

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3469

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| DATE | D-PG | OFFICIAL STATUS |
|------------|------|-------------------------------------------------------------------------------------------------|
| 02/24/2022 | 5128 | Introduction and first reading Referred to State Government Finance and Policy and Elections |
| 03/02/2022 | 5191 | Author added Dornink |
| 03/23/2022 | | Comm report: To pass as amended and re-refer to Civil Law and Data Practices Policy |

1.1 A bill for an act

1.2 relating to elections; amending requirements related to returning absentee ballots

1.3 and absentee ballot drop boxes; requiring certain election activity to be livestreamed

1.4 and recorded; requiring the commissioner of information technology services to

1.5 retain and make certain video recordings available to the public; amending

1.6 requirements on releasing vote totals; requiring a report; appropriating money;

1.7 amending Minnesota Statutes 2020, sections 201.121, subdivision 1; 203B.121,

1.8 subdivision 5, by adding a subdivision; 204C.19, subdivision 3; Minnesota Statutes

1.9 2021 Supplement, sections 203B.08, subdivision 1; 203B.082; 203B.121,

1.10 subdivision 1; Laws 2021, First Special Session chapter 12, article 1, section 6;

1.11 proposing coding for new law in Minnesota Statutes, chapter 203B.

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

1.13 Section 1. Minnesota Statutes 2020, section 201.121, subdivision 1, is amended to read:

1.14 Subdivision 1. **Entry of registration information.** (a) At the time a voter registration

1.15 application is properly completed, submitted, and received in accordance with sections

1.16 201.061 and 201.071, the county auditor shall enter the information contained on it into the

1.17 statewide registration system. Voter registration applications completed before election day

1.18 must be entered into the statewide registration system within ten days after they have been

1.19 submitted to the county auditor. Voter registration applications completed on election day

1.20 must be entered into the statewide registration system within ~~42~~ two days after the election;

1.21 ~~unless the county auditor notifies the secretary of state before the deadline has expired that~~

1.22 ~~the deadline will not be met. Upon receipt of a notification under this paragraph, the secretary~~

1.23 ~~of state must extend the deadline for that county auditor by an additional 28 days. The~~

1.24 ~~secretary of state may waive a county's obligations under this paragraph if, on good cause~~

1.25 ~~shown, the county demonstrates its permanent inability to comply.~~

2.1 The secretary of state must post data on each county's compliance with this paragraph on
2.2 the secretary of state's website including, as applicable, the date each county fully complied
2.3 ~~or the deadline by which a county's compliance must be complete.~~

2.4 (b) Upon receiving a completed voter registration application, the secretary of state ~~may~~
2.5 must electronically transmit the information on the application to the appropriate county
2.6 auditor as soon as possible for review by the county auditor before final entry into the
2.7 statewide registration system. ~~The secretary of state may mail the voter registration~~
2.8 ~~application to the county auditor.~~

2.9 (c) Within ten days after the county auditor has entered information from a voter
2.10 registration application into the statewide registration system, the secretary of state shall
2.11 compare the voter's name, date of birth, and driver's license number, state identification
2.12 number, or the last four digits of the Social Security number with the same information
2.13 contained in the Department of Public Safety database.

2.14 (d) The secretary of state shall provide a report to the county auditor on a weekly basis
2.15 that includes a list of voters whose name, date of birth, or identification number have been
2.16 compared with the same information in the Department of Public Safety database and cannot
2.17 be verified as provided in this subdivision. The report must list separately those voters who
2.18 have submitted a voter registration application by mail and have not voted in a federal
2.19 election in this state.

2.20 (e) The county auditor shall compile a list of voters for whom the county auditor and
2.21 the secretary of state are unable to conclude that information on the voter registration
2.22 application and the corresponding information in the Department of Public Safety database
2.23 relate to the same person.

2.24 (f) The county auditor shall send a notice of incomplete registration to any voter whose
2.25 name appears on the list and change the voter's status to "incomplete." A voter who receives
2.26 a notice of incomplete registration from the county auditor may either provide the information
2.27 required to complete the registration at least 21 days before the next election or at the polling
2.28 place on election day.

2.29 Sec. 2. Minnesota Statutes 2021 Supplement, section 203B.08, subdivision 1, is amended
2.30 to read:

2.31 Subdivision 1. **Marking and return by voter.** (a) An eligible voter who receives absentee
2.32 ballots as provided in this chapter shall mark them in the manner specified in the directions
2.33 for casting the absentee ballots. The return envelope containing marked ballots may be

3.1 mailed as provided in the directions for casting the absentee ballots, may be ~~left with~~
 3.2 personally delivered to the county auditor or municipal clerk who transmitted the absentee
 3.3 ballots to the voter, or may be left in a drop box as provided in section 203B.082. If delivered
 3.4 in person, the return envelope must be submitted to the county auditor or municipal clerk
 3.5 by 3:00 p.m. on election day.

3.6 (b) The voter may designate an agent to deliver in person the sealed absentee ballot
 3.7 return envelope to the county auditor or municipal clerk or to deposit the return envelope
 3.8 in the mail. An agent may deliver or mail the return envelopes of not more than three voters
 3.9 in any election. An agent must not deposit the absentee ballot return envelope of another
 3.10 person in a drop box. Any person designated as an agent who tampers with either the return
 3.11 envelope or the voted ballots or does not immediately mail or deliver the return envelope
 3.12 to the county auditor or municipal clerk is guilty of a misdemeanor.

3.13 Sec. 3. Minnesota Statutes 2021 Supplement, section 203B.082, is amended to read:

3.14 **203B.082 ABSENTEE BALLOT DROP BOXES; SECURITY AND INTEGRITY.**

3.15 Subdivision 1. **Definition.** As used in this section, "drop box" means a secure receptacle
 3.16 or container established to receive completed absentee ballots 24 hours per day. Drop box
 3.17 does not include a receptacle or container maintained by the United States Postal Service,
 3.18 or a location at which a voter or an agent may return a completed absentee ballot by providing
 3.19 it directly to an employee of the county auditor or municipal clerk.

3.20 Subd. 2. **Minimum security and integrity standards.** The county auditor or municipal
 3.21 clerk may provide locations at which a voter may deposit a completed absentee ballot
 3.22 enclosed in the completed signature envelope in a secure drop box, consistent with the
 3.23 following security and integrity standards:

3.24 (1) each drop box must be continually recorded during the absentee voting period and
 3.25 the recording must be livestreamed in a manner that allows the public to easily access and
 3.26 view the livestream. The video must be recorded and retained as provided in sections
 3.27 203B.155 and 204B.40;

3.28 (2) each drop box must be located within 100 feet of a door of the building where the
 3.29 county auditor or municipal clerk's office is located;

3.30 (3) each drop box must be available for use during the entire absentee voting period;

3.31 (4) each drop box must be assigned an identification number that is unique to that drop
 3.32 box;

4.1 ~~(2)~~ (5) each drop box must be designed to prevent an unauthorized person from moving,
 4.2 removing, or tampering with the drop box;

4.3 ~~(3)~~ (6) each drop box placed in an outdoor location must be fastened to a building, bolted
 4.4 to a concrete pad, or otherwise attached to a similarly secure structure;

4.5 ~~(4)~~ (7) ballots deposited in a drop box must be secured against access by any unauthorized
 4.6 person, and in the case of a drop box located in an outdoor location, the drop box must be
 4.7 secured against damage due to weather or other natural conditions;

4.8 ~~(5)~~ (8) each drop box must contain signage or markings that:

4.9 (i) clearly identifies the drop box as an official absentee ballot return location; ~~and~~

4.10 (ii) include the location and hours where an agent may return an absentee ballot;

4.11 (iii) include the statement: "STOP! You can only return your own ballot in this drop
 4.12 box."; and

4.13 (iv) the identification number assigned to the drop box;

4.14 ~~(6)~~ (9) deposited ballots must be collected at least once per business day during the
 4.15 absentee voting period by the county auditor; or municipal clerk; ~~or an elections official~~
 4.16 ~~trained by the county auditor or municipal clerk in the proper maintenance and handling of~~
 4.17 ~~absentee ballots and absentee ballot drop boxes, and in the security measures used to protect~~
 4.18 ~~absentee ballots;~~ and

4.19 ~~(7)~~ (10) ballots collected from each drop box must be properly date-stamped and stored
 4.20 in a locked ballot container or other secured and locked space consistent with any applicable
 4.21 laws governing the collection and storage of absentee ballots.

4.22 Subd. 3. **Publication of locations required.** (a) The county auditor or municipal clerk
 4.23 must provide a list of designated absentee ballot drop box locations to the secretary of state
 4.24 no later than 40 days prior to the start of the absentee voting period at every regularly
 4.25 scheduled primary or general election. The list must be published on the website of the
 4.26 county or municipality and on the website of the secretary of state at least 35 days prior to
 4.27 the start of the absentee voting period.

4.28 (b) The county auditor or municipal clerk must provide an updated list of designated
 4.29 absentee ballot drop box locations to the secretary of state no later than 20 days prior to the
 4.30 start of the absentee voting period at every regularly scheduled primary or general election,
 4.31 if any locations have changed or been added since submission of the list under paragraph
 4.32 (a). The list must be published on the website of the county or municipality and on the

5.1 website of the secretary of state at least 15 days prior to the start of the absentee voting
5.2 period.

5.3 Subd. 4. **Electioneering prohibited.** Section 211B.11 applies to conduct within 100
5.4 feet of an absentee ballot drop box established under this section.

5.5 Subd. 5. **Ballot collection log and report.** (a) The county auditor or municipal clerk
5.6 must maintain a log for each drop box. The log must include the unique identification number
5.7 assigned to the drop box. The log must include the following information for each day
5.8 during the absentee voting period:

5.9 (1) the date and time of each ballot collection;

5.10 (2) the person who collected the ballots; and

5.11 (3) the number of ballots collected.

5.12 (b) Before the meeting of the local canvassing board, each county auditor and municipal
5.13 clerk must submit to the secretary of state the number of ballots collected from each drop
5.14 box for each day during the absentee voting period. Before the meeting of the state canvassing
5.15 board, the secretary of state must compile the totals and submit the totals to the chairs and
5.16 ranking minority members of the legislative committees having jurisdiction over election
5.17 policy. The report must show separate totals for each county.

5.18 Subd. 6. **Rulemaking prohibited.** The secretary of state is not authorized to adopt rules
5.19 to implement or supplement the provisions of this section.

5.20 Sec. 4. Minnesota Statutes 2021 Supplement, section 203B.121, subdivision 1, is amended
5.21 to read:

5.22 Subdivision 1. **Establishment; applicable laws.** (a) The governing body of each county,
5.23 municipality, and school district with responsibility to accept and reject absentee ballots
5.24 must, by ordinance or resolution, establish a ballot board. The board must consist of a
5.25 sufficient number of election judges appointed as provided in sections 204B.19 to 204B.22.
5.26 The board ~~may~~ must not include deputy county auditors or deputy city clerks ~~who have~~
5.27 ~~received training in the processing and counting of absentee ballots,~~ unless the deputy county
5.28 auditor or deputy city clerk has been appointed an election judge as provided in sections
5.29 204B.19 to 204B.22. Each member of the ballot board must be provided adequate training
5.30 on the processing and counting of absentee ballots, including but not limited to instruction
5.31 on accepting and rejecting absentee ballots, storage of absentee ballots, timelines and
5.32 deadlines, the role of the ballot board, procedures for opening absentee ballot envelopes,
5.33 procedures for counting absentee ballots, and procedures for reporting absentee ballot totals.

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

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

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

6.6 Sec. 5. Minnesota Statutes 2020, section 203B.121, subdivision 5, is amended to read:

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

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

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

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

6.15 (b) After the polls have closed on election day, two members of the ballot board must
6.16 count the ballots, tabulating the vote in a manner that indicates each vote of the voter and
6.17 the total votes cast for each candidate or question. In state primary and state general elections,
6.18 the results must indicate the total votes cast for each candidate or question in each precinct
6.19 and report the vote totals tabulated for each precinct. The count must be recorded on a
6.20 summary statement in substantially the same format as provided in section 204C.26. The
6.21 ballot board shall submit at least one completed summary statement to the county auditor
6.22 or municipal clerk. The county auditor or municipal clerk may require the ballot board to
6.23 submit a sufficient number of completed summary statements to comply with the provisions
6.24 of section 204C.27, or the county auditor or municipal clerk may certify reports containing
6.25 the details of the ballot board summary statement to the recipients of the summary statements
6.26 designated in section 204C.27.

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

7.1 The count shall be public. ~~No vote totals from ballots may be made public before the~~
7.2 ~~close of voting on election day.~~ Section 204C.19, subdivision 3, applies to the premature
7.3 disclosure of absentee vote totals.

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

7.13 Sec. 6. Minnesota Statutes 2020, section 203B.121, is amended by adding a subdivision
7.14 to read:

7.15 Subd. 6. **Video recording.** (a) The county auditor, municipal clerk, or school district
7.16 clerk must ensure that all ballot board activity is recorded as provided by this subdivision.
7.17 At a minimum, the following activities must be recorded:

7.18 (1) examining envelopes and accepting or rejecting envelopes as required by subdivision
7.19 2;

7.20 (2) opening envelopes and duplicating ballots, if necessary, as required by subdivision
7.21 4;

7.22 (3) depositing absentee ballots into a ballot box as required by subdivision 5, paragraph
7.23 (a); and

7.24 (4) counting and tabulating the ballots as required by subdivision 5, paragraph (b).

7.25 (b) The county auditor, municipal clerk, or school district clerk must position one or
7.26 more cameras so as to record the following:

7.27 (1) the ballot board members performing the activities described in paragraph (a);

7.28 (2) all ballots in the room where the activities in paragraph (a) are taking place; and

7.29 (3) all doors in the room where the activities in paragraph (a) are taking place.

7.30 (c) The video must be livestreamed in a manner that allows members of the public to
7.31 easily access and view the livestream. The video must also be recorded and be retained as
7.32 provided in sections 203B.155 and 204B.40.

8.1 **Sec. 7. [203B.155] REQUIREMENTS FOR RETAINING RECORDINGS.**

8.2 (a) Video recordings required by sections 203B.082, subdivision 2, clause (1), and
8.3 203B.121, are public data and must be retained as provided in this subdivision.

8.4 (b) Within 30 days after an election, the county auditor, city clerk, or school board clerk
8.5 must transmit all video recordings from the election to the commissioner of information
8.6 technology services. Notwithstanding section 13.03, subdivision 3, once the commissioner
8.7 confirms receipt of the video recordings, the county auditor, city clerk, or school board clerk
8.8 is not required to provide access to the recording data if a request is made pursuant to chapter
8.9 13. In response to such a request, the county auditor, city clerk, or school board clerk must
8.10 direct the requester to the Department of Information Technology Services' website where
8.11 the recordings are available.

8.12 (c) The commissioner of information technology services must accept video recordings
8.13 submitted to the commissioner as required by paragraph (b). Within five days of receiving
8.14 the video, the commissioner must provide written confirmation of receipt to the county
8.15 auditor, city clerk, or school board clerk who submitted the recordings. Within ten days of
8.16 receiving the video, the commissioner must make each recording available on the
8.17 department's website in a manner that allows members of the public to search and view the
8.18 videos without making a request for information pursuant to chapter 13. The commissioner
8.19 must not charge a fee for access to the recordings.

8.20 (d) The secretary of state must include information on the office's website on how to
8.21 find and access videos on the Department of Information Technology Services' website.
8.22 Each county auditor, municipal clerk, and school district clerk must post the same information
8.23 on their respective local government's website, if there is one.

8.24 Sec. 8. Minnesota Statutes 2020, section 204C.19, subdivision 3, is amended to read:

8.25 **Subd. 3. Premature disclosure of count results.** ~~No~~ The county auditor, municipal
8.26 clerk, school district clerk, election judge, or any other person must not disclose count results
8.27 from any precinct ~~shall be disclosed by any election judge or other individual~~ until all count
8.28 results from that precinct ~~are available, nor shall~~ have been counted and totaled, including
8.29 absentee votes. The public media must not disclose any count results from any precinct
8.30 before the time when voting is scheduled to end in the state.

9.1 Sec. 9. Laws 2021, First Special Session chapter 12, article 1, section 6, is amended to
9.2 read:

9.3 Sec. 6. **SECRETARY OF STATE** \$ 9,684,000 \$ 9,152,000

9.4 \$750,000 each year is for transfer to the voting
9.5 equipment grant account under Minnesota
9.6 Statutes, section 206.95.

9.7 \$1,000,000 each year is for grants to local
9.8 units of government to implement the
9.9 provisions of Minnesota Statutes, ~~section~~
9.10 sections 203B.082 and 203B.121, subdivision
9.11 6. This is a onetime appropriation.

9.12 Sec. 10. **ELECTION SECURITY AND INTEGRITY GRANTS; REPORT.**

9.13 No later than January 15, 2024, the secretary of state must submit a report to the chairs
9.14 and ranking minority members of the legislative committees having jurisdiction over elections
9.15 on grants awarded under Laws 2021, First Special Session chapter 12, article 1, section 6,
9.16 for ballot drop box security and integrity and video recording of election activities. The
9.17 report must detail each grant awarded including the jurisdiction, the amount of the grant,
9.18 and what the grant money is intended to purchase.

9.19 Sec. 11. **APPROPRIATION.**

9.20 \$..... in fiscal year 2023 is appropriated from the general fund to the commissioner of
9.21 information technology services to retain and make available to the public the video recording
9.22 data described in Minnesota Statutes, section 203B.155. The base for this appropriation in
9.23 fiscal year 2024 and each fiscal year thereafter is \$.....

9.24 Sec. 12. **EFFECTIVE DATE.**

9.25 This act is effective September 1, 2022, and applies to elections conducted on or after
9.26 that date.