

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3469

(SENATE AUTHORS: KIFFMEYER and Dornink)		
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
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03/30/2022		Comm report: To pass as amended and re-refer to State Government Finance and Policy and Elections

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; authorizing absentee ballot board observers;

1.4

requiring certain election activity to be livestreamed and recorded; requiring the

1.5

commissioner of information technology services to retain and make certain video

1.6

recordings available to the public; amending requirements on releasing vote totals;

1.7

requiring a report; appropriating money; amending Minnesota Statutes 2020,

1.8

sections 201.121, subdivision 1; 203B.121, subdivision 5, by adding subdivisions;

1.9

204C.19, subdivision 3; 206.83; Minnesota Statutes 2021 Supplement, sections

1.10

203B.08, subdivision 1; 203B.082; 203B.121, subdivision 1; Laws 2021, First

1.11

Special Session chapter 12, article 1, section 6; proposing coding for new law in

1.12

Minnesota Statutes, chapter 203B.

1.13

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

1.14

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

1.15

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

1.16

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

1.17

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

1.18

statewide voter registration system. Voter registration applications completed before election

1.19

day must be entered into the statewide voter registration system within ten days after they

1.20

have been submitted to the county auditor. Voter registration applications completed on

1.21

election day must be entered into the statewide voter registration system ~~within 42 days~~

1.22

~~after the election, unless the county auditor notifies the secretary of state before the deadline~~

1.23

~~has expired that the deadline will not be met. Upon receipt of a notification under this~~

1.24

~~paragraph, the secretary of state must extend the deadline for that county auditor by an~~

1.25

~~additional 28 days. The secretary of state may waive a county's obligations under this~~

1.26

~~paragraph if, on good cause shown, the county demonstrates its permanent inability to~~

1.27

~~comply~~ before the canvass of that election is started.

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 voter 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 voter registration system, the secretary of state
2.11 shall 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 **EFFECTIVE DATE.** This section is effective the day following final enactment and
2.30 applies to elections on or after that date.

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

3.3 Subdivision 1. **Marking and return by voter.** (a) An eligible voter who receives absentee
3.4 ballots as provided in this chapter shall mark them in the manner specified in the directions
3.5 for casting the absentee ballots. The return envelope containing marked ballots may be
3.6 mailed as provided in the directions for casting the absentee ballots, may be ~~left with~~
3.7 personally delivered to the county auditor or municipal clerk who transmitted the absentee
3.8 ballots to the voter, or may be left in a drop box as provided in section 203B.082. If delivered
3.9 in person, the return envelope must be submitted to the county auditor or municipal clerk
3.10 by 3:00 p.m. on election day.

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

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

3.19 **203B.082 ABSENTEE BALLOT DROP BOXES; SECURITY AND INTEGRITY.**

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

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

3.29 (1) each drop box must be continually ~~recorded~~ livestreamed during the absentee voting
3.30 period as established in section 203B.155;

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

4.1 (3) each drop box must be available for use during the absentee voting period as
4.2 established in section 203B.155;

4.3 (4) each drop box must be assigned a unique identification number;

4.4 ~~(2)~~ (5) each drop box must be designed to prevent an unauthorized person from moving,
4.5 removing, or tampering with the drop box;

4.6 ~~(3)~~ (6) each drop box placed in an outdoor location must be fastened to a building, bolted
4.7 to a concrete pad, or otherwise attached to a similarly secure structure;

4.8 ~~(4)~~ (7) ballots deposited in a drop box must be secured against access by any unauthorized
4.9 person, and in the case of a drop box located in an outdoor location, the drop box must be
4.10 secured against damage due to weather or other natural conditions;

4.11 ~~(5)~~ (8) each drop box must contain signage or markings that:

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

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

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

4.16 (iv) the unique identification number assigned to the drop box;

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

4.22 ~~(7)~~ (10) ballots collected from each drop box must be properly date-stamped and stored
4.23 in a locked ballot container or other secured and locked space consistent with any applicable
4.24 laws governing the collection and storage of absentee ballots.

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

4.31 (b) The county auditor or municipal clerk must provide an updated list of designated
4.32 absentee ballot drop box locations to the secretary of state no later than 20 days prior to the

5.1 start of the absentee voting period at every regularly scheduled primary or general election,
5.2 if any locations have changed or been added since submission of the list under paragraph
5.3 (a). The list must be published on the website of the county or municipality and on the
5.4 website of the secretary of state at least 15 days prior to the start of the absentee voting
5.5 period.

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

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

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

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

5.14 (3) the number of ballots collected.

5.15 (b) Before the meeting of the local canvassing board, each county auditor and municipal
5.16 clerk must total the number of ballots collected from each drop box for each day during the
5.17 absentee voting period and submit the totals to the local canvassing board and the secretary
5.18 of state. Before the meeting of the state canvassing board for an election, the secretary of
5.19 state must compile the totals, broken down by county. Prior to the state canvassing board
5.20 beginning the state canvass, the secretary of state must submit the totals to the state
5.21 canvassing board and the chairs and ranking minority members of the legislative committees
5.22 having jurisdiction over election policy.

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

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

5.27 Subdivision 1. **Establishment; applicable laws.** (a) The governing body of each county,
5.28 municipality, and school district with responsibility to accept and reject absentee ballots
5.29 must, by ordinance or resolution, establish a ballot board. The board must consist of a
5.30 sufficient number of election judges appointed as provided in sections 204B.19 to 204B.22.
5.31 The board ~~may~~ must not include deputy county auditors or deputy city clerks ~~who have~~
5.32 ~~received training in the processing and counting of absentee ballots, unless the deputy county~~
5.33 auditor or deputy city clerk has been appointed an election judge as provided in sections

204B.19 to 204B.22. Each member of the ballot board must be provided adequate training on the processing and counting of absentee ballots, including but not limited to instruction on accepting and rejecting absentee ballots, storage of absentee ballots, timelines and deadlines, the role of the ballot board, procedures for opening absentee ballot envelopes, procedures for counting absentee ballots, and procedures for reporting absentee ballot totals.

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

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

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

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

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

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

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

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

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

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

7.5 The ~~count shall~~ counting of ballots must be public. ~~No vote totals from ballots may be~~
7.6 ~~made public before the close of voting on election day.~~ Vote totals must only be disclosed
7.7 in accordance with section 204C.19.

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

7.17 **EFFECTIVE DATE.** This section is effective the day following final enactment and
7.18 applies to elections on or after that date.

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

7.21 Subd. 6. **Ballot board observers.** (a) A candidate or party on a ballot at an election may
7.22 appoint a person to serve as an absentee ballot board observer. All appointments must be
7.23 made at least 30 days prior to the start of the absentee voting period, except that if an observer
7.24 is unable to perform the required duties the observer may be replaced by the appointing
7.25 candidate or party. The candidate or party must notify the county auditor, city clerk, or
7.26 school district clerk if a ballot board observer is appointed and provide the observer's name,
7.27 address, phone number, and e-mail address. A ballot board observer must complete election
7.28 judge training as described in section 204B.25. The following individuals are not eligible
7.29 to serve as absentee ballot board observers: election judges, candidates on the ballot, and
7.30 immediate family members of candidates on the ballot.

7.31 (b) During the absentee voting period, a ballot board observer must be allowed to observe
7.32 the following activities of the ballot board:

(1) examining envelopes and accepting or rejecting envelopes as required by subdivision

2;

(2) opening envelopes and duplicating ballots, if necessary, as required by subdivision

4;

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

(a); and

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

(c) The county auditor, municipal clerk, or school district clerk must notify each ballot board observer of the date, time, and location anytime the activities in paragraph (b) will take place. The notice must be in writing and delivered to the ballot board observer at least seven days before the activity is to take place.

(d) A ballot board observer may present questions or make challenges to the head election official. A ballot board observer must be allowed to be within four feet of the ballots or envelopes being handled. A ballot board observer must not handle any absentee ballots, envelopes, or other election documents. A ballot board observer may record any of the activities described in paragraph (b). A ballot board observer must not interfere with the conduct of the ballot board. The ballot board may have a ballot board observer removed if the observer is disrupting the activities of the ballot board. The sole act of recording does not constitute sufficient grounds for the ballot board remove a ballot board observer.

EFFECTIVE DATE. This section is effective May 15, 2022, and applies to absentee voting periods beginning on or after June 24, 2022.

Sec. 7. Minnesota Statutes 2020, section 203B.121, is amended by adding a subdivision to read:

Subd. 7. **Livestreaming.** (a) For the 7 days immediately preceding an election and on election day, the county auditor, municipal clerk, or school district clerk must ensure that all ballot board activity is livestreamed as provided by this subdivision and section 203B.155. At a minimum, the following activities must be livestreamed:

(1) examining envelopes and accepting or rejecting envelopes as required by subdivision

2;

(2) opening envelopes and duplicating ballots, if necessary, as required by subdivision

4;

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

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

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

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

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

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

To the extent possible while complying with clauses 1 to 3, the cameras must be positioned so as to avoid livestreaming private data included on absentee ballot envelopes or other documents.

Sec. 8. **[203B.155] LIVESTREAMING REQUIREMENTS.**

Subdivision 1. **Definitions.** (a) The following terms have the meanings given for purposes of this section.

(b) "Commissioner" means the commissioner of information technology services.

(c) "Department" means the Department of Information Technology Services.

Subd. 2. **Livestreaming.** (a) When livestreaming is required by sections 203B.082, subdivision 2, clause (1), and 203B.121, the commissioner must ensure the livestream is available on the department's website in a manner that allows members of the public to easily access and view the livestream. The commissioner must not charge a fee to the public or to the county, municipality, or school district for providing this service.

(b) The secretary of state must include information on the office's website on how to find and access livestreams on the department's website. Each county auditor, municipal clerk, and school district clerk must post the same information on their respective local government's website, if there is one.

Subd. 3. **Data.** The commissioner must record all livestreamed video and retain the recording for four years after the date of the recording. The commissioner must retain the recordings of livestreamed activities required by sections 203B.082, subdivision 2, clause (1), and 203B.121, as provided by this section. The recordings are public data, except that the commissioner may obscure private data on individuals that is visible on a recording.

10.1 Notwithstanding chapter 13, the county auditor, city clerk, or school board clerk is not
10.2 required to maintain any livestreamed or recorded data.

10.3 Subd. 4. **Livestream disruptions.** If a livestream is disrupted or disabled, the
10.4 commissioner, county auditor, municipal clerk, or school district clerk is not liable if the
10.5 disruption is due to a cause outside of the control of the commissioner, county auditor,
10.6 municipal clerk, or school district clerk. If there is a disruption in a livestream, the
10.7 commissioner must work with the county auditor, municipal clerk, or school district clerk
10.8 to reinstate livestreaming as soon as possible. If all appointed ballot board observers are
10.9 present and there is a disruption in livestreaming, the activities of the ballot board may
10.10 continue. If all appointed ballot board observers are not present and there is a disruption in
10.11 livestreaming, the ballot board must stop all activities until the livestream is reinstated or
10.12 all ballot board observers are present.

10.13 Sec. 9. Minnesota Statutes 2020, section 204C.19, subdivision 3, is amended to read:

10.14 Subd. 3. **Premature disclosure of count results.** ~~No~~ The county auditor, municipal
10.15 clerk, school district clerk, election judge, or any other person must not disclose count results
10.16 from any precinct ~~shall be disclosed by any election judge or other individual~~ until all count
10.17 results from that precinct are available, nor shall have been counted and totaled, including
10.18 absentee votes received and processed by 8 p.m. on election day. Absentee ballots may
10.19 continue to be processed and counted after 8 p.m. on election day as provided in section
10.20 203B.121, subdivision 5, paragraph (c). The public media must not disclose any count
10.21 results from any precinct before the time when voting is scheduled to end in the state.

10.22 **EFFECTIVE DATE.** This section is effective the day following final enactment and
10.23 applies to elections on or after that date.

10.24 Sec. 10. Minnesota Statutes 2020, section 206.83, is amended to read:

10.25 **206.83 TESTING OF VOTING SYSTEMS.**

10.26 (a) Within 14 days before election day, the official in charge of elections shall have the
10.27 voting system tested to ascertain that the system will correctly mark ballots using all methods
10.28 supported by the system, including through assistive technology, and count the votes cast
10.29 for all candidates and on all questions. ~~Public notice of the time and place of the test must~~
10.30 ~~be given at least two days in advance by publication once in official newspapers.~~ The test
10.31 must be observed by at least two election judges, who are not of the same major political
10.32 party, and must be open to representatives of the political parties, candidates, the press, and
10.33 the public. The test must be conducted by (1) processing a preaudited group of ballots

11.1 punched or marked to record a predetermined number of valid votes for each candidate and
11.2 on each question, and must include for each office one or more ballot cards which have
11.3 votes in excess of the number allowed by law in order to test the ability of the voting system
11.4 tabulator and electronic ballot marker to reject those votes; and (2) processing an additional
11.5 test deck of ballots marked using the electronic ballot marker for the precinct, including
11.6 ballots marked using the electronic ballot display, audio ballot reader, and any assistive
11.7 voting technology used with the electronic ballot marker. If any error is detected, the cause
11.8 must be ascertained and corrected and an errorless count must be made before the voting
11.9 system may be used in the election. After the completion of the test, the programs used and
11.10 ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

11.11 (b) At least 14 days before conducting the testing required by paragraph (a), the official
11.12 in charge of elections must give notice of the time and place of the testing in the following
11.13 manner:

11.14 (1) by publishing the notice once in the official newspaper;

11.15 (2) by prominently posting the notice on the applicable county, municipal, or school
11.16 district website, if there is one; and

11.17 (3) by sending the notice to the chairs of each major political party in the state.

11.18 **EFFECTIVE DATE.** This section is effective the day following final enactment and
11.19 applies to elections on or after that date.

11.20 Sec. 11. Laws 2021, First Special Session chapter 12, article 1, section 6, is amended to
11.21 read:

11.22	Sec. 6. SECRETARY OF STATE	\$	9,684,000	\$	9,152,000
11.23	\$750,000 each year is for transfer to the voting				
11.24	equipment grant account under Minnesota				
11.25	Statutes, section 206.95.				

11.26 \$1,000,000 each year is for grants to local
11.27 units of government to implement the
11.28 provisions of Minnesota Statutes, section
11.29 203B.082. This is a onetime appropriation.

12.1 Sec. 12. **ELECTION SECURITY AND INTEGRITY GRANTS; REPORT.**

12.2 No later than January 15, 2024, the secretary of state must submit a report to the chairs
12.3 and ranking minority members of the legislative committees having jurisdiction over elections
12.4 on grants awarded under Laws 2021, First Special Session chapter 12, article 1, section 6,
12.5 for ballot dropbox security and integrity. The report must detail each grant awarded including
12.6 the jurisdiction, the amount of the grant, and what the grant money is intended to purchase.

12.7 Sec. 13. **APPROPRIATION.**

12.8 (a) \$..... in fiscal year 2023 is appropriated from the general fund to the secretary of
12.9 state to make grants to local units of government to comply with livestreaming requirements
12.10 under Minnesota Statutes, sections 203B.082, subdivision 2, and 203B.121, subdivision 7.
12.11 This is a onetime appropriation and is available until June 30, 2025.

12.12 (b) \$..... in fiscal year 2023 is appropriated from the general fund to the commissioner
12.13 of information and technology services to livestream and record election-related activity
12.14 and to retain data as required under Minnesota Statutes, section 203B.155. The base for this
12.15 appropriation in fiscal year 2024 is The base for this appropriation in fiscal year 2025
12.16 and each fiscal year thereafter is

12.17 **EFFECTIVE DATE.** This section is effective July 1, 2022

12.18 Sec. 14. **EFFECTIVE DATE.**

12.19 Except as otherwise provided, this act is effective September 1, 2022, and applies to
12.20 elections conducted on or after that date.