

2016

Post-Election Review Guide



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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 Office of the Revisor of Statutes website <https://www.revisor.leg.state.mn.us/> 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. 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
- School District Clerk Election Guide
- Election Judge Guide
- Absentee Voting Administration Guide
- Voting Equipment Testing Guide
- Mail Voting Guide
- Recount Election Guide
- Campaign Manual

These guides, training materials and other publications are updated periodically. Current editions can be found at the OSS Election Guide website located at <http://www.sos.state.mn.us/election-administration-campaigns/election-administration/election-guides/>. Please contact this office if you have comments on how this publication could better support the needs of election administrators.

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 below.)

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](#))

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 election. ([M.S. 206.89, subd. 6](#))

2.1 REVIEW NOTIFICATION

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 below for process steps.

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 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.

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 11th day after the state general election. The PER must be completed no later than the 18th day after the state general election, two days before the meeting of the State Canvassing Board. (*M.S. 206.89, subd. 2*)

NOTE: Some factors to consider when selecting a date for the PER are: allowing time for escalation if needed; the occurrence of holidays and weekends.

See page 23 in the Appendix 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 available without charge to the review official or body conducting the review adequate accessible space and all necessary equipment and facilities. (*M.S. 206.89, subd. 3; M.R. 8235.0600*)

4.3 NOTIFICATION

The county auditor must immediately notify OSS of the PER Location, Date and Time determined 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 website at: <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 by lot the precincts to be reviewed. 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 polling place for that precinct 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](#))

NOTE: 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. Add this precinct to those already selected.

5.1 REVIEW NOTIFICATION

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 below for process steps.

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 by lot additional precincts to meet the congressional district requirement.

5.1.1 Notification Process Steps

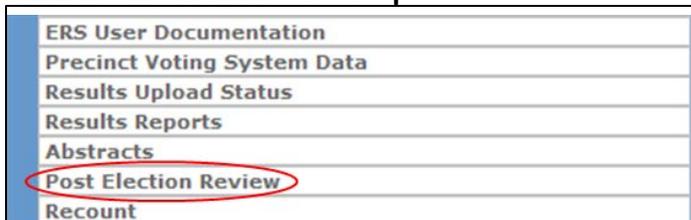


Figure 1 ERS County User Menu



Figure 2 ERS PER Menu

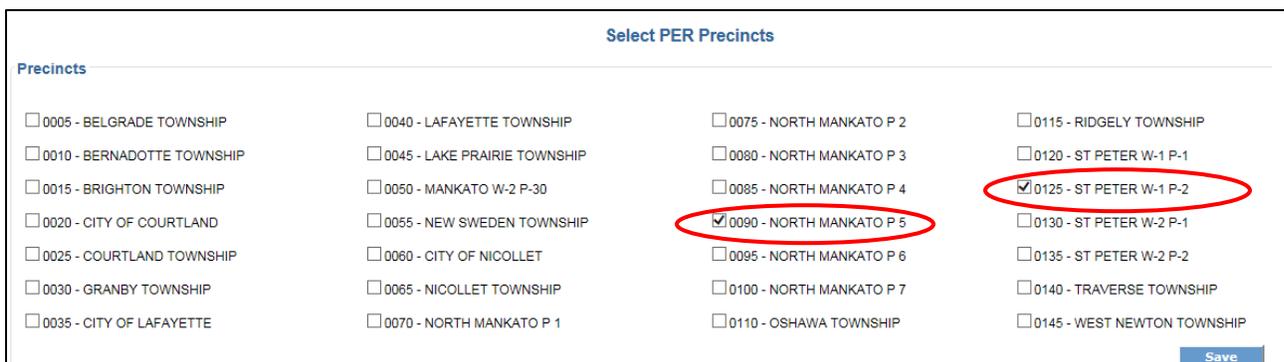


Figure 3 ERS PER Precincts Selection Screen

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. 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.

NOTE: It is a good practice to have the original summary statements and/or results tapes for the precincts (both polling place and absentee) available for public review.

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.

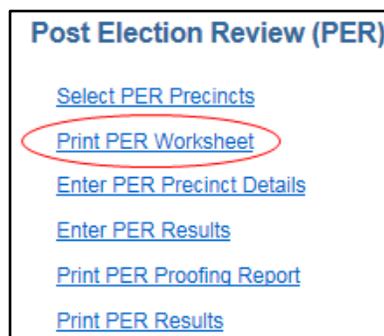


Figure 4 ERS PER Menu

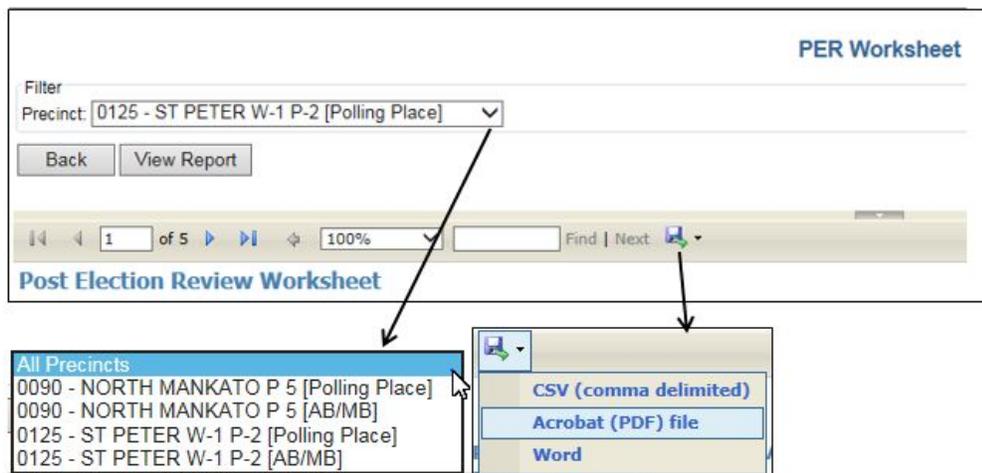


Figure 5 ERS PER Worksheet report screen

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.

Undervotes (Blanks), Overvotes and Totals are not available in ERS. **Counts for the blank lines in the original vote totals column must be manually entered from the election night summary statement before beginning the PER.**

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.

Post Election Review Worksheet

State General Election
 Tuesday, November 6, 2012
 County - Nicollet, Precinct - 10076

Printed: 10/22/2014 8:29 AM
 Printed By: kliff01

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	<u> </u>	_____	_____	_____
OVER / DEFECTIVE FOR OFFICE	<u> </u>	_____	_____	_____
WRITE-IN**	5	_____	_____	_____
Totals	<u> </u>	_____	_____	_____

Hand enter from election night summary statement

Figure 6 Example Polling Place Votes PER Worksheet

7.1.3 Facilities

Setting up the facilities is important. In addition to setting up the review 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. brining and removing election materials; bathrooms unlocked). 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. 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. 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.

7.4.1 Best Practices

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 cases 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.

When conducting the review, the total number of ballots counted for the PER offices must be equal, (i.e. the total ballots counted for President, 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, 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.

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 page 24 in the Appendix 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 below), then to determine if additional steps are required (see section 11 below). The post-election review official shall open the sealed envelopes and review them in accordance with [M.S. 204C.41](#). 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>Constitution Party</small>
<input type="radio"/>	write-in, if any <u>John Smith</u>

- 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 VOTE FOR ONE	FEDERAL OFFICES	UNITED STATES SENATOR VOTE FOR ONE	UNITED STATES SENATOR VOTE FOR ONE
<input checked="" type="radio"/> JACK SHEPARD	UNITED STATES SENATOR VOTE FOR ONE	<input type="radio"/> JACK SHEPARD X	<input type="radio"/> JACK SHEPARD
<input type="radio"/> NORM COLEMAN	<input checked="" type="radio"/> JACK SHEPARD	<input type="radio"/> NORM COLEMAN	<input type="radio"/> NORM COLEMAN
CONTINUE VOTING ON THE NONPARTISAN BALLOT	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 TINGELSTAD
ASSOCIATE JUSTICE 4 VOTE FOR ONE
<input checked="" type="checkbox"/> LORIE SKJERVEN GILDEA
<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. IVERSEN
<input type="checkbox"/> JOHN P. GUZIK
<input type="checkbox"/> JAMES C. SNYDER, SR.
<input type="checkbox"/> PAUL GOODFREY
<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 incumbent ✓
<input type="checkbox"/> write-in, if any
JUDGE 12 VOTE FOR ONE
<input type="checkbox"/> MARGARET CHUTICH incumbent ✓
<input type="checkbox"/> write-in, if any
JUDGE 15 VOTE FOR ONE
<input type="checkbox"/> KEVIN G. ROSS incumbent ✓
<input type="checkbox"/> write-in, if any

- 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.

UNITED STATES SENATOR VOTE FOR ONE	FEDERAL OFFICES
<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	UNITED STATES SENATOR VOTE FOR ONE
<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	<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
CONTINUE VOTING ON THE NONPARTISAN BALLOT	CONTINUE VOTING ON THE NONPARTISAN BALLOT

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

FEDERAL OFFICES
U.S. SENATOR VOTE FOR ONE
<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-Farmers & Labor</small> <input type="radio"/> MICHAEL JAMES CAVLAN <small>Green Party</small> <input type="radio"/> BEN POWERS <small>Constitution Party</small> <input type="radio"/> John Smith <small>write-in, if space</small>
CONTINUE VOTING ON THE NONPARTISAN BALLOT

- 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

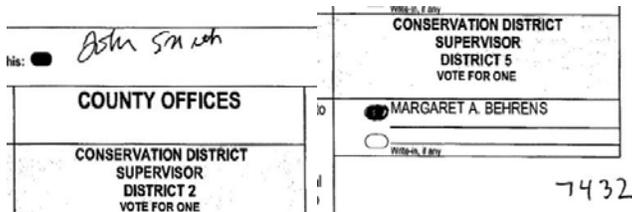
It is a good practice to keep questionable ballots at the top of counted stacks.

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.)

UNITED STATES SENATOR VOTE FOR ONE
<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
CONTINUE VOTING ON THE NONPARTISAN BALLOT

- 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 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.

UNITED STATES SENATOR VOTE FOR ONE <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 CONTINUE VOTING ON THE NONPARTISAN BALLOT	FEDERAL OFFICES UNITED STATES SENATOR VOTE FOR ONE <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 CONTINUE VOTING ON THE NONPARTISAN BALLOT
---	--

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	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		
Totals	1352	1352	4	

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
Totals	168	168	2	

Figure 7 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.



Figure 8 ERS PER Menu

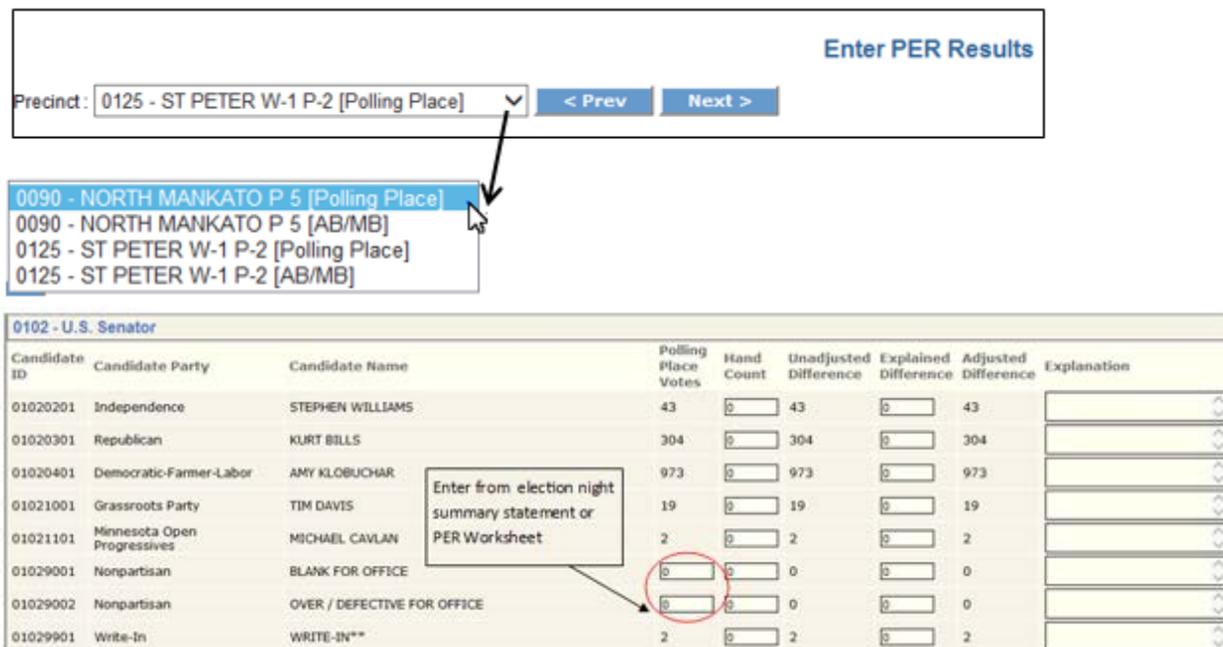


Figure 9 ERS Polling Place Results Entry Screen

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		
Totals	1352	1352	4	

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 10 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 Next >

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
Totals	168	168	2	

0102 - U.S. Senator								
Candidate ID	Candidate Party	Candidate Name	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	1	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	1	0	Candidate name written-in; oval not marked

Figure 11 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 county 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](#)

Figure 12 ERS PER menu

PER Proofing Report

Filter

County: Nicollet Precinct: All Precincts

Back View Report

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]

Figure 13 ERS PER Proofing Report

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		
Totals	1352	1352	6	4	2		

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.	
Totals	168	168	2	2	0		

Figure 14 Example PER PP and AB-MB Proofing Reports

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 below 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		
Totals	294	294	0	0	0		

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		
Totals	294	294	0	0	0		

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 GIESEKE	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		
Totals	293	293	2	0	2		

Figure 15 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 NICOLLET 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	
Totals	779	779	2	2	0	

Figure 16 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](#)

Figure 17 ERS PER Menu

PER Results

Filter

County: Precinct:

Figure 18 Printing PER Results

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	46	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.
Totals	1520	1520	8	6	2	
Final Results					0.1315%	ACCEPTABLE

Figure 19 Example PER Results

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

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 review webpage located here: <http://www.sos.state.mn.us/elections-voting/how-elections-work/post-election-reviews/>

13.0 APPENDIX

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 Canvas 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]

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

Notary Public

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.

