. Whenever a ballot card created by an electronic ballot marker certified by the secretary of state is rejected by an optical scan voting system, two election judges who are members of different major political parties shall transcribe the votes on the ballot rejected by the optical scan voting system pursuant to the procedures set forth in section 206.86, subdivision 5.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 37. **[206.91] VOTING MACHINES OPTIONS WORKING GROUP.**

(a) A working group is hereby established to investigate and recommend to the legislature requirements for additional options for voting equipment that complies with the requirements of section 301 of the Help America Vote Act, Public Law 107-252, to provide private and independent voting for individuals with disabilities.

The working group must be cochaired by representatives of the Minnesota Disability Law Center and Citizens for Election Integrity - Minnesota.

(b) The working group must convene its first meeting by June 30, 2006, and must report to the legislature by February 15, 2007.

(c) The working group must include, but is not limited to:

(1) the disability community;

(2) the secretary of state;

(3) county and local election officials;

(4) major and minor political parties;

(5)(i) one member of the senate majority caucus and one member of the senate minority caucus appointed by the Subcommittee on Committees of the Committee on Rules and Administration; and

(ii) one member of the house majority caucus and one member of the house minority caucus appointed by the speaker;

(6) nonpartisan organizations;

(7) at least one individual with computer security expertise and knowledge of elections; and

(8) members of the public, other than vendors of election equipment, selected by consensus of the other members, including representatives of language and other minorities.

(d) Members of the working group will be selected by:

(1) a representative of the Office of the Secretary of State;

(2) a representative of the county election officials;

(3) the cochairs; and

(4) two legislators representing each party.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 38. Minnesota Statutes 2004, section 211A.02, subdivision 2, is amended to read:

Subd. 2. **Information required.** The report to be filed by a candidate or committee must include:

(1) the name of the candidate or ballot question;

(2) the name and address of the person responsible for filing the report;

(3) the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due;

(4) the amount, date, and purpose for each expenditure; and

(5) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate are equal to or greater than ~~$500~~ $100, and the amount and date of each contribution.

EFFECTIVE DATE. This section is effective January 1, 2007.

Sec. 39. **ELECTIONS RULES.**

(a) The rules adopted by the Office of the Secretary of State on August 9, 2004, pursuant to the authority granted in Laws 2004, chapter 293, article 1, section 39, are made permanent as if they had been adopted pursuant to Minnesota Statutes, sections 14.05 to 14.28, with only the following express exceptions:

(b) The secretary of state shall amend the rules pursuant to the good cause provision in section 14.88, subdivision 1, clause (3), as follows:

(1) The secretary of state shall amend Minnesota Rules, parts 8200.1100, 8200.1200, subparts 1a and 1b, 8200.1700, 8200.3700, and 8200.9310, subpart 4 so that effective August 10, 2006, these rules are identical to the language contained in them on August 8, 2004.

(2) The secretary of state shall amend Minnesota Rules, part 8200.5100, subpart 1, effective August 10, 2006, to add a new clause (4) to paragraph A that adds a tribal identification card as provided by Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (1).

(3) The secretary of state shall amend Minnesota Rules, part 8200.5100, subpart 2, effective August 10, 2006, to:

(i) add a new clause (5) to paragraph A that adds a tribal identification card as provided by Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (2); and

(ii) add cellular telephone to the list in paragraph B.

(4) The secretary of state shall amend Minnesota Rules, part 8200.9115, subpart 1, effective August 10, 2006, so that the certification at the top of each page of the polling place roster includes the statement that the individual is not under a guardianship of the person in which the court order revokes the individual's right to vote; and that the individual has the right to vote because, if convicted of a felony, the individual's felony sentence has expired (been completed) or the individual has been discharged from the individual's sentence.

(5) The secretary of state shall amend Minnesota Rules, part 8210.0100, subpart 2, effective August 10, 2006, so that the form of the affidavit of eligibility includes certification by the individual that the individual is not under a guardianship of the person in which the court order revokes the individual's right to vote, and that the individual has the right to vote because, if convicted of a felony, the individual's felony sentence has expired (been completed) or the individual has been discharged from the individual's sentence.

(6) The secretary of state shall amend Minnesota Rules, part 8210.0500, subpart 2, effective August 10, 2006, to:

(i) add a tribal identification card as provided in Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (1) to the list in Step 3, item a;

(ii) add cellular telephone to the list in Step 3, item b, subitem (i);

(iii) add a tribal identification card as provided in Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (2), to the list in Step 3, item b, subitem (ii);

(iv) repeal Step 3, item f; and

(v) add a new Step to be numbered Step 10 and placed between the current Step 9 and Step 10 that directs the voter, if the voter has been provided with an additional envelope to conceal the signature, identification, and other information, to place the white ballot return envelope into the additional envelope; and directs the voter, if the voter has been provided a white ballot envelope with an additional flap that when sealed, conceals the signature, identification, and other information, to make sure that the flap is properly in place to conceal that information.

(7) The secretary of state shall amend Minnesota Rules, part 8200.5100, subpart 2, item B, to add cellular telephone to the list in that item.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 40. **REPEALER.**

Minnesota Statutes 2004, section 204C.50, subdivisions 3, 4, 5, and 6, and Minnesota Statutes 2005 Supplement, section 204C.50, subdivisions 1 and 2, are repealed.

Presented to the governor May 22, 2006

Signed by the governor May 31, 2006, 10:53 p.m.

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