

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT

SECOND JUDICIAL DISTRICT

CASE TYPE: Civil Other/Misc.

Court File No. \_\_\_\_\_

Patrick Jensen, Karen Graves, Scott Metcalf

Contestants,

v.

Steve Simon, only in his official capacity  
as the Minnesota Secretary of State,  
Angie Craig, Congressional candidate

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**NOTICE OF ELECTION  
CONTEST UNDER  
MINNESOTA STATUTES  
CHAPTER 209**

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Contestees.

## INTRODUCTION

This Notice of Contest is a civil action, brought forth by Minnesota voters under Minn. Stat. § 209.02. These Minnesotans, who were each eligible to vote in the general election on November 3, 2020, believe there were countless irregularities in both the administration of the election laws that govern the entire election process and in the protection of the individual voter's rights to equal protection and due process under the Minnesota and United States Constitutions.

The violations of election law involved nearly every aspect of Minnesota's election system and demonstrate the need for drastic intervention by voters to demand accountability. This contest asserts a cause of action due to irregularities in the conduct of the election and the canvass of votes, over the question of who received the largest number of votes legally cast and on the grounds of deliberate, serious, and material violations of the Minnesota Election Law.

This challenge raises both traditional election administration issues, but also includes concerns related to technology and the failure of Minnesota election officials to safeguard the equipment, and our elections, from outside interference and manipulation. The drastic change in how digital equipment can and did influence the elections must be examined, particularly in light of the circumstances being revealed across the country.

The Contestants assert the Minnesota Secretary of State has failed to fulfill his responsibilities to Minnesota and the voters by violating multiple Minnesota statutes and the principles of both Due Process and Separation of Powers in the United States and Minnesota Constitutions.

These contestants acknowledge that Minnesota's voter registration system has been a concern of voters for years. In 2020, the ongoing failure of local and statewide government

agencies to coordinate and properly update the master list of registered voters became a serious concern. The Secretary of State and county auditors are responsible to update data to ensure the Voter Registration System (VRS) is purged of persons who are deceased, of duplicate addresses, of voters registered at false addresses and voters who have moved, etc. The failure to update the VRS became a travesty when the Secretary of State illegally removed the most important safeguard Minnesota had against ineligible voters: the signature of a witness to verify the identity of the absentee voter.

Minnesota saw scandals related to election never-before imagined. MN Congressional District Representative Ilhan Omar was embroiled in a ballot harvesting scandal in September 2020 when her supporters were caught posting videos on the internet bragging about the number of ballots they collected from the elderly people in the Somali community during the August primary. Project Veritas broke the story. A St. Paul endorsed Democrat candidate for Minnesota House District 67A was filmed on camera threatening to burn down cities, harm police and calling all White people racist. There have been no prosecutions of the ballot harvesters and Democrats elected the violent man to the Minnesota legislature. But did voters actually elect a candidate who encourages ballot harvesting from elderly immigrants and a racist, angry man to office? Or did activists manipulate the process to ensure their victories?

In 2016, there were 674,566 accepted absentee ballots in Minnesota. Each of these were properly witnessed. In 2020 Minnesota saw an unprecedented turnout of 1,906, 383 absentee voters- approximately 58% of the total turnout. The nearly two million accepted absentee ballots seemed to delight the Secretary of State. The fact that none of these voters required a witness to be accepted causes angst for those people who realize there are many people who will take

advantage of opportunities to increase their party's voting edge.<sup>1</sup> This removal of the safeguards in absentee / mail-in voting was predicted to cause this sudden, massive increase in absentee ballot requests and to adversely impact the ability of the ballot boards to complete their duties in a manner that maintained voter trust and election integrity. The Secretary's solutions to disregard the law, without concern for the risk to election security, did not increase trust or election integrity. The Secretary's actions further undermined the trust in our elections, and further divided the people of Minnesota.

Following the election on November 3, 2020, the County and State Canvassing Boards each had the opportunity to right some of the wrongs of the 45-day election fiasco by honestly canvassing the results, including checking the number of ballots received every day, and examining election materials, including outer envelopes. This should have been possible because, under Minn. Stat. § 206.89, a postelection review (PER) must be run like a recount. Minnesota voters attempted to engage in meaningful observations of the PERs but were denied meaningful access at the PERs. Many observers were present at the PERs and recorded the violations of Minnesota Election Law. Still the County Canvassing Boards presented reports to the State Boards that were not entirely accurate. The State Canvassing Board has been presented with evidence of countless violations of state law, which occurred across Minnesota in multiple counties.<sup>2</sup> The 2020 State Canvassing Board failed to hold its statewide canvass in the manner prescribed by law because the Secretary of State decided that COVID-19 concerns merited

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<sup>1</sup> There is evidence that some absentee applications requested by Republican voters were rejected for not having a witness signature and that the return envelopes did have an "R" printed on them. Whether intentional or not, it would be likely that many would assume the "R" meant Republican.

<sup>2</sup> *Petition to Correct Errors and Omissions* under Minn. Stat. § 204B.44, A20-1486, filed on Nov. 24, 2020 at Minnesota Supreme Court.

limiting the meeting. The public meeting was held via telephone with the public silenced. There was no opportunity for the State Canvassing Board to get information from the public and no effort made by that board to seek information from the public. The State Canvassing Board voted to certify the election results without discussion of any incidents.

The citizens of Minnesota have the right to expect fair elections, untainted by violations of the United States Constitution, the Minnesota Constitution, and Minnesota Election Law. The American people have become increasingly polarized along political lines and are now more visibly and vocally divided than has been apparent in generations. The vitriol and distrust between the people and elected officials of opposing parties has continued to grow for many reasons, which in isolation may not be relevant, but taken in totality create a singular truth: The importance of election integrity and security has never been more important to the stability of our Republic than now.

The Contestants bring this action to ensure election integrity in the November 3, 2020 election in Minnesota. The 2020 election needed to be above reproach. Funds were provided by the federal government under the CARES Act to support the state's efforts to enhance security. The Secretary's duty to prepare the county, city and local officials to fulfill their responsibilities to administer the election is clear. There should never be excuses made for inconsistent, non-transparent, non-secure, and sloppy administration of elections. This year, with such clear stakes, the consequences for mismanagement must be dire.

In addition to the growing political discord, the federal, state and local governments and American citizens have faced unprecedented challenges in 2020 due to the COVID-19 pandemic. Sadly, this virus has been used as a wedge to increase the partisan divide. More damaging, the

DFL party used COVID-19 as a tool to alter long-standing election law and procedure, **after** the Republican-controlled Senate refused to consent to the changes.

While Minnesotans watched people riot and protest without consequence, they were warned voting in person would be dangerous. They were told they could go to restaurants and bars but they should mail in their vote to avoid getting sick. People were told they could wear masks and socially distance and safely go to grocery and retail stores, but voting in person was dangerous.

Minnesota state officials intentionally created a campaign to increase early voting. These same officials had a responsibility to ensure the safeguards that existed at the polling places would be present at the Ballot Boards. These officials had an obligation to ensure the county Ballot Boards were aware of and followed Minnesota Election Law to ensure each eligible voter was treated equally under the law. The Ballot Boards across Minnesota failed to operate with the consistent standards. Ballot Boards were required to utilize election judges of different major political parties as required by Minn. Stat. § 203B.121, subd. 2(a). These officials were responsible to ensure the absentee ballots were properly accepted or rejected in accordance with Minn. Stat. § 203B.121, subd. 2(b). The Ballot Boards in various counties failed to allow bipartisan review of the absentee return envelopes to determine if they should be accepted or rejected.

Over the past month, the entire world has been following the news about the alleged tampering with Dominion Voting Systems, as well as other scanners and optical voting machines. Many precincts and County Ballot Boards are known to use this equipment. The total number of Minnesota jurisdictions utilizing Dominion Voting Systems is unknown, although there are at least 6 counties using that technology, because the Secretary of State's website

provided an outdated list of 2018 General Election Equipment. The Minnesota election has many areas that use these machines. There are many examples of similar vote count anomalies in Minnesota as well as issues with systems being down or experiencing unexplained so-called “glitches” during the night allowing for the alteration of vote counts.

Minnesota candidates for office and voters have come forward with affidavits detailing concerns and observations about the ignored and failed election processes in counties across the state. There are issues related to the lack of transparency, procedures, observers, and election judge access, voter intimidation, lost ballots, lost absentee envelopes, missing election materials and questionable ballots. There are concerns about voting equipment transmitting results during the early counting period and on election day. There is a serious question about a new 520-pound Dominion voting machine delivered via FEDEX to Dakota County *after* the election and just a few days prior to its November 16, 2020, postelection review.<sup>3</sup>

Minnesota voters, regardless of party affiliation, have the right to know election results are accurate and each eligible voter is treated the same. Minnesota citizens attempted to participate in the postelection reviews, hoping to learn our voting systems were secure. They saw the opposite -- our voting system has crashed in many areas of the state, including Dakota County. The Minnesota State Canvassing Board provided a rubber stamp certification of the County Canvassing Board PERs.

Minnesota voters deserve better. They have a right to know their votes were accurately counted. They have the right to know election officials and judges excluded illegal votes as required by Minnesota law. More importantly, in 2020 Minnesota voters have the right to know

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<sup>3</sup> County Auditors must perform a “postelection review” (PER) pursuant to Minn. Stat. § 206.89 of the state general election.

that no person or business used technology to access the scanners, tabulators, routers or any other equipment connected to the election process to learn about vote totals before they were released when the polls closed. Minnesota voters have a right to demand the state verify that no person or entity altered the legally cast votes recorded by the scanners and tabulators, at any precinct, during the Minnesota general election.

## **PARTIES**

### **Contestants**

1. Patrick Jensen is an eligible Minnesota voter.
2. Karen Graves is an eligible Minnesota voter.
3. Scott Metcalf is an eligible Minnesota voter.

### **Contestees**

4. **Minnesota Secretary of State Steve Simon** is a constitutional executive officer sued only in his official capacity as both the Secretary of State and the Chair of the State Canvassing Board. As the chief election official in Minnesota, the Secretary of State partners with local election professionals to administer elections and adopt rules to administer elections. The Secretary acts on behalf of the State of Minnesota in exercising his duties regarding federal, state, county, and local elections, promulgating and executing elections laws within the State. The election process includes the registration process for persons seeking to vote in any election within the State. The Secretary is the statewide election officer responsible for the policies



relating to the conduct of elections within the State. The Secretary is also a member of the 2020 State Canvassing Board who certified the election on November 24, 2020.

5. **Angie Craig** is the current Representative for the State of Minnesota.

### **STANDING**

6. Contestants have standing to bring this election contest under Minn. Stat. Ch. 209 because “any eligible voter may contest . . . the election of any person for whom the voter had the right to vote if that person is . . . elected to the senate or the house or representatives of the United States, or to a statewide . . . legislative . . . office[.]” Minn. Stat. § 209.02.

Each Contestant has standing under Minn. Stat. § 209.02 because each was an eligible voter in the November 3, 2020 election.

### **JURISDICTION**

7. Under Minn. Stat. § 209.021 Subd. 2, personal jurisdiction for statewide office rests in Ramsey County. The Minnesota Senate seat is a statewide race. Ramsey County District Court has jurisdiction over statewide contests. For contests relating to any other office, jurisdiction rests in the county where the contestee resides.

8. Subject matter jurisdiction is dictated by Minn. Stat. § 209.12: The only question to be decided by the court is which party to the contest received the highest number of votes legally cast at the election and is therefore entitled to receive the certificate of election.

9. All remaining issues beyond the scope of that single issue fall under the jurisdiction of The United States Senate or the House of Representatives of the United States.

The statute is clear:

“Evidence on any other points specified in the notice of contest, including but not limited to the question of the right of any person to nomination or office on the ground of deliberate, serious, and material violation of the provisions of the Minnesota Election Law, must be taken and preserved by the judge trying the contest, or by some person appointed by the judge for that purpose; but the judge shall make no findings or conclusion on those points.

After the time for appeal has expired, or in case of an appeal, after the final judicial determination of the contest, upon application of either party to the contest, the court administrator of the district court shall promptly certify and forward the files and records of the proceedings, with all the evidence taken, to the presiding officer of the Senate or the House of Representatives of the United States. The court administrator shall endorse on the transmittal envelope or container the name of the case and the name of the party in whose behalf the proceedings were held, and shall sign the endorsement.”<sup>4</sup>

## STATEMENT OF FACTS

### I. Federal and State Constitutional Protections provide for Free and Public Elections

10. Free, fair, and transparent public elections are crucial to democracy – a government of the people, by the people, and for the people. The Elections Clause of the United States Constitution states that “[t]he Times, Places, and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof[.]”<sup>5</sup> U.S. Const. Art. I, § 4, cl 1. The Legislature is “the representative body which ma[kes] the laws of the people.”<sup>6</sup>

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<sup>4</sup> Minn. Stat. 209.12

<sup>5</sup> U.S. Const. Art. I, § 4, cl 1.

<sup>6</sup> *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

11. Every person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct.<sup>7</sup>

12. Because the Minnesota DFL was unable to use the legislative process to eliminate election laws that create barriers to fraudulent voting, the party's advocacy groups filed multiple lawsuits against Minnesota Secretary of State Steve Simon. Several of these lawsuits were assigned to a Ramsey County judge who happened to have been the state political director for MN-DFL party candidate Senator Amy Klobuchar. The most consequential of these suits **sought to remove the witness requirement for ALL absentee voters** because an extremely small number of voters reported they feared having physical contact with any person to witness their ballot.<sup>8</sup> Another of the suits sought to allow absentee ballots to be counted until November 10, 2020, a full week after election day.<sup>9</sup>

13. On or about June 17, 2020, in the witness case, the DFL party entered into an overly-broad stipulated settlement agreement with the DFL Secretary of State, that was approved by the DFL connected judge.<sup>10</sup> This stipulated settlement waived the decades old, court-approved, long-standing witness requirement for absentee ballots.<sup>11</sup> To allay the concerns of people who may have been worried about the waiver of the witness requirement for ALL the then projected one million absentee ballots to be cast in the general election, the parties limited the agreement to the August 11, 2020 primary election.

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<sup>7</sup> Minn. Const. art. VII, § 1

<sup>8</sup> *LaRose v. Simon*, No. 62-CV-20-3149 (Minn. Dist. Ct. 2020).

<sup>9</sup> *NAACP v. Simon*, No. 62-cv-20-3625 (Minn. Dist. Ct. 2020).

<sup>10</sup> *LaRose*. Stipulated Settlement Agreement dated June 17, 2020 (Minn. Dist. Ct. 2020).

<sup>11</sup> Minn. Stat. Ann. § 203B.07

14. Then on July 23, 2020, in the case to extend the deadline to accept the mail-in ballots, the DFL-backed organization, the NAACP, entered into a partial stipulated settlement agreement with the DFL Secretary of State that was then approved by the same DFL-connected judge.<sup>12</sup>

15. On August 3, 2020, a second stipulated settlement agreement was entered into in the witness case: The second agreement was extended to include the November 3, 2020 general election.

**II. The Secretary of State is responsible for the Oversight and implementation of the election law system in Minnesota.**

16. The MN Secretary of State has failed to perform his duties and to properly implement Minnesota Election Law including but not limited to Minn. Stat. §§ 201.091, 204B.14, 204B.146, 204B.21, 204B.22, 204B.25, 204B.27, 206.58 and 206.895.

17. The Secretary of State is responsible for providing training and resources to state and local agencies to ensure election law is followed. The Secretary of State provides critical guidance on election law and instructions to all county auditors and municipal clerks.<sup>13</sup> This guidance must ensure local precincts and ballot boards neither create barriers to legal votes nor open gate to illegal votes that negate a legal vote. The Secretary of State also is responsible to distribute instructional posters to county auditors and pamphlets to voters, both of which are to educate voters about voter registration and election procedures. It is the duty of the Secretary of State to ensure each voter has the right to be afforded the same opportunity to cast their legal vote in an election as is offered to other voters.

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<sup>12</sup> NAACP, Stipulated Settlement Agreement dated July 23, 2020 (Minn. Dist. Ct. 2020).

<sup>13</sup> Minn. Stat. §204B.27 Subd. 2

18. Minnesota election law provides clear guidance to the Secretary of State about every area of the election process. The countless irregularities that were seen throughout the election cycle are a consequence of the failures of the Secretary of State to ensure the people at the local level had the training and resources necessary to do their jobs. The abject failure of even a single County Ballot Board to fail to ensure major party balance or to properly train election judges, or to fail to follow all election laws- every day- just as a precinct would on election day has placed our state election system in crisis.

19. In addition to removing the witness requirement from absentee ballots, the Secretary of State instructed the ballot boards to begin opening Absentee and Mail-In ballots 14 days before the election, rather than 7 days before the election as required by law.

20. There is a growing group of Minnesota voters who have little regard for election law. On November 2, 2020 two current Republican state legislators, Steven Drazkowski and Jeremy Munson, were door knocking and had a conversation with Democrat state legislator, John Huot, 57B, at his home. During their conversation, Representative Hout told Drazkowski and Munson he already had 10,000 votes banked for his re-election on November 3, 2020.<sup>14</sup> Representative Hout also told them he was told of polling, “off the record”, that he had not paid for that showed he would win. There are many issues in politics that need to be addressed and educating legislators about the rules and regulations should be a top priority.

21. The Project Veritas expose on the ballot harvesting scheme in MN Congressional District 5 was clear evidence of the lack of fear of prosecution for violating Minnesota election law. There were people posting videos on Snapchat describing the financial scheme in place to

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<sup>14</sup> Affidavits of Steven Drazkowski and Jeremy Munson dated 12/1/2020 describing conversation that occurred on 11/2/2020.

pick up ballots for various politicians, including Ilhan Omar, in the community.<sup>15</sup> The Secretary of State and the Minnesota Attorney General should have acted quickly to address the disturbing information seen in the videos released by Project Veritas.

22. The validity of the results of the November 3, 2020 election in Minnesota is now in question as a result of the Secretary's unauthorized and illegal actions in handling the absentee ballots contrary to Minnesota Election Law. The Secretary, in collusion with the DFL party, changed the process for handling absentee ballots without the approval or direction of the Minnesota Legislature. As a result, the inclusion and tabulation of absentee ballots is improper and must not be permitted. To allow the inclusion of ballots that were cast in violation of the codified state law because of partisan gamesmanship would erode the sacred and basic rights of Minnesota citizens under the United States Constitution and the Minnesota Constitution to participate and rely upon a free and fair election. Any voters who take an alternative position should take up their cause with the miscreants who attempted to subvert our election system.

### **III. Postelection Review (PER)**

23. County Auditors must perform a postelection review (PER) of the state general election. Minn. Stat. § 204C.33 requires each county canvassing board to set the date time and location of the PER at its canvass of the state primary. Minn. Stat. § 206.89, subd. 2, requires the county canvassing board to select, by lot, the required number of precincts to be reviewed at its canvass following the general election. Selecting the precincts by lot gives the appearance of randomness so as to add credibility to the process.

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<sup>15</sup> Ilhan Omar Connected Cash-For-Ballots Voter Fraud Scheme. Retrieved December 1, 2020, from <https://www.projectveritas.com/news/ilhan-omar-connected-cash-for-ballots-voter-fraud-scheme-corrupts-elections/>

24. As soon as the canvassing board determines the location, date and time of the PER and the selected precincts, the Secretary of State must be notified. This notice allows voters the opportunity to participate in the PER process by properly observing the county boards review of the election results to ensure the law was followed.

25. PERs are governed by Minnesota's Open Meeting Law under Minn. Stat. § 13D.01 which requires all meetings, including executive sessions, must be open to the public when the meetings are required by law to transact public business. The public's right to be informed about the events occurring in the meeting will be weighed against the governments interest in closing the meeting to the public.<sup>16</sup> This law is liberally construed to protect the public's right to full access to the decision-making process of public bodies governed by statute.<sup>17</sup> The purpose of the Open Meeting Law is to assure public's right to information, and give public opportunity to express its views.<sup>18</sup>

26. The attendees at the PER must be able to view the process in a meaningful manner that allows them to see and hear the information being verified. If the public is are not given adequate access, there is no point to the process it is rendered meaningless.

27. The PER must include the votes cast for President or Governor; United States Senator; and United States Representative. The PER may include review of votes cast for down ticket candidates.<sup>19</sup> The PER must be conducted by postelection review official who may be assisted by election judges designated by the postelection review official for this purpose.

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<sup>16</sup> *Berglund v. City of Maplewood, MN*, D.Minn.2001, 173 F.Supp.2d 935, affirmed 50 Fed.Appx. 805, 2002 WL 31609767, cert. denied 123 S.Ct. 2655, 539 U.S. 965, 156 L.Ed.2d 667.

<sup>17</sup> *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 1983, 332 N.W.2d 1.

<sup>18</sup> *Mankato Free Press Co. v. City of North Mankato*, App.1997, 563 N.W.2d 291.

<sup>19</sup> Candidate and Contestant, Tomas Settell requested a review of votes case for his race for a State Senate seat but was refused by Andy Lokken.

Election judge qualifications are statutory. Election judges used in the PER must be properly trained. Minn. Stat. § 204B.25 requires election judges be trained in accordance with the rules established by the Secretary of State. To serve as an election judge, a person must successfully complete a basic training course that meets the requirements of Minn. Rule part 8240.1600.

28. The PER must comply with the party balance requirement of Minn. Stat. § 204B.19. No more than half of the election judges in a precinct may be members of the same major political party unless the election board consists of an odd number of election judges, in which case the number of election judges who are members of the same major political party may be one more than half the number of election judges in that precinct.

29. The PER must consist of a manual count of the polling place ballots and absentee ballots used in the precincts selected and must be performed in the manner provided by Minn. Stat. § 204C.21. The PER requires the public be allowed to observe the counting of the ballots to confirm the process as required by statute is being followed. The PER must be conducted in the manner provided for recounts under Minn. Stat. § 204C.361 to the extent practicable.

30. The Secretary of State must adopt rules according to the Administrative Procedure Act establishing uniform recount procedures. Minn. Rule part 8235.0800 establishes that ballots must be segregated by precinct and returned to sealed containers according to precinct when not being counted to maintain the segregation of ballots by precinct.

#### **IV. Actual PER Process**

31. The State's PER process was a disaster. Many counties had completely different procedures. Some counties used elections judges as required, some did not. Numerous affidavits from voters indicate that there was little to no transparency. Ramsey County, without notice, changed its PER date from November 14, 2020, to November 16, 2020. Many



Minnesotans showed up on a Saturday morning to observe the PER in Ramsey County and to find an empty building was inexcusable. Hennepin County closed its doors the night before the PER and performed the review via YouTube with only one camera- which displayed one precinct without sound. These are just a few of the irregularities and lack of transparency in the PER process for the November 3, 2020 election.<sup>20</sup>

32. To make the point that there are critical problems with the PER process, the following examples from Dakota County demonstrate the failures of counties to perform the PER in compliance with Minnesota Election Law:

33. The hand-written results from the PER do not match the reported results to the Secretary of State.<sup>21</sup>

34. Dakota County also failed to separate the absentee ballots from the polling place ballots which is required by Minn. Stat. § 206.89 subd. 2.<sup>22</sup>

35. When asked if Dakota County had party balance for the counters as required by Minn. Stat. §§ 206.89, subd. 3, and 204B.19, Mr. Lokken stated he did not have any election judges as he was only using his staff. He stated he did not designate any election judges.<sup>23</sup> He said the counters were his staff and city staff. However, after getting the names of various counters, Christina Gevara, claimed she *was* an election judge. She was counting for West St. Paul and according to a web search, works for Metro State University and appeared very biased against the public and candidate and contestant Tomas Settell who was observing the PER.

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<sup>20</sup> See Affidavits of Jane L. Volz, Nora L. Felton (who witnessed ballots being delivered to the Dakota County PER in a large white purse, brown cardboard boxes, and manilla envelopes, all unsealed); and Deborah Coxe.

<sup>21</sup> See Affidavit of Jane L. Volz, Exhibits B & C.

<sup>22</sup> See Volz Affidavit.

<sup>23</sup> *Id.*; see also Affidavit of Deborah Coxe.

36. Mr. Lokken refused to allow the public to meaningfully observe the counting process by requiring the public to stand six feet from any table which did not allow the public to see the ballots in any meaningful way even though the counters were within a few feet of each other.

37. Ballots were delivered to the Dakota County in a variety of ways. Many were not in sealed transfer cases as required by Minnesota Election Law. There were ballots brought in brown cardboard boxes with clear packing tape, ballots in a blue plastic tote, and ballots in plastic bags. Boxes and bags of ballots were delivered throughout the morning. A stack of ballots was delivered in a large white purse by some employee of the City of Hastings who refused to identify herself other than her first name.<sup>24</sup>

38. While the public was not allowed to stand within six feet of the tables, when all of the precincts were finished except for Eagan, Jane Volz was allowed to observe a little closer as Mr. Lokken decided to spread out the Eagan count into two tables. However, she could not see the actual votes but could see the different piles of votes for the U.S. Representative races. A large pile of ballots was set on a table to review. The pile was perfectly squared up like it came out of a box of a ream of paper. The pile had slight fold marks to indicate an absentee ballot. However, the ballots looked as if they were put through a folding machine but were laid out flat like they came out of a machine with an identical crease that ran through the pile in the same direction. When the counter was separating the ballots for the 2<sup>nd</sup> Congressional District race, nearly every single ballot in that pile was for Angie Craig.<sup>25</sup>

39. In a white ballot “tote” next to the Eagan precinct count, Ms. Volz noticed a

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<sup>24</sup> See Volz Affidavit and Affidavit of Nora L. Felton.

<sup>25</sup> See Volz Affidavit.

FEDEX receipt for a 520-pound Dominion voting machine that was, according to the receipt, apparently delivered or shipped to Hastings on November 11, 2020, well after the November 3, 2020 general election, but prior to the Dakota County PER.<sup>26</sup>

40. Mr. Lokken promised Ms. Volz he would give her a copy of all of the worksheets at the end of the day. However, when all of the counting was done, he refused to give her a copy claiming they were his “notes”. He said, however, he would email them to Ms. Volz if she gave him her email address which she did.

41. The next morning on November 17, 2020, Ms. Volz emailed Mr. Lokken reminding him to email her a copy of the worksheets. He stated in an email to her: “I recycled them yesterday and they are no longer available.”<sup>27</sup> All election materials are required to be preserved for at least 22 months. Minn. Stat. § 204B.40. Clearly, the worksheets constitute election materials as they were to be signed by an election judge. By email, Mr. Lokken provided Ms. Volz with a computer-generated tally that did not match the I-Phone pictures taken of some of the worksheet totals at the PER. In particular, the blank for office totals and the total votes for many of the candidates do not match the handwritten worksheets.<sup>28</sup>

42. Mr. Lokken provided a post-election review guide which is also available on the Secretary’s website.<sup>29</sup> When comparing the Secretary’s guide to Mr. Lokken’s actions, Mr. Lokken failed to follow the required procedures as follows:

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<sup>26</sup> Affidavit of Jane L. Volz, Ex. A.

<sup>27</sup> Volz Aff.

<sup>28</sup> See Volz Affidavit, Exhibits B & C.

<sup>29</sup> Volz Affidavit, Exhibit D.

Page(s)	Section	Irregularities and Violations
9-10	7.1.2	Failed to hand-write the blank for office, and over defective for office and the totals on the worksheet.
10	7.2	Failed to require party balance review of the ballots as required by Minn. Stat. sections 206.89, subd. 3, and 204B.19.
11	7.3	Failed to allow public view of the ballots by requiring 6 foot distance from the precinct tables.
11	7.4	Never fully explained the process and the roles of review officials and staff.
11	8	Failed to count absentee ballots separately as required by Minn. Stat. section 206.89, subd. 2.
16	11.1	Failed to fully explain the differences in the counts.
17	11.2.1	Failed to "input two sets of results into ERS" for polling place results and absentee ballots..
20	11.2.2	Failed to proof the results and revised them from the worksheets fill out by the counters for the blank for office and over/under votes and did not explain the differences.
24	Appendix B	Failed to have election judges sign the post-election review worksheets.

43. Dakota County is just one county of 87. There were countless problems across the state. Of particular concern was the failure in many PERs of the County Auditor to confirm the existence of the outer envelopes as the return envelope from accepted ballots must be preserved and returned to the county auditor.<sup>30</sup> In fact, all election materials, including the devices, internal components, are election materials that must be preserved to ensure the results of the election can be verified in a contest.

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<sup>30</sup> Minn. Stat. Ann. § 203B.121

## LEGAL ARGUMENT

### **First Amendment and Equal Protection U.S. Const. amend. XIV, 42 U.S.C. § 1983, Minn. Const. Article I**

44. The right of a qualified citizen to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution, which prohibits a state from “deny[ing] to any person within its jurisdiction the equal protection under the laws.”<sup>31</sup>

45. The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

46. The Equal Protection Clause requires states to “avoid arbitrary and disparate treatment of the members of its electorate.”<sup>32</sup> Each citizen “has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.”<sup>33</sup> “Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.”<sup>34</sup> Among other things, this requires “specific rules designed to ensure uniform treatment” in order to prevent “arbitrary and disparate treatment to voters.”<sup>35</sup>

47. “The right to vote extends to all phases of the voting process, from being permitted to place one’s vote in the ballot box to having that vote actually counted. Thus, the

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<sup>31</sup> U.S. Const. Amend. XIV, § 1.

<sup>32</sup> *Charfauros v. Bd. of Elections*, 249 F.3d 941, 951 (9<sup>th</sup> Cir. 2001 (quoting *Bush*, 531 U.S. at 105).

<sup>33</sup> *Dunn v. Bloomstein*, 405 U.S. 330, 336 (1972).

<sup>34</sup> *Bush*, 531 U.S. at 104-05.

<sup>35</sup> *Id.* at 106-07.

right to vote applies equally to the initial allocation of the franchise as well as the manner of its exercise. Once the right to vote is granted, a state may not draw distinctions between voters that are inconsistent with the guarantees of the Fourteenth Amendment's equal protection clause."<sup>36</sup>

48. "[T]reating voters differently" thus "violate[s] the Equal Protection Clause" when the disparate treatment is the result of arbitrary, ad hoc processes.<sup>37</sup> Indeed, a "minimum requirement for non-arbitrary treatment of voters [is] necessary to secure the fundamental right [to vote]."<sup>38</sup>

49. The Secretary is not part of the Minnesota Legislature and cannot exercise legislative power to enact rules or regulations regarding the handling of absentee ballots that are contrary to Minnesota Election Law. The Secretary is not allowed to treat absentee ballot voters differently than polling place voters.

50. By entering into two stipulated settlement agreements with the DFL party to alter the process for handling and accepting absentee ballots, the Secretary unilaterally, and without authority, altered Minnesota Election Law. As a result of the Secretary's usurpation of legislative power, the longstanding witness requirements, well-known to Minnesota voters, were removed. Absentee ballots were processed differently by County Ballot Boards with regard to acceptance or rejection because there was no witness requirement to verify the person who cast the ballot was in fact the registered voter. The election process has been altered in a manner that removes the most important check on voter security. Further, the absentee ballots were not

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<sup>36</sup> *Pierce v. Allegheny County Bd. of Elections*, 324 F.Supp.2d 684, 695 (W.D. Pa. 2003) (citations and quotations omitted).

<sup>37</sup> *Charfauros*, 249 F.3d at 954.

<sup>38</sup> *Bush*, 531 U.S. at 105.

completely segregated from the ballots cast at the precinct. The envelopes for the absentee ballots were not counted, or even shown to exist, at PERs across the state.

51. It is important to note that Minnesota case law is highly supportive of the notion that a person who votes absentee must accept the responsibility to comply with any rules placed on that vote as there is no right to vote absentee.<sup>39</sup> The absentee voting law must be strictly construed.<sup>40</sup> The voter must be expected to adhere to all requirements of absentee voter law “otherwise the repeater, floater, and nonresident are given a free hand to gain results satisfactory to themselves.”<sup>41</sup>

52. The Executive Branch implements the laws as passed by the legislature and signed by the Governor. The Secretary of State did not and does not have the authority to usurp the power of the legislature by altering multiple election laws using the judiciary. Entering into stipulated settlement agreements to eliminate long-standing election law was a gross abuse of power and a clear violation of Minn. Const. Article III Sect. 1.

53. The rules and regulations created by the two settlement agreements between the Secretary and the DFL party created an overly broad, arbitrary, disparate, and ad hoc process meant to ensure every ballot was counted, whether legal or not. Whether absentee voters were sent ballots automatically or after requesting them, any person could fill them out and mail them back. The witness requirement served to protect the actual voter from having their individual vote stolen and the legal voters from having the vote diluted by illegal voters. The witness is as close to an election judge as possible in the community. The removal of the witness requirement opened the door to the unchecked opportunity for illegal votes to be counted in all of our local,

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<sup>39</sup> *Wichelmann v. City of Glencoe*, 200 Minn. 62, 68, 273 N.W. 638, 641 (1937).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

state and federal elections. The November 3, 2020 election has been tainted by the intentional actions of DFL party and complicit government officials.

54. Voters who cast their ballots in person are subject to a much higher level of scrutiny than absentee voters. Additionally, the burden of going to vote in person was made more difficult by the state's choosing to combine precincts, thereby increasing wait times. This disparate treatment created by removing all safeguards and requirements for the cooperative voters who voted from home is not justified by, and is not necessary to promote, any substantial or compelling state interest.

### **Violation of the Separation of Powers Minn. Const. Article III**

55. At the heart of the integrity of election law is the goal of preserving the ability of voters to participate in genuine elections, thereby fostering public confidence throughout the election process. From voter registration, to the casting of votes, the counting of ballots and the PER, our election system must be free of partisanship. When citizens go to the polls to cast their vote, they aspire not only to elect their leaders, but to choose a direction for their state. However, the integrity of an election can be jeopardized and public confidence can be undermined when election officials exercise or exceed powers they do not possess.

56. The separation of powers doctrine's role in this electoral process is significant. "Under the Separation of Powers Clause, no branch can usurp or diminish the role of another branch.<sup>42</sup> The three branches of state government are both co-dependent and independent of each other. While they must find ways to cooperate, no one branch can unilaterally control,

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<sup>42</sup> See Minn. Const. art. III, § 1; *Brayton v. Pawlenty*, 768 N.W.2d 357, 365 (Minn. 2010).



coerce, or restrain the action, or non-action of any of the others in the exercise of any official power or duty conferred by the Constitution, or by valid law, involving the exercise of discretion.

57. Similarly, the Minnesota Constitution states “the powers of government shall be divided into three distinct departments: legislative, executive and judicial. No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in instances expressly provided in this constitution.”<sup>43</sup>

58. Article III bars any department from assuming or asserting any “inherent powers” – powers not “expressly” given—that properly belong to either of the other departments.<sup>44</sup> No “department can control, coerce, or restrain the action or inaction of either of the others in the exercise of any official power or duty conferred by the Constitution.”<sup>45</sup>

59. The Minnesota Supreme Court has been steadfast in upholding the separation of powers.<sup>46</sup> The authority of the Secretary to alter or amend Minnesota Election Law is vested with the state legislature unless “a provision of the Minnesota Election Law cannot be implemented as a result of an order of a state or federal court[.]”<sup>47</sup>

60. Here, the provisions of the Minnesota Election Law could only be amended by the state legislature. The Governor had the authority to call a special session to seek an amendment to Minnesota Election Law and declined to do so. Multiple Federal Courts of Appeals have now ruled there is no pandemic exception to the Constitution and have made it clear the state legislators are vested with the authority to create election law, including the Eighth Circuit.<sup>48</sup>

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<sup>43</sup> Minn. Const. Art. III.

<sup>44</sup> *Brayton*, 768 N.W.2d at 365.

<sup>45</sup> *Id.*

<sup>46</sup> *See, e.g., Sharood v. Hatfield*, 296 Minn. 416, 210 N.W.2d 275, 279 (1973).

<sup>47</sup> Minn. Stat. § 204B.47.

<sup>48</sup> *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020).

61. The Secretary and various election officials have violated the separation of powers doctrine by obliterating election law through sham court processes and blatant refusal to administer and follow long-standing Minnesota Election Law. The repeated disregard of the separation of powers sends a dangerous message to the people about the power of a government actor to create their own rules. Sadly, the judiciary failed to be a check on unconstitutional overreach, instead choosing to become a participant in the malfeasance.

**Due Process**  
**U.S. Const. amend. XIV, 42 U.S.C. § 1983**  
**Minn. Const. Article I**

62. Voting is a fundamental right protected by the Fourteenth Amendment to the U.S. Constitution. The Fourteenth Amendment protects the right to vote from conduct by state officials that undermine the fundamental fairness of the electoral process.<sup>49</sup> “Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.”<sup>50</sup> Among other things, this requires “specific rules designed to ensure uniform treatment” in order to prevent “arbitrary and disparate treatment to voters.”<sup>51</sup> “[T]reating voters differently” thus “violate[s] the Equal Protection Clause” when the disparate treatment is the result of arbitrary, ad hoc processes.<sup>52</sup> Indeed, a “minimum requirement for non-arbitrary treatment of voters [is] necessary to secure the fundamental right [to vote].”<sup>53</sup>

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<sup>49</sup> See *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin v. Burns*, 570 F.2d 1065, 1077-78 (1<sup>st</sup> Cir. 1978).

<sup>50</sup> *Bush*, 531 U.S. at 104-05.

<sup>51</sup> *Id.* at 106-07.

<sup>52</sup> *Charfauros*, 249 F.3d at 954.

<sup>53</sup> *Bush*, 531 U.S. at 105.

63. In statewide and federal elections conducted in Minnesota, including without limitation, the November 3, 2020 general election, all candidates, political parties, and voters, have a vested interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every county and precinct and that it is otherwise free, fair and transparent.

64. The Secretary has a duty to guard against deprivation of the right to vote and to ensure that all candidates, political parties, and voters, have meaningful access to observe and monitor the electoral process, including the November 3, 2020 general election and Dakota County's PER in order to ensure that the electoral process is properly administered in every precinct and is otherwise free, fair and transparent.

65. Rather than heeding these mandates and duties, the Secretary and Mr. Lokken arbitrarily and capriciously denied the public, including candidates, to meaningfully observe and monitor the electoral process in the PER.

### **RELIEF REQUESTED**

66. Contestants seek the following relief:

a. Guarding of the absentee ballots and all related election materials pursuant to Minn. Stat. § 209.05;

b. Inspection of the absentee ballots under Minn. Stat. § 209.06 and all election materials related to the ballots including:

- i. all return envelopes by precinct;
- ii. all absentee ballot applications by precinct;
- iii. all voter registration applications by precinct;

- iv. all documents to support the absentee ballots that were rejected but later cured;
  - v. description of the procedures followed for the security, sealing, and storage of absentee ballots;
  - vi. all information regarding the chain of custody for all absentee ballots and envelopes;
  - vii. the reconciliation of all absentee ballot requests including the applications, whether they were returned, whether they were rejected or accepted;
  - viii. voting machine tapes from every day on which ballots were counted to support the absentee ballot count by precinct including the cutoff of election day receipts of absentee ballots;
  - ix. all information related to the printing of ballots including the receipts for all ballots printed in Minnesota with data to include total number of ballots printed; (j) the receipts for postage paid for all absentee ballots mailed;
- c. The guarding of the Dominion Voting machine delivered to Dakota County on or about November 11, 2020, and all other scanning and / or tabulating devices in use during any part of the general election cycle of 2020 as well as the ability to inspect the machine;
- d. All information regarding that same Dominion Voting machine including the purchase order, bill of lading, shipping invoices, instruction manual, training protocols, software used and version of the software, maintenance reports, specifications, and when it was used;

e. A list of all voting systems in Minnesota in use throughout the general election cycle;

f. The names and political affiliation of all persons who served on the Ballot Boards in Minnesota and any training they may have received and oaths administered;

g. The names of all of the PER officials, judges or volunteers, their party affiliation, their employer, their training, if any, for the PER, and any oaths they swore to prior to performing the PER.

### CONCLUSION

67. Every illegitimate absentee ballot cast in the November 3, 2020 election disenfranchises one legitimate vote. This cannot be tolerated.

68. Contestants respectfully request this court remedy the injustices that have resulted from the many abuses of power, derelictions of duty and the disrespect shown towards the people of Minnesota by ordering a true count of the legally cast votes by the eligible voters across Minnesota.

The undersigned hereby acknowledges that sanctions may be awarded pursuant to Minnesota Statutes § 549.211.

DATED: December 1, 2020

\_\_\_\_\_/s/ Susan Shogren Smith\_\_\_\_\_  
Susan Shogren Smith (Atty # 0340467)  
Shogren Smith Law  
600 62<sup>nd</sup> Avenue North  
Brooklyn Center, MN 55430  
612-812-8160  
Email: shogrensmithlaw@protonmail.com  
*Attorney for Contestants*

**Acknowledgment Required by Minn. Stat. § 549.211, Subd. 2**

The undersigned hereby acknowledges that, pursuant to Minn. Stat. § 549.211, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court.

DATED: December 1, 2020

\_\_\_\_\_/s/ Susan Shogren Smith\_\_\_\_\_  
Susan Shogren Smith (Atty # 0340467)  
Shogren Smith Law  
600 62<sup>nd</sup> Avenue North  
Brooklyn Center, MN 55430  
612-812-8160  
ATTORNEY FOR CONTESTENTS

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STATE OF MINNESOTA

)

) ss.

COUNTY OF WABASHA

)

Steven Drazkowski, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. On November 2, 2020 I had a conversation with MN State Representative John Huot 57B at his home while doorknocking on November 2, 2020. During our casual conversation he personally stated to me that he was told that he already ‘had “banked” about 10,000 votes for his re-election on November 3, 2020 and that he only needed about 2500 votes more to win the election.’

4. He also stated that he was aware that the polling (which his campaign did not pay for) showed that he would win the election. Rep. Huot proceeded to state that he was told “off the record” that the polling showed this, as stated above.

5. I am also attaching a picture of Mr. Huot at his home during the doorknocking visit evidencing with a datestamp the visit on November 2, 2020.

**FURTHER YOUR AFFIANT SAYETH NAUGHT**

**I declare under penalty of perjury that everything I have stated in this document is true and correct.**

Date: December 1, 2020

/s/   
Steven Drazkowski





Date: December 1, 2020


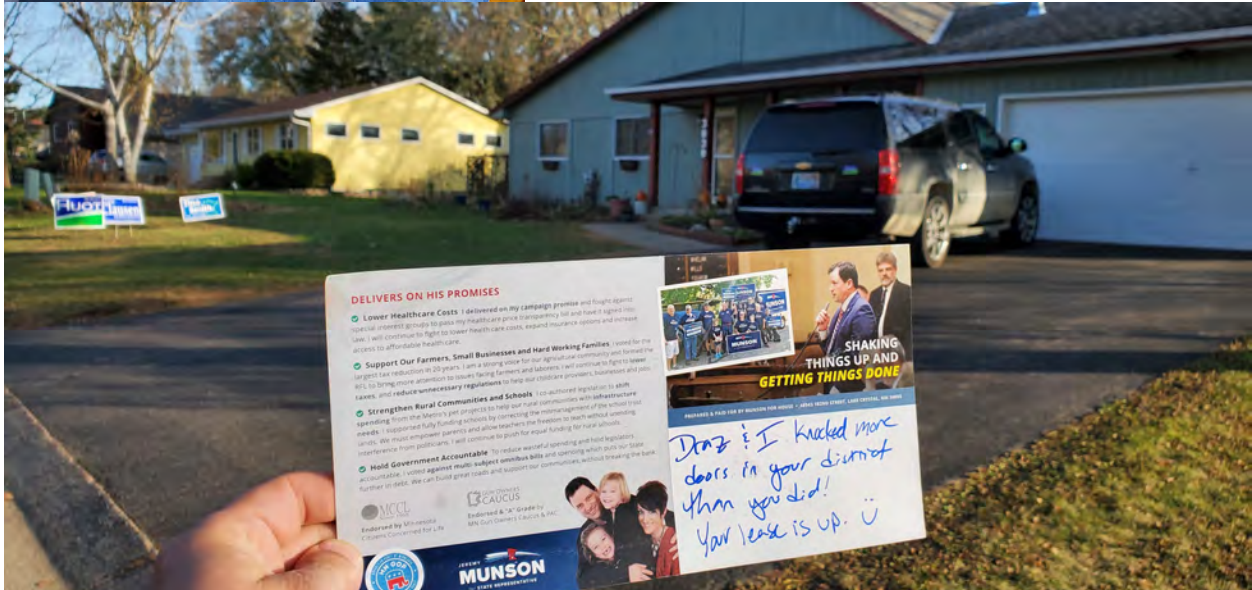
  
/s/  
Jeremy Munson

EXHIBIT TO AFFIDAVITS FOR DRAZKOWSKI AND MUNSON





## DAKOTA COUNTY

6. I arrived at the Dakota County administration building around 8:45 a.m. on Monday, November 16, 2020.

7. Andy Lokken, the elections director for Dakota County, managed the review.

8. I asked Mr. Lokken if he had party balance for the counters as provided by Minn. Stat. §§ 206.89, subd. 3, and 204B.18. He stated he did not have any election judges as he was only using his staff and he did not designate any election judges. He said the counters were his staff and city staff. However, after getting the names of various counters, Christina Gevara, claimed she *was* an election judge. She was counting for West St. Paul and according to a web search, works for Metro State University.

9. Mr. Lokken refused to allow me and other members of the public to meaningfully observe the counting process by requiring us to stand six feet from any table which did not allow us to see the ballots even though the counters were within a few feet of each other.

10. Mr. Lokken refused to separate the polling place ballots from the absentee and mail in ballots and had his staff mix them together.

11. Ballots were delivered to the Dakota County in a variety of

ways and were not in sealed transfer cases. There were ballots brought in in brown boxes with clear packing tape, ballots in a blue plastic tote, and ballots in plastic bags. Boxes and bags of ballots were delivered throughout the morning.

12. While we were not allowed to stand within six feet of the tables, when all of the precincts were finished except for Eagan, I was allowed to observe a little closer as Mr. Lokken decided to spread out the Eagan count into two tables. I still could not see the votes on the ballots themselves. However, I could see the different piles of votes for the U.S. Representative races. A large pile of ballots was set on the table to review. The pile was perfectly squared up like it came out of a box of a ream of paper. The pile had slight fold marks on them as if they were put through a folding machine but were laid out flat like they came out of a machine with an identical crease that ran through the pile in the same direction. Nearly every single ballot in that pile was for Angie Craig.

13. In a ballot tote next to the Eagan precinct count, I noticed a FEDEX receipt for a 520 pound Dominion voting machine that was, according to the receipt, delivered to Hastings on November 11, 2020, well after the November 3, 2020 general election, but prior to the post-election review. Attached as Exhibit A is a copy of those FEDEX receipts.

14. Mr. Lokken told me he would give me a copy of all of the worksheets at the end of the day. When all of the counting was done, he refused to give me a copy claiming they were his “notes”. He said, however, he would email them to me if I gave him my email address. I gave him my email address.

15. The next morning on November 17, 2020, I emailed Mr. Lokken reminding him to email me a copy of the worksheets. He stated in an email to me: “I recycled them yesterday and they are no longer available.”

16. Mr. Lokken then emailed me a computer generated tally that does not match the I-Phone pictures I took of some of the worksheet totals. In particular, he eliminated many of the blank for office totals and the total votes for many of the candidates do not match the handwritten worksheets. Attached as Exhibit B, is a true and correct copy of my pictures of several of the worksheets. Attached as Exhibit C, is a true and correct copy of the computer generated tally provided by Mr. Lokken.

17. Mr. Lokken provided a post-election review guide. Attached as Exhibit D is a true and correct copy of the Post-Election Review Guide that can also be found on the Minnesota Secretary of State website.

18. Mr. Lokken failed to follow the process and procedures of the Minnesota Secretary of State’s post-election review guide as follows:

<b>Page(s)</b>	<b>Section</b>	<b>Description</b>
9-10	7.1.2	Failed to hand-write the blank for office, over/defective for office and totals on the worksheet.
10	7.2	Failed to allow the party balance requirement of Minn. Stat. 204B.19.
11	7.3	Failed to allow public view of the ballots by requiring 6 foot distance from table.
11	7.4	Never really explained the process and the roles of review officials and staff.
11	8	Failed to count absentee/mail ballots separately from polling place ballots--"Polling place ballots and Absentee/Mail Ballots will be counted separately."
16	11.1	Failed to fully explain the differences in the counts.
17	11.2.1	Failed to "input two sets of results into ERS" for polling place results and absentee/mail in ballot votes.
20	11.2.2	Failed to proof the results and actually changed them from the worksheets fill out by the counters for the blank for office and over/under votes and did not explain the differences.
24	Appendix B	Failed to have three election judges to each team and to have election judges sign the post-election review worksheets
MS § 204B.40		Failed to retain post-election review worksheets in violation of rule that all "election materials" be preserved for at least 22 months.



## SCOTT COUNTY

19. I attended the Scott County post-election review on November 19<sup>th</sup> in Shakopee, Minnesota. I arrived at around 8:45 a.m. but the government center was locked. Finally someone let us in. Julie Hanson, a property and customer service manager at Scott County, was the election director for the review. There were three precincts to review and 17 public observers arrived. However, Ms. Hanson only allowed two observers at a time in the room and with the required social distancing of Ms. Hanson; I could not see the ballots. Ms. Hanson claimed that there was a county rule that no more than ten people could be in a room. The counts were performed by election judges with party balance and city and township clerks. The election judges were told the review would take about two hours. However, the counters for a Savage precinct could not get the totals to match the worksheets after numerous hand counts. Later, a staff person walked in the room with a pile of ballots that were not secured in any sealed transfer cases.

20. Because they couldn't get the count done by three o'clock, Ms. Hanson called four additional staff destroying the two party reviews. One

city employee (Savage Police Department) and informed me she was a Democrat.

21. Ms. Hanson said she would email me the compiled results but she has never sent them and her email states she is out of the office until November 30, 2020.

#### HENNEPIN COUNTY

22. On November 19, 2020, Hennepin County announced it will no longer have walk in services beginning on November 20, 2020. I was informed that the only way to observe the post-election review which was to occur on November 20, 2020 was to watch it remotely. After numerous emails and phone calls, I finally received a link to the review at Hennepin County. However, only one precinct, Eden Prairie P-13 of the 13 precincts to be audited could be seen on camera. This camera was too far away to see any information on the ballots or what races they were counting. There was no sound. When asked for additional cameras, Lydia at Hennepin County said there was only one camera available. Then later in the day, Hennepin County added another camera as they expanded to another room. The counting did not end until after 8:00 p.m. When asked for a list of the people counting the ballots, I was told to make a data practices request.

23. Hennepin County did send me a post-election review worksheet. However, the worksheet already had the under votes and over vote totals. The Minnesota Secretary of State post-election review guide states that those numbers cannot be populated in the worksheet through its ERS, Election Reporting System and must be handwritten in. Attached as Exhibit E, is a copy of one page of Hennepin County's post-election review worksheet.

24. Attached as Exhibit F is a true and correct copy of the list of PER locations and times that is on the Minnesota Secretary of State's website.

**FURTHER YOUR AFFIANT SAYETH NAUGHT**

**I declare under penalty of perjury that everything I have stated in this document is true and correct.**

Date: November 23, 2020

/S/ Jane L. Volz  
Jane L. Volz

**Post Election Review Worksheet**  
 State General Election  
 Tuesday, November 3, 2020  
 County - Dakota

Printed: 11/13/2020 11:39 AM  
 Printed By: lokan19

Precinct: 1830 - EAGAN P-13 Polling Place  
 Office: U.S. Senator

Freight Bill Number: 7341489212      Polling      Hand      Explained      DATE: 11/11/2020  
 ROTNR Number:  
 Consignee: DAKOTA COUNTY, 1580 HIGHWAY 55, HASTINGS, MN 55033-2343 US  
 Trailer # 231187  
 Shipper: DOMINION VOTING SYSTEMS INC, 2010 REDBUD BLVD, STE: 110, MCKINNEY, TX 75069-8258 US

**FedEx Freight Priority**

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CONSIGNEE DELIVERY RECEIPT

**PREPAID - WILL INVOICE THIRD PARTY**

BY ACCEPTING THE SHIPMENT, YOU AGREE TO BE FULLY RESPONSIBLE FOR ANY ADDITIONAL APPLICABLE CHARGES FOR DELIVERY SERVICES RENDERED INCLUDING BUT NOT LIMITED TO DETENTION CHARGES SUBJECT TO CHANGE \*\*

Bill of Lading Number 7672312  
 P.O. Number 7672312      Page

Delv. Driver & #: \_\_\_\_\_

Date: \_\_\_\_\_ Arrive: \_\_\_\_\_ Depart: \_\_\_\_\_

# of Skids: \_\_\_\_\_ # of Pcs: \_\_\_\_\_ OS&D #: \_\_\_\_\_

Shipment received in apparent good order with wrap intact unless otherwise noted.

Received by: \_\_\_\_\_

Over     Damage    Exceptions: \_\_\_\_\_

Short     Wrap Broken

**FedEx**  
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 HARRISON, AR 72602-0840  
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fedex.com/fastfreight

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DATE: 11/11/2020

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Polling  
Place Votes  
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Hand  
Count

Explained  
Difference

Explanation

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49 0655 9781

planation

Post Election Review Worksheet  
 State General Election  
 Tuesday, November 3, 2020  
 County - Dakota

Printed: 11/13/2020 11:39 AM  
 Printed By: lckan19

Precinct: 1830 - EAGAN P-13 Polling Place

Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	105	105		
Oliver Steinberg	42	43		
Jason Lewis	810	811		
Tina Smith	1421	1420		
BLANK FOR OFFICE	35	34		
OVER / DEFECTIVE FOR OFFICE	1	0		
WRITE-IN**	1	1		
Totals				

Precinct: 1830 - EAGAN P-13 Polling Place

Office: U.S. Representative District 2

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Adam Charles Weeks	97	97		
Tyler Kastner	858	859		
Angie Craig	1412	1412		
BLANK FOR OFFICE	48	47		
OVER / DEFECTIVE FOR OFFICE	0	0		
WRITE-IN**	0	0		
Totals				

B

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Precinct: 1830 - EAGAN P-13 Polling Place

Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	441	789		
Joseph R. Biden and Kamale Harris	334	1545		
Roque "Rocky" De La Fuente and Darcy Richardson	1	1		
Howie Hawkins and Angela Walker	7	12		
Kanye West and Michelle Tidball	3	6		
Brock Pierce and Karla Ballard	1	2		
Gloria La Riva and Leonard Peltor	0	0		
Alyson Kennedy and Malcolm Jarrett	0	0		
Jo Jorgensen and Jeremy "Spike" Cohen	13	31		
BLANK FOR OFFICE		10		
OVER / DEFECTIVE FOR OFFICE		2		
WRITE-IN**	6	17		
<b>Totals</b>				

Precinct: 1830 - EAGAN P-13 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	51			
Oliver Steinberg	28			
Jason Lewis	359			
Tina Smith	1147			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	0			
<b>Totals</b>				



Precinct: 2260 - FARMINGTON P-6 Polling Place  
 Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	515 + 413	1028		
Joseph R. Biden and Kamala Harris	256 + 128	384	-2	
Roque "Rocky" De La Fuente and Gerry Richardson	5 + 2	7		
Mawla Hawkins and Angela Walker	2 + 4	6		
Kanye West and Michelle Tobal	2 + 0	2		
Brock Pierce and Karla Ballard	2 + 0	2		
Gloria La Riva and Leonard Peber	0 + 0	0		
Alyson Kennedy and Malcolm Jarrett	0 + 0	0		
Jo Jorgensen and Jeremy "Spika" Cohen	10 + 8	18		
BLANK FOR OFFICE		0		
OVER / DEFECTIVE FOR OFFICE		3	-1	
WRITE-IN**				
<b>Totals</b>				

Precinct: 2260 - FARMINGTON P-6 AB/MB  
 Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	59			
Oliver Steinberg	18			
Jason Lewis	594			
Tina Smith	680			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE		0		
WRITE-IN**				
<b>Totals</b>				

Precinct: 2630 - HASTINGS W-2 P-1 Polling Place

Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	95	95		
Oliver Steinberg	16	16		
Jason Lewis	598	599	+1	voter intent
Tina Smith	643	644	+1	voter
BLANK FOR OFFICE	25	25		
OVER / DEFECTIVE FOR OFFICE	3	1		
WRITE-IN**	0			
Totals				

Precinct: 2630 - HASTINGS W-2 P-1 Polling Place

Office: U.S. Representative District 2

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Adam Charles Weeks	88	88		
Tyler Kötner	607	605	-2	
Angie Craig	651	651		
BLANK FOR OFFICE	36	36		
OVER / DEFECTIVE FOR OFFICE	0	0		
WRITE-IN**	0	0		
Totals				

2020 - HASTINGS W-2 P-1 Polling Place  
U.S. President & Vice President

Candidate Name	Ballot Paper Votes	Hand Count	Explained Difference	Explanation
Joseph B. Biden and Kamala Harris	445			
Donald Trump and Mike Pence	136			
Howie Hawkins and Angela Starke	1			
Blank	2			
Over/Defective	1			
Write-In	6			
Totals				

Precinct: 2030 - HASTINGS W-2 P-1 ADMR  
Office: U.S. Senator

Candidate Name	AB/MS Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	45			
Cliver Steenberg	14			
Jason Lewis	206			
Tina Smith	514			
Blank for Office				
Over/Defective for Office	0			
Write-In**				
Totals				

Biden ~~728~~  
203  
Trump 637  
Brock 4  
Kanye 3  
Howie 3  
Roky 4  
JD Jorg. 16

Write-in 6  
Blank 2  
Overvote 2

Precinct: 2660 - HASTINGS W-4 P-2 Polling Place  
 Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	806	806		
Joseph R. Biden and Kamala Harris	713	713		
Roque "Rocky" De La Fuente and Dany Richardson	3	3		
Helen Hawkins and Angela Walker	4	4		
Kariya West and Michele Tubat	5	5		
Brock Pierce and Kara Ballard	3	3		
Glenn La Riva and Leonard Pullar	1	1		
Alyson Kennedy and Melissa Janet	0	0		
Jo Jorgensen and Jeremy "Spike" Cohen	18	18		
BLANK FOR OFFICE	4	4		
OVER / DEFECTIVE FOR OFFICE		2		
WRITE-IN**	2			
<b>Totals</b>	<b>1,631</b>	<b>1,631</b>		

Precinct: 2660 - HASTINGS W-4 P-2 AB/MB  
 Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	42			
Oliver Steinberg	11			
Jason Lewis	274			
Tina Smith	82			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE	0			
WRITE-IN**				
<b>Totals</b>				

PAUL W-2 P-2 Polling Place

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	113 ←	114		
Oliver Steinberg	14 →	14		
Jason Lewis	356 ↔	356		
Tina Smith	807 ↔	810		
BLANK FOR OFFICE	29	28		
OVER / DEFECTIVE FOR OFFICE	4	1		
WRITE-IN**	2 +	2		
<b>Totals</b>				

Precinct: 4950 - WEST ST PAUL W-2 P-2 Polling Place

Office: U.S. Representative District 2

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Adam Charles Weeks	112 →	113		
Tyler Kistner	359 ↔	359		
Angie Craig	811 ↔	810		
BLANK FOR OFFICE	43	44		
OVER / DEFECTIVE FOR OFFICE	1	1		
WRITE-IN**	1	1		
<b>Totals</b>	1327	<del>1328</del>		
		1328		

Precinct: 4652 - WEST ST PAUL W-2 P-2 Polling Place

Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	376	377		
Joseph R. Biden and Kamala Harris	92	94		
Roque "Rocky" De La Fuente and Darcy Richardson	1	1		
Howie Hawkins and Angela Walker	1	1		
Kanye West and Michelle Tibbet	3	3		
Brock Pierce and Kara Ballard	4	4		
Gloria La Riva and Leonard Petter	2	2		
Alyson Kennedy and Malcolm Jarrett	0	0		
Jo Jorgensen and Jeremy "Spike" Cohen	10	10		
BLANK FOR OFFICE		5		
OVER / DEFECTIVE FOR OFFICE		4		
WRITE-IN**	7	7		
<b>Totals</b>	<b>1316</b>	<b>1328</b>		

Precinct: 4950 - WEST ST PAUL W-2 P-2 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	113			
Oliver Steinberg	16			
Jason Lewis	356	400		
Tina Smith	207	410		
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	2			
<b>Totals</b>				

14

Precinct: 4950 - WEST ST PAUL W-2 P-2 Polling Place

Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	376 - 488	377	—	
Joseph R. Biden and Kamala Harris	912 - 348	914	—	
Roque "Rocky" De La Fuente and Darcy Richardson	1	1	—	
Isaiah Hawkins and Angela Walker	1	1	—	
Kanye West and Michelle Tidball	3 r	3	—	
Brock Pierce and Karla Ballard	4 r	4	—	
Gloria La Riva and Leonard Peltier	2 r	2	—	
Alyson Kennedy and Malcolm Jarrett	0	—	—	
Jo Jorgensen and Jeremy "Spike" Cohen	10 r	10	—	
BLANK FOR OFFICE	—	5	—	
OVER / DEFECTIVE FOR OFFICE	—	4	—	
WRITE-IN**	7 r	7	—	
<b>Totals</b>	<b>1316</b>	<b>1328</b>		

Precinct: 4950 - WEST ST PAUL W-2 P-2 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	113 r	—	—	
Oliver Steinberg	16 r	—	—	
Jason Lewis	356 - 480	—	—	
Tina Smith	807 - 610	—	—	
BLANK FOR OFFICE	—	—	—	
OVER / DEFECTIVE FOR OFFICE	—	—	—	
WRITE-IN**	2 r	—	—	
<b>Totals</b>				

**Post Election Review Results**

State General Election  
 Tuesday, November 3, 2020  
 County - Dakota

Printed: 11/17/2020 11:07 AM  
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Dakota County									
Precinct: 1830 - EAGAN P-13									
Office: U.S. Senator									
Candidate Name	Total Votes	Total Hand-Counted Votes	Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation			
Kevin O'Connor	105	105	0	0	0				
Oliver Steinberg	42	42	0	0	0				
Jason Lewis	810	810	0	0	0				
Tina Smith	1421	1420	1	1	0				
BLANK FOR OFFICE	0	0	0	0	0				
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0				
WRITE-IN**	1	1	0	0	0				
<b>Totals</b>	<b>2379</b>	<b>2378</b>	<b>1</b>	<b>1</b>	<b>0</b>				
<b>Final Results</b>									
							Difference of not more than 0.5%	0%	<b>ACCEPTABLE</b>

Dakota County									
Precinct: 1830 - EAGAN P-13									
Office: U.S. Representative District 2									
Candidate Name	Total Votes	Total Hand-Counted Votes	Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation			
Adam Charles Weeks	97	97	0	0	0				
Tyler Kistner	858	856	2	2	0				
Angie Craig	1412	1412	0	0	0				
BLANK FOR OFFICE	0	0	0	0	0				
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0				
WRITE-IN**	0	0	0	0	0				
<b>Totals</b>	<b>2367</b>	<b>2365</b>	<b>2</b>	<b>2</b>	<b>0</b>				
<b>Final Results</b>									
							Difference of not more than 0.5%	0%	<b>ACCEPTABLE</b>





Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	788	789	1	1	0	PP: voter intent
Joseph R. Biden and Kamala Harris	1544	1545	1	1	0	PP: voter intent
Roque "Rocky" De La Fuente and Darcy Richardson	1	1	0	0	0	
Howie Hawkins and Angela Walker	12	12	0	0	0	
Kanye West and Michelle Tidball	6	6	0	0	0	
Brock Pierce and Karla Ballard	2	2	0	0	0	
Gloria La Riva and Leonard Peltier	0	0	0	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	31	31	0	0	0	
BLANK FOR OFFICE	23	23	0	0	0	
OVER / DEFECTIVE FOR OFFICE	4	4	0	0	0	
WRITE-IN**	16	16	0	0	0	
<b>Totals</b>	<b>2427</b>	<b>2429</b>	<b>2</b>	<b>2</b>	<b>0</b>	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 2260 - FARMINGTON P-6

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Kevin O'Connor	107	107	0	0	0	
Oliver Steinberg	22	22	0	0	0	
Jason Lewis	975	975	0	0	0	
Tina Smith	783	781	2	2	0	PP: voter intent
BLANK FOR OFFICE	47	47	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
<b>Totals</b>	<b>1934</b>	<b>1932</b>	<b>2</b>	<b>2</b>	<b>0</b>	

Final Results Difference of not more than 0.5% 0% ACCEPTABLE

Precinct: 2260 - FARMINGTON P-6

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Adam Charles Weeks	100	100	0	0	0	
Tyler Kistner	1009	1007	2	2	0	PP: voter intent
Angie Craig	763	763	0	0	0	
BLANK FOR OFFICE	59	59	0	0	0	
OVER / DEFECTIVE FOR OFFICE	2	2	0	0	0	
WRITE-IN**	1	2	1	1	0	PP: voter intent
<b>Totals</b>	<b>1934</b>	<b>1933</b>	<b>3</b>	<b>3</b>	<b>0</b>	

Final Results Difference of not more than 0.5% 0% ACCEPTABLE

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation	
Donald J. Trump and Michael R. Pence	1008	1008	0	0	0		
Joseph R. Biden and Kamala Harris	884	882	2	2	0	PP: voter intent	
Roque "Rocky" De La Fuente and Darcy Richardson	5	5	0	0	0		
Howie Hawkins and Angela Walker	6	6	0	0	0		
Kanye West and Michelle Tidball	2	2	0	0	0		
Brock Pierce and Karla Ballard	2	2	0	0	0		
Gloria La Riva and Leonard Peltier	0	0	0	0	0		
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0		
Jo Jorgensen and Jeremy "Spike" Cohen	18	18	0	0	0		
BLANK FOR OFFICE	0	0	0	0	0		
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0		
WRITE-IN**	7	11	4	4	0	PP: voter intent	
<b>Totals</b>	<b>1932</b>	<b>1934</b>	<b>6</b>	<b>6</b>	<b>0</b>		
<b>Final Results</b>	<b>Difference of not more than 0.5%</b>			<b>0%</b>			<b>ACCEPTABLE</b>

Precinct: 2630 - HASTINGS W-2 P-1

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Total Explanation
Kevin O'Connor	95	95	0	0	0	
Oliver Steinberg	16	16	0	0	0	
Jason Lewis	598	598	0	0	0	
Tina Smith	643	643	0	0	0	
BLANK FOR OFFICE	25	25	0	0	0	
OVER / DEFECTIVE FOR OFFICE	3	1	2	2	0	PP: voter intent
WRITE-IN**	0	0	0	0	0	
<b>Totals</b>	<b>1380</b>	<b>1378</b>	<b>2</b>	<b>2</b>	<b>0</b>	
<b>Final Results</b>	Difference of not more than 0.5%				0%	<b>ACCEPTABLE</b>

Precinct: 2630 - HASTINGS W-2 P-1

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Total Explanation
Adam Charles Weeks	88	88	0	0	0	
Tyler Kistner	605	605	0	0	0	
Angie Craig	651	651	0	0	0	
BLANK FOR OFFICE	36	36	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
<b>Totals</b>	<b>1380</b>	<b>1380</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Final Results</b>	Difference of not more than 0.5%				0%	<b>ACCEPTABLE</b>

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	637	637	0	0	0	
Joseph R. Biden and Kamala Harris	702	703	1	1	0	PP: voter intent
Roque "Rocky" De La Fuente and Darcy Richardson	4	4	0	0	0	
Howie Hawkins and Angela Walker	3	3	0	0	0	
Kanye West and Michelle Tidball	3	3	0	0	0	
Brock Pierce and Karla Ballard	4	4	0	0	0	
Gloria La Riva and Leonard Peltier	0	0	0	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	16	16	0	0	0	
BLANK FOR OFFICE	3	2	1	1	0	PP: voter intent
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	6	6	0	0	0	
<b>Totals</b>	<b>1378</b>	<b>1378</b>	<b>2</b>	<b>2</b>	<b>0</b>	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 2660 - HASTINGS W-4 P-2

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Kevin O'Connor	121	121	0	0	0	
Oliver Steinberg	36	36	0	0	0	
Jason Lewis	743	743	0	0	0	
Tina Smith	710	710	0	0	0	
BLANK FOR OFFICE	29	29	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
<b>Totals</b>	<b>1639</b>	<b>1639</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Final Results</b>	Difference of not more than 0.5%				0%	ACCEPTABLE

Precinct: 2660 - HASTINGS W-4 P-2

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Adam Charles Weeks	114	114	0	0	0	
Tyler Kistner	741	741	0	0	0	
Angie Craig	747	747	0	0	0	
BLANK FOR OFFICE	36	36	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	1	1	0	0	0	
<b>Totals</b>	<b>1639</b>	<b>1639</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Final Results</b>	Difference of not more than 0.5%				0%	ACCEPTABLE

Precinct: 2660 - HASTINGS W-4 P-2

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	806	806	0	0	0	
Joseph R. Biden and Kamala Harris	793	793	0	0	0	
Roque "Rocky" De La Fuente and Darcy Richardson	3	3	0	0	0	
Howie Hawkins and Angela Walker	4	4	0	0	0	
Kanye West and Michelle Tidball	5	5	0	0	0	
Brock Pierce and Karla Ballard	3	3	0	0	0	
Gloria La Riva and Leonard Peltier	1	1	0	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	18	18	0	0	0	
BLANK FOR OFFICE	0	0	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	2	2	0	0	0	
<b>Totals</b>	<b>1635</b>	<b>1635</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Final Results</b>	<b>Difference of not more than 0.5%</b>			<b>0%</b>		<b>ACCEPTABLE</b>

Dakota County									
Precinct: 4950 - WEST ST PAUL W-2 P-2									
Office: U.S. Senator									
Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation			
Kevin O'Connor	113	67	48	0	1				
Oliver Steinberg	16	8	8	0	0				
Jason Lewis	356	176	180	0	0				
Tina Smith	807	191	622	3	0	PP: voter intent			
BLANK FOR OFFICE	29	28	1	1	0	PP: voter intent			
OVER / DEFECTIVE FOR OFFICE	4	1	3	3	0	PP: voter intent			
WRITE-IN**	2	1	1	0	0				
<b>Totals</b>	<b>1327</b>	<b>472</b>	<b>863</b>	<b>7</b>	<b>1</b>				
<b>Final Results</b>									
Difference of not more than 0.5%      0.2118% <b>ACCEPTABLE</b>									
Dakota County									
Precinct: 4950 - WEST ST PAUL W-2 P-2									
Office: U.S. Representative District 2									
Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation			
Adam Charles Weeks	112	62	52	1	0	PP: voter intent			
Tyler Kistner	359	168	191	0	0				
Angie Craig	811	204	607	1	0	PP: voter intent			
BLANK FOR OFFICE	43	44	1	1	0	PP: voter intent			
OVER / DEFECTIVE FOR OFFICE	1	1	0	0	0				
WRITE-IN**	1	1	0	0	0				
<b>Totals</b>	<b>1327</b>	<b>480</b>	<b>851</b>	<b>3</b>	<b>0</b>				
<b>Final Results</b>									
Difference of not more than 0.5%      0% <b>ACCEPTABLE</b>									



Precinct: 4950 - WEST ST PAUL W-2 P-2

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	376	193	185	1	0	PP: voter intent
Joseph R. Biden and Kamala Harris	912	247	669	2	0	PP: voter intent
Roque "Rocky" De La Fuente and Darcy Richardson	1	1	0	0	0	
Howie Hawkins and Angela Walker	1	1	0	0	0	
Kanye West and Michelle Tidball	3	1	2	0	0	
Brock Pierce and Karla Ballard	4	2	2	0	0	
Gloria La Riva and Leonard Peltier	2	1	1	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	10	8	2	0	0	
BLANK FOR OFFICE	4	5	1	1	0	PP: voter intent
OVER / DEFECTIVE FOR OFFICE	7	4	3	3	0	PP: voter intent
WRITE-IN**	7	2	5	0	0	
<b>Totals</b>	<b>1327</b>	<b>465</b>	<b>870</b>	<b>7</b>	<b>0</b>	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

\* Total Unadjusted Difference is the sum of Unadjusted Difference for polling place votes and Unadjusted Difference for absentee/mail ballot votes. It will not always equal the difference between Total Votes and Total Hand Counted Votes.

# 2018

## Post-Election Review Guide



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# TABLE OF CONTENTS

Table of Contents.....	3
1.0 Introduction .....	5
2.0 What - is the PER.....	5
2.1 Review notification .....	5
3.0 Who – Conducts the PER .....	5
3.1 Review Expenses .....	5
4.0 When and Where – is the PER held .....	6
4.1 Date of PER.....	6
4.2 Location of PER – Facilities, Accessibility and Equipment .....	6
4.3 LDT Notification .....	6
5.0 Which – precincts are part of the per .....	6
5.1 notification of Precincts Selected .....	7
5.1.1 ERS Steps.....	7
6.0 Standard of Acceptable Performance by a voting system.....	7
6.1 Additional Review .....	8
6.1.1 Level Two Review – Additional Precincts in County .....	8
6.1.2 Level Three Review – All Remaining Precincts in County .....	8
6.1.3 Level Four Review – All Precincts in District .....	8
7.0 General Procedures .....	8
7.1 Prepare and Organize .....	8
7.1.1 Election Materials .....	8
7.1.2 Administrative Materials.....	9
7.1.3 Facilities.....	10
7.2 Staffing and Training .....	10
7.3 Observation.....	11
7.4 Managing the Process.....	11
8.0 Example Instructions.....	11
9.0 Counting Ballots .....	12
10.0 Determining Voter Intent.....	12
10.1 Counted.....	13
10.2 Not Counted.....	14
11.0 Determining results.....	15
11.1 Adjustments to meet Post-Election Review Standards .....	15
11.1.1 Examples to Determine Explained Differences.....	15
11.2 Comparison of Results .....	17
11.2.1 PER Results Entry .....	17

11.2.2 PER Results Proofing .....	19
11.2.3 Submitting PER Results to OSS.....	21
12.0 State Canvassing Board and Reporting PER Results .....	22
Appendix A – Sample Determination of Post Election Review .....	23
Appendix B – Procedures for Conducting Post-Election Review .....	24

## 1.0 INTRODUCTION

This guide is designed for election officials and their staff who may conduct a post-election review of voting systems (PER). This guide should be used along with the Office of the Minnesota Secretary of State (OSS) publication “Minnesota Election Laws.” Citations in this guide refer to the Minnesota election laws (M.S. citations) or rules (M.R. citations). Full text of the Minnesota election laws and rules can be found at the [Minnesota Office of the Revisor of Statutes](https://www.revisor.mn.gov/) (<https://www.revisor.mn.gov/>). If using an electronic version of this guide, simply click on the citations to retrieve current statute or rule.

Portions of this guide contain procedures based on best practices, rather than statute or rule. If employing these portions, do not consider the information to hold the same authority as that information governed by federal or state law.

This guide focuses solely on the processes and procedures related to the PER. Please contact this office if you have comments on how this publication could better support the needs of election administrators. For a more comprehensive view of election administration in Minnesota refer to the following election guides: County Auditor Election Guide, City Clerk Election Guide, Township Clerk Election Guide, and School District Clerk Election Guide. These guides can be found at the [OSS Election Guides](https://www.sos.state.mn.us/election-administration-campaigns/election-administration/election-guides/) webpage located at (<https://www.sos.state.mn.us/election-administration-campaigns/election-administration/election-guides/>).

## 2.0 WHAT - IS THE PER

The post-election equipment review or post-election review (PER) is a manual recount (or “audit”) of randomly-selected precincts for specific offices following each state general election. The review compares the hand count of the ballots with the results from the electronic voting system to determine if counting accuracy of the voting system meets a defined standard. (See section 6.0.)

The PER is mandated for the offices of President or Governor; United States Senator and United States Representative. However, if one of these offices is the subject of a recount (as provided in [M.S. 204C.35](#), subdivision 1), no review is required for that office. The PER official may conduct a post-election review of the votes cast for additional offices as well. ([M.S. 206.89, subd. 2a](#); [206.89, subd. 3](#))

**Note:** In 2018, the offices to be reviewed include two U.S. Senate offices, in addition to Governor, and U.S. Representative.

The review official must submit the results of the review in writing to the county auditor. The auditor must then immediately submit the results of the post-election 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. ([M.S. 206.89, subd. 6](#))

### 2.1 REVIEW NOTIFICATION

The county auditor must notify the Secretary of State of:

- the location, date and time of the PER
- the precincts chosen for the PER

See sections 4.3 and 5.1.1 for process steps.

For the PER, at least four precincts must be selected within each congressional district statewide. If the county selection process has not resulted in this condition being met, the Secretary of State may require counties to select by lot additional precincts to meet the congressional district requirement.

## 3.0 WHO – CONDUCTS THE PER

The county auditor is the PER official unless the auditor designates the municipal clerk as the PER official within 24 hours after the canvass of the state general election. ([M.S. 206.89, subd. 1](#))

### 3.1 REVIEW EXPENSES

The cost of conducting the PER must be allocated as follows:

- The governing body responsible for each precinct selected for review must pay the costs incurred for the initial review and any needed additional reviews at the precinct and county levels.
- If a district-wide review must be conducted, the Secretary of State must reimburse local units of government for the costs of the district-wide review; and
- The vendor of the voting system must pay any costs incurred by the Secretary of State to examine and recertify the voting system. (*M.S. 206.89, subd. 9*)

## 4.0 WHEN AND WHERE – IS THE PER HELD

The date, time and place of the post-election review of the state general election is set at the canvass of the state primary by each county canvassing board. (*M.S. 206.89, subd. 2*)

### 4.1 DATE OF PER

The date selected by the county canvassing board must be within a statutorily defined time period: The PER must not begin before the 11<sup>th</sup> day after the state general election. The PER must be completed no later than the 18<sup>th</sup> day after the state general election, two days before the meeting of the State Canvassing Board. (*M.S. 206.89, subd. 2*)

Consider the following factors when selecting a date for the PER:

- Does it allow for the time necessary for escalation if escalation is called for
- Where does it fall in relation to holidays and weekends

See Appendix A for an example Determination of Post Election Review for use at the canvass board meeting.

### 4.2 LOCATION OF PER – FACILITIES, ACCESSIBILITY AND EQUIPMENT

All post-election reviews must be accessible to the public. Each election jurisdiction where a review is conducted shall make adequate accessible space and all necessary equipment and facilities available without charge to the review official or body conducting the review. (*M.S. 206.89, subd. 3; M.R. 8235.0600*)

### 4.3 LDT NOTIFICATION

The county auditor must immediately notify OSS of the PER **Location, Date and Time** (LDT) set at the primary canvass. Instructions on how to notify OSS will be provided to county election administrators. The post-election review details for each county will be posted on the OSS [Post-Election Reviews](http://www.sos.state.mn.us/elections-voting/how-elections-work/post-election-reviews/) webpage (<http://www.sos.state.mn.us/elections-voting/how-elections-work/post-election-reviews/>). (*M.S. 206.89, subd. 2*)

## 5.0 WHICH – PRECINCTS ARE PART OF THE PER

At the canvass of the state general election, the county canvassing board must select the precincts to be reviewed by lot. The number of precincts that must be selected is determined by the size of a county's registered voter population. Refer to the table directly below.

Registered Voter Count	Number of Precincts to Review
<50,000	At least 2
50,000 – 100,000	At least 3
>100,000	At least 4 or 3% of total number of precincts, whichever is greater

The ballots to be reviewed for a precinct must include **both** the ballots counted at the precinct's polling place and the absentee ballots counted centrally by a ballot board for that precinct. At least one precinct

selected must have had more than 150 votes cast at the state general election. (The count of votes cast is the combined total of polling place votes and absentee votes.) (M.S. 206.89, subd. 2)

If the required number of precincts have been drawn and none have more than 150 votes cast, an additional precinct with at least 150 votes cast must be selected. To do this, remove the precincts where less than 150 votes were cast from the pool of undrawn precincts. Draw an additional precinct from this narrowed pool. Include this precinct with those already selected.

### 5.1 NOTIFICATION OF PRECINCTS SELECTED

The county auditor must notify the Secretary of State of the precincts chosen for the PER. Notification to OSS is made by marking the precincts selected for review in the Election Reporting System (ERS). See section 5.1.1 for the steps to specify the precincts in ERS.

As indicated in section 2.1, Statewide at least four precincts must be selected within each congressional district. If the county selection process has not resulted in this condition being met, the Secretary of State may require counties to select additional precincts by lot to meet the congressional district requirement.

#### 5.1.1 ERS Steps

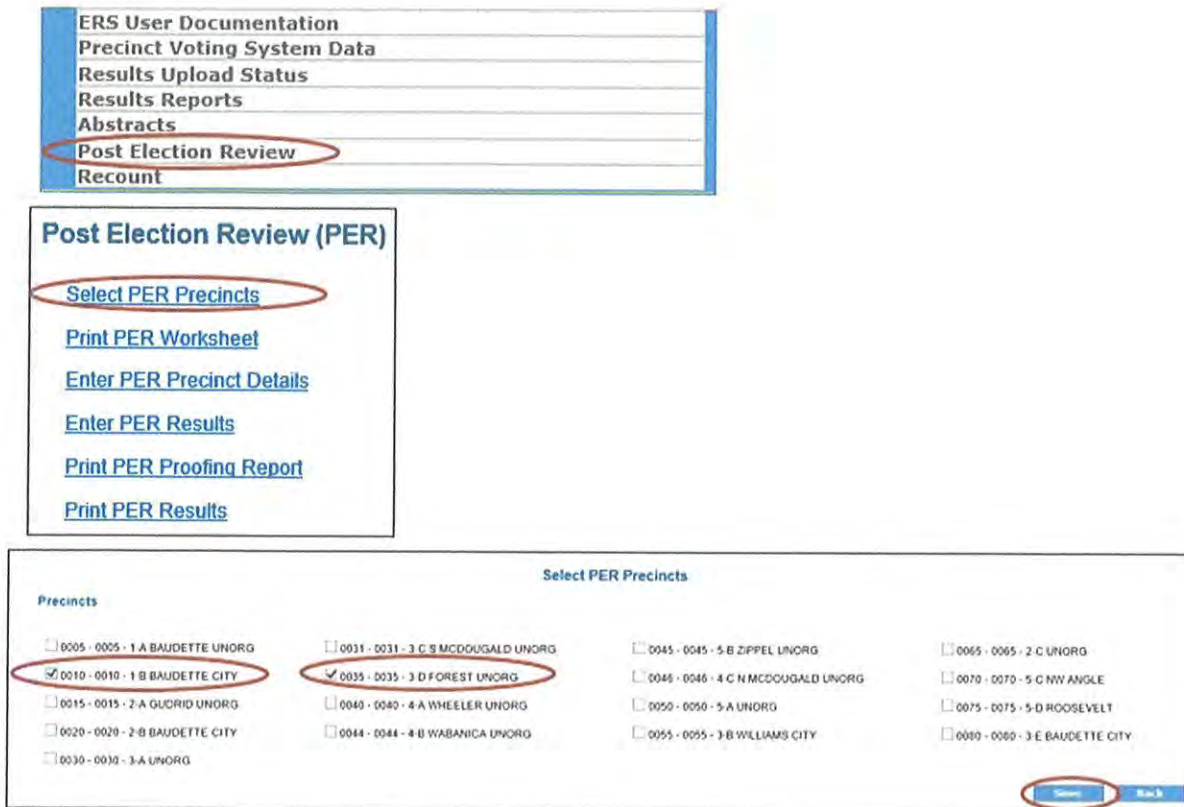


Figure 1 Selecting the PER precincts in ERS

## 6.0 STANDARD OF ACCEPTABLE PERFORMANCE BY A VOTING SYSTEM

As stated above, the PER compares the hand count of the ballots with the results from the electronic voting system to determine if counting accuracy of the voting system meets a defined standard. The comparison of the results from the voting system and the manual count done during the PER must be accurate to within one-half of one percent or not more than two votes in precincts where 400 or fewer voters cast ballots. This does not include valid votes marked outside of the vote targets on the ballot or



votes marked by an unreadable manual marking device that cannot be read by the electronic voting system.

## **6.1 ADDITIONAL REVIEW**

If the PER in one of the reviewed precincts reveals a difference greater than one-half of one percent or greater than two votes in a precinct where 400 or fewer voters cast ballots, then a second level of review is necessary.

### **6.1.1 Level Two Review – Additional Precincts in County**

When a second level of review is required, the PER official must, within two days, conduct an additional review of the races of President or Governor; U.S. Senator; and U.S. Representative in 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 and publically select by lot at least three additional precincts for review. The 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 level two review indicates a difference in any of the reviewed precincts that is greater than one-half of one percent, or greater than two votes in a precinct where 400 or fewer voters cast ballots, then a third level of review is necessary.

### **6.1.2 Level Three Review – All Remaining Precincts in County**

When a third level of review is necessary, the county auditor must conduct a review of the ballots from all remaining precincts in the county for the races of President or Governor; U.S. Senator; and U.S. Representative. This review must be completed and the results must be reported to the secretary of state within one week after the level two review is completed.

If the results from the countywide reviews from one or more counties together comprise more than 10 percent of the total number of people voting in the election clearly indicate that an error in vote counting has occurred, then a fourth level of review is necessary.

### **6.1.3 Level Four Review – All Precincts in District**

The secretary of state must notify the PER official of each county in the district that they must conduct manual recounts of all ballots in the district for the affected office. This manual recount is conducted using the procedure found in [M.S. 204C.35](#). This review must be completed and the results reported to the appropriate canvassing board within two weeks after the PER official received notice from the secretary of state. ([M.S. 206.89, subd. 5](#))

## **7.0 GENERAL PROCEDURES**

This portion of the guide contains procedures based on best practices, rather than statute or rule. If employing these portions, do not consider the information to hold the same authority as that information governed by federal and state law. At the opening of a review, the review official or legal advisor shall present the procedures contained in this rule for review.

### **7.1 PREPARE AND ORGANIZE**

#### **7.1.1 Election Materials**

The custodian of the ballots shall provide to the review official the precinct summary statements, the precinct boxes or containers containing the sealed envelopes of voted ballots, and any other election materials requested by the review official. It is a good practice to have the original summary statements and results tapes/reports for the precincts (both polling place and absentee) available for public review. The ballot containers should be delivered to the post-election review official at the counting location by

two election judges not of the same political party, or by two election officials, or by a combination of election judges and officials.

Ballots and election materials may only be handled by the post-election review official or their staff. If the post-election review official needs to leave the room during the review, they must designate a deputy to preside over the review while they are absent.

### 7.1.2 Administrative Materials

Prior to the review, prepare a review packet with a checklist. Have all forms, exhibits, supplies and contact information organized to ensure that all information given to individuals is provided in a consistent format. This will save time and allow the focus to be election specific.

Worksheets should be prepared for each precinct selected for the review. These worksheets can be printed from ERS. Each precinct will have two worksheets – one for polling place votes and one for absentee/mail ballot votes. Follow the process steps directly below to print the worksheets.

**Post Election Review (PER)**

- [Select PER Precincts](#)
- [Print PER Worksheet](#)
- [Enter PER Precinct Details](#)
- [Enter PER Results](#)
- [Print PER Proofing Report](#)
- [Print PER Results](#)

**PER Worksheet**

Filter  
Precinct: 0010 - 0010 - 1-B BAUDETTE CITY [Polling Place]

Back View Report

1 of 4 Find | Next

All Precincts

- 0010 - 0010 - 1-B BAUDETTE CITY [Polling Place]
- 0010 - 0010 - 1-B BAUDETTE CITY [AB/MB]
- 0035 - 0035 - 3-D FOREST UNORG [Polling Place]
- 0035 - 0035 - 3-D FOREST UNORG [AB/MB]

CSV (comma delimited)  
PDF  
Word

Figure 2 Printing PER Worksheets in ERS

A worksheet will only contain vote totals for one counter group: The Polling Place worksheet will display only results from the polling place while the Absentee/Mail Ballot worksheet will display only AB/MB results.

The following vote counts are not available in ERS and **will not be** populated in the Worksheet:

- Undervotes (Blanks)
- Overvotes
- Totals

Instead, blank lines will be printed. Using the precinct’s election night summary statement, **hand-write these counts on the precinct’s worksheet(s) before beginning the PER.** See Figure 6 below.

**Post Election Review Worksheet**

State General Election  
Tuesday, November 6, 2012

Printed: 10/22/2014 8:29 AM  
Printed By: klf01

County - Nicollet, Precinct - 10076

Precinct: 0125 - ST PETER W-1 P-2 <u>Polling Place</u>				
Office: U.S. President & Vice President				
Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
MITT ROMNEY AND PAUL RYAN	522	_____	_____	_____
BARACK OBAMA AND JOE BIDEN	818	_____	_____	_____
GARY JOHNSON AND JIM GRAY	17	_____	_____	_____
JAMES HARRIS AND MAURA DELUCA	1	_____	_____	_____
VIRGIL GOODE AND JIM CLYMER	1	_____	_____	_____
DEAN MORSTAD AND JOSH FRANKE-HYLAND	0	_____	_____	_____
JILL STEIN AND CHERI HONKALA	12	_____	_____	_____
JIM CARLSON AND GEORGE MCMAHON	2	_____	_____	_____
PETA LINDSAY AND YARI OSORIO	2	_____	_____	_____
ROSS C. "ROCKY" ANDERSON AND LUIS J. RODRIGUEZ	1	_____	_____	_____
BLANK FOR OFFICE	○	_____	_____	_____
OVER / DEFECTIVE FOR OFFICE	○	_____	_____	_____
WRITE-IN**	5	_____	_____	_____
<b>Totals</b>	○	_____	_____	_____

Hand enter from election night summary statement

Figure 3 Example Polling Place Votes PER Worksheet

The PER Worksheets contain the certified results for a given precinct. It is a good practice to have additional copies of the Worksheets available for public review.

**7.1.3 Facilities**

Setting up the facilities is important. In addition to setting up the room where the review takes place, remember to consider security needs and parking availability for those involved in the process. Set up the review room so there is a staging area, counting area and viewing area. This set-up should take into account the planned workflow (e.g. bringing and removing election materials and well as the location of unlocked bathrooms). Be sure to set up the necessary number of counting tables.

Badges should be provided which identify the people present and their role in the post-election review. Only those people directly involved in the review should be present within the reviewing area. These individuals are limited to the review officials and legal advisor and officials of the election jurisdiction. However, the public and press must be admitted into the room where the review is being conducted to observe proceedings from outside the review area.

**7.2 STAFFING AND TRAINING**

The post-election review official may be assisted by election judges designated by the official for this purpose. When designating election judges, it is a good practice to include some alternate or standby judges who can be called to step in if an emergency substitution is needed on the day of the review. (E.g. if an election judge is fails to show up for the PER.)

The party balance requirement of [M.S. 204B.19](#) applies to election judges designated for the review. Schedule the training/information dissemination session for staff. Keep your team informed.

Bring as many staff as necessary to the review. Require name badges for all authorized personnel. Establish firm guidelines for release of all information both to the media and between staff members.

### 7.3 OBSERVATION

The post-election review official shall arrange the counting of ballots so that the public can view the ballots as they are recounted. The official shall ensure that this public observation does not interfere with the counting or security of the ballots. If other election materials are handled or examined by the review officials, the participants may observe them. Be cognizant of the chain of custody of the ballots as cases are collected from secure storage, as they await review in the PER location, and as they are returned to secure storage. Open the sealed containers only when the review team and observers are present. Keep all ballot access in full view. The review official shall prepare a summary of the review by precinct. ([M.R. 8235.0700](#))

### 7.4 MANAGING THE PROCESS

The post-election review official is in charge. Acknowledge everyone present (your team, legal counsels, election officials, public and press); everyone has a role. Always explain what is about to occur and explain why. Be completely thorough and transparent. Never hold a private conversation with only one of the parties. Always appear in control of yourself and the situation. Be sure to answer any questions and address the concerns of any observer.

Orally review with all present:

- Roles of review officials, observers and staff.
- Procedures for the review including the sorting and counting processes.

If observers have concerns or suggestions, listen. Make sure the actions of officials and staff in the review fills the process with accountability, credibility and trust. Make a defensible decision and carry it out consistently.

## 8.0 EXAMPLE INSTRUCTIONS

Provide the team with the following instructions:

- This is a post-election review held pursuant to [M.S. 206.89](#).
- It is **not** to determine:
  - who was eligible to vote;
  - if campaign laws were violated;
  - if absentee or mail ballots were properly accepted.
- It is **not** – except for reviewing the ballots – to determine if judges did things right.
- It is simply to physically recount the ballots **for the races included in the post-election review**.

It is an opportunity for everyone, particularly the election officials, to satisfy themselves that ballots were, in fact, counted properly. If it is found that judges have counted votes wrong or the machine counted them wrong, you need to be aware that this is not unusual and that is why we have the review law. Normally any errors by judges or the machine are random errors and generally offset one another. Characteristically what we find is that a slight change one way in one precinct is balance by a corresponding change in the other direction in another precinct. Normally the results of the election are not changed by these adjustments, but it does happen.

Only the review official handles ballots unless they specifically instruct another to handle them. Make any concerns regarding the process known immediately to review official. Ballots will be reviewed by precinct. We will count one precinct at a time, maintaining the separation of ballots by precinct and by counter group. (Polling place ballots and Absentee/Mail Ballots will be counted separately.) The review official, however, may review more than one precinct at a time in physically separate location within the room in which the review is administered.

Process Overview:

- Ballots will be removed from the sealed case(s) and staff will turn all ballots so they are facing in the same direction, with the same side up.
- The review official will separate the ballots into several piles:
  - One for each candidate;
  - One for write-ins, and
  - One for blank or defective or marked outside of the target area for the offices being reviewed.
- Voter intent will be determined pursuant to [M.S. 204C.22](#)
- Staff will count the ballots by piling the ballots in groups of 25.
- Counts will be recorded for each precinct counter group on the review worksheet and summary statement.
- After counting, the ballots must be resealed in the transfer case. (Polling Place and Absentee ballots for a precinct may be sealed together in a single case.)

See Appendix B for a printer-friendly procedures sheet.

## 9.0 COUNTING BALLOTS

Ballots must be reviewed on a precinct by precinct basis, first to determine votes cast for the affected offices (see section 10.0), then to determine if additional steps are required (see section 11.0). The post-election review official shall open the sealed envelopes and review them in accordance with [M.S. 204C.41](#).

When conducting the review, the total number of ballots counted for the PER offices in a given precinct must be equal, (i.e. the total ballots counted for Governor, the total ballots counted for U.S. Senator, and the total ballots counted for U.S. Representative should all be the same). Whenever there is a discrepancy among the total number of ballots counted for each office in a given precinct, the ballots should be recounted. If there is any doubt about a precinct's results, count again. If the manual count differs from the original results, you may want to have a different review team count again, looking in piles for incorrectly sorted ballots.

After the count of votes (both Polling Place and Absentee/Mail Ballot) for the precinct has been determined, all ballots will be resealed in the ballot envelopes and returned with the other election materials to the custodian of the ballots. (Absentee and Polling Place ballots may be sealed together in a single precinct transfer case.) ([M.S. 204C.361](#); [M.R. 8235.0800](#))

## 10.0 DETERMINING VOTER INTENT

Minnesota law requires that every effort be made to accurately count all votes on a ballot. This means that a ballot or vote must not be rejected for a technicality if it is possible to determine what the voter intended, even though the voter may have made a mistake or the ballot is damaged. Intent is determined only from the face of the ballot. Use the following rules to decide voter intent:

### 10.1 COUNTED

- If a name is written in the proper place but the write-in target is not marked, count the vote for that individual.


FEDERAL OFFICES	
U.S. SENATOR	
VOTE FOR ONE	
<input type="radio"/>	ROBERT FITZGERALD <small>Independence Party</small>
<input type="radio"/>	MARK KENNEDY <small>Republican</small>
<input type="radio"/>	AMY KLOBUCHAR <small>Democratic Farmer-Labor</small>
<input type="radio"/>	MICHAEL JAMES CAVLAN <small>Green Party</small>
<input type="radio"/>	BEN POWERS <small>Conservative Party</small>
<input type="radio"/>	<i>John Smith</i>

- A mark made out of place but close enough to a name or line to determine voter intent is to be counted.

FEDERAL OFFICES	REPUBLICAN PARTY	FEDERAL OFFICES	FEDERAL OFFICES
UNITED STATES SENATOR	FEDERAL OFFICES	UNITED STATES SENATOR	UNITED STATES SENATOR
VOTE FOR ONE	UNITED STATES SENATOR	VOTE FOR ONE	VOTE FOR ONE
<input checked="" type="radio"/> JACK SHEPARD	VOTE FOR ONE	<input type="radio"/> JACK SHEPARD X	<input checked="" type="radio"/> JACK SHEPARD
<input type="radio"/> NORM COLEMAN	<input type="radio"/> JACK SHEPARD	<input type="radio"/> NORM COLEMAN	<input type="radio"/> NORM COLEMAN
CONTINUE VOTING ON THE NONPARTISAN BALLOT	<input type="radio"/> NORM COLEMAN	CONTINUE VOTING ON THE NONPARTISAN BALLOT	CONTINUE VOTING ON THE NONPARTISAN BALLOT
	CONTINUE VOTING ON THE NONPARTISAN BALLOT		

- If two or more different marks are used by the voter, count them, provided the marks do not mark the ballot with distinguishing characteristics where the voter's intent is to identify the ballot.

SUPREME COURT
ASSOCIATE JUSTICE 3 VOTE FOR ONE
<input checked="" type="checkbox"/> ALAN LAWRENCE NELSON
<input type="checkbox"/> PAUL H. ANDERSON
<input type="checkbox"/> TIM INGELSTAD
ASSOCIATE JUSTICE 4 VOTE FOR ONE
<input checked="" type="checkbox"/> LORIE SKERVEN OLSEN
<input type="checkbox"/> DEBORAH HEDLUND
<input type="checkbox"/> JILL CLARK
<input type="checkbox"/> F. RICHARD GALLO, JR.
2ND DISTRICT COURT
JUDGE 21 VOTE FOR ONE
<input checked="" type="checkbox"/> JOY D. BARTSCHER
<input type="checkbox"/> CONNIE S. NYRSEN
<input type="checkbox"/> JOHN P. GUTK
<input type="checkbox"/> JAMES C. SWYDER, SR.
<input type="checkbox"/> PAUL GOODREV
<input type="checkbox"/> GAIL CHANG BOHR
<input type="checkbox"/> HOWARD ORENSTEIN
<input type="checkbox"/> RICHARD F. CARLSON, JR.

- If the voter uniformly uses a mark other than  to mark their ballot which clearly indicates an intent to mark a name or mark yes or no on a question, count those offices.

JUDGE 10 VOTE FOR ONE
<input type="checkbox"/> EDWARD J. CLEARY <small>incumbent</small> ✓
<input type="checkbox"/> <small>write-in if any</small>
JUDGE 12 VOTE FOR ONE
<input type="checkbox"/> MARGARET CHUTICH <small>incumbent</small> ✓
<input type="checkbox"/> <small>write-in if any</small>
JUDGE 15 VOTE FOR ONE
<input type="checkbox"/> KEVIN G. ROSS <small>incumbent</small> ✓
<input type="checkbox"/> <small>write-in if any</small>

- If marks are made next to two candidates and an attempt was made to erase one of the two, vote is counted for the remaining marked candidate.

<b>UNITED STATES SENATOR</b> <b>VOTE FOR ONE</b>	<b>FEDERAL OFFICES</b> <b>UNITED STATES SENATOR</b> <b>VOTE FOR ONE</b>
<input checked="" type="radio"/> DARRYL STANTON <input checked="" type="radio"/> <del>BILL DAHN</del> <input type="radio"/> STEPHEN WILLIAMS <input type="radio"/> JACK ULDRICH <input type="radio"/> KURT MICHAEL ANDERSON <input type="radio"/> DOUG WILLIAMS <input type="radio"/> DEAN BARKLEY	<input checked="" type="radio"/> DARRYL STANTON <input checked="" type="radio"/> BILL DAHN <input type="radio"/> STEPHEN WILLIAMS <input type="radio"/> JACK ULDRICH <input type="radio"/> KURT MICHAEL ANDERSON <input type="radio"/> DOUG WILLIAMS <input type="radio"/> DEAN BARKLEY
<b>CONTINUE VOTING ON THE NONPARTISAN BALLOT</b>	<b>CONTINUE VOTING ON THE NONPARTISAN BALLOT</b>

- If an attempt is made to obliterate a write-in name, a vote is counted for the remaining write-in name or marked candidate.

<b>FEDERAL OFFICES</b> <b>U.S. SENATOR</b> <b>VOTE FOR ONE</b>
<input checked="" type="radio"/> ROBERT FITZGERALD <small>Independence Party</small> <input type="radio"/> MARK KENNEDY <small>Republican</small> <input type="radio"/> AMY KLOBUCHAR <small>Democratic Farmer-Labor</small> <input type="radio"/> MICHAEL JAMES CAVLAN <small>Green Party</small> <input type="radio"/> BEN POWERS <small>Constitution Party</small> <input type="radio"/> <del>Write-in Name</del>

- A write-in candidate for governor or lieutenant governor is counted as a vote for a team of candidates including lieutenant governor.
- Count all printed names with a mark made opposite them and all names written-in, not exceeding the number to be elected for that office.
- Misspellings for names written-in must be counted if intent can be determined.
- If the voter's choice can only be determined for some of the offices on the ballot, only count those offices on the ballot.
- A ballot cannot be rejected because it is slightly soiled or defaced.
- A ballot that has one or more blank offices is not defective

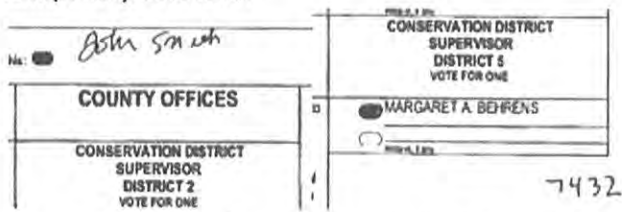
It is a good practice to keep questionable ballots at the top of counted stacks.

### 10.2 NOT COUNTED

- If the voter has marked more candidates than to be elected or nominated for that office, ballot is defective for that particular office. (All other offices on the ballot are counted if possible.)

<b>UNITED STATES SENATOR</b> <b>VOTE FOR ONE</b>
<input checked="" type="radio"/> DARRYL STANTON <input checked="" type="radio"/> BILL DAHN <input type="radio"/> STEPHEN WILLIAMS <input checked="" type="radio"/> JACK ULDRICH <input type="radio"/> KURT MICHAEL ANDERSON <input type="radio"/> DOUG WILLIAMS <input type="radio"/> DEAN BARKLEY
<b>CONTINUE VOTING ON THE NONPARTISAN BALLOT</b>

- If the voter used an identifying mark or mark with the intent to identify the ballot, the ballot is completely defective.



- If a voter has voted yes and no on a ballot question, that question is not counted, but the rest of the ballot must be counted if possible.
- If marks are made opposite of more printed candidates or write-ins allowed for an office, the ballot is defective for that particular office.
- If the number of candidates for an office is equal to the number of individuals to be elected to that office, and the voter has not marked any name, no vote is counted for any candidate for that office.
- A specific office is considered blank when no name or response to a question is marked and no name is written-in. ([M.S. 204C.22](#))

## 11.0 DETERMINING RESULTS

### 11.1 ADJUSTMENTS TO MEET POST-ELECTION REVIEW STANDARDS

[M.S. 206.89](#) sets out the following standards for excluding ballots from the post-election review:

“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.”

The votes marked in the following examples taken from section 10.1 above, would likely be exceptions included in the “Explained Difference” column on the PER worksheet. The ballot counter cannot determine voter intent in these cases, so these votes do not count against the standard of acceptable performance.

#### 11.1.1 Examples to Determine Explained Differences

##### Marks Outside Target

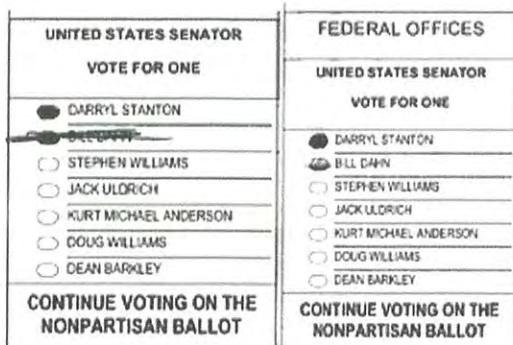
These marks would not likely be counted by the ballot tabulator.

FEDERAL OFFICES	REPUBLICAN PARTY	FEDERAL OFFICES	FEDERAL OFFICES
UNITED STATES SENATOR	FEDERAL OFFICES	UNITED STATES SENATOR	UNITED STATES SENATOR
VOTE FOR ONE	UNITED STATES SENATOR	VOTE FOR ONE	VOTE FOR ONE
<input type="radio"/> JACK SHEPARD	VOTE FOR ONE	<input type="radio"/> JACK SHEPARD X	<input checked="" type="radio"/> JACK SHEPARD
<input type="radio"/> NORM COLEMAN	<input type="radio"/> JACK SHEPARD	<input type="radio"/> NORM COLEMAN	<input type="radio"/> NORM COLEMAN
CONTINUE VOTING ON THE NONPARTISAN BALLOT	<input type="radio"/> NORM COLEMAN	CONTINUE VOTING ON THE NONPARTISAN BALLOT	CONTINUE VOTING ON THE NONPARTISAN BALLOT
	CONTINUE VOTING ON THE NONPARTISAN BALLOT		



### Possible Overvotes

The ballot counter would not likely have counted these votes, but would have recorded them as overvotes.



The cases above were marked in such a way that they could not be properly read by the electronic voting system. Those votes that appear unreadable by the electronic voting system are included for the candidates in the "Hand Counted Votes" column based on voter intent. Unreadable votes, however, do not count against the standard of acceptable performance of the voting system and are also reported in the "Explained Differences" column if applicable. ([M.S. 206.89](#))

Precinct: 0125 - ST PETER W-1 P-2 Polling Place				
Office: U.S. Senator				
Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
STEPHEN WILLIAMS	43	45	2	Stray mark recorded as overvote
KURT BILLS	304	305	1	Voter intent outside of target
AMY KLOBUCHAR	973	973		
TIM DAVIS	19	19		
MICHAEL CAVLAN	2	2		
BLANK FOR OFFICE	5	3	2	Vote for Bills outside of target
OVER / DEFECTIVE FOR OFFICE	4	3	1	Stray mark not overvote, for Williams
WRITE-IN**	2	2		
<b>Totals</b>	<b>1352</b>	<b>1352</b>	<b>4</b>	

Precinct: 0125 - ST PETER W-1 P-2 AB/MB				
Office: U.S. Senator				
Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
STEPHEN WILLIAMS	1	1		
KURT BILLS	40	40		
AMY KLOBUCHAR	119	119		
TIM DAVIS	1	1		
MICHAEL CAVLAN	1	1		
BLANK FOR OFFICE	4	3	1	Write-in candidate name provided; oval unmarked
OVER / DEFECTIVE FOR OFFICE	2	2		
WRITE-IN**	0	1	1	Candidate name written-in; oval not marked
<b>Totals</b>	<b>168</b>	<b>168</b>	<b>2</b>	

Figure 4 Example PER Worksheets for Polling Place and AB/MB Votes with review counts and explained differences

## 11.2 COMPARISON OF RESULTS

Once the ballots that are unreadable by the electronic voting system are noted in the “Explained Differences” column, any remaining differences between the results of the hand tally with the reported results for the precinct will be calculated in the “Adjusted Differences” column. The county must immediately input the results of the post-election review into ERS (but no later than two days before the State Canvassing Board meets to canvass the election). Any revision to the vote totals for these offices will be incorporated into the official results for those precincts.

### 11.2.1 PER Results Entry

The county will input two sets of results per precinct into ERS – one for polling place votes, one for absentee/mail ballot votes. Follow the process steps directly below to input results.

**Post Election Review (PER)**

[Select PER Precincts](#)

[Print PER Worksheet](#)

[Enter PER Precinct Details](#)

[Enter PER Results](#)

[Print PER Proofing Report](#)

[Print PER Results](#)

**Enter PER Results**

Precinct: 0125 - ST PETER W-1 P-2 [Polling Place] < Prev Next >

- 0090 - NORTH MANKATO P 5 [Polling Place]
  - 0090 - NORTH MANKATO P 5 [AB/MB]
  - 0125 - ST PETER W-1 P-2 [Polling Place]
  - 0125 - ST PETER W-1 P-2 [AB/MB]

0102 - U.S. Senator								
Candidate ID	Candidate Party	Candidate Name	Polling Place Votes	Hand Count	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
01020201	Independence	STEPHEN WILLIAMS	43	<input type="text" value="43"/>	0	0	43	
01020301	Republican	KURT BILLS	304	<input type="text" value="304"/>	0	0	304	
01020401	Democratic Farmer Labor	AMY KLOBUCHAR	973	<input type="text" value="973"/>	0	0	973	
01021001	Grassroots Party	TIM DAVIS	19	<input type="text" value="19"/>	0	0	19	
01021101	Minnesota Open Progressives	MICHAEL CAVLAN	2	<input type="text" value="2"/>	0	0	2	
01029001	Nonpartisan	BLANK FOR OFFICE	<input type="text" value="0"/>	<input type="text" value="0"/>	0	0	0	
01029002	Nonpartisan	OVER / DEFECTIVE FOR OFFICE	<input type="text" value="0"/>	<input type="text" value="0"/>	0	0	0	
01029901	Write-In	WRITE-IN**	2	<input type="text" value="2"/>	0	0	2	

Figure 5 Entering PER Results in ERS

Precinct: 0125 - ST PETER W-1 P-2 Polling Place  
Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
STEPHEN WILLIAMS	43	45	1	Stray mark recorded as overvote
KURT BILLS	304	305	1	Voter intent outside of target
AMY KLOBUCHAR	973	973		
TIM DAVIS	19	19		
MICHAEL CAVLAN	2	2		
BLANK FOR OFFICE	5	3	1	Vote for Bills outside of target
OVER / DEFECTIVE FOR OFFICE	4	3	1	Stray mark not overvote, for Williams
WRITE-IN**	2	2		
<b>Totals</b>	<b>1352</b>	<b>1352</b>	<b>4</b>	

Polling Place Votes	Hand Count	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
43	45	2	1	1	Stray mark recorded as overvote
304	305	1	1	0	Voter intent outside of target
973	973	0	0	0	
19	19	0	0	0	
2	2	0	0	0	
5	3	2	1	1	Vote for Bills marked outside of target
4	3	1	1	0	Stray mark not overvote, vote for Williams
2	2	0	0	0	

Figure 6 Inputting PER Polling Place Worksheet data into ERS PER Results Entry Screen

Enter PER Results

Precinct: 0125 - ST PETER W-1 P-2 [AB/MB] < Prev Result >

Precinct: 0125 - ST PETER W-1 P-2 AB/MB  
Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
STEPHEN WILLIAMS	1	1		
KURT BILLS	40	40		
AMY KLOBUCHAR	119	119		
TIM DAVIS	1	1		
MICHAEL CAVLAN	1	1		
BLANK FOR OFFICE	4	3	1	Write-in candidate name provided; oval unmarked
OVER / DEFECTIVE FOR OFFICE	2	2		
WRITE-IN**	0	1	1	Candidate name written in; oval not marked
<b>Totals</b>	<b>168</b>	<b>168</b>	<b>2</b>	

0102 - U.S. Senator			AB/MB Votes	Hand Count	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
01020201	Independence	STEPHEN WILLIAMS	1	1	0	0	0	
01020301	Republican	KURT BILLS	40	40	0	0	0	
01020401	Democratic Farmer Labor	AMY KLOBUCHAR	119	119	0	0	0	
01021001	Grassroots Party	TIM DAVIS	1	1	0	0	0	
01021101	Minnesota Open Progressives	MICHAEL CAVLAN	1	1	0	0	0	
01029001	Nonpartisan	BLANK FOR OFFICE	4	3	1	0	0	Write in candidate name provided; oval unmarked
01029002	Nonpartisan	OVER / DEFECTIVE FOR OFFICE	2	2	0	0	0	
01029901	Write In	WRITE-IN**	0	1	1	0	0	Candidate name written in; oval not marked

Figure 7 Inputting PER AB/MB Worksheet data into ERS PER Results Entry Screen

### 11.2.2 PER Results Proofing

To proof the entry of polling place and AB/MB vote totals in ERS, counties should print and review the PER Proofing Report for accuracy. The report can be printed to include all precincts or by individual precinct counter group. Follow the process steps directly below to print the Proofing Report.

**Post Election Review (PER)**

[Select PER Precincts](#)

[Print PER Worksheet](#)

[Enter PER Precinct Details](#)

[Enter PER Results](#)

[Print PER Proofing Report](#)

[Print PER Results](#)

**PER Proofing Report**

Filter

County:  Precinct:

All Precincts

0090 - NORTH MANKATO P 5 [Polling Place]

0090 - NORTH MANKATO P 5 [AB/MB]

0125 - ST PETER W-1 P-2 [Polling Place]

0125 - ST PETER W-1 P-2 [AB/MB]

Precinct: 0125 - ST PETER W-1 P-2 **Polling Place** Nicollet County

Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
STEPHEN WILLIAMS	43	45	2	1	1	Stray mark recorded as overvote
KURT BILLS	304	305	1	1	0	Voter intent outside of target
AMY KLOBUCHAR	973	973	0	0	0	
TIM DAVIS	19	19	0	0	0	
MICHAEL CAVLAN	2	2	0	0	0	
BLANK FOR OFFICE	5	3	2	1	1	Vote for Bills marked outside of target
OVER / DEFECTIVE FOR OFFICE	4	3	1	1	0	Stray mark not overvote, vote for Williams
WRITE IN**	2	2	0	0	0	
<b>Totals</b>	<b>1352</b>	<b>1352</b>	<b>6</b>	<b>4</b>	<b>2</b>	

Precinct: 0125 - ST PETER W-1 P-2 **AB/MB** Nicollet County

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
STEPHEN WILLIAMS	1	1	0	0	0	
KURT BILLS	40	40	0	0	0	
AMY KLOBUCHAR	119	119	0	0	0	
TIM DAVIS	1	1	0	0	0	
MICHAEL CAVLAN	1	1	0	0	0	
BLANK FOR OFFICE	4	3	1	1	0	Write-in Candidate name provided, oval unmarked
OVER / DEFECTIVE FOR OFFICE	2	2	0	0	0	
WRITE IN**	0	1	1	1	0	Candidate name written in, oval not marked
<b>Totals</b>	<b>168</b>	<b>168</b>	<b>2</b>	<b>2</b>	<b>0</b>	

Figure 8 Printing the PER Proofing Report in ERS

**Proofing Tips:**

- Ensure BLANK FOR OFFICE and OVER/DEFECTIVE FOR OFFICE votes are entered for all offices.
- Ensure the votes totals for the PER offices within each counter group are equal (e.g. the Polling Place Totals for U.S. President and U.S. Representative are the same.) See Figure 15 below for an example.
- Ensure that a descriptive Explanation is included where needed. See Figure 16 on page 21 for an example.

The number of ballots counted for a given precinct counter group should not change between offices.

In the example to the right, hand-counted votes for Governor & Lt. Governor are less than the votes counted for the other two offices. This cannot occur.

Possible Ways to Resolve:

- Check for missing Blank for Office vote or Over/Defective
- Count office again to check vote totals

Precinct: 0090 - NORTH MANKATO Polling Place							Nicollet County
Office: U.S. Senator							
Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation	
STEVE CARLSON	11	11	0	0	0		
MIKE MCFADDEN	136	136	0	0	0		
AL FRANKEN	141	141	0	0	0		
HEATHER JOHNSON	3	3	0	0	0		
BLANK FOR OFFICE	3	3	0	0	0		
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0		
WRITE-IN**	0	0	0	0	0		
<b>Totals</b>	<b>294</b>	<b>294</b>	<b>0</b>	<b>0</b>	<b>0</b>		

Precinct: 0090 - NORTH MANKATO Polling Place							Nicollet County
Office: U.S. Representative District 1							
Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation	
JIM HAGEDORN	137	137	0	0	0		
TIM WALZ	152	152	0	0	0		
BLANK FOR OFFICE	5	5	0	0	0		
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0		
WRITE-IN**	0	0	0	0	0		
<b>Totals</b>	<b>294</b>	<b>294</b>	<b>0</b>	<b>0</b>	<b>0</b>		

Precinct: 0090 - NORTH MANKATO Polling Place							Nicollet County
Office: Governor & Lt Governor							
Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation	
HANNAH NICOLLET AND TIM DIESENZ	27	27	0	0	0		
JEFF JOHNSON AND BILL KUISLE	141	141	0	0	0		
MARK DAYTON AND TINA SMITH	120	121	1	0	1	Oval not completely filled	
CHRIS HOLBROOK AND CHRIS DOCK	2	2	0	0	0		
CHRIS WRIGHT AND DAVID DANIELS	2	2	0	0	0		
BLANK FOR OFFICE	1	0	1	0	1	Oval not completely filled	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0		
WRITE-IN**	0	0	0	0	0		
<b>Totals</b>	<b>293</b>	<b>293</b>	<b>2</b>	<b>0</b>	<b>2</b>		

Figure 9 Example of Total Votes in need of correction

Precinct: 0550 - GILBERT						St. Louis County
Office: Governor & Lt Governor						
Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
HANNAH NICOLLEY AND TIM GIESEKE	29	30	1	1	0	PP Voter intent overvote was vote for Nicollet & Gieseke. AB/MB
JEFF JOHNSON AND BILL KUISLE	243	243	0	0	0	AB/MB
MARK DAYTON AND TINA SMITH	477	477	0	0	0	AB/MB
CHRIS HOLBROOK AND CHRIS DOCK	11	11	0	0	0	AB/MB
CHRIS WRIGHT AND DAVID DANIELS	12	12	0	0	0	
BLANK FOR OFFICE	6	6	0	0	0	
OVER / DEFECTIVE FOR OFFICE	1	0	1	1	0	PP Voter intent counted as overvote but was vote for Nicollet & Gieseke
WRITE-IN**	0	0	0	0	0	
<b>Totals</b>	<b>779</b>	<b>779</b>	<b>2</b>	<b>2</b>	<b>0</b>	

Figure 10 Example of PER Explanations

ERS will automatically determine if the PER results meet the standard of acceptable performance or if the Adjusted Difference is greater than one-half of one percent and additional review is necessary.

### 11.2.3 Submitting PER Results to OSS

The county auditor must print the PER Results Report and proof for accuracy and acceptability. To print the Results Report, follow the steps directly below.

**Post Election Review (PER)**

[Select PER Precincts](#)

[Print PER Worksheet](#)

[Enter PER Precinct Details](#)

[Enter PER Results](#)

[Print PER Proofing Report](#)

[Print PER Results](#)

**PER Results**

Filter

County:  Precinct:

Figure 11 Printing the PER Results in ERS

Precinct: 0125 - ST PETER W-1 P-2			Nicollet County			
Office: U.S. Senator						
Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
STEPHEN WILLIAMS	44	45	2	1	1	PP: Stray mark recorded as overvote.
KURT BILLS	344	345	1	1	0	PP: Voter intent outside of target.
AMY KLOBUCHAR	1092	1092	0	0	0	
TIM DAVIS	20	20	0	0	0	
MICHAEL CAVLAN	3	3	0	0	0	
BLANK FOR OFFICE	9	6	3	2	1	PP: Vote for Bills marked outside of target; ABMB Write-in candidate name provided; oval unmarked
OVER / DEFECTIVE FOR OFFICE	6	5	1	1	0	PP: Stray mark not overvote, vote for Williams.
WRITE-IN**	2	3	1	1	0	ABMB Candidate name written-in; oval not marked.
<b>Totals</b>	<b>1520</b>	<b>1520</b>	<b>8</b>	<b>6</b>	<b>2</b>	
<b>Final Results</b>					<b>0.1315%</b>	<b>ACCEPTABLE</b>

Figure 12 Example PER Results

If the Final Results indicate that acceptable performance has been met, sign, scan/email or fax the report to OSS.

**Note:** There is not a designated signature line on the PER Results report. Simply sign in the space below the Final Results.

**If the PER Results Report indicates *Unacceptable* and the county must escalate to a second level of review, contact OSS.**

## 12.0 STATE CANVASSING BOARD AND REPORTING PER RESULTS

The Secretary of State shall report the results of the review at the meeting of the State Canvassing Board to canvass the state general election. ([M.S. 206.89, subd. 6](#))

If the post-election review results in a change in the number of votes counted for any candidates, the revised vote totals must be incorporated in the official results for those precincts. ([M.S. 206.89, subd. 7](#))

The OSS will post individual precinct results from the post-election review at the [Post-Election Reviews webpage](http://www.sos.state.mn.us/elections-voting/how-elections-work/post-election-reviews/) (<http://www.sos.state.mn.us/elections-voting/how-elections-work/post-election-reviews/>).

# APPENDIX A – SAMPLE DETERMINATION OF POST ELECTION REVIEW

## Determination of Post Election Review in [insert county name] County

On [date of canvass board meeting] at [time of canvass board.] this Canvass Board is setting the date of this Post Election Review to:

[Day], November [Date], [Year] at [Time] at the  
[Location]

as provided in M.S. 206.89, subd. 3,

\_\_\_\_\_  
[NAME OF CANVASS BOARD MEMBER]

\_\_\_\_\_  
[NAME OF CANVASS BOARD MEMBER]

\_\_\_\_\_  
[NAME OF CANVASS BOARD MEMBER]

\_\_\_\_\_  
[NAME OF CANVASS BOARD MEMBER]

\_\_\_\_\_  
[NAME OF CANVASS BOARD MEMBER]

Subscribed and sworn to before me  
This [Date of Canvass Board Meeting].

\_\_\_\_\_  
Notary Public



## **APPENDIX B – PROCEDURES FOR CONDUCTING POST-ELECTION REVIEW**

1. Organize teams – one for each precinct to be reviewed.
2. Assign three election judges to each team.
3. Review the provisions of M.S. 204C.21 and 204C. 22.
4. Open sealed transfer cases and remove voted ballots.
5. The review must be conducted of the votes cast for President or Governor, U.S. Senator and U.S. Representative. The election judge will then take the ballots from each counter group in turn and separate them into piles. There should be one pile for Republican candidate, one for DFL candidate, one pile for each minor party candidate, one pile for all write-in candidates, one pile for ballots blank for that office, one pile of for ballots defective for that office, one pile for completely defective ballots.
6. The election judge will set aside any ballots that are obviously: a) marked outside the target but close enough to the candidate's name to determine the voter's intent or b) marked with a pen or pencil that obviously cannot be read; this could be red ink, yellow ink, mark not dark enough, mark not in scan path, etc.
7. After all ballots have been piled, the election judges will count the ballots in each pile, by groups of 25.
8. The election judge will then record the results on the post-election review worksheet that already has the election day totals.
9. The election judges will note any differences due to the criteria in 6(a) and 6(b), plus any other factors that may have caused a change, such as poor duplication of ballot, excessively folded or torn ballot, etc.
10. Repeat this process for U.S. Senator and U.S. Representative.
11. When both polling place and absentee/mail ballots are counted for the precinct reseal ballots into transfer cases.
12. Have election judges sign post-election review worksheet.
13. If changes are greater than 2 votes in a precinct where 400 or fewer votes cast ballot and cannot be explained due to the criteria in 6(a) or 6(b) or 9, make preparations to schedule a review of additional precincts.
14. Immediately transmit results to the secretary of state.



Office of the Minnesota Secretary of State  
Elections Division  
**2018 Post Election Review Guide**  
Updated 06/01/2018

County	Date	Time	Location	Address 1	Address 2	City	State	Zipcode
Aitkin	17-Nov-20	9:00 AM	Govt Center Board Room	307 2nd St SW		Aitkin	MN	56431
Anoka	16-Nov-20	9:00 AM	Suite W130	Anoka County Govt Ctr	2100 3rd Ave	Anoka	MN	55303
Becker	18-Nov-20	9:00 AM		Becker County Courthouse	915 Lake Ave	Detroit Lakes	MN	56501
Beltrami	18-Nov-20	10:00 AM	Beltrami County Administration Bldg	701 Minnesota Ave NW		Bemidji	MN	56601
Benton	18-Nov-20	10:00 AM	Benton County	531 Dewey St		Foley	MN	56329
Big Stone	18-Nov-20	9:00 AM		Big Stone County Courthouse	20 2nd St SE	Ortonville	MN	56278
Blue Earth	16-Nov-20	12:00 PM	3rd Floor Conference Room	Blue Earth County Historic Courthouse	204 S 5th St	Mankato	MN	56001
Brown	16-Nov-20	10:00 AM	Brown County Courthouse	15 South Washington St		New Ulm	MN	56073
Carlton	18-Nov-20	10:00 AM	Large Conference Room	Carlton County Transportation Building	1630 Hwy 61	Carlton	MN	55718
Carver	17-Nov-20	9:00 AM	Township Hall Conference Room	Carver County Govt Ctr - Administration Bldg	600 E 4th St	Chaska	MN	55318
Cass	16-Nov-20	1:00 PM		Cass County Courthouse	303 Minnesota Ave W	Walker	MN	56484
Chippewa	16-Nov-20	3:00 PM	Chippewa County Courthouse	629 N 11th St		Montevideo	MN	56265
Chisago	17-Nov-20	8:30 AM	Chisago County Govt Ctr	Room 1508	313 N Main St	Center City	MN	55012
Clay	17-Nov-20	1:30 PM	Clay County Courthouse	807 N 11th St		Moorhead	MN	56560
Cleaver	16-Nov-20	9:00 AM	Cleaver County Courthouse	Commissioners Room	213 Main AVE N	Bagley	MN	56621
Cook	16-Nov-20	10:00 AM	Cook County Courthouse		411 West 2nd St	Grand Marais	MN	55604
Cottonwood	17-Nov-20	2:00 PM	Cottonwood County Courthouse		900 3rd Ave	Windom	MN	56101
Crow Wing	17-Nov-20	9:00 AM	Elections Office	Historic Courthouse	326 Laurel St	Brainerd	MN	56401
Dakota	16-Nov-20	9:00 AM	Conference Room 1A	Dakota County Admin Ctr	1590 Hwy 55	Hastings	MN	55033
Dodge	19-Nov-20	9:00 AM		Dodge County Govt Services Bldg	721 Main Street N	Mantorville	MN	55955
Douglas	16-Nov-20	9:00 AM	County Board Room	Douglas County Courthouse	305 8th Ave W	Alexandria	MN	56308
Fairbairn	18-Nov-20	9:00 AM	Courthouse Boardroom	Fairbairn County Courthouse	415 North Main	Blue Earth	MN	56013
Fillmore	18-Nov-20	10:00 AM	Conference Room 102U	Fillmore County Courthouse	101 Fillmore St E	Preston	MN	55965
Freeborn	16-Nov-20	10:00 AM	Freeborn Room	Freeborn County Govt Ctr	411 Broadway Ave S	Albert Lea	MN	56007
Goodhue	16-Nov-20	9:00 AM	Room 201	Goodhue County Govt Ctr	509 W 5th St	Red Wing	MN	55066
Grant	16-Nov-20	10:00 AM	Commissioner's Room	Grant County Courthouse	10 2nd St NE	Elbow Lake	MN	56531
Hennepin	20-Nov-20	10:00 AM	8th Floor	Hennepin County Absentee Ballot Ctr	701 4th Ave S	Minneapolis	MN	55417
Houston	18-Nov-20	1:00 PM	Basement - Old Commissioners' Room	Houston County Courthouse	304 South Marshall St	Caledonia	MN	55921
Hubbard	19-Nov-20	10:00 AM	Hubbard County Courthouse	301 Court Ave		Park Rapids	MN	56470
Isanti	17-Nov-20	9:00 AM	Isanti County Govt Ctr	555 18th Ave SW		Cambridge	MN	55008
Itasca	16-Nov-20	2:00 PM	Itasca County Boardroom	Itasca County Courthouse	123 NE 4th St	Grand Rapids	MN	55744
Jackson	16-Nov-20	1:00 PM	Jackson County Courthouse Board Room	405 4th St		Jackson	MN	56143
Kanabec	19-Nov-20	9:00 AM	Room 3 & 4	Kanabec County Courthouse	18 North Vine St	Mora	MN	55051
Kandiyohti	16-Nov-20	1:00 PM	County Office Building	400 Benson Ave SW		Willmar	MN	56201
Kittson	18-Nov-20	2:00 PM		Kittson County Courthouse	410 5th St SE	Hallock	MN	56728
Koochiching	13-Nov-20	2:00 PM	Koochiching County Board Room	715 4th St		International Falls	MN	56649
Lac qui Parle	16-Nov-20	9:00 AM	Multi Media Room	Lac qui Parle Courthouse	600 6th St	Madison	MN	56256
Lake	18-Nov-20	9:00 AM	Lake County Law Enforcement Center	613 3rd Ave		Two Harbors	MN	55616
Lake of the Woods	16-Nov-20	10:00 AM	Commissioners Room, Ste 260	206 8th Ave SE		Baudette	MN	56623
Le Sueur	16-Nov-20	10:00 AM	Le Sueur County Courthouse	88 S Park Ave		Le Center	MN	56057
Lincoln	18-Nov-20	2:00 PM	Assembly Room	Lincoln County Courthouse	319 N Rebecca St	Ivanhoe	MN	56142
Lyon	19-Nov-20	9:00 AM	Commissioner Room	Lyon County Govt Ctr	607 West Main St	Marshall	MN	56258
Mahnomen	16-Nov-20	10:00 AM	Mahnomen County Courthouse	311 North Main St		Mahnomen	MN	56557
Marshall	16-Nov-20	10:00 AM		Marshall County Courthouse	208 E Colvin Ave	Warren	MN	56762
Martin	18-Nov-20	9:00 AM	Martin County Courthouse	Sisseton Room	201 Lake Ave	Fairmont	MN	56031
McLeod	16-Nov-20	10:00 AM	Large Conference Room	McLeod County North Complex	2391 Hennepin Ave N	Glencoe	MN	55336



Meeker	16-Nov-20	9:00 AM	Meeker County Courthouse		325 N Sibley Ave	Litchfield	MN	55355
Millie Lacs	18-Nov-20	1:00 PM	Board Room	Millie Lacs County Historic Courthouse	635 2nd St SE	Milaca	MN	56353
Morrison	16-Nov-20	2:00 PM	Morrison County Board Room	Morrison County Govt Ctr	213 SE 1st Ave	Little Falls	MN	56345
Mower	16-Nov-20	9:30 AM	Austin City Council Chambers		500 4th Ave NE	Austin	MN	55912
Murray	16-Nov-20	9:00 AM	Commissioner Room	Murray County Govt Ctr	2500 28th St	Slayton	MN	56172
Nicollet	17-Nov-20	9:00 AM	Nicollet County Govt Ctr	501 S Minnesota Ave		St. Peter	MN	50682
Nobles	17-Nov-20	11:00 AM	Executive Conf Room	Nobles County Govt Center	315 10th St	Worthington	MN	56187
Norman	17-Nov-20	2:00 PM	Board Room	Norman County Courthouse	16 3rd Ave E	Ada	MN	56510
Olmsted	20-Nov-20	2:00 PM	Olmsted County	2122 Campus Drive SE, Suite 300		Rochester	MN	55904
Otter Tail	16-Nov-20	10:00 AM	Govt Services Ctr	510 Fir Ave W		Fergus Falls	MN	56537
Pennington	16-Nov-20	10:00 AM	Pennington County Courthouse		101 Main Ave N	Thief River Falls	MN	56701
Pine	17-Nov-20	9:00 AM		Pine County Courthouse	635 Northridge Dr NW	Pine City	MN	55063
Pipestone	20-Nov-20	2:00 PM	Pipestone County Courthouse	416 S Hiwatha Ave S		Pipestone	MN	56164
Polk	16-Nov-20	10:00 AM	Polk County Govt Ctr	612 N Broadway		Crookston	MN	56716
Pope	16-Nov-20	9:00 AM	Pope County Courthouse	Community Room	130 E Minnesota Ave	Glenwood	MN	56334
Ramsay	14-Nov-20	9:00 AM	Ramsay County Plato Building		90 W Plato Blvd	St. Paul	MN	55107
Red Lake	17-Nov-20	11:00 AM	Board Room	Red Lake County Courthouse	124 Langevin Ave	Red Lake Falls	MN	56750
Redwood	16-Nov-20	2:00 PM	Govt Ctr Board Room	403 S Mill St		Redwood Falls	MN	56283
Renville	16-Nov-20	10:00 AM		Renville County Court House	500 E DePue Ave	Olivia	MN	56277
Rice	20-Nov-20	9:00 AM	Rice County Govt Services Bldg	County Board Room	320 3rd St NW	Faribault	MN	55021
Rock	17-Nov-20	2:00 PM	Rock County Courthouse	204 E Brown St		Luverne	MN	56156
Roseau	17-Nov-20	10:30 AM	Roseau County Courthouse	606 5th Ave SW	200 4th Ave W	Roseau	MN	56751
Scott	19-Nov-20	9:00 AM	Scott County Elections	200 4th Ave W		Shakopee	MN	55379
Sherburne	19-Nov-20	8:00 AM	Sherburne County Govt Ctr	Maple Room	13880 Business Center Dr	Elk River	MN	55330
Sibley	20-Nov-20	1:00 PM	Sibley County Service Ctr	111 8th St		Gaylord	MN	55334
St. Louis	16-Nov-20	10:00 AM	Commissioners Boardroom	Duluth Courthouse	100 N 5th Ave W	Duluth	MN	55802
Stearns	17-Nov-20	9:00 AM	Stearns County Service Center	3301 County Rd 138		Waite Park	MN	56387
Steele	16-Nov-20	10:00 AM	Steele County Administration Center	Board Room	630 Florence Ave	Owatonna	MN	55060
Stevens	16-Nov-20	10:00 AM		Stevens County Courthouse	400 Colorado Ave	Morris	MN	56267
Swift	17-Nov-20	9:00 AM	Swift County Courthouse	301 14th St N		Benson	MN	56215
Todd	18-Nov-20	1:00 PM	Main Street Govt Center	347 Central Ave		Long Prairie	MN	56347
Traverse	18-Nov-20	1:00 PM	Courthouse Annex	Traverse County Courthouse	702 2nd Ave N	Wheaton	MN	56296
Wabasha	19-Nov-20	9:00 AM	Auditor/Treasurer's Office	Wabasha County Courthouse	625 Jefferson Ave	Wabasha	MN	55981
Wadena	20-Nov-20	10:00 AM	Courthouse Auditorium	Wadena County Courthouse	415 Jefferson St S	Wadena	MN	56482
Wasca	18-Nov-20	9:00 AM	Wasca County Courthouse	307 N State St		Wasca	MN	56093
Washington	11/16 & 11/17 (if needed)	8:00 AM	Lower Level Rooms 13, 14 & 16	Washington County Govt Center	14949 62nd St N	Stillwater	MN	55082
Watsonwan	18-Nov-20	10:00 AM	Watsonwan County Courthouse	710 2nd Ave S		St. James	MN	56081
Wilkin	16-Nov-20	9:30 AM	Wilkin County Recycling Center	515 8th St S		Breckenridge	MN	56520
Winona	16-Nov-20	10:30 AM	Winona County Govt Center	202 W 3rd St		Winona	MN	55987
Wright	18-Nov-20	9:00 AM	Wright County Govt Ctr	10 2nd St NW		Buffalo	MN	55313
Yellow Medicine	17-Nov-20	10:00 AM	Yellow Medicine County Govt Ctr	County Board Room	180 8th Ave	Granite Falls	MN	56241

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STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF GOODHUE     )

NORA L. FELTON, being first duly sworn on oath states as follows:

1.     I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2.     I have personal knowledge of the facts stated herein and know them to be true and correct.

3.     I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review of voting systems.

4.     I personally attended the post-election reviews for Dakota, Rice, and Olmstead Counties. I attempted to attend the review at Ramsey County on Saturday, November, 14<sup>th</sup> at 9:00 a.m. but Ramsey County changed the date without notice.

DAKOTA COUNTY

5.     I arrived at the area immediately outside the Dakota County Commissioners' chambers in Hastings at 8:50 a.m. where 20 people were standing in the second-floor lobby. There were two tables there for counting

ballots. The south table was for West St. Paul and had one sorter, one stacker, and three observers. Four were apparently Dakota County or City employees and one person was a librarian at Metro State University. The north table was for a Hastings precinct and had one sorter, one stacker and one observer that were apparently Dakota County staff. The sorters and stackers became the counters once the ballots were divided between the candidates. These people sat close to each other maintaining no more than three feet of social distancing.

6. Elections Director, Andrew Lokken, ignored the crowd of observers at first. Then Tomas Settell asked Mr. Lokken about distributing the crowd so each post-election review table was represented by DFL and GOP election judges. Mr. Lokken stated he did not care about party affiliations and that nothing would happen until everyone spread out to a six foot social distancing requirement. Someone noted that we were all wearing masks and if we spread out we wouldn't be able to hear Mr. Lokken's instructions. Mr. Lokken stated he wasn't going to instruct anyone except those doing the counting. He began distributing the sealed white ballot boxes between the two tables. The West St. Paul table began counting ballots immediately and the Hastings table waited for instructions. The sorter for the West St. Paul table, later identified as Chris Gevara, kept complaining that observers were not maintaining a six feet of social distancing. Tomas

Settell pointed out that she wasn't either. Ms. Gevara then complained to Mr. Settell that he smelled of essential oils and she was not able to tolerate the smell. Mr. Settell insisted wasn't wearing anything scented and asked what essential oils had to do with counting ballots. Ms. Gevara complained to Mr. Lokken that Mr. Settell was harassing her. Mr. Settell retreated and Deb Coxe joined in reviewing the West St. Paul table. Ms. Coxe tried to take video but Ms. Gevara accused her of photographing ballots so she stopped.

7. At 9:31 a.m. a couple of guys came bustling in from along the hallway south of the Dakota County Chambers carrying two brown cardboard boxes with one large manila envelope on top, followed by a dark haired lady with a huge white purse. They set the pile down between the Hastings and the West St. Paul tables in the lobby outside the chambers.

8. After the dark haired woman carrying the purse spoke with Mr. Lokken, the two unsecured brown cardboard boxes and manila envelope were taken back into the Dakota County Chamber. As they were heading back, the woman with the purse pulled out a 4-inch pile of ballots out of her large white purse and set them on top of the brown cardboard boxes next to the counting table. I asked her who she was and she said she was "Julie" from the City of Hastings but refused to provide her last name. Attached are true and correct copies of the photographs I took of the purse full of ballots and the two brown cardboard boxes with the manila envelope on top.



9. I returned to my spot between the Hastings and West St. Paul tables and observed for the next two hours. I witnessed 33 ballots marked ONLY with an "X" or a check mark for Biden. I asked whether the machine could read them and someone at the table told me that as long as 29 percent of the oval was filled in, the ballot could be read and recorded. I requested that those ballots be put aside in case the count was off at the end. They did not. Rather they just kept them scattered throughout the pile as they came in. Apparently the count for President for that table was spot on.

10. The smaller of the two unsecured brown cardboard boxes was returned to the Hastings table in the lobby. They told me they were mail-in ballots. Very few in the box were for President Trump. There appeared to be a vote for President Trump for every 20 to 25 Biden votes. Prior to these ballots arriving, President Trump had a five inch stack compared to Biden's two inch stack. But by the time the stack of ballots from the brown cardboard box was counted, President Trump lost by around 65 votes. I left at noon.

#### RICE COUNTY

11. I attended Rice County post-election review on Friday, November 20, 2020, at 8:53 a.m. All 8 observers were required to remain seated behind a line of blue tape that FACED the tables. While the very North and South tables were only 6 feet away, the ballots were kept flat on table so they couldn't be view from the front of the tables. The middle table

was about 12 feet away and the back one in NE corner was almost 20 feet away. When we complained that we couldn't see the ballots, Denise Anderson, the person in charge, grabbed a stack and held them above her head saying, "see, see, these are the ballots--you can see them." She went on to explain that this process was for the county and not us. I left soon after as it was obvious that we were not welcome and would receive no accommodations for our requests for transparency.

#### OLMSTEAD COUNTY

12. I attended the Olmsted County post-election review at 2:00 p.m. on November 20, 2020. The ballots were in white envelopes and did not appear to have any seals or formal labels. The observers were required to stand behind Plexiglas that was approximately 8 feet from the closest end of the tables, but staff sat at the far ends (as shown in photos) adding another 3 feet or more. A dark haired lady named Katie Smith was in charge; helped by a young man named Luke Turner. The sorter/counters would not identify themselves, but I could see they wore lanyards similar to Katie and Luke. When asked if they were county employees, they would not respond. Later, when asked if they were equally balanced between DFL and GOP, they hid, or removed entirely, their lanyards. I could not observe the ballot counting and sorting in any meaningful way. It appeared they did not follow protocol as each person merely took a portion of the ballots and started dividing them

out and, later, forming their own stacks of 25.

**RAMSEY COUNTY**

13. On the morning of Saturday November 14, 2020, I went to St. Paul to observe the Ramsey County post-election review. Eight other people were there as well. We were denied access and told by three apparent Ramsey County employees that the post-election review would be Monday, November 16<sup>th</sup>, the same day as Dakota County so I could not attend. There was no notice for this change.

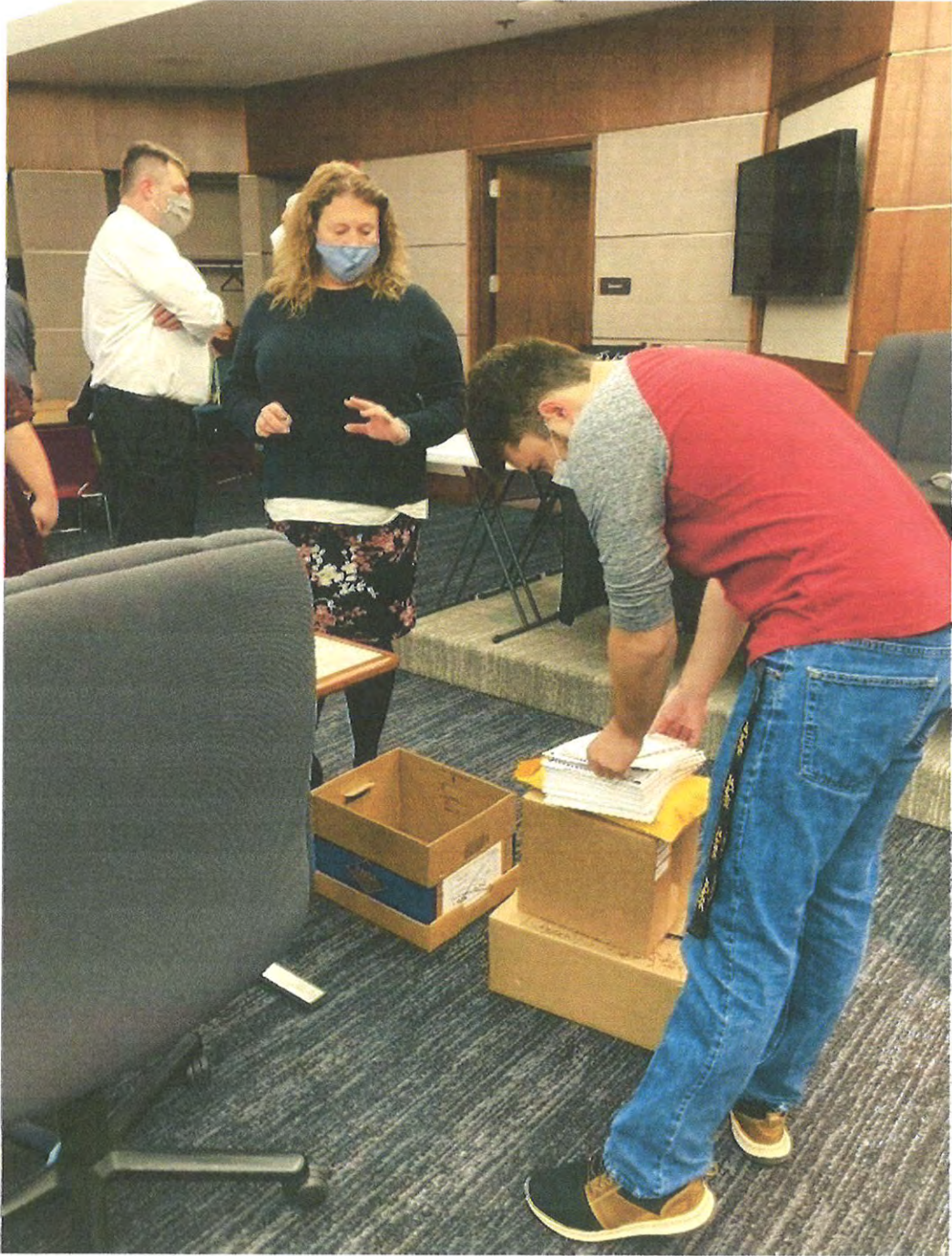
**FURTHER YOUR AFFIANT SAYETH NAUGHT**

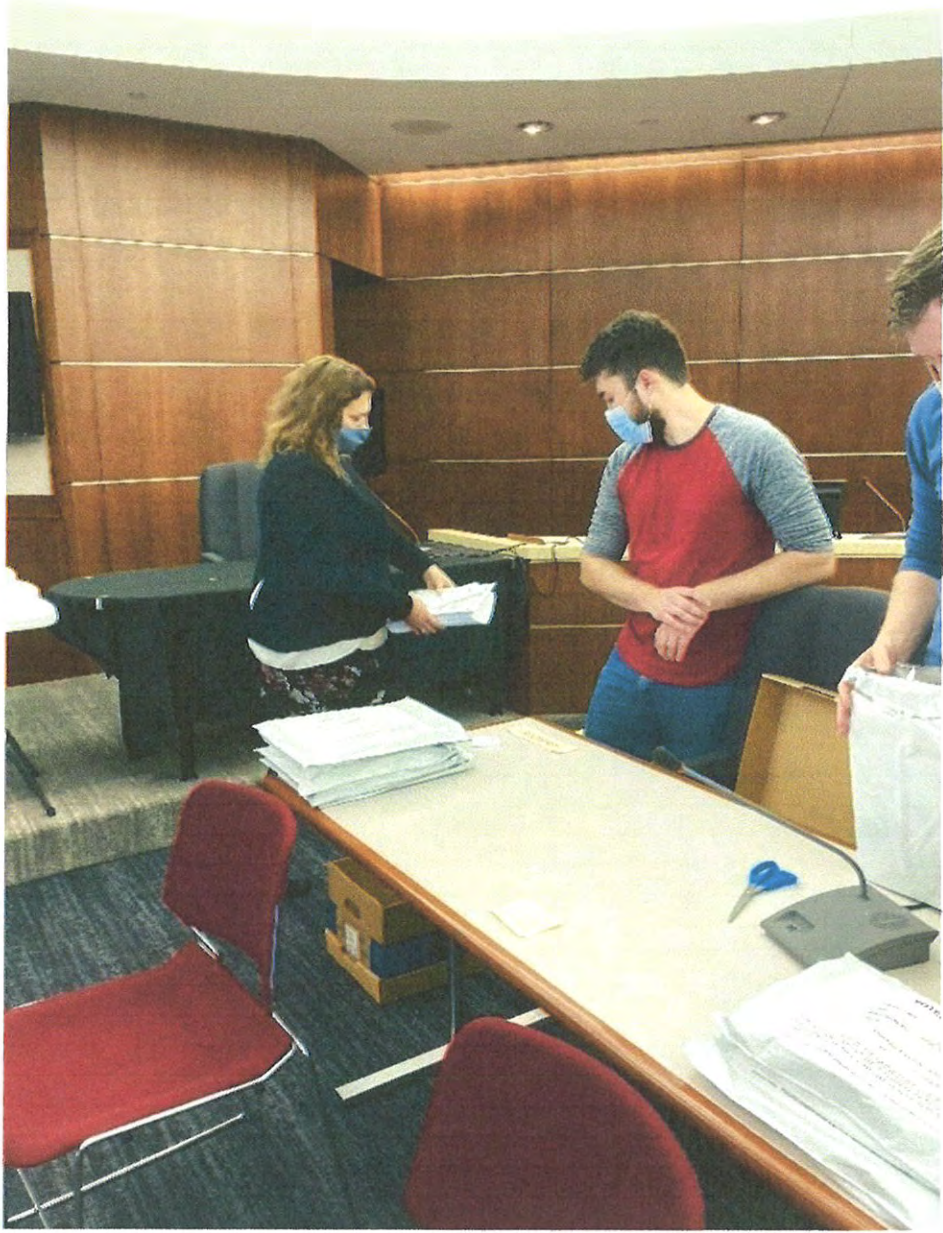
**I declare under penalty of perjury that everything I have stated in this document is true and correct.**

Date: November 23, 2020

/s/ Nora L. Feltman  
Nora L. Feltman









4. When I requested to see votes totaled for each precinct, Andy Lokken, the Elections Director, refused to allow me to see the hand tallied votes for each precinct. I personally observed from a distance Andy Lokken manually crossing out and writing in different amounts for various precincts. However, due to distancing, I was unable to identify exactly what he was doing because he refused to allow me to observe close enough to actually see what he was doing.

5. Andy Lokken also directed all counting tables to commingle all of their ballots so absentee ballots were not counted separately at any of the five tables he set up. There is no way there could be an accurate count of absentee ballots because of the commingling.

6. Given the commingling of the ballots and the lack of accessibility to final tallies, I was unable to tell if any of the counting was accurate or the tally was proper.

7. I personally attended the post-election reviews for Dakota, Rice, and Olmstead Counties. I attempted to attend the review at Ramsey County on Saturday, November, 14<sup>th</sup> at 9:00 a.m. but Ramsey County changed date without notice.



**FURTHER YOUR AFFIANT SAYETH NAUGHT**

**I declare under penalty of perjury that everything I have stated in this document is true and correct.**

Date: November 22, 2020

/s/ Deborah Coxe  
Deborah Coxe