

## **Max Hailperin's Testimony on HF 1952DE2 (State Government Omnibus), 2021-04-05**

I represent Citizens for Election Integrity Minnesota (CEIMN), a nonpartisan, nonprofit organization working toward verifiable, transparent, and accurate elections. Because of this focus, we particularly support 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.

### **Automatic Recounts of Constitutional Amendment Ballot Questions**

Article 3, Sections 56 and 57 provide for an automatic recount if a constitutional amendment ballot question is closely decided, such as passing with 50.1% of the ballots or failing with 49.9%. 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. Only the statewide ballot questions concerning constitutional amendments are left unaddressed. Yet 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 Article 3, Sections 72 and 73 of the omnibus 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.