



STATE OF MINNESOTA
Office of Minnesota Secretary of State
Steve Simon

VIA EFILING

October 16, 2025

The Honorable Judge Eric Lipman
Administrative Law Judge
Court of Administrative Hearings

**In the Matter of the Proposed Permanent Rules Relating to Elections Administration;
Revisor's ID Number R-4824; CAH Docket No. 8-9019-39440; Minnesota Rules
Chapter 8200-8250**

Dear Judge Lipman:

This letter contains the Office of the Secretary of State's responses to the comments it has received in the above-captioned rule docket in response to the Office's August 25, 2025 Dual Notice. A summary of the changes made as a result of these comments is attached to this letter as Exhibit A.

I. Comments requesting a hearing

Several commentors requested a hearing without identifying any portion of the rules to which they objected. Because the Office has held a hearing, it will not provide any additional response to these comments.

II. Comments objecting to the rules as a whole.

Several commentors objected to the rules as a whole, stating that the rules alter established procedures that could affect voter participation and confidence in the election system. The Office respectfully submits that its affirmative presentation in its Statement of Need and Reasonableness (SONAR) establishes the need for and reasonableness of the proposed

rules. The Office further notes that, as discussed further in the SONAR, nearly all these rule changes are mandated by statutory changes to Minnesota's election laws.

III. Comments addressing specific portions of the rules

The Office received several comments during the Dual Notice comment period. The Office will address each comment individually below and give a response. In cases where commentators addressed similar issues, the Office has grouped those comments together and provided a single response.

A. Max Hailperin

Max Hailperin suggests that lines 19.23 and 24.10 be modified to replace the words "both numbers" with "more than one number" because overseas voters have the option of submitting three numbers: their driver's license/state identification card number, last four digits of their Social Security Number, or their passport number. While there are only an exceedingly small number of voters who have provided all three of these numbers, the Office agrees this proposal is reasonable and will adopt this change for the reasons the commentator suggests.

B. John Billo

John Billo opposes the vouching procedures described in sections 8200.5100 and 8200.9940 related to residential facilities, the 46-day absentee period identified in Sections 8210.3000, the opening of ballot boxes midday in 8230.4365, and the lowering of the age of the trainee election judges to 16 in Rule 8240.1655. These provisions have already been approved in the previous rulemaking and are not being modified now. His other objections are similar to those raised by other commentators and are addressed in the section below.

C. Comments raised by several individuals

Several individuals (Elizabeth Spence, Donald Honerbrink, Daniel Passer, Linda Nara, Sandra Honerbrink, Tom Lopac, John Billo, Terri Gardner, Kathleen Hagen, Brenda Miller, Jerry Ewing, Susan Holman Sutich, and Mariana Schunk) filed substantively the same comments on some or all of the rules identified below. Each of those comments is addressed in turn.

i. Section 8200.9115

The commentors propose maintaining the original language in line 3.16 of the rule, stating that the new language, which replaces “reside at the address shown” with “have maintained residence,” is inadequate because address is critical to identifying one’s residence. The new language still requires a person to attest they live at the address or location shown on the polling place roster (as described in lines 3.17 and 3.18 of the new rules). The change was necessary because 2025 amendments to Minnesota Statutes 204C.10(a)(4) required the polling place certification to allow a person to attest they live at either the address or location shown so that individuals who do not have housing may still vote.

ii. Section 8210.0200

The commentors ask what law justifies the deletion of language in lines 9.23 through 9.25, which previously required county auditors or municipal clerks to send absentee ballot applications to individuals on the permanent absentee ballot application list. As identified in the Statement of Need and Reasonableness (SONAR), Section 203B.04, subdivision 5 was amended in 2023 to replace the permanent absentee application program with a permanent absentee voter program, where a person would submit a single application and have the absentee ballot sent to them every election, provided they were eligible to vote. This change is therefore necessary to ensure the rule is consistent with the new law.

iii. Section 8210.0225

The commentors propose maintaining the original language in lines 10.3 and 10.4, which required a voter registration application be sent to any person who applies for an absentee ballot and whose voter registration application was incomplete. As described in the SONAR, the purpose of this rule is to address cases where challenged voters apply for absentee ballots. While voters who have submitted an incomplete voter application are challenged pursuant to Minnesota Statutes section 201.121, subdivision 1(f), they are notified pursuant to Minnesota Statutes section 201.061 of the steps they need to take in order to complete their application so that they may vote. These changes simplify the rule without affecting the process by which those who submit incomplete voter registration applications can vote via absentee ballot.

iv. Section 8210.0500

The commentors asked, referring to lines 11.13-11.14, and 14.21, what law changed the requirement that witnesses for absentee ballots no longer need to be registered Minnesota voters. As stated in the SONAR, Section 203B.07 was amended in 2024 to allow for any United States citizen at least 18 years or older to be an eligible witness.

The commentors also state that a person serving as a witness should be required to provide their street address in order to verify registration. The Office assumes registration refers to voter registration. Because witnesses no longer need to be registered voters under Minnesota law, it is not necessary for them to provide their address to verify their registration. Moreover, it has never been a requirement under law or rule for absentee ballot boards or local election officials to use an address to verify a witness's identity. It only served to affirm their residence in Minnesota. Instead witnesses will continue to be required to certify under oath and penalty of perjury that they meet all the requirements necessary to serve as a witness, none of which include residency in specific location.

The commentors also suggest that the instructions regarding access to accessible electronic ballots in lines 13.22 through 13.27, 18.12 through, 18.17, 21.2 through 21.7, and 25.26 through 26.3 are not necessary because the language in Minnesota Statutes section 645.44, subdivision 14 is sufficient. That subdivision merely defines what it means for something to be "written" or "in writing" when those terms are used in Minnesota law. As described in the SONAR, the 2023 enactment of Minnesota Statutes section 203B.29, subdivision 2 required that certain materials be transmitted electronically to voters with a print disability. The language the Office proposes more accurately reflects the requirements of the new law.

v. Section 8210.0600

The commentors asked, referring to lines 27.13 through 27.15 and 29.10, what law changed the requirement that witnesses for absentee ballots no longer need to be registered Minnesota voters. As stated in the SONAR, Section 203B.07 was amended in 2024 to allow for any United States citizen at least 18 years or older to be an eligible witness.

vi. Section 8210.2400

The commentors state that no changes should be made to this rule. As described in the SONAR, the Minnesota legislature amended Minnesota Statutes section 203B.121 in 2025

to provide more extensive safeguarding procedures than previously described in this rule. Consequently, the rule needed to be modified to incorporate the new procedures.

vii. Section 8210.2450

The commentors asked, referring to lines 32.10 through 32.11, what law changed the requirement that witnesses for absentee ballots no longer need to provide their address. As stated in the SONAR, Section 203B.07 was amended in 2024 to allow for any United States citizen at least 18 years or older to be an eligible witness, whereas the previous law allowed only registered Minnesota voters to serve as witnesses. As a result, it is no longer necessary for a witness to provide their address.

The commentors also ask what law changed the requirement that absentee ballots received after the close of business on the 19th day before the election be rejected if the voter had already cast a ballot. The previous law allowed for rejection only if the ballot was received after the close of business on the 7th day before the election. As described in the SONAR, this change was necessary to conform this rule language with 2023 amendments to Minnesota Statutes sections 203B.121, which moved the deadline from which absentee ballots could be opened from secrecy envelopes, duplicated if needed, and deposited in the appropriate ballot box from seven days before the election to 19 days before the election. The change was needed to conform the rule with the statutory change and ensure that ballot board members either reject or spoil ballots as appropriate given the new absentee deadlines.

viii. Section 8210.3000

The commentors ask what law changed the requirement that mail ballots be sent each registered voter no later than 28 days before the election, as opposed to 14 days. As discussed in the SONAR, Minnesota Statutes section 204B.45, subdivision 2 was amended in 2025 to require that ballots be mailed no later than 28 days prior to the election.

The commentors asked, referring to lines 35.6 through 35.7 and 38.12 through 38.14, what law changed the requirement that witnesses for absentee ballots no longer need to be registered Minnesota voters. As stated in the SONAR, Section 203B.07 was amended in 2024 to allow for any United States citizen at least 18 years or older to be an eligible witness.

Some commentors also asked, referring to lines 36.11 through 36.12, why the deadline to return to the ballot either in person or via another person was not changed to 5:00 p.m.

While true that the deadline for in person delivery or agent return for absentee ballots was modified from 8:00 to 5:00 p.m. in 2025, the deadline for mail ballots submitted under Minnesota Statutes section 204B.45 was not changed.

The commentors also state that a person serving as a witness should be required to provide their street address in order to verify registration. The Office assumes registration refers to voter registration. As discussed above witnesses no longer need to be registered voters under Minnesota law, it is not necessary for them to provide their address.

The commentors also suggest that the instructions regarding access to accessible electronic ballots in lines 37.9 through 37.14 are not necessary because the language in Minnesota Statutes section 645.44, subdivision 14 is sufficient. That subdivision merely defines what it means for something to be “written” or “in writing” when those terms are used in Minnesota law. As described in the SONAR, the 2023 enactment of Minnesota Statutes section 203B.29, subdivision 2 required that certain materials be transmitted electronically to voters with a print disability. The language the Office proposes more accurately reflects the requirements of the new law.

ix. Section 8215.0400

The commentors also ask what law changed the requirement that a voter could change their choice of major political party ballot the voter wished to receive from 7 days before the election until 19 days before the election. As described in the SONAR, this change was necessary to conform this rule language with 2023 amendments to Minnesota Statutes sections 203B.121, which moved the deadline from which absentee ballots could be opened from secrecy envelopes, duplicated if needed, and deposited in the appropriate ballot box from seven days before the election to 19 days before the election. Once deposited in the ballot box, the ballot is not retrievable.

The Office will clarify, however, that this rule applies only to those individuals who wish to spoil their absentee ballot after they have returned it. Individuals who have not returned their ballot but wish to spoil it may do so at any time before the election. To account for this change, the Office will remove the first sentence beginning on line 39.17 and ending with the word “requesting” on line 39.20 and replace it with the following: “A voter who has returned a ballot may change the voter's choice of which major political party ballot the voter wishes to receive by spoiling the voter’s ballot and submitting a new application indicating the major political party ballot the voter is requesting until the close of business on the 19th day before the election.”

x. Section 8215.0500

The commentors asked, referring to lines 40.13-40.14 and lines 44.2 through 44.3, what law changed the requirement that witnesses for absentee ballots no longer need to be registered Minnesota voters. As stated in the SONAR, Section 203B.07 was amended in 2024 to allow for any United States citizen at least 18 years or older to be an eligible witness.

The commentors also state, referring to lines 41.14 through 41.16 and line 43.16 that a person serving as a witness should be required to provide their street address in order to verify registration. The Office assumes registration refers to voter registration. Because, as discussed in the preceding paragraph, witnesses no longer need to be registered voters under Minnesota law, it is not necessary for them to provide their address.

The commentors also ask, referring to lines 41.25 through 41.26, why the deadline to return to the ballot either in person or via another person was not changed to 5:00 p.m. While true that the deadline for in person delivery or agent return for absentee ballots was modified from 8:00 to 5:00 p.m. in 2025, the deadline for mail ballots provided for in Minnesota Statutes section 204B.45 was not changed.

The commentors also suggest that the instructions regarding access to accessible electronic ballots in lines 42.20 through 42.25. are not necessary because the language in Minnesota Statutes section 645.44, subdivision 14 is sufficient. That subdivision merely defines what it means for something to be “written” or “in writing” when those terms are used in Minnesota law. As described in the SONAR, the 2023 enactment of Minnesota Statutes section 203B.29, subdivision 2 required that certain materials be transmitted electronically to voters with a print disability. The language the Office proposes more accurately reflects the requirements of the new law.

The commentors also ask what law changed the requirement that a voter could change their choice of major political party ballot the voter wished to receive from 7 days before the election until 19 days before the election. The process to indicate major party preference in the presidential nominating primary differs for voters living in a mail ballot jurisdiction. In a mail ballot jurisdiction, voters indicate their major party preference on the signature envelope, which is submitted with their voted ballot. As described in the SONAR, this change was necessary to conform this rule language with 2023 amendments to Minnesota Statutes sections 203B.121, which moved the deadline from which mail and absentee ballots could be separated from signature and ballot envelopes, duplicated if needed, and

deposited in the appropriate ballot box from seven days before the election to 19 days before the election. Once deposited in the ballot box, the ballot is not retrievable.

xi. Section 8220.1550

The commentors ask what law changed the requirement that public accuracy test be held within 14 days prior to the election to at least three days before the election. This change is a result of a 2023 amendment to Minnesota Statutes section 206.83.

The commentors also ask why ballot marking devices for absentee voting need only be tested according to the standard established in 8220.1350. This is consistent with past practice under the previous language of the rule, which was ambiguous as to what equipment was subject to a public accuracy test. As indicated by the comments submitted by the Minnesota Association of County Officers, local election officials have asked that this rule be updated to address this ambiguity. Historically, ballot marking devices are used for absentee voting beginning 46 days before election day, whereas the remaining ballot tabulation equipment subject to a public accuracy test is not used until the close of business 19 days before the election (at the earliest). As a result, ballot marking devices have always been included in preliminary testing, but not the public accuracy test. Ballot tabulators, however, have always been tested using ballots completed with a ballot marking device to ensure they function with those ballots appropriately. This addition clarifies the ambiguity in rule by expressly providing that ballot marking devices must still be tested before use but does not require local election officials to hold a separate public accuracy test for just those devices.

xii. Section 8235.0700

The commentors ask what law justified the proposed changes to the recount process. This change is justified by 2023 amendments to Minnesota Statutes sections 206.80 and 206.86. The amendments to Section 206.80 authorized the use of an alternative ballot format that would be compatible with more assistive voting devices. These ballots look significantly different than traditional ballots. As a result, to protect voter privacy in jurisdictions where only a small number of these alternative ballots are used, Minnesota Statutes section 206.86 was modified to add a subdivision 5a, which prohibits election judges (who could be aware what voters used the alternative ballot format) from serving as recount officials in cases where a small number of alternative ballots were submitted to ensure they would not be able to identify what candidates those voters selected. The amendment to the rules is therefore necessary to make the rule consistent with statute.

The commentors ask what law justified the change to the process by which the order of candidates is determined. As identified in the SONAR, this change is a result of 2023 amendments to Minnesota Statutes section 204D.13.

The commentors also ask what law justifies the exclusion of the alternative ballot from the requirements of this rule. As described in the SONAR, the creation and use of this ballot was authorized by Minnesota Statutes section 206.80, which provides a list of items the ballot must contain. The ballots are significantly different in appearance and format so that they may be used with accessible voting devices. As a result, they cannot be printed in the same format as standard ballots. Accordingly, this rule is necessary to ensure the alternative ballots contain sufficient information to allow for voters to review their selections and for the ballot to be considered in any postelection review.

D. Michelle Blue

Michelle Blue, Elections Director for Dakota County, suggests that line 3.13 of Rule 8200.9115 be modified to state that polling place rosters contain a notation of whether a person is specifically incarcerated for a felony, as opposed to incarcerated for other reasons. While this notation on polling place rosters is only generated using information on individuals incarcerated for a felony, the Office agrees this proposed change is reasonable to remove any ambiguity as to what information is contained in the roster. Accordingly the rule will be modified to reinsert the word “felony” before incarceration on line 3.13.

E. Jeanine Johnson and Holly Reitmeier

These commentors ask that contact information for their organization be modified. The Office will do this going forward.

F. Minnesota Association of County Officers

Troy Olsen, on behalf of the Minnesota Association of County Officers (MACO), asks that the Rule 8210.2400 be modified so that absentee ballot boards need only report discrepancies between the number of signature envelopes and the number of absentee ballots that cannot be resolved by the ballot board. It was not the Office’s intent to modify the reporting requirements contained in the previous rule, only to make the rule consistent with the new requirements of Minnesota Statutes section 203B.121, subdivision 4. To remove this ambiguity, the Office will add the language “between the absentee ballot return envelopes and the record required by this rule” after the word “discrepancy” in line 32.2.

G. Jill Kneeskern and Pat Trepp

Jill Kneeskern and Pat Trepp, who have previously worked as election judges in Washington County, suggest making several changes to the signature envelopes used in the absentee ballot process. They propose the changes due to concerns that (1) absentee ballots were often rejected because the voter did not provide the same identification number on the signature envelope that they did when they registered to vote or applied for an absentee ballot; (2) absentee ballots were often rejected because the signature envelope was not fully completed; and (3) the instructions on the signature envelope are not clear for those whom English is not their primary language.

The Office appreciates their thoughtful comments and proposed edits. Their comments, however, are outside the scope of this proposed rulemaking, which focuses primarily on changes required because of recent legislation passed in the previous three legislative sessions. In addition, as the commentators acknowledge, these changes would require the Office to make substantial changes to the information contained on the envelopes, which are already limited in what information they contain due to their size. The Office would require additional time to consult with counties and local election officials to determine whether these changes would be feasible for their envelopes.

The Office further notes that absentee voters receive an instruction sheet in addition to their signature envelope (as described in Rule 8210.0500). The Office respectfully submits that these instructions address several of the commentators' concerns. For example, the instructions ask the voter to provide the same driver's license, state identification card, or Social Security number they used on their absentee ballot application and the Office is proposing to amend those instructions to include a reminder for the voter to provide multiple numbers if they cannot remember which number they previously provided. The instructions also instruct the voter to check the box on the signature envelope if they do not have such a number. The instructions also require the voter and witness to complete all information on the form. And finally, in 2025, the Minnesota legislature amended Minnesota Statutes section 203B.04, subdivision 1 to require voters to provide both their driver's license or state identification card number and the last four digits of their Social Security number when applying for their absentee ballot online. This means it is far less likely that absentee ballots will be rejected because the voter did not provide same number on their absentee ballot as they did on their online application. The Office respectfully submits the instruction sheet, signature envelope, and legislative amendments to Section 203B.04 together provide the necessary information in a clear format for voters to complete and return their absentee ballot.

Finally, the Office appreciates and agrees with the commentors' concerns regarding the accessibility of ballots and instructions to those for whom English is not their first language. The Office notes, however, that in 2023, the Minnesota Legislature enacted Section 204B.295, which provides additional assistance to voters for whom English is not their language. The Office will consider in future rulemaking proceedings whether additional changes to assist those voters are needed.

H. Members of the House Elections Finance and Government Operations Committee

Members of the House Elections Finance and Government Operations Committee submitted comments on the following rules:

i. Section 8200.3000

Committee members ask that this proposed amendment be withdrawn because it imposes new costs upon counties by requiring them to accept voter registration applications from nonresidents and submit them to the correct county. The Office respectfully submits that the new language in this rule merely clarifies an already existing obligation of counties to submit applications from nonresidents to the correct county, as the previous language stated “When a county auditor receives a voter registration application from a person whose address is in another county, the auditor shall within two working days forward the application to the auditor of the proper county[.]” The Office submits that this rule is consistent with already existing practice with the counties, as well as guidance the Office has provided those counties regarding the rule in its current state. But to eliminate any ambiguity about the obligation of the county auditor to forward the application, the Office proposes adding this new language. The Office submits that this rule is necessary and reasonable to make voter registration easier and more accessible. Finally, the Office is aware that only a small number of applications ever need to be forwarded as a result of this rule.

ii. Section 8200.3550

Committee members state that this rule places new mandates on county auditors by requiring to notify individuals that their right to vote has been restored after they are released from incarceration. The Office submits that the rule maintains the same process as has always been in place: counties must notify individuals once their right to vote has been restored. Under the previous law, the Minnesota Department of Corrections (DOC) would provide a report containing the name, address, date of birth, and last four digits of the Social Security number for all those persons who had been discharged from their

sentence. *See* Minn. Stat. 201.145, subd. 4 (2022). Counties would use that list to remove the person's challenge status and then notify them that their right to vote had been restored. Following the 2023 law change, counties continue to receive the same report from the DOC, with it now containing a list of individuals who have been released from incarceration. Minn. Stat. § 201.145, subd 4 (2025). County auditors continue to use that report to remove the challenge indicator from the voter's record and check a box to trigger the mailing of a postal verification card to notify the person whose right to vote has been restored. As a result, the rule will place no additional administrative burden on counties. They continue to receive the same report from the DOC and continue to use that report to contact those whose right to vote has been restored. In fact, the number of individuals who need to be notified under this rule has decreased dramatically since the amendments to Minnesota Statutes section 201.145.

iii. Section 8200.9940

The committee members express concern that the form does not include an instruction to election judges reminding them that, under Minnesota Statutes section 201.061, subdivision 3, they may not vouch for an individual in the precinct in which they are working unless the election judge personally knows the individual is a resident of the precinct. They also express concern that the form does not contain an instruction stating that residential facilities must provide a list of all their employees and that those employees must provide proof of their employment to the election judge.

The Office respectfully submits this proposed instruction is outside the scope of the rule. The purpose of this rule is to provide a form so that election judges may track the **number** of people an individual has vouched for on election day. The rule is not intended to create a form that contains an exhaustive list of all the additional requirements related to vouching (for example, the form does not contain an instruction stating that vouchers not working in residential facilities must be registered to vote in the precinct in which they are vouching). The Office regularly prepares and provides training and guidance to local election officials and election judges and has already provided guidance on the changes to the vouching laws this year. The Office is also in the process of updating the formal guidance on its website as well to address these changes.

iv. Section 8210.0500

The committee members suggest that this language should be clarified to limit the type of instructions that jurisdictions may provide to absent voters. The Office agrees that some additional language could help resolve ambiguity about what may be included and will

amend the proposed rule to add “jurisdiction specific” after the word “additional” in line 10.21 of the draft rules.

v. Section 8210.2500

The committee members suggest this change be withdrawn, suggesting that the elimination of the 4:00 p.m. deadline for the delivery of ballots from the post office on election day will lead to confusion. The Office respectfully disagrees.

As discussed in the SONAR, there have been substantial changes in the way the U.S. Postal Service (USPS) handles election-related materials, and mail more generally. While historically the last delivery of mail on election day took place on or before 4:00 p.m., local election officials have reported that the COVID-19 pandemic (and subsequent upswing in mail voting), along with the USPS’s institution of “extraordinary measures” ([see https://about.usps.com/newsroom/national-releases/2024/1023-usps-provides-pre-election-update-on-secure-mail-operations-and-delivery.htm](https://about.usps.com/newsroom/national-releases/2024/1023-usps-provides-pre-election-update-on-secure-mail-operations-and-delivery.htm)) have made it very common for mail to be delivered after 4:00 p.m.

The proposed rule change will not lead to confusion. In fact, it clarifies the process that municipal clerks must follow, ensuring greater consistency across the state as well as better compliance with state law. While under state law, absentee ballots delivered in person must be received by 5:00 p.m. on election day, all other ballots must be delivered by 8:00 p.m. on election day to be counted. Minn. Stat. § 203B.08, subds. 1, 3. Indeed, the rule in its previous iteration did not prohibit municipal clerks from delivering ballots received by mail after 4:00 p.m. to the absentee ballot board, it just did not affirmatively require them to take reasonable steps to do so. This meant that some municipalities might deliver ballots received after 4:00 p.m. to be processed and counted, while others might not, potentially meaning that some voters would not have their votes counted even though they had delivered their ballot by the appropriate time. Nothing in the previous iteration of the rule could overrule this separately imposed deadline.

The new rule ensures that all municipal clerks must take steps to return all ballots received on election day to the absentee ballot board **before polls close**. Ballots must therefore still be delivered by that time (8:00 p.m.) in order to be counted. Any ballot received after 8:00 p.m. would not be accepted or counted. To the extent the committee members take issues with other portions of the language in that rule, that language was previously approved in a separate rulemaking hearing and is outside the scope of the rulemaking process now.

The Office appreciates that the Minnesota Legislature approved changes to the drop off time for absentee ballots in 2025. The Legislature did not, however, choose to impose a similar deadline for ballots received by mail. And it has previously chosen to delegate to this Office the authority to “adopt rules establishing procedures to be followed by county auditors and municipal clerks to assure accurate and timely return of absentee ballots.” Minn. Stat. § 203B.08, subd. 4. The Office respectfully submits that this change is reasonable and necessary to ensure all properly cast votes are counted in light of changes to mail delivery practices in recent years.

I. Senator Liz Boldon

Senator Liz Boldon, member of the Senate Elections Committee provided comments on the following rules:

i. Section 8200.5100

Senator Boldon suggests modifying the word “change” in lines 2.24 and 5.5 to “update.” The Office agrees this proposed change is reasonable so that the language is consistent with the terms used in the 2025 amendments to Minnesota Statutes section 201.061, subdivision 4. The Office will include those changes.

ii. Section 8210.0500

Senator Boldon suggests that the Office add other types of residential facilities to lines 17.22 through 17.24 of the absentee voting instructions. The Office respectfully submits these changes are outside the scope of the rule modifications, which were only intended to replace the names of certain facilities with the names of which they are more currently referred to today.

In addition, the Office respectfully submits that the language in the proposed instructions is sufficient. The proposed instructions say that vouching is permitted for “residents of **certain** residential facilities . . . **including** nursing homes, assisted living facilities, . . . **etc.**” As a result, it is clear that the instructions provide a non-exhaustive list of residential facilities, as has been the case since the rule was originally adopted.

Senator Boldon also suggests the Office reinstate the term “group home” in the list of residential facilities for which vouching is permitted. As described in the SONAR, the Office did not eliminate the term “group home” but replaced it with the term “assisted living facility.” The Office respectfully submits that this term is more appropriate because it is consistent with the statutory language of Minnesota Statutes section 201.061,

subdivision 3, which uses the term “assisted living facility” (defined under section 144G.08, subdivision 7 to mean any facility that provides sleeping accommodations and assisted living services to adults) and does not use the term “group home.”

In addition, Senator Boldon proposes replacing the term “domestic abuse shelter” with the term “domestic violence shelter.” The Office believes this change is reasonable in light of the terms used by those in this field, as described by Senator Boldon. The Office will replace “abuse” on line 17.24 with “violence.”

Finally, Senator Boldon suggests that no notice be provided regarding the absentee ballot instructions that are sent to all voters identifying the 8:00 p.m. deadline for those who are subject to the deadline in Minnesota Statutes section 203B.11 because they are a patient in a hospital or resident of a health care facility. Senator Boldon suggests, however, that some additional notice be included when ballots are mailed to those patients or residents. While the Office had intended to provide additional guidance to those individuals delivering absentee ballots under Minnesota Statutes section 203B.11, the Office agrees that it would be appropriate to modify the rule to allow for a specific instruction to be given to those voting under this statute. Accordingly, the Office intends to add after the word “6” in line 10.2 the phrase “except that jurisdictions may substitute the deadline for agent delivery of ballots from 5:00 p.m. to 8:00 p.m. for those individuals voting pursuant to Minnesota Statutes section 203B.11.”

iii. Section 8200.9950

Senator Boldon asks that two changes be made to the form used to challenge a voter’s eligibility before Election Day. First, she asks that a section be added to require the challenger to explain what they did to verify the facts and circumstances establishing the basis for the challenge. The Office respectfully submits that the proposed changes to the form are sufficient to address this concern and more consistent with the statutory language of Section 201.195. The 2023 amendments to the statute require the petitioner to “provide facts and circumstances supporting the challenge, and may include supporting documents, affidavits, or other evidence” and that the filer must certify that they “exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge.” The changes to the form in rule mirror the statutory language precisely. To require more than what is in statute would exceed the Office’s authority in rulemaking.

Second, Senator Boldon suggests that the statutory requirement that the challenger submit an affidavit stating “the challenge is based on the challenger's personal knowledge, and that the filer exercised due diligence to personally verify the facts and circumstances

establishing the basis for the challenge” means the filer must have this statement signed and notarized. The Office respectfully submits a sworn statement or affidavit is not required. In many other circumstances where an affidavit is required, the legislature has specifically identified when an affidavit must be sworn or notarized. *See* Minn. Stat. §§ 83.26, subd. 2(j) (requiring a “notarized affidavit”); 144E.41(e) (same); 148.705, subd. 2(a)(3) (requiring the affidavit on the form “completed and notarized”). In addition, the requirement that any challenge be accompanied by an affidavit existed before Section 201.195 was amended in 2023. Prior to that amendment, it had always been the practice under the current language that the affidavit need not be sworn or notarized. The Office therefore respectfully submits that the change in law does not justify the proposed change.

iv. Sections 8210.0500, .0600, and .3000, and 8215.0500.

Senator Boldon suggests modifying the instruction “Any person who is at least 18 years of age on or before the day of the election and who is a citizen of the United States” to “Any U.S. citizen who is (or will be) at least 18 years old by Election Day” in lines 11.13 to 11.14, 14.21 to 14.22, 27.13 to 27.14, 35.6 to 35.7, and 40.13-40.14. Senator Boldon further submits that the affirmation ““I am at least 18 years of age on or before the day of the election and a citizen of the United States” (found on lines 27.13 to 27.15, 29.9 to 29.11, 38.12 to 38.14, and 44.2 to 44.4) should be changed to ““I am a U.S. citizen and am (or will be) at least 18 years old by Election Day.” Finally, Senator Boldon submits that the instructions for voters to request and receive accessible ballots (located on lines 13.22 to 13.27, 18.12 to 18.17, 21.2 to 21.7, 25.26 to 26.3, 37.9 to 37.14, and 42.20 to 42.25) be modified to “If you have a disability that makes it difficult to read, write, or use printed materials, you have a right to use an accessible absentee ballot sent to you by email. You will be able to use your computer or phone to fill out your ballot and the forms, but will need to print them and return the paper copies by Election Day. To request an accessible ballot, contact your county auditor.” The Office appreciates each proposal, but respectfully submits that its proposed instructions and affirmation are more appropriate because they are nearly identical to the text of Sections 203B.07 and 203B.29 and therefore less likely to cause confusion about purported discrepancies between statute and rule.

Senator Boldon also suggests moving down the instructions regarding access to an accessible ballot. The Office agrees the accessibility instructions would be clearer if placed elsewhere, but believes a more appropriate location would be after the first sentence of the section entitled “If you have a disability.” The Office will therefore move lines 13.22 through 13.27 to after the word “you” on line 13.12; lines 18.12 to 18.17 to after the word “you” on line 18.2; lines 21.2 to 21.7 to after the word “you” on line 20.19; lines 25.26 to

26.3 to after the word “you” on line 25.16; lines 37.9 to 37.14 to after the word “you” on line 36.23; and lines 42.20 to 42.25 to after the word “you” on line 42.10.

v. Sections 8215.0300, .0400, and .0500

Senator Boldon suggests modifying the language in lines 39.5, 39.14 to 39.15, and 43.11 to delete the phrase “the chair of” since it is likely the chair will use the data in ways that will make others aware of the data. The Office appreciates this suggestion but respectfully submits that its proposed language is more appropriate because it is consistent with the statutory language of Minnesota Statutes section 201.091, subdivision 4a.

J. Comments Asking the Office to Adopt Additional Rules

Several commentors asked that the Office adopt additional rules, in particular requirements that proof of citizenship be required to register to vote; (1) real time voter roll audits; (2) a ban on foreign software in Minnesota elections; (3) post-election roll freezes and logging; (4) fraud detection training for officials; (5) tying funding to voter roll accuracy; and (6) complying with a demand from the U.S. Department of Justice for Minnesota’s statewide voter registration list. These comments propose changes that are outside the scope of the Office’s current rulemaking, which is intended to primarily address changes made to Minnesota election law in the previous legislative sessions. Moreover, the changes sought here would be inconsistent with the Minnesota Constitution and Minnesota election law.

K. Conclusion

The Office appreciates the comments that were transmitted before the hearing and submits that it has adequately addressed the issues raised by them through this response.

Respectfully submitted,



Justin R. Erickson
General Counsel

Exhibit A

Summary of Anticipated Changes to Election Rules from prehearing comments

1. Line: 2.24: replace “change” with “update”
2. Line 3.13: insert “felony” before “incarceration”
3. Line 5.5: replace “change” to “update”
4. Line 10.2: add after “6” in line 10.2 “except that jurisdictions may substitute the deadline for agent delivery of ballots from 5:00 p.m. to 8:00 p.m. for those individuals voting pursuant to Minnesota Statutes section 203B.11.”
5. Line 10.21: insert “jurisdiction specific” after the word “additional”
6. Lines 13.22 through 13.27: move to after the word “you” on line 13.12
7. Line 17.24: replace “abuse” with “violence”
8. Lines 18.12 through 18.17: move to after the word “you” on line 18.2
9. Line 19.23: replace “both numbers” with “more than one number”
10. Lines 21.2 through 21.7: move to after the word “you” on line 20.19
11. Line 24.10: replace “both numbers” with “more than one number”
12. Lines 25.26 through 26.3: move to after the word “you” on line 25.16
13. Line 32.2: add “between the absentee ballot return envelopes and the record required by this rule” after the word “discrepancy.”
14. Lines 37.9 through 37.14: move to after the word “you” on line 36.23
15. Lines 39.17 through 39.19: replace the first sentence (beginning with “Until” on line 39.17 and ending with the word “requesting” on line 39.20) with the following: “A voter who has returned a ballot may change the voter's choice of which major

political party ballot the voter wishes to receive by spoiling the voter's ballot and submitting a new application indicating the major political party ballot the voter is requesting until the close of business on the 19th day before the election."

16. Lines 42.20 through 42.25: move to after the word "you" on line 42.10