

Postelection Review

Minn. Stat. §§ 206.89; 206.895

HOUSE RESEARCH

A postelection review is a required procedure after every election for certain offices. The review is a comparison of the results of a manual count of the ballots in selected precincts with the results indicated by the voting system used in those precincts on election day. If there is a discrepancy, the manual vote count prevails.

Who is responsible for conducting a postelection review?

Each county auditor is designated in law as the postelection review official for that county. The county auditor may delegate the responsibility to a municipal clerk. The postelection review official is responsible for coordinating the manual review of ballots and reporting the results to the secretary of state at least two days prior to the state canvassing board's canvass of the election. (If a county auditor designates a municipal clerk as the postelection review official, the clerk must report the results of the review to the county auditor.)

Is a postelection review required for all offices?

No. Minnesota law requires only that a review be conducted of an election for president or governor, United States Senate, and United States House of Representatives. Additional offices may be selected for review as well, at the discretion of the postelection review official.

Is a postelection review the same as a full recount for the reviewed offices?

While the process of reviewing the ballots in a postelection review follows the same rules established for a full administrative recount, the postelection review only includes a small number of randomly selected precincts within a county. The county canvassing board selects the precincts for review by lot at its canvass of the general election.

How many precincts in a county are subject to postelection review?

The number of precincts subject to mandatory review in a county depends on the population of registered voters in the county. If a county's population of registered voters is:

- Fewer than 50,000: a minimum of two precincts must be reviewed;
- Between 50,000 and 100,000: at least three precincts must be reviewed;
- More than 100,000: the greater of four precincts, or 3 percent of the total number of precincts in the county must be reviewed.

In all cases, at least one precinct selected in each county must have had more than 150 votes cast at the general election. The county auditor must notify the secretary of state of the precincts chosen for review. If at least four precincts are not chosen for review within each congressional district, the secretary of state may order the counties to randomly select additional precincts for review so that this requirement is met.

Is the public entitled to watch the conduct of a postelection review?

All post-election review proceedings must be open to the public.

What happens if the postelection review reveals a discrepancy in the vote count?

If a postelection review of selected precincts indicates that an error in the machine reported vote totals that is greater than the acceptable standard of error, review of additional precincts is required.

The acceptable standard of error for a voting system used in Minnesota is that the manual postelection review vote totals must be within one-half of 1 percent (0.5 percent) of the vote totals reported by the machine. This standard does not include votes that could not be read by the machine due to a voter's error in marking a ballot.

If the postelection review shows a difference between the manual review and the machine total from that precinct greater than 0.5 percent, or two votes in a precinct where 400 or fewer voters cast ballots, an **additional review** ("second review") of the races is required. The additional review must be conducted in at least three precincts in the same jurisdiction where the discrepancy was discovered. This additional review must be completed within two days. If all of the precincts in the jurisdiction have been reviewed, the county auditor must select by lot three additional precincts in the county for review.

If the additional review shows the same discrepancy in vote totals between the manual review and machine count, the county auditor must conduct a **full review of all ballots in every precinct within the county**. A full manual review must be completed and results reported to the secretary of state within one week of completion of the second review.

If a countywide review is conducted in one or more counties, and the total number of voters affected by the review constitutes more than 10 percent of the total number of voters at the election, the secretary of state must order a **full manual recount of all ballots statewide** for the affected office(s), if the completed reviews clearly indicate an error in vote counting occurred. The recount must be completed within two weeks of the secretary of state's order.

If the vote totals for a candidate change as a result of a postelection review, are the new totals counted?

If different from the machine-reported totals, the vote totals resulting from a postelection manual review must be incorporated into the official result from that precinct.

What happens to machines that fail to meet the acceptable standard for counting ballots?

A voting system that fails to meet the accuracy standards required by law may not be used in another election in the state until the machine has been examined and recertified by the secretary of state. If the failure of a machine is due to a design flaw or actions of the vendor of the

machine, the vendor must forfeit the vendor and/or performance bonds submitted to the secretary of state prior to implementation of that system in Minnesota.

Who pays the cost of a postelection review?

The governing body responsible for each reviewed precinct is responsible for the cost of an initial review and any second review or countywide review required within that jurisdiction.

The secretary of state must pay the cost of a statewide recount.

The vendor of a failed voting system is required to pay the cost of the secretary of state's examination and recertification of that system for use in Minnesota.