

CHAPTER 194—H.F.No. 3111

An act relating to elections; requiring use of a ballot board to process absentee ballots; permitting absentee ballots to be counted starting on the fourth day prior to an election; modifying other absentee ballot processing procedures; amending Minnesota Statutes 2008, sections 201.061, subdivision 4; 203B.04, subdivision 1; 203B.05, subdivision 1; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3; 203B.125; 203B.23, subdivisions 1, 2; 203B.24, subdivision 1; 203B.26; 204B.45, subdivision 2; 204B.46, as amended; 204C.32, subdivision 1; 204C.33, subdivisions 1, 3; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; 206.89, subdivision 2; 208.05; proposing coding for new law in Minnesota Statutes, chapter 203B; repealing Minnesota Statutes 2008, sections 203B.10; 203B.12, subdivisions 1, 2, 3, 4, 6; 203B.13, subdivisions 1, 2, 3, 4; 203B.25.

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

Section 1. Minnesota Statutes 2008, section 201.061, subdivision 4, is amended to read:

Subd. 4. **Registration by election judges; procedures.** Registration at the polling place on election day shall be conducted by the election judges. Before registering an individual to vote at the polling place, the election judge must review any list of absentee election day registrants provided by the county auditor or municipal clerk to see if the person has already voted by absentee ballot. If the person's name appears on the list, the election judge must not allow the individual to register or to vote in the polling place. The election judge who registers an individual at the polling place on election day shall not handle that voter's ballots at any time prior to the opening of the ballot box after the voting ends. Registration applications and forms for oaths shall be available at each polling place. If an individual who registers on election day proves residence by oath of a registered voter, the form containing the oath shall be attached to the individual's registration application. Registration applications completed on election day shall be forwarded to the county auditor who shall add the name of each voter to the registration system unless the information forwarded is substantially deficient. A county auditor who finds an election day registration substantially deficient shall give written notice to the individual whose registration is found deficient. An election day registration shall not be found deficient solely because the individual who provided proof of residence was ineligible to do so.

Sec. 2. Minnesota Statutes 2008, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. **Application procedures.** Except as otherwise allowed by subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state, ~~notwithstanding rules on absentee ballot forms,~~ and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through

electronic means. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

~~(a)~~ (1) the county auditor of the county where the applicant maintains residence; or

~~(b)~~ (2) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, ~~and states date of birth, and at least one of the following:~~

(1) the applicant's Minnesota driver's license number;

(2) Minnesota state identification card number;

(3) the last four digits of the applicant's Social Security number; or

(4) a statement that the applicant does not have any of these numbers.

To be approved, the application must state that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. ~~The application may contain a request for the voter's date of birth, which,~~ and must contain an oath that the information contained on the form is accurate, that the applicant is applying on the applicant's own behalf, and that the applicant is signing the form under penalty of perjury.

An applicant's full date of birth, Minnesota driver's license or state identification number, and the last four digits of the applicant's Social Security number must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day.

An application under this subdivision may contain an application under subdivision 5 to automatically receive an absentee ballot application.

Sec. 3. Minnesota Statutes 2008, section 203B.05, subdivision 1, is amended to read:

Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 if:

~~(a)~~ (1) the county auditor of that county has designated the clerk to administer them; or

~~(b)~~ (2) the clerk has given the county auditor of that county notice of intention to administer them.

A clerk may only administer the provisions of sections 203B.04 to 203B.15 if the clerk has technical capacity to access the statewide voter registration system in the secure manner prescribed by the secretary of state. The secretary of state must identify hardware, software, security, or other technical prerequisites necessary to ensure the security, access controls, and performance of the statewide voter registration system. A clerk must receive training approved by the secretary of state on the use of the statewide voter

registration system before administering this section. A clerk may not use the statewide voter registration system until the clerk has received the required training.

Sec. 4. **[203B.065] USING THE REGISTRATION SYSTEM.**

Upon accepting an application for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system the voter's name, date of birth, address of residence in Minnesota, mailing address, Minnesota driver's license or state identification number, or the last four digits of the voter's Social Security number, if provided by the voter. Upon acceptance of an absentee ballot application of a voter who is registered to vote at an address different from the residential address certified on the absentee ballot application, the voter registration record with the previous address shall be challenged. Once the absentee ballot has been transmitted to the voter, the method of transmission and the date of transmission must be recorded.

Upon receipt of a returned absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system that the voter has returned the ballot.

Upon receipt of notice that the ballot board has accepted or rejected the absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system whether the ballot was accepted or rejected, and if rejected, the reason for rejection. If a replacement ballot is transmitted to the voter, the county auditor or municipal clerk shall record this in the statewide voter registration system.

The labels provided for envelopes used for transmitting an absentee ballot to and from an applicant for an absentee ballot for a state primary or state general election must contain bar codes generated by the statewide voter registration system to facilitate the recording required under this section. A county auditor or municipal clerk entering information into the statewide voter registration system under this section must include the information provided on the bar code label whenever information is entered into the system.

Sec. 5. Minnesota Statutes 2008, section 203B.07, subdivision 2, is amended to read:

Subd. 2. **Design of envelopes.** The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application. The return envelope shall be designed to open on the left-hand end. ~~If the voter was not previously registered,~~ The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information.

Sec. 6. Minnesota Statutes 2008, section 203B.07, subdivision 3, is amended to read:

Subd. 3. **Eligibility certificate.** A certificate of eligibility to vote by absentee ballot shall be printed on the back of the return envelope. The certificate shall contain space for the voter's Minnesota driver's license number, state identification number, or the last four digits of the voter's Social Security number, or to indicate that the voter does not have one of these numbers. The space must be designed to ensure that the voter provides the same type of identification as provided on the voter's absentee ballot application for purposes of comparison. The certificate must also contain a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot. ~~the certificate shall also contain~~ and space for a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths stating that:

- (1) the ballots were displayed to that individual unmarked;
- (2) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and
- (3) if the voter was not previously registered, the voter has provided proof of residence as required by section 201.061, subdivision 3.

Sec. 7. Minnesota Statutes 2008, section 203B.08, subdivision 2, is amended to read:

Subd. 2. **Address on return envelopes.** The county auditor or municipal clerk shall address return envelopes to allow direct mailing of the absentee ballots to:

- ~~(a) the county auditor or municipal clerk who sent the ballots to the voter,~~ has the responsibility to accept and reject the absentee ballots.
- ~~(b) the clerk of the town or city in which the absent voter is eligible to vote, or~~
- ~~(c) the appropriate election judges.~~

Sec. 8. Minnesota Statutes 2008, section 203B.08, subdivision 3, is amended to read:

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp or initial and date the return envelope and place it in a secure location with other return envelopes received by that office. Within five days after receipt, the county auditor or municipal clerk shall deliver to the appropriate election judges on election day all ballots received before or with the last mail delivery by the United States Postal Service on election day. A town clerk may request the United States Postal Service to deliver absentee ballots to the polling place on election day instead of to the official address of the town clerk ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days.

Sec. 9. **[203B.121] BALLOT BOARDS.**

Subdivision 1. **Establishment; applicable laws.** (a) The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided in sections 204B.19 to 204B.22. The board may include staff trained as election judges.

(b) Each jurisdiction must pay a reasonable compensation to each member of that jurisdiction's ballot board for services rendered during an election.

(c) Except as otherwise provided by this section, all provisions of the Minnesota Election Law apply to a ballot board.

Subd. 2. **Duties of ballot board; absentee ballots.** (a) The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08. Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more members of the ballot board shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10, subdivision 2.

(b) The members of the ballot board shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if a majority of the members of the ballot board examining the envelope are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter signed the certification on the envelope;

(3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as the number provided on the voter's application for ballots. If the number does not match the number as submitted on the application, or if a number was not submitted on the application, the election judges must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted;

(4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and

(5) the voter has not already voted at that election, either in person or, if it is after the close of business on the fourth day before the election, by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

(c)(1) If a majority of the members of the ballot board examining a return envelope find that an absentee voter has failed to meet one of the requirements provided in paragraph (b), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," list the reason for the rejection on the envelope, and return it to the county auditor. There is no other reason for rejecting an absentee ballot beyond those permitted by this section. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

(2) If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot.

(3) If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

(d) The official in charge of the absentee ballot board must mail the voter a written notice of absentee ballot rejection between six and ten weeks following the election. If the official determines that the voter has otherwise cast a ballot in the election, no notice is required. If an absentee ballot arrives after the deadline for submission provided by this chapter, the notice must be provided between six to ten weeks after receipt of the ballot. A notice of absentee ballot rejection must contain the following information:

(1) the date on which the absentee ballot was rejected or, if the ballot was received after the required deadline for submission, the date on which the ballot was received;

(2) the reason for rejection; and

(3) the name of the appropriate election official to whom the voter may direct further questions, along with appropriate contact information.

(e) An absentee ballot return envelope marked "Rejected" may not be opened or subject to further review except in an election contest filed pursuant to chapter 209.

Subd. 3. **Record of voting.** (a) When applicable, the county auditor or municipal clerk must immediately record that a voter's absentee ballot has been accepted. After the close of business on the fourth day before the election, a voter whose record indicates that an absentee ballot has been accepted must not be permitted to cast another ballot at that election. In a state primary, general, or state special election for federal or state office, the auditor or clerk must also record this information in the statewide voter registration system.

(b) The roster must be marked, and a supplemental report of absentee voters who submitted a voter registration application with their ballot must be created, no later than the start of voting on election day to indicate the voters that have already cast a ballot at the election. The roster may be marked either:

(1) by the county auditor or municipal clerk before election day;

(2) by the ballot board before election day; or

(3) by the election judges at the polling place on election day.

The record of a voter whose absentee ballot was received after the close of business on the fourth day before the election is not required to be marked on the roster or contained in a supplemental report as required by this paragraph.

Subd. 4. **Opening of envelopes.** After the close of business on the fourth day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided in section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. If more than one ballot is enclosed in the ballot envelope, the ballots must be returned in the manner provided by section 204C.25 for return of spoiled ballots, and may not be counted.

Subd. 5. **Storage and counting of absentee ballots.** (a) On a day on which absentee ballots are inserted into a ballot box, two members of the ballot board must:

(1) remove the ballots from the ballot box at the end of the day;

(2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots were accepted that day; and

(3) seal and secure all voted and unvoted ballots present in that location at the end of the day.

(b) After the polls have closed on election day, two members of the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count shall be public. No vote totals from ballots may be made public before the close of voting on election day.

In state primary and state general elections, these vote totals shall be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

(c) In addition to the requirements of paragraphs (a) and (b), if the task has not been completed previously, the members of the ballot board must verify as soon as possible, but no later than 24 hours after the end of the hours for voting, that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. An absentee ballot submitted by a voter who has voted in person on election day must be rejected. All other accepted absentee ballots must be opened, duplicated if necessary, and counted by members of the ballot board. The vote totals from these ballots must be incorporated into the totals with the other absentee ballots and handled according to paragraph (b).

EFFECTIVE DATE. Subdivision 1 is effective the day following final enactment. Subdivision 2, paragraph (d), is effective October 28, 2010. The remainder of this section is effective June 25, 2010.

Sec. 10. Minnesota Statutes 2008, section 203B.125, is amended to read:

203B.125 SECRETARY OF STATE TO MAKE RULES.

The secretary of state shall adopt rules establishing methods and procedures for issuing ballot cards and related absentee forms to be used as provided in section 203B.08, subdivision 1a, and for the reconciliation of voters and ballot cards before tabulation under section ~~203B.12~~ 204C.20, subdivision 1.

Sec. 11. Minnesota Statutes 2008, section 203B.23, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The county auditor must establish an absentee ballot board for ballots issued under sections 203B.16 to 203B.27. The board may consist of staff trained ~~and certified~~ as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties.

Sec. 12. Minnesota Statutes 2008, section 203B.23, subdivision 2, is amended to read:

Subd. 2. **Duties.** The absentee ballot board must examine all returned absentee ballot envelopes for ballots issued under sections 203B.16 to 203B.27 and accept or reject the absentee ballots in the manner provided in section 203B.24. If the certificate of voter eligibility is not printed on the return or administrative envelope, the certificate must be attached to the ballot secrecy envelope.

The absentee ballot board must immediately examine the return envelopes and mark them "accepted" or "rejected" during the 30 days before the election. If an envelope has

been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board must provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot.

If a county has delegated the responsibility for administering absentee balloting to a municipality under section 203B.05, accepted absentee ballots must be delivered to the appropriate municipality's absentee ballot board. The absentee ballot board with the authority to open and count the ballots must do so in accordance with section 203B.121, subdivisions 4 and 5.

Sec. 13. Minnesota Statutes 2008, section 203B.24, subdivision 1, is amended to read:

Subdivision 1. **Check of voter eligibility; proper execution of certificate.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the election judges shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the same voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as submitted on the application, if the voter has one of these documents; ~~and~~

(4) the voter is not known to have died; and

(5) the voter has not already voted at that election, either in person or by absentee ballot.

If the identification number described in clause (3) does not match the number as submitted on the application, the election judges must make a reasonable effort to satisfy themselves through other information provided by the applicant, or by an individual authorized to apply on behalf of the voter, that the ballots were returned by the same person to whom the ballots were transmitted.

An absentee ballot cast pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to ~~(4)~~ (5). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the certificate on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply. Notwithstanding other provisions of this section, the counting of the absentee ballot of a deceased voter does not invalidate the election.

Sec. 14. Minnesota Statutes 2008, section 203B.26, is amended to read:

203B.26 SEPARATE RECORD.

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be generated from the statewide registration system for each precinct and provided to the election judges in the polling place on election day, along with the returned envelopes marked "accepted" by the absentee ballot board. The content of the record must be in a form prescribed by the secretary of state. The election judges in the polling place must note on the record any envelopes that had been marked "accepted" by the absentee ballot board but were not counted. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day retained with the other election materials.

Sec. 15. **[203B.28] POSTELECTION REPORT TO LEGISLATURE.**

By March 1, 2011, and by January 15 of every odd-numbered year thereafter, the secretary of state shall provide to the chair and ranking minority members of the legislative committees with jurisdiction over elections a statistical report related to absentee voting in the most recent general election cycle. The statistics must be organized by county and precinct, and include:

- (1) the number of absentee ballots transmitted to voters;
- (2) the number of absentee ballots returned by voters;
- (3) the number of absentee ballots that were rejected, categorized by the reason for rejection;
- (4) the number of absentee ballots submitted pursuant to sections 203B.16 to 203B.27, along with the number of returned ballots that were accepted, rejected, and the reason for any rejections; and
- (5) the number of absentee ballots that were not counted because the ballot return envelope was received after the deadlines provided in this chapter.

Sec. 16. Minnesota Statutes 2008, section 204B.45, subdivision 2, is amended to read:

Subd. 2. **Procedure.** Notice of the election and the special mail procedure must be given at least six weeks prior to the election. Not more than 30 days nor later than 14 days prior to the election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the town or unorganized territory. No later than 14 days before the election, the auditor must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots as provided in chapter 203B. Ballot return envelopes, with return postage provided, must be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in person to the office of the auditor or clerk. The auditor or clerk ~~may~~ must appoint ~~election judges~~ a ballot board to examine the return envelopes and mark them "accepted" or "rejected" ~~during the 30 days before the election.~~ within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10. If an envelope has been rejected at least five days before the election, the ballots in the envelope

must be considered spoiled ballots remain sealed and the auditor or clerk shall provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

If the ballot is accepted, the county auditor or municipal clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the fourth day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from mail or absentee ballots may be made public before the close of voting on election day.

The costs of the mailing shall be paid by the election jurisdiction in which the voter resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

Sec. 17. Minnesota Statutes 2008, section 204B.46, as amended by Laws 2010, chapter 180, section 4, is amended to read:

204B.46 MAIL ELECTIONS; QUESTIONS.

A county, municipality, or school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election must be given to the county auditor at least 53 days prior to the election. This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. Not more than 30 nor later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B. The auditor or clerk must appoint a ballot board to examine the return envelopes and mark them "Accepted" or "Rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

If the ballot is accepted, the county auditor or municipal clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the fourth day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the ballot board, and deposited in the appropriate ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from ballots may be made public before the close of voting on election day.

Sec. 18. Minnesota Statutes 2008, section 204C.32, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office on ~~or before~~ the third day following the state primary. After taking the oath of office, the canvassing board shall publicly canvass the election returns delivered to the county auditor. The board shall complete the canvass ~~no later than~~ on the third day following the state primary and shall promptly prepare and file with the county auditor a report that states:

(a) the number of individuals voting at the election in the county, and in each precinct;

(b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) for each major political party, the names of the candidates running for each partisan office and the number of votes received by each candidate in the county and in each precinct;

(d) the names of the candidates of each major political party who are nominated; and

(e) the number of votes received by each of the candidates for nonpartisan office in each precinct in the county and the names of the candidates nominated for nonpartisan office.

Upon completion of the canvass, the county auditor shall mail or deliver a notice of nomination to each nominee for county office voted for only in that county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass. The secretary of state shall mail a notice of nomination to each nominee for state or federal office.

Sec. 19. Minnesota Statutes 2008, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office ~~on or before the seventh day~~ between the third and tenth days following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

(a) the number of individuals voting at the election in the county and in each precinct;

(b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct, including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied;

(d) the number of votes counted for and against a proposed change of county lines or county seat; and

(e) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for state or federal office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass.

Sec. 20. Minnesota Statutes 2008, section 204C.33, subdivision 3, is amended to read:

Subd. 3. **State canvass.** The State Canvassing Board shall meet at the secretary of state's office on the ~~second~~ third Tuesday following the state general election to canvass the certified copies of the county canvassing board reports received from the county auditors and shall prepare a report that states:

(a) the number of individuals voting in the state and in each county;

(b) the number of votes received by each of the candidates, specifying the counties in which they were cast; and

(c) the number of votes counted for and against each constitutional amendment, specifying the counties in which they were cast.

All members of the State Canvassing Board shall sign the report and certify its correctness. The State Canvassing Board shall declare the result within three days after completing the canvass.

Sec. 21. Minnesota Statutes 2008, section 205.065, subdivision 5, is amended to read:

Subd. 5. **Results.** The municipal primary shall be conducted and the returns made in the manner provided for the state primary so far as practicable. ~~Within two days~~ On the third day after the primary, the governing body of the municipality shall canvass the returns, and the two candidates for each office who receive the highest number of votes,

or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the municipal clerk who shall place them on the municipal general election ballot without partisan designation and without payment of an additional fee.

Sec. 22. Minnesota Statutes 2008, section 205.185, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** (a) ~~Within seven days~~ Between the third and tenth days after an election, the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within two days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the outcome of the contest has been determined by the proper court.

(c) In case of a tie vote, the canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

Sec. 23. Minnesota Statutes 2008, section 205A.03, subdivision 4, is amended to read:

Subd. 4. **Results.** The school district primary must be conducted and the returns made in the manner provided for the state primary as far as practicable. ~~Within two days~~ On the third day after the primary, the school board of the school district shall canvass the returns, and the two candidates for each specified school board position who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to at-large school board positions who receive the highest number of votes, are the nominees for the office named. Their names must be certified to the school district clerk who shall place them on the school district general election ballot without partisan designation and without payment of an additional fee.

Sec. 24. Minnesota Statutes 2008, section 205A.10, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** ~~Within seven days~~ Between the third and tenth days after a school district election other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. If there is a contest, the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court. If there is a tie vote, the school board shall determine the result by lot. The clerk shall deliver the certificate of election to the successful candidate by personal service or certified mail. The successful candidate shall file an acceptance and oath of office in writing with the clerk within 30 days of the date of mailing or personal service. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but that filing may be made at any time before action to fill the vacancy has been taken.

The school district clerk shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

A school district canvassing board shall perform the duties of the school board according to the requirements of this subdivision for a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59.

Sec. 25. Minnesota Statutes 2008, section 206.89, subdivision 2, is amended to read:

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 by lot. Ballots counted centrally by a ballot board shall be considered one precinct eligible to be selected for purposes of this subdivision. The county canvassing board of a county with fewer than 50,000 registered voters must conduct a postelection review of a total of at least two precincts. The county canvassing board of a county with between 50,000 and 100,000 registered voters must conduct a review of a total of at least three precincts. The county canvassing board of a county with over 100,000 registered voters must conduct a review of a total of at least four precincts, or three percent of the total number of precincts in the county, whichever is greater. 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. If the selection of precincts has not resulted in the selection of at least four precincts in each congressional district, the secretary of state may require counties to select by lot additional precincts to meet the congressional district requirement. The secretary of state must post this information on the office Web site.

Sec. 26. Minnesota Statutes 2008, section 208.05, is amended to read:

208.05 STATE CANVASSING BOARD.

The State Canvassing Board at its meeting on the ~~second Tuesday after each state general election~~ date provided in section 204C.33 shall open and canvass the returns made to the secretary of state for presidential electors and alternates, prepare a statement of the number of votes cast for the persons receiving votes for these offices, and declare the person or persons receiving the highest number of votes for each office duly elected. When it appears that more than the number of persons to be elected as presidential electors or alternates have the highest and an equal number of votes, the secretary of state, in the presence of the board shall decide by lot which of the persons shall be declared elected. The governor shall transmit to each person declared elected a certificate of election, signed by the governor, sealed with the state seal, and countersigned by the secretary of state.

Sec. 27. **REPEALER.**

Minnesota Statutes 2008, sections 203B.10; 203B.12, subdivisions 1, 2, 3, 4, and 6; 203B.13, subdivisions 1, 2, 3, and 4; and 203B.25, are repealed.

Sec. 28. **EFFECTIVE DATE.**

Sections 1 to 8 and 10 to 27 are effective June 25, 2010.

Presented to the governor March 22, 2010

Signed by the governor March 24, 2010, 10:17 a.m.