

Hailperin Testimony for Conference Committee on HF 1952 (SF 1831), 2021

I represent Citizens for Election Integrity Minnesota, a nonpartisan, nonprofit organization working toward verifiable, transparent, and accurate elections. Because of this focus, we urge adoption of two portions of the omnibus, one providing automatic recounts for narrowly decided constitutional amendment ballot questions, the other intensifying the scrutiny of vote tabulations in the Post Election Review. The former is [House Article 3, Sections 57–58 \(99.21–100.8\)](#), and the latter is best taken from [Senate Article 4, Sections 55–56 \(131.4–132.8\)](#), though a quite similar version is in [House Article 3, Sections 73–74 \(106.9–107.8\)](#). As briefly described below, each of these would enhance public confidence in election outcomes. They are noncontroversial improvements that all four principal legislative caucuses can unify around.

Automatic Recounts of Constitutional Amendment Ballot Questions

If a constitutional amendment ballot question is closely decided, such as passing with 50.1% of the ballots or failing with 49.9%, [House Article 3, Sections 57–58 \(99.21–100.8\)](#) would provide for an automatic recount. This provision fills a gap in the current statutes and would help provide public confidence that constitutional amendment questions are correctly decided.

This is a peculiar omission in our current laws. There are explicit provisions for recounting close elections to all levels of office—federal, state, and local—and for ballot questions at the local level. Yet statewide ballot questions concerning constitutional amendments are left unaddressed, though nothing matters more than knowing what constitution we are to live under.

Only an automatic recount provision established in advance of a close election can ensure public confidence—improvisation won't do. Thankfully, we've gone 114 years since the last constitutional amendment squeaker, but there's no reason to assume that luck will continue. The 1906 situation was an utter mess, and we're scarcely any better prepared now than then. As the statutes stand, the two options for a recount would be for the Secretary of State to choose to exercise broad discretion under [M.S. 206.88](#) or for a court to order the recount as part of a contest. Neither of those is a process likely to reduce the contentiousness.

Tightened Post Election Review Standard

Public confidence is supported not only by recounts of close elections but also by the more routine Post Election Review conducted in hundreds of randomly selected precincts every state general election since 2006. This review compares the vote counts produced by scanners with those produced by humans. If any precinct has an unusually large number of discrepancies between these two counts, follow-up reviews are done in additional precincts.

What [Senate Article 4, Sections 55–56 \(131.4–132.8\)](#) would do is to make additional review more common by reducing the number of discrepancies needed as a trigger. Looking at how this new standard would have performed had it been in place over the past 16 years, we can see that the additional burden on county election officials would be quite modest: one year, one county would have needed extra review, and another year two counties would have. Thus there is little reason not to provide the extra assurance. The House and Senate language differ a bit in wording (one-quarter percent versus 1 per 400 ballots), but the substantive difference is that the Senate includes a cap of 5 discrepancies. Though unlikely to make any difference in practice, this cap could provide broader confidence.