



Voter Registration

2018
EVALUATION REPORT

Program Evaluation Division
OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Program Evaluation Division

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OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

March 2018

Members of the Legislative Audit Commission:

In Minnesota, people must register before they can vote. Voter registration contributes to the integrity of elections, but it may pose a barrier for some people who are eligible to vote.

Responsibility for the state's list of registered voters is shared. The Office of the Secretary of State is responsible for developing and maintaining the state's centralized voter registration database, but county election officials are responsible for processing registration applications and maintaining voter records for voters in their counties.

County election officials and the statewide database draw upon numerous sources of information to verify and maintain voter records. However, an individual voter's listing in the roster on election day may not be accurate. Contributing factors include human error and data quality issues.

We recommend the Secretary of State's Office update the statewide voter registration database. We also recommend the office consult with counties about developing a new report to help county election officials identify persons who may have registered while ineligible.

Our evaluation was conducted by Carrie Meyerhoff (project manager), Ryan Moltz, and Jessica Obidike. The Office of the Secretary of State, county election officials, and other state and local officials cooperated fully with our evaluation, and we thank them for their assistance.

Sincerely,

Handwritten signature of James Nobles in black ink.

James Nobles
Legislative Auditor

Handwritten signature of Judy Randall in black ink.

Judy Randall
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Summary

Key Facts and Findings:

- In Minnesota, people must register before they can vote. Voter registration helps maintain election integrity, but it may also restrict access to voting for some people. (pp. 4-5, 74-76)
- Depending on how and when persons register to vote, their identity and eligibility to vote might not be checked against other data sources until after they have voted. (pp. 6-9)
- Minnesota allows voters to register on election day, which provides access to voting but may also allow ineligible persons to register and vote. (pp. 9-10, 37-47)
- County staff create and update records of registered voters in the Statewide Voter Registration System (SVRS), Minnesota's centralized database of registered voters, but a voter's information may be inaccurate on the voter roster on election day. (pp. 18-21, 24-27, 31-33)
- The Secretary of State's Office maintains SVRS, and most election officials who responded to our survey were satisfied with the system's performance. (pp. 17, 33-34)
- Minnesota does not allow people serving a sentence for a felony conviction to register or vote. The oath for challenged voters allows people who should not be challenged for a felony conviction to vote, but it may inadvertently allow ineligible persons to vote, too. (pp. 47-52)
- Almost two years of county attorneys' reports included 69 investigations that suggest a person registered or voted while ineligible. The reports suggest

a larger number of allegations were unfounded, but the reports may be an unreliable source of information about all investigations. (pp. 58-59)

- State law defines intentionally registering to vote while ineligible or knowingly voting while ineligible as felony offenses. But most charges for these offenses did not result in a conviction, and most sentences were not at the felony level. (pp. 60-61)
- Various government agencies and community organizations provided voter registration services in 2016. Some of them also identified barriers to registration. (pp. 65-76)

Key Recommendations:

- The Secretary of State should modernize SVRS, working with the Legislature to identify adequate resources. (p. 36)
- To identify people who may have voted while ineligible to do so, county election officials should consider using the report that SVRS produces for this purpose. (p. 55)
- The Secretary of State's Office, in consultation with county election officials, should consider developing a report that would help county staff identify people who have not voted for several years and re-register to vote when they are not eligible. (p. 56)
- The Legislature should clarify its expectations of state agencies to provide voter registration services to members of the public. (p. 70)

Voter registration contributes to election integrity, but registering may be difficult for some eligible people.

Many data sources contribute to maintaining voter records, but some voter listings on election day rosters may be inaccurate.

Report Summary

Election integrity is important to our democracy. Eligible citizens should have confidence that they will be able to vote in elections and that their vote will count. At the same time, it is important that the election process guards against voter fraud and voting by people who are not eligible to do so.

To vote in Minnesota, a person must be a citizen of the United States, at least 18 years old, and a resident of the state in the 20 days before an election. The person may not (1) be serving a sentence for a felony conviction, (2) be under guardianship in which a court has revoked the right to vote, or (3) have been found by a court to be legally incompetent.¹ More than 2.9 million Minnesota residents voted in the 2016 general election.

Voter registration is important to ensuring the integrity of elections.

Minnesota requires people to register before they can vote. Voter registration allows county election officials, who maintain the records of registered voters in their county, to verify registrants’ name, date of birth, and residence.

Voter registration also enables county officials to prepare voter rosters. Voter rosters help ensure people vote in the correct polling place on election day.

County staff use a statewide database and numerous sources of data to create, verify, and update voter records.

County election staff create and update voter records in the Statewide Voter Registration System (SVRS)—Minnesota’s centralized database of registered voters. Staff complete this

task for all persons who register to vote. But for election day registrants, creating or updating records occurs after they have voted.

Through SVRS, county election staff verify registrants’ identities against Minnesota driver’s license data, for example. They also mail postcards to registrants. Because the U.S. Postal Service may not forward the postcard if the listed person does not reside at the address, its delivery confirms the person’s residence.

Several data sources help county staff maintain voter records. For example, the U.S. Postal Service’s National Change of Address file helps county staff keep voter addresses up to date. Data from the Minnesota Department of Health alert county staff to people who have died in Minnesota. Finally, an annual process by the Secretary of State’s Office changes voters’ records to “inactive” if they have not voted or initiated updates to their voter record in four years. These processes help keep voter information accurate and voter rosters free of excess voter listings.

Other data alert county staff to possible changes to registered voters’ eligibility to vote. For example, the State Court Administrator’s Office notifies SVRS when a person is convicted of a felony or discharged from a felony conviction by the court. People serving a sentence for a felony conviction may not register or vote in Minnesota.²

Creating, verifying, and updating registered voters’ records is a large task. County election staff processed more than 1.6 million voter registrations, confirmations of identity, eligibility checks, and other SVRS tasks in 2016.

¹ *Minnesota Statutes* 2017, 201.014.

² *Minnesota Statutes* 2017, 201.014, subd. 1, and 201.054, subd. 2(1).

Although county staff create and update voter records, the Secretary of State's Office developed and maintains SVRS. Most election officials who responded to our survey were satisfied with SVRS's performance, some officials noted limitations of the aging system. We recommend the Secretary of State modernize SVRS and work with the Legislature to identify adequate resources to do so.

Work practices and data reliability may cause individual voter records to be inaccurate on election day.

In spite of county workers' efforts to maintain voter records and the variety of data sources used in the process, some voters' records will be inaccurate or out of date on the voter roster.

We do not think such anomalies are widespread, but they could affect a person's voting experience. Factors that contribute to inaccuracies include when county election staff complete registration tasks in SVRS, timeliness of data sources, human error, and data errors.

Voter registration may be a barrier to voting for some individuals who are eligible to vote.

We surveyed county election officials and dozens of city election officials about a variety of election topics, including barriers to voter registration. We also asked Community Action agencies about barriers to registration in the communities they serve.

Most county and city election officials who responded to our surveys were unaware of barriers to registration for eligible voters, or they thought barriers were adequately addressed.

Still, some election officials and most community agency representatives

identified barriers to registration. For example, several officials and representatives noted challenges for non-English speakers. Barriers most cited by Community Action agency representatives related to uncertainty about the registration process. They also listed factors that may make registration difficult, such as lack of identification and moving frequently.

Election day registration provides access to voting, but it may inadvertently permit ineligible people to vote.

Among other options, Minnesota allows people to register on election day. To do so, people complete a voter registration application at their polling place and provide an election judge with proof of identity and residence. The application includes an oath asserting the voter's eligibility to vote.

Voters might register on election day if they were unable to register beforehand. But most of the more than 355,000 people who registered on election day in 2016 updated or reactivated their registration. For example, registered voters who move without updating their registration have to register on election day, as do voters who are not listed on the voter roster due to not voting for four years.

County election staff do not compare election day registrants' information with data sources that might indicate they are ineligible to vote until after the election. Thus, people who are ineligible to vote may be able to do so.

Most people whose eligibility to vote or residence is "challenged" may vote after swearing an oath for challenged voters.

If data indicate a registered voter may be ineligible to vote, the person will be

Registration and voting practices that increase access to voting may inadvertently allow ineligible persons to vote.

There are challenges to prosecuting registration and voting offenses, and most charges do not result in conviction.

“challenged” on the voter roster. A “challenged” notation is not evidence of ineligibility to vote, but it indicates the possibility of it.

Minnesota allows most registrants whose eligibility is “challenged” to vote after answering relevant questions and swearing to their eligibility. For example, a person who is challenged as possibly serving a sentence for a felony conviction may be asked if he has completed his sentence. During the 2016 general election, at least 400 people challenged for a felony conviction voted after completing the oath for challenged voters. Investigation results reported by county attorneys to the Secretary of State showed that some of these persons were still serving a sentence, but others were not.

Not all county officials use an SVRS report designed to identify voting by ineligible persons. We recommend election staff consider using the report. We also recommend the Secretary of State’s Office work with counties to design a report to identify inactive voters who register while ineligible.

County attorneys’ reports over an almost two-year period indicated 69 instances of registration or voting by ineligible persons.

County attorneys’ reports included dozens of investigations that found registering or voting by ineligible persons had occurred. But the reports, which varied in content, suggest even more investigations did not reach that conclusion. One county attorney said that most investigations find the subject was eligible to vote.

In cases of ineligible persons registering or voting, county attorneys must show the person either intentionally registered

or voted knowing it was against the law. County attorneys cited challenges to prosecuting these cases, such as proving that a person convicted of a felony and sentenced to probation was informed of registration and voting restrictions.

As of August 2017, fewer than half of the charges of persons registering or voting while ineligible, filed over a five-year period, had resulted in conviction (47 of 132 charges with outcomes). Although state law defines these acts as felonies, fewer than half of the convictions received felony-level sentences.

As required by law, most state agencies we surveyed provided voter registration services to employees and the public in 2016.

State law includes numerous provisions requiring state agencies and other organizations to provide voter registration services. Generally, state agencies must provide services to employees and members of the public, including providing the public with access to and assistance with voter registration applications.

Most state agencies on the Governor’s Cabinet said they provided voter registration services to both employees and members of the public. City and county election officials also reported providing voter registration services in 2016, as did Community Action agency representatives.

Some state agencies noted challenges to implementing the requirement to provide services to the public, including (1) identifying or training staff and (2) finding appropriate opportunities. We recommend the Legislature amend state law to clarify its expectations of state agencies for providing voter registration services to the public.

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Introduction

Voting is the cornerstone of our democracy. It permits eligible United States citizens to elect who will represent them in federal, state, and local offices.

Minnesota, like most states, requires people to register before they vote.¹ This may allow election administrators to learn of a person's ineligibility to vote before an election, which contributes to the integrity of elections and the confidence voters can have in the results.

On the other hand, voter registration can erect barriers for eligible people who want to vote. The goal, therefore, is to establish a voter registration system that ensures integrity without creating unreasonable obstacles.

With this goal in mind, the Legislative Audit Commission directed the Office of the Legislative Auditor to evaluate Minnesota's voter registration policies and procedures. We asked the following questions:

- **What types of voter registration does Minnesota allow? How do voter registration options differ?**
- **How well does Minnesota's statewide voter registration database ensure the accuracy of Minnesota's voter rosters? Does the Office of the Secretary of State have adequate authority to oversee how local governments use the database?**
- **What voter registration services did the Office of the Secretary of State and state agencies provide in 2016? What barriers to registration might eligible voters experience?**
- **How do election day registration and the oath of eligibility provide access to voting? What concerns do they raise about the integrity of Minnesota's elections?**

To learn more about voter registration, we interviewed staff from the Office of the Secretary of State, read state and federal laws, and reviewed literature about methods of voter registration in Minnesota and other states. We surveyed the chief election official in all 87 counties and 45 city election official in Hennepin County and Duluth. We also visited eight counties, where we interviewed the chief election official and county attorney. We reviewed election-related documents for a sample of precincts in these counties, as well.

We used additional approaches to understand how Minnesota's statewide voter roster is created and maintained. We analyzed data from the Statewide Voter Registration System, Minnesota's centralized database of registered voters, about voters in the 2016 general election and county transactions to maintain voter records. We also analyzed data about persons convicted of a felony or who completed their felony sentence that the State Court Administrator's Office reported electronically to the Secretary of State's Office in Fiscal

¹ Of the 50 states and Washington, DC, only North Dakota does not require voter registration.

Year 2017. The Secretary of State uses these data to identify registered voters who may be ineligible to register and vote.

To further understand the process of identifying, investigating, and charging persons alleged to have committed registration or voting offenses, we compiled information from investigations reported by county attorneys to the Secretary of State's Office in 2016 through September 2017. We also obtained court data on persons charged with or convicted of election-related offenses during a five-year period.

Finally, we requested information from state agencies about their voter registration services, and we asked Community Action agencies about barriers to registration in their communities.

In Chapter 1, we describe Minnesota's voter registration options and how the process differs between registering before an election and registering on election day. We also present information on registration options in other states.

Chapter 2 describes activities by counties and the Office of the Secretary of State to maintain Minnesota's list of eligible registered voters in Minnesota's statewide voter registration database. We highlight some causes of inaccuracies in the list, and we recommend changes. However, a review of the security of the voter registration database was beyond the scope of this evaluation.

In Chapter 3, we discuss how Minnesota makes voting possible for people who would not otherwise be able to vote on election day and the extent to which voters used these options in the 2016 general election. We also present information on instances of registration and voting by ineligible persons. However, we did not reach firm conclusions about voters' eligibility.

Finally, we conclude with information in Chapter 4 on voter registration services provided by different agencies in 2016, as well as barriers to voter registration.

A person's perspective on voter registration policies may reflect his or her comfort with the type of error that could result from a policy. In other words, is it better to prevent ineligible persons from voting, even if the consequence is that some eligible voters may be unable to vote? Or is it better to ensure that every eligible person who wants to vote is able to do so, even if the consequence is that some ineligible persons may vote, too? We do not answer these questions in this evaluation. Nor do we offer an opinion on whether Minnesota's approach to voter registration appropriately balances integrity and access concerns. Instead, we provide objective information about how aspects of voter registration in Minnesota affect the integrity of and access to voting.

Chapter 1: Background

Election integrity and ballot access are important to our democracy. Eligible citizens should have confidence that they will be able to vote in elections and that their vote will count. At the same time, it is important that the election process guards against voter fraud and voting by people who are not eligible to vote.

In this chapter, we outline Minnesota’s voter eligibility requirements within the context of the United States Constitution. We explain why voter registration is important and how it contributes to the integrity of Minnesota’s elections.¹ We also describe how different registration methods involve different processes for verifying voter information and eligibility. We then contrast voter registration policies in other states with those in Minnesota.

Overview

Federal law distributes power over the administration of elections in the United States to both the states and the U.S. Congress. In general, the U.S. Constitution gives states wide latitude to control elections. The Elections Clause of the U.S. Constitution requires states to regulate the “times, places and manner” of holding elections for federal office. The U.S. Supreme Court has construed “times, places and manner” to encompass many features of federal elections, including voter registration. Thus, states must prescribe voter registration regulations, but Congress may also pass laws related to voter registration that would supplant state regulations.²

The U.S. Constitution also gives states broad power to determine who gets to vote,³ but this power is not unlimited. For example, states may not deny or abridge the right to vote on the basis of race, sex, or age (if the voter is at least 18 years old).⁴ However, it is permissible for states to abridge or deny the right to vote on the basis of mental incapacity, criminal conviction, or a lack of U.S. citizenship.⁵

In the remainder of this section, we outline Minnesota’s voter eligibility requirements. We explain how county election staff use registration information to assign voters to precincts

¹ Minnesota’s voter registration requirements may be a barrier to voting for some eligible citizens. We discuss barriers to voter registration in Chapter 4.

² *U.S. Constitution*, art. I, sec. 4, cl. 1. The clause states: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.” *Smiley v. Holm*, 285 U.S. 355, 366 (1932). The court’s opinion said that the Elections Clause “embrace[s] authority to provide a complete code for congressional elections, not only as to times and places, but in relation to... registration....”

³ *U.S. Constitution*, art. I, sec. 2, and amend. XVII.

⁴ *U.S. Constitution*, amends. XV, sec. 1; XIX; and XXVI, sec. 1.

⁵ Mental incapacity: *52 U.S. Code*, sec. 20507(a)(3)(B) (accessed electronically October 25, 2017). Criminal conviction: *Richardson v. Ramirez*, 418 U.S. 24 (1974). Citizenship: The U.S. Supreme Court has noted, “implicit in many of this court’s voting rights decisions is the notion that citizenship is a permissible criterion for limiting such rights.” *Sugarman v. Dougall*, 413 U.S. 634, 649 (1973).

and describe voter rosters, which contribute to election integrity. We conclude with a brief explanation of different officials' roles in the registration process.

Eligibility

Minnesota's Constitution and state statutes outline who is eligible to vote in the state. To vote in Minnesota, an individual must be a citizen of the United States and at least 18 years of age on the day of the election. An individual also must have been a resident of Minnesota for the 20 days immediately preceding an election. Among people meeting these criteria, three groups of individuals are ineligible to vote: (1) individuals who have been convicted of treason or a felony whose civil rights have not been restored; (2) individuals under guardianship in which a court order revokes their right to vote; and (3) individuals found by a court of law to be legally incompetent.⁶

State law prohibits individuals who are ineligible to vote from intentionally registering to vote; violation of this law is a felony.⁷ However, in an attempt to encourage voter turnout among younger populations, Minnesota allows persons who meet other eligibility criteria but are younger than 18 to register if they will be 18 years old by the next election.⁸

Registration

Voter registration is the process by which people provide information on their identity and residence so they may vote. This information allows the state to verify registrants' eligibility to vote. For example, if a registrant provides a current Minnesota driver's license number on the registration application, the state's voter registration database compares the registration information to the name and address in Minnesota's driver's license database. This step confirms a registrant's age and identity.⁹

In addition, county election officials use voter registration information to compile a list of registered voters in the county and determine where each person may vote. County election staff assign each registered voter to a precinct based on the voter's address. A precinct is a geographic area defined by local government officials for election administration purposes. Residents in a precinct vote for the same offices from among the same candidates on election day (for example, school board and city council members, state legislator, and United States representative). Each precinct has one polling place where the precinct's residents may vote.

Assigning voters to precincts and polling places helps election judges—the people who staff polling places on election day—make sure voters (1) receive a ballot that reflects the offices for which they may vote and (2) vote only once. A voter roster assists with this task.

⁶ *Minnesota Constitution*, art. VII, sec. 1; and *Minnesota Statutes 2017*, 201.014. The eligibility requirements for citizenship and residency differ in these two documents. According to a Minnesota Office of the Attorney General opinion, a 1974 district court ruling upheld legislative amendments that established the eligibility requirements in state law. See Op. Atty. Gen. 184i, August 2, 1982.

⁷ *Minnesota Statutes 2017*, 201.054, subd. 2(1).

⁸ *Minnesota Statutes 2017*, 201.061, subd. 1.

⁹ We provide more information about how the state verifies eligibility later in this chapter and in Chapter 2.

Voter Roster

A voter roster is the list of registered voters in a precinct. According to Minnesota rules, the roster must contain each registered voter's name, address, birthdate, and school district number. It must provide a signature line for each voter and include a certification at the top of each page affirming voters' eligibility.¹⁰ The roster helps election judges confirm voters are in the correct polling place on election day. Because a voter must sign the roster before receiving a ballot, the roster also helps prevent double voting.

Some people who are eligible to vote will not be listed on the voter roster for their precinct. These include, for example, people who have never registered to vote, have not voted in four years, or who were unintentionally omitted from the roster due to clerical error. People who are not listed on the voter roster may not vote unless they register on election day. We describe election day registration later in this chapter. The roster may also include some registered voters who are ineligible to vote. We describe how this can occur in Chapter 2.

Roles

Several types of election officials are responsible for administering voter registration in the state. The **Secretary of State** is Minnesota's chief election official. The Secretary of State's election responsibilities include maintaining Minnesota's centralized statewide database of registered voters and providing guidance about voter registration to the public and election administration to counties and municipalities.¹¹

County election staff maintain information about registered voters in their county using the statewide database of registered voters. County election staff receive, review, and verify voter information on registration applications. They also review information from state agencies and other sources that may affect a voter's eligibility to vote, such as information on felony convictions. County staff generate voter rosters from the statewide database. After an election, they update voter information to reflect voting activity. County election staff also train and certify municipal clerks in election-related matters.¹²

Municipal clerks establish precincts and polling places. They may also train election judges if the county has delegated these responsibilities. **Election judges** administer elections at polling places. They have various roles on election day, including registering voters who are not listed in the voter roster. Election judges may be permanent municipal staff, volunteers, or temporary, paid employees.

We focused our evaluation on the roles of the Secretary of State's Office and county election officials. In Chapter 2, we discuss their roles maintaining the statewide voter registration database. We describe their efforts to promote voter registration in Chapter 4.

¹⁰ *Minnesota Rules*, 8200.9115, subp. 1, published electronically June 15, 2016.

¹¹ The Secretary of State also administers the Safe at Home program. Individuals may opt into the Safe at Home program, which protects the privacy of and facilitates voting for victims of violence. Eligible participants register and vote through the Secretary of State's Office. The process protects participants' home addresses from disclosure.

¹² Municipal clerks comprise city, township, and school district clerks.

Registration Processes and Methods

Minnesota law outlines several methods for people to register to vote before election day. Voters may register prior to election day by completing a paper application, an online application, or the voter registration portion of a Minnesota driver's license or identification card application. Minnesota also allows people to register on election day at their polling place.¹³

Regardless of how they register to vote, applicants must provide their name; birthdate; address; and driver's license number, state identification number, or the last four digits of their social security number, if they have one. As required by law, applicants must also certify their eligibility to vote. Applicants certify their eligibility by signing an eight-part oath on the registration application. The oath states that an applicant meets all eligibility criteria, with the last statement reading "...giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than \$10,000, or both."¹⁴

The process for verifying information in voter registration applications depends on the registration method.

Minnesota's statewide database and county election staff verify the eligibility of applicants who submit a registration application before election day. In contrast, election judges verify the identity and residence of people who register on election day; the database and county election staff verify age, residence, and other eligibility criteria after the applicant votes. Exhibit 1.1 shows these processes for paper voter registration applications received prior to election day versus on election day.¹⁵ In the following sections, we describe registration before election day and on election day in more detail.¹⁶

Registration Before Election Day

Minnesotans may register to vote by completing a paper application. Individuals must submit the paper application to their local election office by 5:00 p.m., on the 21st day prior to election day. For example, the registration deadline for the 2016 state general election, which was held on November 8, 2016, was 5:00 p.m. on October 18th. Persons who have a Minnesota driver's license or state identification card, or provide the last four digits of their social security number, and have a valid e-mail address may register to vote by completing an online application. Applicants must electronically submit this application to the Secretary of State by 11:59 p.m., on the 21st day before election day.

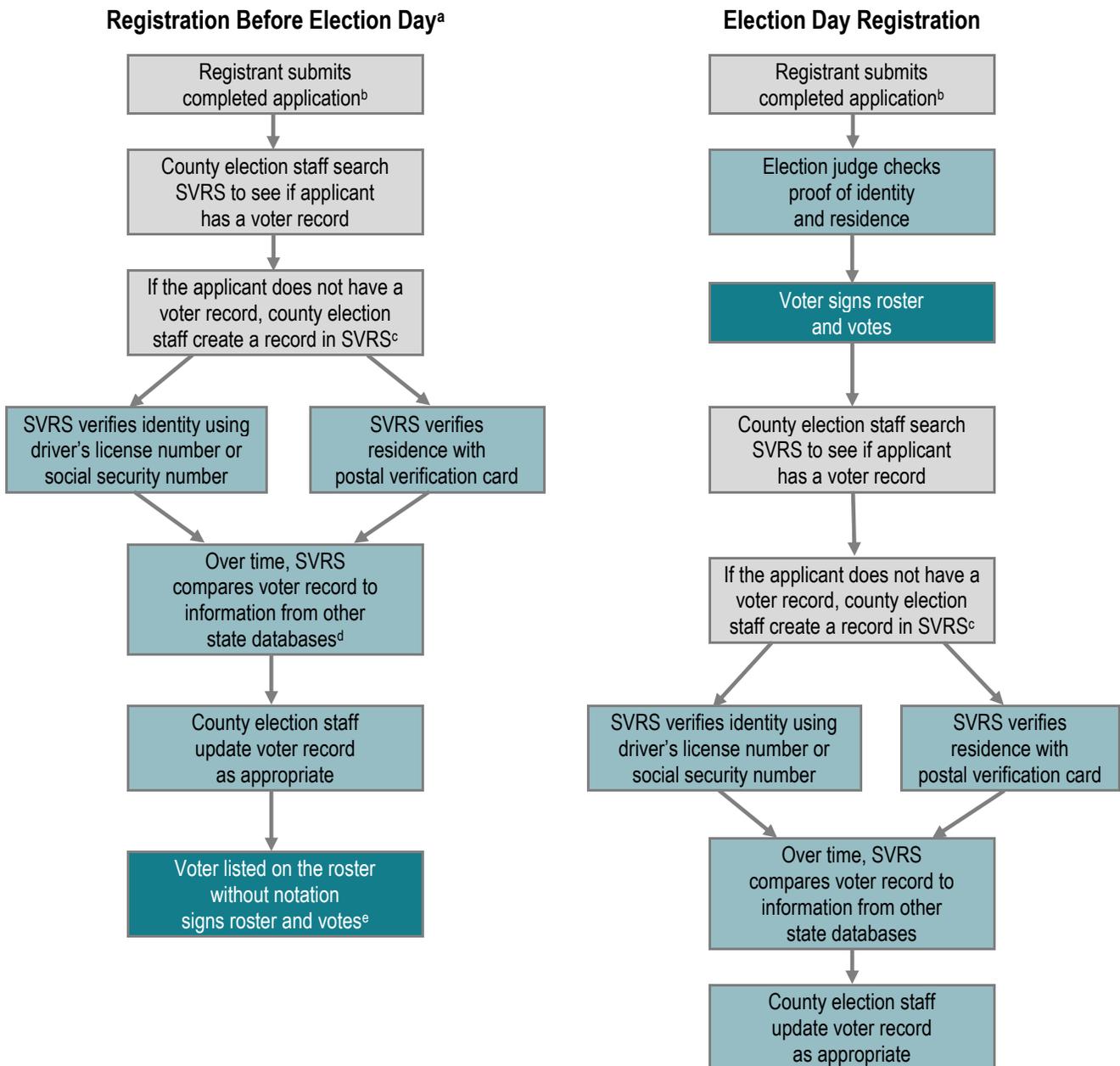
¹³ *Minnesota Statutes* 2017, 201.061 and 201.161. People may also submit a voter registration application with an absentee ballot. Voter registration applications that accompany absentee ballots are considered election day registrations.

¹⁴ *Minnesota Statutes* 2017, 201.071, subd. 1. In addition to the final statement, the oath includes statements such as, "I certify that I will be at least 18 years old on election day," and "I certify that I have not been found by a court to be legally incompetent to vote."

¹⁵ The verification process differs for electronic voter registration applications received prior to election day.

¹⁶ Minnesota has registration options for some people who are unable to use the methods we discuss in this chapter. See *Minnesota Statutes* 2017, 203B.11.

Exhibit 1.1: Processes for verifying registrations received before and on election day are similar, but they occur in a different order.



NOTE: SVRS is the Statewide Voter Registration System. It is the statewide list of registered voters.

^a This process reflects paper registration. Online registration applications are verified by SVRS before county staff create a voter record.

^b To complete the voter registration application, voters must provide their name, birthdate, address, driver's license or Minnesota state identification number, or the last four digits of their social security number. Then they must read an oath and sign the application.

^c If the applicant has a voter record, county election staff update the voter's information.

^d Voters who register close to the cutoff for pre-election registration might not be compared against all state databases and other sources depending on the frequency with which those databases communicate with SVRS.

^e Voters who are "challenged" on the roster must resolve the challenge before signing the roster and voting. We discuss the oath for challenged voters in Chapter 3. Voters with a "See ID" notation, discussed in Chapter 2, must show proof of identity and residence. Voters whose information has changed or who have become inactive need to register on election day.

SOURCE: Office of the Legislative Auditor.

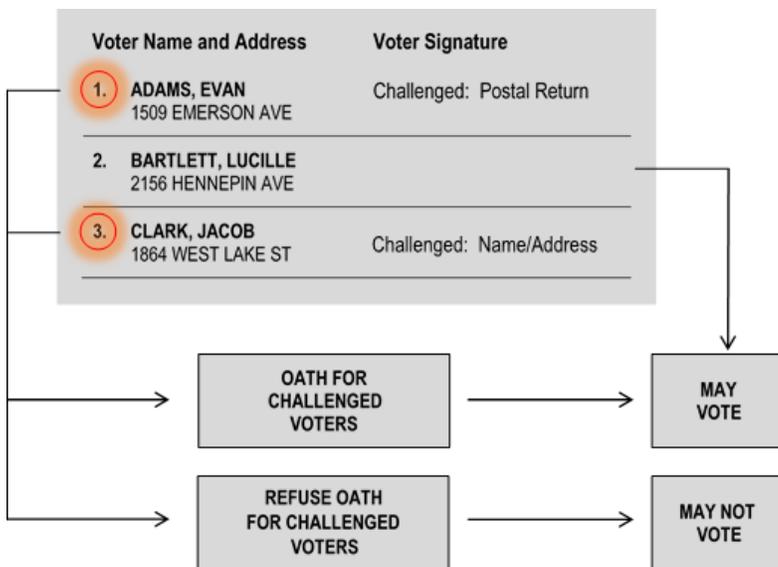
Minnesota also incorporates a voter registration application in the state driver’s license application. People applying for a driver’s license or state identification card may complete the voter registration information if they want to register. The Driver and Vehicle Services Division in the Department of Public Safety transmits the information to the Secretary of State, which then makes it available to county election staff in the statewide voter registration database.

County election staff process and facilitate verification of voter registration applications. They use information from completed applications to first determine if a voter record for the applicant already exists and if not, to create an electronic record for that voter in the statewide registration database, as the flowchart on the left side of Exhibit 1.1 shows. After county election staff create a voter record, the database triggers the mailing of a postal verification card to each registrant to verify his or her address.¹⁷ The database also verifies information from the application against Minnesota driver’s license data or data from the Social Security Administration.

Over time, voter information is compared to data provided by state agencies and other sources, which help county election staff maintain information about voters’ addresses and eligibility to vote. Voters who register before election day and remain active (that is, have voted in the last four years) should be listed on the voter roster at their polling place on election day.

At the polling place, an election judge confirms that a person is listed on the roster before he or she may vote. As shown by the second voter in the figure below, a voter who is listed on the roster and not “challenged” may sign the roster and vote. The roster, which is signed

by all voters before they vote, includes an oath certifying eligibility. A “challenged” notation on the roster means there is a question about the individual’s eligibility to vote. Persons’ eligibility may be challenged for a number of reasons, including possibly serving a sentence for a felony conviction or because the U.S. Postal Service returned a postal verification card sent to them. Registrants whose eligibility is “challenged” on the roster, as illustrated by the first and third voters, must answer questions posed by the election judge and swear to their eligibility before signing the roster and voting. We discuss the process—the oath for challenged voters—in Chapter 3.



¹⁷ The postcard has the registrant’s name, address, precinct, and polling place location. The U.S. Postal Service may not forward these postcards. The card confirms a registrant’s place of residence if the U.S. Postal Service does not return it to the county election office. If the postcard is returned, county election staff take further action, as described in Chapter 2.

Election Day Registration

Since 1973, Minnesota law has allowed eligible residents to register on election day.¹⁸ Residents may register on election day by completing an application at their polling place. An election judge ensures the person is in the correct polling place and verifies that the applicant has not voted by absentee ballot.¹⁹ Once confirmed, an applicant may complete the voter registration application.

Election judges verify the identity and residence of election day registrants, as the flowchart on the right side of Exhibit 1.1 shows. Applicants may prove their identity and residence using any one of the first six options listed in Exhibit 1.2. For example, an applicant may present a current Minnesota driver's license or state identification card to the election judge. Registrants who are unable to use one of the first six options may provide a form of photo identification and a proof of current residence, shown under item 7 in Exhibit 1.2. For example, a registrant could show an election judge her United States passport and her utility bill due within 30 days of an election. After an election judge has accepted the applicant's proof of identity and residence, the applicant swears to her eligibility by signing the oath on the registration application. Exhibit 1.1 shows that election day registrants are eligible to sign the roster and vote after completing a voter registration application and showing the proper documentation.

As shown in Exhibit 1.1, computer verification of election day registrants' information occurs after they have voted. County election staff enter information from election day registrants' applications into the registration database, creating an electronic voter record if an existing record cannot be located. County election staff then mail a postal verification card to confirm registrants' address. The statewide registration database verifies information against driver's license or social security data and, over time, against data provided by state agencies and other sources.

Other States

We explained in the beginning of this chapter that the U.S. Congress may pass laws that affect voter registration. The National Voter Registration Act (NVRA) affects states' voter registration practices.²⁰ For example, NVRA requires that a voter registration form be part of the application for a state driver's license. The Help America Vote Act (HAVA) requires most states to permit voting by provisional ballot. Minnesota is exempt from this HAVA requirement and thus is not required to issue provisional ballots to voters.²¹ Methods and policies regarding registering to vote and voting differ from one state to the next. In this section, we discuss methods of voter registration in the U.S. We then discuss provisional ballots and present information on the effect of felony convictions on voting rights in all states and Washington, DC.

¹⁸ *Laws of Minnesota* 1973, chapter 676, sec. 4, codified as *Minnesota Statutes* 2017, 201.061, subd. 3.

¹⁹ Absentee voting is available to any eligible Minnesotan voter.

²⁰ National Voter Registration Act of 1993, 52 *U.S. Code*, chapter 205 (accessed electronically October 25, 2017). Congress exempted from NVRA states that had certain voter registration practices. The practices, which included (1) not requiring voter registration, and (2) offering election day registration, resulted in six states being exempt from the act. North Dakota is exempt from NVRA because it did and does not require voter registration. Minnesota, Idaho, New Hampshire, Wisconsin, and Wyoming are exempt because they offered and continue to offer election day registration. National Voter Registration Act of 1993, Public Law 103-31, sec. 4(b)(2), May 20, 1993, codified as 52 *U.S. Code*, sec. 20503(b) (accessed electronically October 25, 2017).

²¹ Help America Vote Act of 2002, 52 *U.S. Code*, sec. 21082 (accessed electronically October 25, 2017).

Exhibit 1.2: Minnesotans registering on election day may provide a range of acceptable proofs of identification and residence.

Voters may prove identity and residency using one of the following seven options:

- (1) Minnesota driver's license, learner's permit or identification card (or a receipt for any of these documents) that includes current address
- (2) Tribal identification with name, address, photo, and signature
- (3) A college student identification card, if a student housing list is provided by the college
- (4) Prior registration under another name or address in the same precinct
- (5) Mailed notice of late registration
- (6) Voucher^a
- (7) One document from each of the two groups below:^b

Approved Photo Identifications	Approved Residency Documents
<ul style="list-style-type: none"> • Driver's license, learner's permit, or state identification card issued by any state. A receipt for these documents is also sufficient. • Student identification card issued by a Minnesota institution • Tribal identification with name, photo, and signature • United States passport • United States military identification 	<ul style="list-style-type: none"> • Bill with an account statement and start of service notification due within 30 days before or after election day (e.g., television or internet bill; utility bill; or banking statement) • Residential lease or rental agreement valid through election day • Current student fee statement or housing list provided by an institution of higher education

^a A voucher is a person who attests to knowing an applicant's residence and is registered to vote in the same precinct; a voucher must sign an oath stating these conditions are true.

^b If a voter does not have a document serving as both identification and current proof of residence (options one through six), then they may choose one document from each of the following lists.

SOURCE: Office of the Legislative Auditor, analysis of *Minnesota Statutes* 2017, 201.061, subd. 3; and *Minnesota Rules*, 8200.5100, published electronically, June 15, 2016.

Registration Before Election Day

As shown in Exhibit 1.3, 49 states plus Washington, DC, permit voters to submit a paper voter registration application by mail, e-mail, or fax to a state or local election office.²² While registering to vote using a paper application is available to voters in most states, fewer states provide an online alternative. As of December 6, 2017, 37 states plus Washington, DC, offered online voter registration.

²² North Dakota does not require voters to register.

Exhibit 1.3: States offer a mix of voter registration options.

	Paper	Motor Vehicle Registration ^a	Online ^b	EDR	Pre-18 Registration ^c	Automatic Registration ^d
Alabama	✓	✓	✓			
Alaska	✓	✓	✓		✓	✓
Arizona	✓	✓	✓			
Arkansas	✓	✓				
California	✓	✓	✓	✓	✓	✓
Colorado	✓	✓	✓	✓	✓	✓
Connecticut	✓	✓	✓	✓		✓
Delaware	✓	✓	✓		✓	
Florida	✓	✓	✓		✓	
Georgia	✓	✓	✓		✓	
Hawaii	✓	✓	✓	✓	✓	
Idaho	✓		✓	✓		
Illinois	✓	✓	✓	✓		✓
Indiana	✓	✓	✓		✓	
Iowa	✓	✓	✓	✓	✓	
Kansas	✓	✓	✓		✓	
Kentucky	✓	✓	✓			
Louisiana	✓	✓	✓		✓	
Maine	✓	✓		✓	✓	
Maryland	✓	✓	✓	✓ ^e	✓	
Massachusetts	✓	✓	✓		✓	
Michigan	✓	✓				
Minnesota	✓	✓	✓	✓	✓	
Mississippi	✓	✓				
Missouri	✓	✓	✓		✓	
Montana	✓	✓		✓		
Nebraska	✓	✓	✓		✓	
Nevada	✓	✓	✓		✓	
New Hampshire	✓			✓	✓	
New Jersey	✓	✓			✓	
New Mexico	✓	✓	✓		✓	
New York	✓	✓	✓			
North Carolina	✓	✓		✓ ^e		
North Dakota						
Ohio	✓	✓	✓			
Oklahoma	✓	✓				
Oregon	✓	✓	✓		✓	✓
Pennsylvania	✓	✓	✓			
Rhode Island	✓	✓	✓		✓	✓
South Carolina	✓	✓	✓			
South Dakota	✓	✓				
Tennessee	✓	✓	✓			
Texas	✓	✓			✓	
Utah	✓	✓	✓		✓	
Vermont	✓	✓	✓	✓	✓	✓
Virginia	✓	✓	✓			

Continued on next page.

Exhibit 1.3: States offer a mix of voter registration options. (continued)

	Paper	Motor Vehicle Registration ^a	Online ^b	EDR	Pre-18 Registration ^c	Automatic Registration ^d
Washington	✓	✓	✓			
Washington, DC	✓	✓	✓	✓	✓	✓
West Virginia	✓	✓	✓		✓	✓
Wisconsin	✓		✓	✓		
Wyoming ^f	✓			✓	✓	

NOTES: North Dakota does not have voter registration. "EDR" is election day registration.

^a The National Voter Registration Act (NVRA) requires most states to offer this option. Six states are exempt from NVRA's motor vehicle agency registration requirement: Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming. Of these, only Minnesota offers it.

^b In Missouri, online voter registration requires an electronic signature, thus it cannot be completed using a standard desktop computer. Oklahoma enacted online voter registration in 2015, but has not implemented the law.

^c In states allowing individuals under 18 to register to vote, age limits range from 16 years of age to 90 days before an individual's 18th birthday.

^d While most states that offer automatic registration allow persons to decline registration at the time of the service (such as updating their driver's license), Oregon and Alaska allow voters to decline registration only at a later date.

^e Maryland and North Carolina allow voters to register and vote on the same day only during early voting.

^f In Wyoming, mail registrations must be signed in front of a notary or registry agent and proof of identification must be shown at the time of registration.

SOURCE: Office of the Legislative Auditor, compilation of information from state election administrators' websites; Election Administration and Voting Survey, 2016; United States Department of Justice, "The National Voter Registration Act of 1993 (NVRA)"; and National Conference of State Legislatures: "Online Registration," "Automatic Voter Registration," and "Preregistration for Young Voters."

As previously mentioned, NVRA requires all states subject to the law to provide voter registration opportunities for people applying for or renewing a driver's license. As shown in Exhibit 1.3, Minnesota is the only state exempt from NVRA that offers this option. Some states in Exhibit 1.3 expand the federal requirement by automatically registering all eligible motor vehicle customers. Nine states plus Washington, DC, have automatic voter registration policies. For example, in Oregon, information about motor vehicle customers is automatically sent to the appropriate election division in the state. These customers are eligible, unregistered voters who apply for, renew, or replace a driver's license, identification card, or permit. Individuals who are automatically registered to vote have 21 days to decline registration, otherwise they remain registered to vote.²³

Like Minnesota, several states allow teenagers to register to vote before age 18. Exhibit 1.3 shows that 28 states and Washington, DC, authorize voter registration for persons under 18, with varying age limits ranging from 16 years of age to 90 days before their 18th birthday.²⁴

²³ Most states with automatic voter registration implement the process through their motor vehicle agency, but Alaska implements automatic voter registration through its Permanent Fund Dividend Agency (PFD). The PFD pays annual dividends from state oil revenue to individuals who live in Alaska for a full calendar year and intend to stay.

²⁴ In Minnesota, an applicant must be 18 by the next election.

Election Day Registration

There may be a number of reasons why a voter cannot register to vote before an election. States that permit voters to register the same day they vote may increase opportunities for eligible citizens to participate in the electoral process. We call this process “election day registration” because eligible voters complete a voter registration application immediately prior to voting. Some states, however, refer to this process as “same day registration” because registration and voting may occur in the days leading up to election day.

Minnesota is one of 16 states plus Washington, DC, that allows voters to register the same day they vote.

Exhibit 1.3 identifies states that allow voters to register the same day they vote.²⁵ States implement election day registration in different ways. One practice that may differ across states is the location at which registration and voting occur. In Minnesota, for example, election day registration takes place at the polling place. However, other states may designate the county election office, a city or town ward, or other locations.

States also differ in the documentation they accept as proof of residence. Exhibit 1.4 shows that many states (and Washington, DC) offering election day registration allow registrants to show a utility bill to prove their residence. Unlike select states offering election day registration, Minnesota does not accept as proof of residence (1) paychecks or paystubs or (2) certain documentation or checks issued by the government. States such as Wisconsin and Wyoming allow voters to prove their residence using a paycheck or paystub.

In addition to the proofs of residence listed in Exhibit 1.4, some states with election day registration accept other documentation. Examples include a library card, documentation proving homeless shelter occupancy, property tax statements, and vehicle registration. For election day registrants who are unable to provide proper identification and/or proof of residence on election day, some states authorize the use of provisional ballots.

Provisional Ballots

Provisional ballots provide access to voting for persons whose eligibility cannot be determined by election staff. Three common reasons why voters may need to cast a provisional ballot include: (1) a voter’s name is not on the registration list, (2) a voter’s eligibility is challenged at the polling place, or (3) a voter does not have the required proof of identification mandated by the state. Other reasons why an individual may cast a provisional ballot include if a voter requested an absentee ballot but did not cast it, or if there has been a change in a voter’s name, address, or both. In most states, election staff keep completed provisional ballots separate from regular ballots (those counted immediately after voting hours) and review them after election day. Election staff generally only count provisional ballots toward the total vote once a voter’s eligibility is confirmed. This may require a voter to visit a local government office after an election to provide sufficient documentation or proofs of identity or residence.

²⁵ Maryland and North Carolina allow voters to register and vote on the same day only during early voting.

Exhibit 1.4: Select states with election day registration vary in the documents they accept as proof of residence.

	Utility Bill	Bank or Credit Card Statement	Government Check or Documentation	Paycheck or Paystub	Tuition Statement or Student List	Rent or Mortgage	Other Motor Vehicle Agency Documentation ^a
Connecticut	✓			✓	✓	✓	✓
Iowa	✓	✓	✓	✓			
Maryland ^b	✓	✓	✓	✓			
Minnesota ^c	✓	✓			✓	✓	✓
New Hampshire	✓		✓		✓	✓	✓
North Carolina ^b	✓	✓	✓	✓			
Washington, DC	✓	✓	✓	✓	✓	✓	
Wisconsin	✓	✓	✓	✓	✓	✓	
Wyoming	✓	✓	✓	✓			

NOTES: This is not an exhaustive list of states with election day registration or documentation accepted by each state. Some states require proof of **domicile** rather than proof of residence. Domicile is a place where a voter eventually intends to return or remain; and residence is a fixed location where a voter actually lives for the time being. Data were not available to include all states with election day registration. Omitted states include California, Colorado, Hawaii, Idaho, Illinois, Maine, Montana, and Vermont.

^a Other vehicle documentation refers to documents, other than a driver's license, that are issued by the state's motor vehicle agency.

^b Maryland and North Carolina allow voters to register and vote on the same day only during early voting.

^c In Minnesota, listed proofs of residence may be shown if a voter does not have one document showing both proof of identity and residence.

SOURCE: Office of the Legislative Auditor, compilation of information from state election administrators' websites, state official websites, election laws, administrative rules, and the National Conference of State Legislatures.

Voting Rights and Felony Conviction Status

Voting rights of persons who have been convicted of a felony are left to states' discretion.

Minnesota allows persons who have been convicted of a felony to vote only after they complete their sentence.

As Exhibit 1.5 shows, 22 states automatically restore voting rights to persons who complete their felony sentence, which may include time in prison and/or supervision in the community.²⁶ In Minnesota, people serving a sentence for a felony conviction may not register to vote or vote.²⁷

Fourteen states and Washington, DC, automatically restore voting rights to people who have been convicted of a felony after they are released from incarceration or prison. In these states, persons serving a felony sentence in the community may vote. Several states require formal action before they restore voting rights to persons who have been convicted of a felony. Maine and Vermont do not remove voting rights from persons who have been convicted of a felony.

²⁶ See Appendix A for an explanation of how a person may be serving a sentence in the community after a felony conviction.

²⁷ *Minnesota Statutes* 2017, 201.014, subd. 2; and 201.054, subd. 2(1).

Exhibit 1.5: States have different approaches to handling voting rights based on felony convictions.

States That Remove Voting Rights After Felony Conviction			
Automatic Restoration After Completion of Sentence ^a (22 states)	Automatic Restoration After Release from Incarceration ^b (14 states and DC)	Restoration After Completion of Sentence, Action Required ^c (12 states)	Voting Rights Never Lost (2 states)
Alaska	Hawaii	Alabama	Maine
Arkansas	Illinois	Arizona	Vermont
California	Indiana	Delaware	
Colorado	Maryland	Florida	
Connecticut	Massachusetts	Iowa	
Georgia	Michigan	Kentucky	
Idaho	Montana	Mississippi	
Kansas	New Hampshire	Nebraska	
Louisiana	North Dakota	Nevada	
Minnesota	Ohio	Tennessee	
Missouri	Oregon	Virginia	
New Jersey	Pennsylvania	Wyoming	
New Mexico	Rhode Island		
New York	Utah		
North Carolina	Washington, DC		
Oklahoma			
South Carolina			
South Dakota			
Texas			
Washington			
West Virginia			
Wisconsin			

NOTES: Some states have more than one practice for restoring voting rights, but we list each state only once. For example, Wyoming automatically restores voting rights to persons who are convicted of non-violent felonies or first-time offenders. However, for persons serving other felony convictions, voting rights must be restored by pardon.

^a Persons convicted of a felony cannot vote until they have completed their sentence, which may include parole and/or probation.

^b Persons convicted of a felony cannot vote only while imprisoned.

^c States handle restoration of voting rights after sentence completion differently. For example, states may require felony offenders to undergo a waiting period after sentence completion, or a governor's pardon may be required to restore voting rights.

SOURCE: Office of the Legislative Auditor, based on information from National Conference of State Legislatures, "Felon Voting Rights," November 28, 2017.



Chapter 2: Voter Roster

Minnesota's roster of registered voters is ever changing. On any given day, new registrants need to be added to the list, and other registrants need to be removed. Voter records must be updated regularly to reflect changes, for example, in a registrant's name, address, electoral participation, felon status, or guardianship status. Accomplishing this requires an information technology system that communicates with other databases that track these and other changes. In 2004, the Office of the Secretary of State developed the Statewide Voter Registration System (SVRS) to fulfill that function.

Despite efforts by both Minnesota counties and the Office of the Secretary of State, an individual voter's listing in the roster may not be accurate on election day.

Ensuring accurate and up-to-date voter records is important because it contributes to the integrity of the electoral system. The roster determines whether a voter can enter the polling place and simply sign the roster and vote on election day, or whether the voter must register or swear an oath for challenged voters before voting.¹

In this chapter, we explain several factors that affect the reliability of the voter roster. These include the legibility of voter registration applications, timeliness in processing updates to voter records, and the accuracy of data provided to SVRS from state and other sources.

Background

The federal Help America Vote Act directs states to implement “a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level.”² In Minnesota, this responsibility belongs to the Office of the Secretary of State.³ As we mentioned in Chapter 1, the Secretary is the state's chief elections official. The office provides guidance about voter registration to the public, and provides training on election administration to counties. However, the office has no explicit authority to oversee counties' processing of voter data in SVRS.

County election officials and staff maintain voter records in SVRS, which ultimately inform what is printed on voter rosters on election day. According to state law, “[t]he county auditor shall be chief registrar of voters and the chief custodian of the official registration records in each county.”⁴ Depending on their duties, county election officials may hold titles such as county auditor, auditor-treasurer, director of property records, or elections administrator. County staff who work on election-related matters may work on several other aspects of county government, such as payroll, property taxes, passport services, or drainage ditches.

¹ All voters swear an oath declaring their eligibility to vote when they sign the roster. Persons whose eligibility to vote is in question swear an additional oath before voting.

² Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666, codified as 52 *U.S. Code*, sec. 21083(a)(1)(A) (accessed electronically October 25, 2017).

³ *Minnesota Statutes* 2017, 201.022, subd. 1.

⁴ *Minnesota Statutes* 2017, 201.021.

We surveyed county election officials in all Minnesota counties on a variety of voter registration-related topics, including the resources available to work on election tasks in 2016. We received responses from 86 of 87 counties, for a response rate of 99 percent.

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county election officials reported employing at least one full-time staff member who worked on only election issues in 2016.

At least 72 counties did not have any full-time staff who worked on only election-related tasks in 2016. Among these 72 counties, 40 employed part-time or temporary staff to work on election-related matters, while 32 employed only full-time staff who also worked on other county government issues. Some counties did employ a full-time staff member who worked on only elections in 2016. In fact, six of the seven counties in the Twin Cities metropolitan area employed at least four full-time staff who worked only on elections.⁵ Hennepin County, for example, employed nine full-time election staff.

The election official estimated that the county employed 65 full-time seasonal election staff and recruited 450 volunteers to assist during the last week before the 2016 state general election.

County Roster Activities

County staff maintain the list of registered voters in their county. Doing so is an enormous undertaking. In calendar year 2016, counties completed over 1.6 million transactions in SVRS. These transactions are critical for counties to be able to print voter rosters that are as accurate as possible, including current information for registered voters and omitting persons who should no longer be on the roster. County election staff must (1) create voter records, (2) verify voter information, and (3) update voter records. We describe these activities below.

Creating Voter Records

We outlined in Chapter 1 the general flow of the voter registration process. In all cases, county election staff create voter records either by entering information from paper applications or by processing electronic voter registration applications submitted through the Department of Public Safety's Driver and Vehicle Services Division or the online registration tool. Regardless of how a voter registers, county election staff create voter records to reflect the voter's name, date of birth, and address.

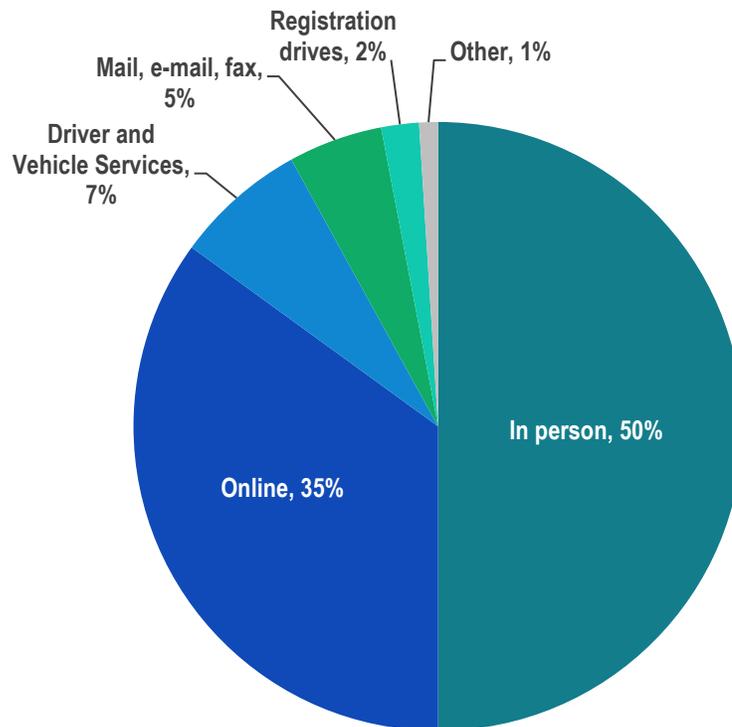
As shown in Exhibit 2.1, approximately 57 percent of voter registration applications for new Minnesota registrants were submitted on paper—whether in person (50 percent); by mail, e-mail, or fax (5 percent); or through voter registration drives (2 percent)—over a recent two-year period.⁶ Practices in some counties might encourage paper applications, to some extent. In our survey of county election officials, 51 of 86 respondents said that they provided paper applications to groups conducting voter registration drives in 2016.⁷

⁵ The Twin Cities metropolitan area comprises Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.

⁶ These data represent new voter registration applications submitted between the close of voter registration for the 2014 state general election and the close of voter registration for the 2016 state general election.

⁷ Of the 51 counties that provided paper applications for registration drives, 23 said that they also encouraged groups to register voters online.

Exhibit 2.1: Half of voter registration applications submitted by new registrants in Minnesota over a two-year period were submitted in person.



NOTES: N=479,232 new voter registration applications submitted between the close of voter registration for the 2014 state general election and the close of voter registration for the 2016 state general election. The "Other" category includes registrations based on in-state changes of address reported by the U.S. Postal Service and a consortium of states. The chart does not reflect three applications from new registrants whose method of submission was not categorized in the data.

SOURCE: Office of the Legislative Auditor, analysis of data reported in U.S. Election Assistance Commission, *The Election Administration and Voting Survey: 2016 Comprehensive Report* (Silver Spring, MD, 2017), 74.

Each method of voter registration poses challenges to creating accurate and unique voter records and to efficient processing by county election staff.

Regardless of how registrants submit their applications, various factors make it difficult for county staff to create voter registration records that accurately and consistently reflect voter information. The consequences of being unable to create accurate records can include eligible voters who think they have registered not being listed on a voter roster.

Alternatively, voters could have more than one voter record in SVRS. County election officials identified challenges to creating accurate voter records for both paper and online registration applications.

Paper Voter Registration Applications

Two common challenges with paper applications are (1) illegible handwriting and (2) incomplete information. In Nobles County, for example, we saw an application that exhibited both problems.⁸ The registrant's name was not legible and the applicant had not provided a complete birth year. In this case, county staff could discern enough of the address to check property tax records to confirm the address. At the time of our site visit, county staff had sent the application back to the person for completion but had not yet received a response. Election staff in other counties told us they will sometimes call or e-mail a registrant who has provided illegible information, if the person provided a legible phone number or e-mail address. If the information is legible but incomplete—for example, missing a signature—the county sends the registrant a notice alerting him or her to that fact.

Regarding paper applications, the election official in Crow Wing County said she has had success at improving legibility of applications submitted in person by having a staff person complete the application and then having the registrant sign it.

Online Voter Registration Applications

Voter registration applications submitted electronically can also pose challenges. Exhibit 2.1 shows that online voter registration applications constituted 35 percent of registration applications submitted by new registrants over a recent two-year period. Even though they eliminate problems caused by illegible handwriting and cannot be submitted unless required fields are complete, online applications may contain typographical errors. For example, a person registering online could accidentally enter an address of “1234 Elm Street” as “1243 Elm Street.” Typographical errors can also occur when county staff enter paper registrations into SVRS. However, in that case, staff can check the paper copy to see if they entered the registrant's information incorrectly; this check is not possible when the registrant submits an online application.

A second issue with online applications occurs when registrants submit an application without checking to see if they are already registered. Although this mistake can occur with any type of registration application, we heard about it in relation to online registrations, especially those spurred by Facebook's promotion of voter registration.⁹ A staff person from Blue Earth County told us that registrations stemming from the Facebook initiative “bogged] down the system” and created more work for county staff than necessary. While accounting for 35 percent of all new registrations in Minnesota during a recent two-year period, online registrations accounted for 47 percent of duplicate registrations.

⁸ We visited Blue Earth, Crow Wing, Hennepin, Mahnomon, Nobles, Ramsey, St. Louis, and Stevens counties. We selected these counties purposively to ensure the sample reflected a cross-section of Minnesota counties. The factors we considered during our selection process included the percentage of 2016 voters who registered on election day, the total population of the county, whether the county used e-pollbooks in 2016, median household income, the percentage of the population that is nonwhite, the percentage of the population that is foreign born, the percentage of the population that lived in the same residence one year ago, and the region of the state.

⁹ According to one media report, from September 23-26, 2016, the social networking website Facebook posted a reminder to its users to register to vote. Officials from several states, including Minnesota, credited Facebook with driving large increases in voter registrations. Niraj Chokshi, “Facebook Helped Drive a Voter Registration Surge, Election Officials Say,” *New York Times*, October 12, 2016, https://www.nytimes.com/2016/10/13/us/politics/facebook-helped-drive-a-voter-registration-surge-election-officials-say.html?_r=0 (accessed electronically December 18, 2017).



It is difficult to locate already registered voters within SVRS. At times, their name will not appear until you have exhausted all methods of searching for the voter, and we still re-registered voters who were already registered[.]

—City Election Official

One reason duplicate registrations cause difficulty for county staff relates to names containing special characters. The predecessor to SVRS did not permit characters such as apostrophes or hyphens in names. Therefore, if a voter whose name contains a special character registered prior to the creation of SVRS, and he has not moved or updated his voter registration, his name will appear in SVRS without the special character. Consequently, for surnames like “Smith-Johnson” or “O’Brien,” county staff may have to search every possible iteration of a name to determine whether a person is already registered—such as with and without a hyphen, with and without a space, with and without an apostrophe, and so on.

Although some county officials cited shortcomings of online registration, the Ramsey County election official told us that it is much easier for his staff to work with electronic applications than paper applications, reducing the amount of time spent processing the applications by one-third to one-half.

RECOMMENDATION

The Office of the Secretary of State should improve the online voter registration application.

We recommend additional controls at the beginning and end of the online voter registration application. The online registration tool should be modified so that, as a first step, the online system screens prospective registrants to see if they have already registered to vote under their current name and address. Doing so would eliminate some of the unnecessary re-registrations that occurred in 2016. The online registration process should conclude with a “Please Review” screen, similar to those used when making online credit card purchases, that gives registrants an opportunity to review their information before submitting it. This feature could reduce problems resulting from typographical errors.

Counties with sufficient broadband internet infrastructure should encourage voter registration groups to use online registration, if they do not already do so, especially if the Office of the Secretary of State implements the above controls. We recognize that internet access can be a barrier to online registration. Greater use of online registrations will not eliminate all problems with the voter registration application process, but we believe it will reduce them.

Verifying Voter Information

Once county staff have created a voter record, they must verify the registrant’s information. SVRS verifies a voter’s identity by comparing information submitted by the applicant to data on record within the Department of Public Safety or the Social Security Administration. County election staff verify a registrant’s residence by mailing a postcard.

Identity Verification

Administrative rules require that SVRS compare the applicant’s name, date of birth, and either (1) a Minnesota driver’s license or Minnesota state identification card number or

(2) the last four digits of the applicant's social security number to other data sources.¹⁰ The social security number is used if the applicant does not have a Minnesota driver's license or state identification card number or if verification against those sources fails.¹¹

State law requires comparison of voter registrations with the above-mentioned sources within ten days after county staff enter a voter registration application into SVRS.¹² Exhibit 2.2 illustrates this process. SVRS checks applicants' information against external databases overnight, and the results are returned to SVRS the following morning, illustrated by the arrow labeled 2 in Exhibit 2.2. If a comparison yields an "exact match," SVRS automatically marks the voter's record as verified, as illustrated by the arrow labeled 3a.

Some voter records will fail the "exact match" criteria. For example, the Department of Public Safety's data do not contain a separate field for suffixes like "Jr." or "Sr." The department returns registrants with such names from the verification process as "possible matches," which county election officials have to verify manually. This process is shown by the arrow labeled 3b in Exhibit 2.2. If a comparison is unsuccessful and the registrant does not respond before the election to a mailing from the county election office, the registrant will appear on the roster with one of two notations. This outcome is shown by the arrow labeled 3c in Exhibit 2.2. Voters who registered by mail and who have not previously voted in a federal election in Minnesota will have a "See ID" notation printed on the roster. The individual must show documentation that proves identity and residence for election day registrants, which we listed in Exhibit 1.2. Other registrants who fail verification will have a "Challenged—Unverifiable" notation on the roster. Such registrants resolve the challenge by responding to an election judge's questions about their name and date of birth; they do not have to provide proof of residence.

Residence Verification

County election staff mail postal verification cards (PVCs) to confirm the addresses of new and updated registrants. The postal service may not send the PVC to a forwarding address; it may be delivered only to the name and address on the card. If the postal service returns any cards to the county election office as undeliverable, county officials must resolve the reasons for their return. A postcard could be returned for many reasons, ranging from inaccurate data entry to fraudulent registration.

County election staff told us, generally, that their process for resolving returned PVCs depends on why the card was returned. If the returned card includes a permanent forwarding address that is out of state, county staff mark the voter's record as "inactive."¹³ Inactive voter records are excluded from voter rosters on election day.

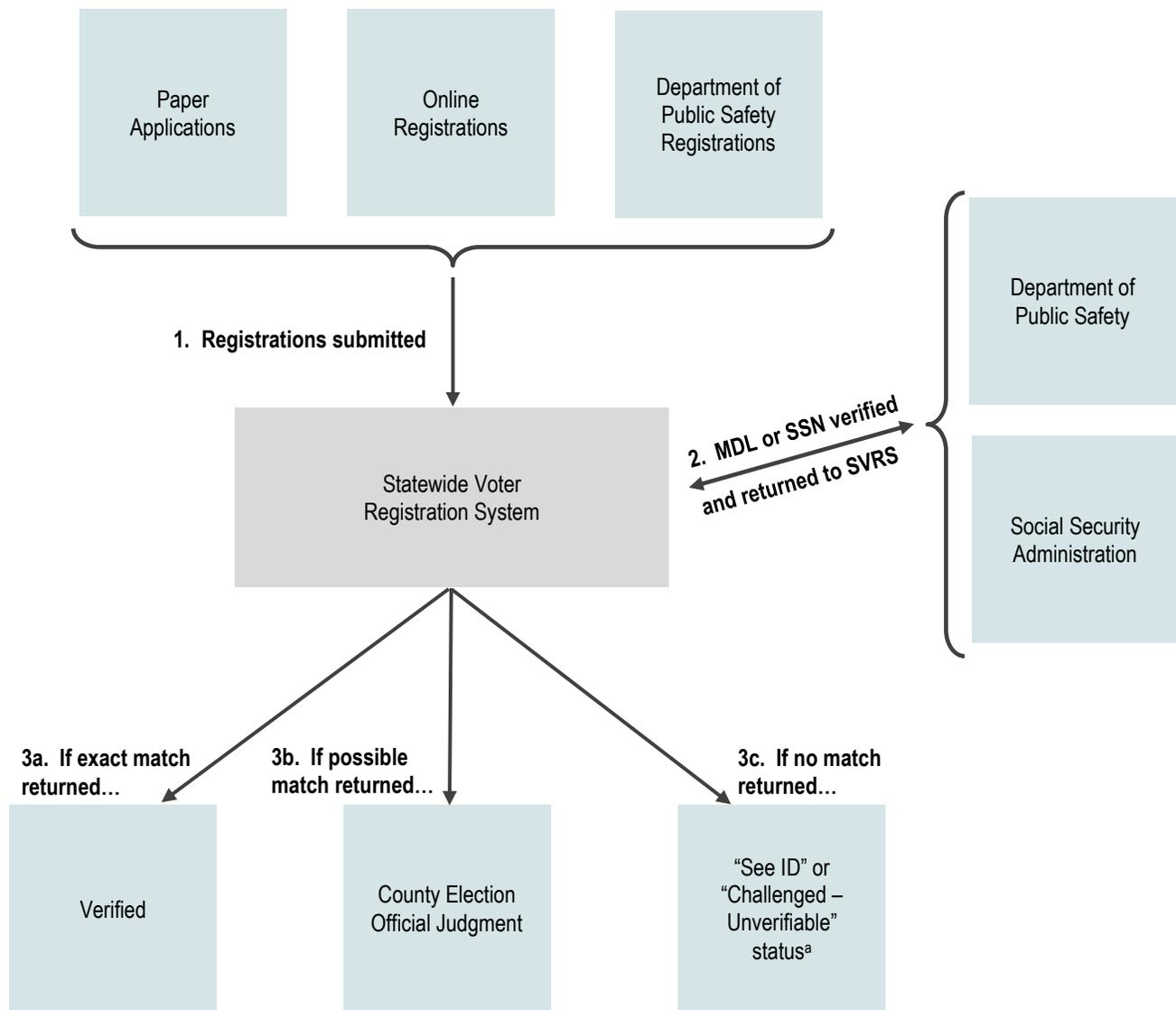
¹⁰ *Minnesota Rules*, 8200.9310, subp. 2A(1) and B, published electronically May 22, 2008.

¹¹ The Driver and Vehicle Services Division in the Department of Public Safety maintains driver's license information.

¹² *Minnesota Statutes* 2017, 201.121, subd. 1(c).

¹³ If the permanent forwarding address is within Minnesota, the process depends on whether the address is within the same county. If so, county staff simply update the voter's record with the permanent forwarding address and send a new PVC to that address. If the permanent forwarding address is in another Minnesota county, the county receiving the PVC may change the voter's record to "inactive" and send the returned card to the election staff in the voter's new county of residence. The county election staff there will update the voter's record with the new address and send a new PVC to that address.

Exhibit 2.2: The Statewide Voter Registration System (SVRS) verifies identifying information in voter registration applications against other databases.



NOTES: MDL refers to the registrant’s Minnesota driver’s license or state identification card number. SSN refers to the last four digits of the registrant’s social security number.

^a Persons with either of these roster notations failed verification and did not respond before the election to a mailing from the county election office. Voters who registered by mail and who have not previously voted in a federal election in Minnesota will have a “See ID” notation printed on the roster. The individual must show documentation that proves identity and residence for election day registrants, which we listed in Exhibit 1.2. Other registrants who fail verification will have a “Challenged—Unverifiable” notation on the roster. Such registrants resolve the challenge by responding to an election judge’s questions about their name and date of birth; they do not have to provide proof of residence.

SOURCE: Office of the Legislative Auditor, analysis of data provided by the Office of the Secretary of State.

If the returned card does not include a permanent forwarding address, county officials have several steps they may take. Sometimes county staff will call or e-mail a registrant to check whether staff entered the mailing address into SVRS incorrectly, either as the result of a typographical error or illegible handwriting. Another option for counties is to consult property tax records to confirm an address. If staff identify an error, they will change the address in SVRS and mail another PVC to the voter. However, if county staff determine that the address on the returned postcard was correct, they mark the voter's record as "Challenged—Postal Return." These voters will be included on a voter roster on election day, but they will need to swear an oath to address the challenge before they can vote.

Counties told us that PVCs are sometimes returned if the registrants are "snowbirds" who registered on election day. PVCs for election day registrants may not be sent out until several weeks after a November election. By then, snowbirds may have already gone to a winter home elsewhere. This may result in a returned PVC marked "temporarily away," and does not necessarily indicate the voter is ineligible.¹⁴

The process of sending PVCs to verify registered voters' addresses can occur at any time, not just at the time of registration. State law permits county election officials to send a PVC with a request to correct name and address information "[t]o prevent fraudulent voting and to eliminate excess names [from the voter roster]."¹⁵

Updating Voter Records

As part of the effort to maintain the integrity of the voter roster, county election staff must update voters' records with a wide variety of data. Voter records must be updated for people who experience life events, such as a name change, change of address, death, or felony conviction. These events affect whether a voter's name is omitted from the voter roster, for example, or a voter's eligibility to vote is in question.

County election staff might update voter records based on registration applications from already-registered voters. State law specifies some other data sources that must be used to update voter records.¹⁶ Several agencies and organizations make data available to the Office of the Secretary of State, which shares those data with counties through SVRS. Exhibit 2.3 indicates the source, content, and frequency of the data used to update voter records in SVRS. For example, the State Court Administrator's Office sends data on a rolling basis as district court staff update records in the court's information system; the departments of Corrections and Health send data monthly.

¹⁴ The Crow Wing County election official told us that when her office receives returned PVCs marked "temporarily away," they wait 60 days and then send a second PVC. If that second PVC is also returned marked "temporarily away," the office waits until April, when most snowbirds have returned to Minnesota, to send a third PVC.

¹⁵ *Minnesota Statutes* 2017, 201.12, subd. 1.

¹⁶ *Minnesota Statutes* 2017, 201.13, 201.14, and 201.145.

Exhibit 2.3: The Statewide Voter Registration System draws upon data from several sources to maintain the accuracy of the voter roster.

Data Source	Content / Trigger	Frequency
Department of Corrections	Information about persons (1) on adult probation in the community for a felony conviction, (2) in prison or serving the remainder of their prison sentence in the community on supervised release, or (3) discharged from their felony prison sentence during the previous four years	Monthly, by the 10 th of the month
Department of Health	Deaths occurring in Minnesota	Monthly, near the middle of the month
Department of Public Safety, Driver and Vehicle Services (DVS)	Person checks "Register me" on Minnesota driver's license or identity card application	Daily, in the morning ^a
DVS	Verification of registrant's Minnesota driver's license or state identification card number	Daily, in the morning
DVS	Information on visa holders (noncitizens)	Monthly, on the first Monday of the month
Electronic Registration Information Center (ERIC)	Address changes found by comparisons of voter registration and driver's license data among the 22 ERIC member states and Washington, DC	Monthly, near the end of the month
Federal Post Card Application	Eligible uniformed and overseas citizens submit online application	As submitted by voter
National Change of Address	Address changes of persons who complete National Change of Address through U.S. Postal Service	Monthly, near the middle of the month ^a
Social Security Administration	Death notifications	Monthly, near the end of the month
Social Security Administration	Verification of last four digits of registrant's social security number	As needed
State Court Administrator's Office ^b	Name changes; felony convictions and discharge of felony sentences for persons under the jurisdiction of the courts; placement in guardianship with loss of voting rights; findings of legal incompetence	Rolling, every 5 to 15 minutes
Voter Registration Application	Voter submits online application	As submitted by voter

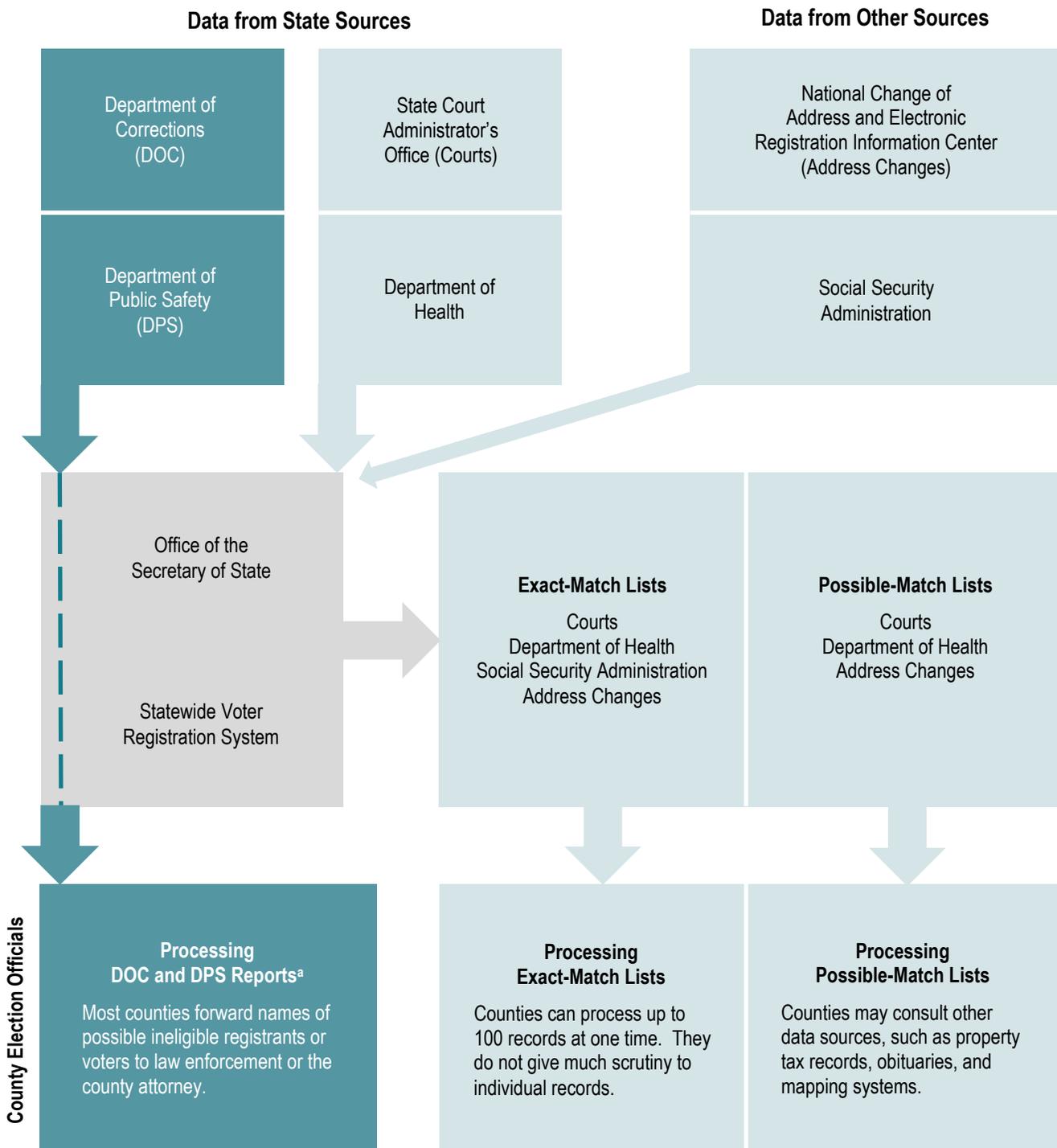
^a *Minnesota Statutes* 2017, 201.13, subd. 3(a), prohibits the Office of the Secretary of State from providing counties with change-of-address records derived from these sources within 47 days of a state primary or November general election.

^b The State Court Administrator's Office provides data about court events that happen in Minnesota's state courts. The Office of the Secretary of State receives information on paper about events involving Minnesota residents in federal courts directly from those courts. The U.S. District Court for the District of Minnesota provides quarterly reports on felony convictions; other federal courts provide data on an irregular basis.

SOURCE: Office of the Legislative Auditor, based on data provided by the Office of the Secretary of State.

Exhibit 2.4 shows the flow of data from various sources into the Office of the Secretary of State and out to counties through SVRS. Entities shown in the "Data from State Sources" and "Data from Other Sources" sections of Exhibit 2.4 provide data that are placed into lists for county election officials to review. Data from the National Change of Address database and the Electronic Registration Information Center help keep registered voters' addresses up to date. Data from the departments of Public Safety and Corrections and the State Court Administrator's Office might indicate that a voter's eligibility to vote is in question. Finally, data from the Department of Health and the Social Security Administration assist with identifying voters who have died. When data from these sources closely match data in voters' records, county election officials update the records without giving them much individual scrutiny.

Exhibit 2.4: County election officials use data from several sources to continuously update the state’s voter roster.



^a County election officials process reports from the Department of Corrections (DOC) and the Department of Public Safety (DPS) differently from lists created with data from other sources. DOC and DPS data do not populate “exact-match” and “possible-match” lists.

By contrast, if a person’s information in one of these sources only partially matches a voter record, that voter’s record will be placed into a list of possible matches. County election officials must give more scrutiny to records in these lists to determine whether the information actually relates to a voter registered in their county. For example, in the case of a possible match of a deceased person, someone in the county elections office may check local obituaries for more information.¹⁷ This type of county activity is reflected in the “County Election Officials” section of Exhibit 2.4.

Annually, typically in February, the Secretary of State’s Office completes “annual list maintenance.” This process changes voters’ records to “inactive” status for persons who have not voted or initiated activity on their voter record in four years.¹⁸ Annual list maintenance, which is required by state law, may identify voters who have died or moved to another state, but it might also identify registered voters who have chosen not to vote.¹⁹ “Inactive” voters are not listed on voter rosters and need to register again before they can vote. In February 2017, annual list maintenance changed the status of over 160,000 records to “inactive.” Those records represented voters who had not voted since the 2012 state general election.

Each record in SVRS lists the registration status of a voter. We mentioned several of these statuses—such as “inactive” and “challenged”—in the preceding discussions. As of August 2017, SVRS contained more than 5 million records. Registrants with a status of “active” (more than 3.2 million records) or “challenged” (nearly 31,000 records) appear on voter rosters on election day.²⁰ By contrast, registrants with other statuses do not.²¹

Accuracy

As we mentioned earlier, the volume of records that county workers must process to maintain the list of registered voters is large. We obtained data on the number and kind of SVRS records that the Office of the Secretary of State sent to counties each day between August 1, 2016, and November 7, 2016. In total, the Secretary of State’s Office made more than 500,000 records available to counties during the three months leading up to the 2016

¹⁷ Even officials in the state’s most populous counties—Hennepin and Ramsey—check obituaries as needed.

¹⁸ For example, a voter who has submitted a voter registration application to update his address within the past four years would not be inactivated during annual list maintenance, even if he has not voted in the past four years.

¹⁹ *Minnesota Statutes* 2017, 201.171. The Secretary of State’s Office must provide county election officials with the names of all registrants inactivated due to list maintenance. State law does not require the office to notify the affected registrants. The National Voter Registration Act, from which Minnesota is exempt, contains a similar list maintenance requirement. *52 U.S. Code*, sec. 20507(a)(4) (accessed electronically October 25, 2017).

²⁰ An “active” status indicates that the voter has voted or submitted an updated voter registration application within the last four years. Voters with an “active” registration that reflects current information may sign the roster and vote. If their information is not current, they need to use election day registration before casting a ballot. “Challenged” records indicate that there is a question about the registrant’s eligibility to vote. A registrant may be challenged due to questions about a felony conviction, guardianship, citizenship, address, or other reasons. A challenge does not necessarily mean that the person is ineligible to vote. Challenged registrants must swear an oath that addresses the challenge before casting a ballot. We discuss both election day registration and the oath for challenged voters in Chapter 3.

²¹ See Appendix B for the number of records by status.

state general election. These included more than 75,000 voter registration applications made available in the last two days of pre-election day registration (October 17 and 18).

These transactions reflect the voter registration applications and data from other sources that county staff process to create, verify, and update voter records. We would expect SVRS and voter rosters to contain some inaccuracies or information that is out of date because they rely on human actions and administrative data. For example, a registered voter may not inform the county election office about her name change, resulting in an inaccurate listing for her in SVRS and on the roster. Inaccuracies do not mean the registrant is ineligible to vote. We did not find evidence of widespread inaccuracies, but in the following sections, we discuss two contributors to inaccuracy of data in SVRS: county practices and data reliability.²²

County Practices

As we have described, county election officials create, verify, and update information in voter records. It stands to reason that the timeliness with which county election staff update voter records in SVRS could affect the accuracy of voter rosters on election day. We looked at counties' timeliness processing SVRS lists and completing post-election activities, as well as other practices that can affect roster accuracy.

Processing SVRS Lists

Because creating, verifying, and updating voter records in SVRS affects what is printed on the voter rosters, we reviewed how quickly counties were able to process records, and whether this speed varied throughout the year. As discussed in the previous section, several sources of data provide information to SVRS. The system places records from those data sources into several lists for county election staff to process. For this analysis, we examined data from lists generated at two points in time—about one month before the November 2016 election, and about six months prior to that.

County staff typically processed SVRS lists they received closer to the 2016 election more quickly, even as the volume of records increased.

Exhibit 2.5 shows some statistics for the two points in time. We analyzed how many days it took counties to process all records made available to them on April 4 and October 3, 2016. The exhibit shows that most counties processed all records listed on April 4 within five days; most counties processed all records listed on October 3 within two days. For SVRS lists made available to counties near the time of the 2016 election, counties processed 99 percent of the records within five days.

²² We restricted our review to include only limited data covering a limited period of time. Therefore, our analysis could not comprehensively identify all inaccuracies in SVRS.

Exhibit 2.5: County election staff processed records in SVRS more quickly as the 2016 state general election approached.

	April 4, 2016	October 3, 2016
Total records made available in SVRS ^a	2,999	5,809
Counties processing all listed records in one day	13	7
Days for most counties to process all records	5	2
Percentage of records processed in five days, statewide	92%	99%

NOTES: SVRS is the Statewide Voter Registration System. This exhibit is based on records made available to county election staff in the following SVRS lists: changes of address, state court data, deaths, verifications to driver's license number or social security number, pending voter registration applications, and applications for absentee ballots.

^a This row represents the total number of records placed into lists within SVRS for county election staff to process.

SOURCE: Office of the Legislative Auditor, analysis of data from the Statewide Voter Registration System.

Post-Election Activities

After an election, county election officials create voter records from election day registrations and enter voter history into SVRS.²³ Voter history determines which voters' statuses should be changed to "inactive" after not voting for four years. This annual list maintenance process, which we described above, is important for the integrity of the voter roster.

State law requires counties to enter voter history within six weeks of an election, and it does not permit an extension.²⁴ Statewide, county election staff had entered 96 percent of voter history by the deadline. In 2016, state law required counties to process election day registrations within six weeks of an election, unless the county notified the Office of the Secretary of State it would not be able to meet that deadline.²⁵

In 2016, almost half of the counties required a deadline extension to finish entering election day registrations into SVRS.

Forty-one counties did not meet the election day registration deadline, which was December 20, 2016. Statewide, counties had processed 73 percent of election day registrations by then. From our site visits and our survey of counties, we identified two factors that contributed to some counties' ability to meet the deadlines: employing part-time

²³ Voter history is a notation in SVRS that indicates that a person cast a ballot in a given election. Being credited with voter history does not necessarily indicate that a given ballot cast by the voter was accepted. If a voter casts an absentee or mail ballot that is not accepted (for example, because it arrived too late), the voter is nevertheless credited with voter history so that the voter is not inactivated during annual list maintenance.

²⁴ *Minnesota Statutes* 2017, 201.171.

²⁵ *Minnesota Statutes* 2016, 201.121, subd. 1(a). The Legislature amended the law in *Laws of Minnesota* 2017, chapter 92, art. 1, sec. 10, to impose a second deadline of 28 additional days on counties that cannot meet the initial deadline. The Secretary of State may waive a county's obligation to meet these deadlines if the county demonstrates a "permanent inability to comply" with the requirement.

or temporary staff and using e-pollbooks.²⁶ Of the five counties that used e-pollbooks in at least some precincts in the 2016 election, four said in response to a survey question that e-pollbooks contributed to timely entry of voting history and election day registration.²⁷

In our survey and during site visits, some county election officials expressed an intention to use e-pollbooks in future state elections. For example, one county that needed a deadline extension in 2016 to complete entry of election day registrations plans to start using e-pollbooks in 2018. Hennepin County staff said the county has needed a deadline extension most years due to its volume of election day registrants. They expect that county-wide use of e-pollbooks in 2018 and beyond will increase the speed at which they are able to complete post-election data entry.²⁸

Other Work Practices

Errors can happen for many reasons. For example, some occur because of incorrect matches. One apparent case of a deceased person voting reflected an obituary that county staff had incorrectly applied to the voter's record. Errors can also occur if county staff conduct their post-election work out of sequence. For example, in one case we found, county staff applied a felony conviction to a voter's record in mid-November 2016, when the conviction occurred. Subsequently, county staff credited the person with voter history for the 2016 general election, which had occurred prior to the person's conviction. This action changed the voter's status from "Challenged—Felony" to "Active." The county staff should have posted voter history before processing the felony conviction, or changed the voter's status back to "challenged" afterward. The impact of this error is that the person, whose status should be challenged due to a felony conviction, would be allowed to vote without having to swear an oath to address the challenge.

Additionally, roster information may be out of date due to the date the roster is generated. SVRS continues to provide county staff with new lists of records, even after staff have generated the roster. We analyzed the number of records that SVRS listed for counties between the date the county generated its roster and election day. Exhibit 2.6 shows that SVRS listed more than 300 records during that period. Approximately one-fifth of counties generated their rosters more than one week before the 2016 state general election, with one county doing so 18 days before the election.²⁹

The earlier that a county generates its rosters, the more likely an event can occur that will render the roster obsolete.³⁰ SVRS has the capacity to prepare a report listing voters whose absentee ballot was accepted after a county generated its rosters. The report allows counties to update voter rosters to reflect the absentee votes so election judges are aware of persons

²⁶ E-pollbooks (or electronic pollbooks) are tablet computer devices that election judges in some election precincts use to sign in voters at the polling place and to perform election day registration.

²⁷ Crow Wing, Hennepin, Ramsey, Stearns, and Wright counties used e-pollbooks in select precincts in 2016.

²⁸ In 2016, all of Hennepin County except the city of Minneapolis used e-pollbooks. Minneapolis first used them in its 2017 municipal election. The entire county will use e-pollbooks beginning in 2018.

²⁹ In 2016, the first day counties could generate rosters was Thursday, October 20. Almost four-fifths of counties generated their rosters in the seven days leading up to the 2016 general election. SVRS did not list records after roster generation for almost two dozen counties.

³⁰ *Minnesota Statutes* 2017, 204B.28, subd. 2, provides that "the county auditor shall complete the preparation of the election materials for which the auditor is responsible at least four days before every state primary and state general election." State law does not define "election materials." Although the Office of the Secretary of State interprets the term to include voter rosters, some county election officials do not.

Exhibit 2.6: In 2016, hundreds of transactions that could have affected voter rosters occurred after counties had generated their rosters.

Transaction Type	Count After Rosters Generated	Potential Consequences
Felony convictions	141	Registrants erroneously listed on roster without “Challenged—Felony” notation; registrants would be allowed to vote without swearing oath for challenged voters
Felony discharges	99	Registrants erroneously listed on roster with “Challenged—Felony” notation; registrants will have to swear the oath for challenged voters if they want to vote
Name changes	83	Registrants’ names incorrect on roster; registrants would need to use election day registration to vote
Rights restored in error	1	Registrant erroneously listed on roster without “Challenged—Felony” notation; registrant would be allowed to vote without swearing oath for challenged voters
Total	324	

NOTE: This table reflects records made available to counties in the Statewide Voter Registration System after the date the county generated its roster (which varied by county) through November 7, 2016 (the day before the state general election).

SOURCE: Office of the Legislative Auditor, analysis of data from the Statewide Voter Registration System.

who have already voted. In a supplement to our survey of county election officials, we asked them whether they make specific efforts to update any other information after generating their rosters; the majority of respondents indicated that they do not.³¹ Officials from four counties that do not update their rosters with other information noted that they generate their rosters close to election day. Three other counties generated their rosters the Sunday or Monday before the election.

Data Reliability

In earlier sections, we described several data sources that allow county election staff to (1) verify information on voter registration applications and (2) update voter records with address changes or questions about voter eligibility. We asked county election officials about these data sources in our site visit interviews and survey. We also analyzed data about court events reported by the State Court Administrator’s Office.³²

SVRS’s ability to draw on several sources of data helps maintain up-to-date records, but data quality issues contribute to imperfect roster information on election day.

Data timeliness, completeness, and errors contribute to imperfect roster information. First, time passes between when an event—such as a death or change of address—occurs and

³¹ We sent a supplemental survey to the 86 county election officials who responded to our first survey. Fifty-four county election officials responded, for a response rate of 63 percent.

³² We reviewed reports of felony convictions and restorations of voting rights sent by the State Court Administrator’s Office to the Secretary of State’s Office between July 1, 2016, and June 30, 2017.

when that event is reported to the Office of the Secretary of State.³³ In response to a survey question, most county election officials said they perceived information from several data sources that contribute to maintaining voter records in SVRS as “very timely” or “fairly timely.”³⁴ However, during site visit interviews, some county election officials spoke of delays they had seen. Hennepin County election staff told us that the Department of Corrections report tends to be less recent than the data they have access to through the Minnesota Court Information System, resulting in mismatches between the two data sources. They said, for example, that the Minnesota Court Information System may indicate that a voter was not serving a sentence for a felony conviction on election day, while the Department of Corrections report indicates the opposite. Most counties reported that data from the Department of Health are “very timely.” However, Ramsey County elections staff told us that they see lags of several months in those data. They said that they check obituaries in the *Pioneer Press* and *Star Tribune* “almost daily” and find deaths that are not reported in the Department of Health data.

Another example of delayed reporting is provided by some restorations of voting rights reported by the State Court Administrator’s Office for persons who have completed serving a sentence for a felony conviction. For most of the reports we reviewed, the State Court Administrator’s Office reported the restoration of voting rights to the Secretary of State’s Office within a few days of the completion of the felony sentence. However, in certain instances, the State Court Administrator’s Office delayed reporting the restoration of rights for nearly one month.³⁵

Second, data shared with SVRS may be incomplete, making it challenging for county election staff to confidently match the information to existing voter records. The majority of county officials perceived that data sources “always” or “often” provided sufficient information for them to resolve possible matches between registered voters and data from other sources.³⁶ Some officials gave examples of challenges, though. For example, one official said that the date of birth is sometimes missing for persons reported by the Department of Health, or in SVRS.³⁷

³³ In fact, some data, as shown in Exhibit 2.3, are only reported to the Secretary of State’s Office monthly. Some voters who register close to the cutoff for pre-election registration are like election day registrants in that their names might not be compared against all of these sources prior to voting.

³⁴ We asked county election officials about court events, Department of Corrections data, Department of Health data, the Electronic Registration Information Center, Minnesota driver’s license and social security number verification, and National Change of Address.

³⁵ The State Court Administrator’s Office said this nearly one-month delay was a holdover from timelines the office had established for processing paper probation violation reports. As a result of our evaluation, the office reviewed this practice in late 2017 and reduced the delay from one month to zero to three days. See Appendix A for an explanation of the reduced delay.

³⁶ As with our question about the timeliness of data, we asked county election officials about court events, Department of Corrections data, Department of Health data, the Electronic Registration Information Center, Minnesota driver’s license and social security number verification, and National Change of Address.

³⁷ State law did not require persons registering to vote to provide a date of birth until 1983. *Laws of Minnesota* 1983, chapter 124, secs. 1-2, codified as *Minnesota Statutes* 2017, 201.071, subds. 1 and 3. A voter who registered before August 1, 1983, without providing a date of birth and whose address has not changed since then would appropriately not have his or her date of birth recorded in SVRS.

Finally, we found evidence that the data from the State Court Administrator's Office overreported felony convictions and underreported felony discharges.³⁸ The State Court Administrator's Office re-reported the convictions of some people who had been discharged from their felony sentence. This could result in county election staff challenging the voters' records in SVRS. In addition, the computer program that identifies felony discharges, which could restore voting rights, overlooked discharges in certain cases. After we asked staff from the State Court Administrator's Office about some reporting anomalies, they identified their causes and took steps to remedy them going forward.³⁹

SVRS System Performance

Although the day-to-day processing of voter records is handled by county election officials, the Office of the Secretary of State has a role in developing and administering SVRS as a centralized database. Both during our site visits and as part of our survey, we asked county election officials about their experiences with SVRS. Specifically, we asked their views on SVRS's system performance, its capabilities, and the Office of the Secretary of State's election-related guidance and assistance.

Most county and city officials who responded to our survey said that the Secretary of State does a good job maintaining SVRS, but a few officials said SVRS training could be improved.

Exhibit 2.7 shows county and city election officials' perception of SVRS's performance in 2016.⁴⁰ Most county election officials who responded were "satisfied" or "very satisfied" (91 percent) with SVRS's performance during peak usage around the 2016 general election. Most were also "satisfied" or "very satisfied" with SVRS's voter registration capabilities (94 percent).

Our survey of city election officials in Hennepin County and Duluth showed that most of those who responded were "satisfied" (55 percent) or "very satisfied" (5 percent) with SVRS's performance during peak usage in 2016.

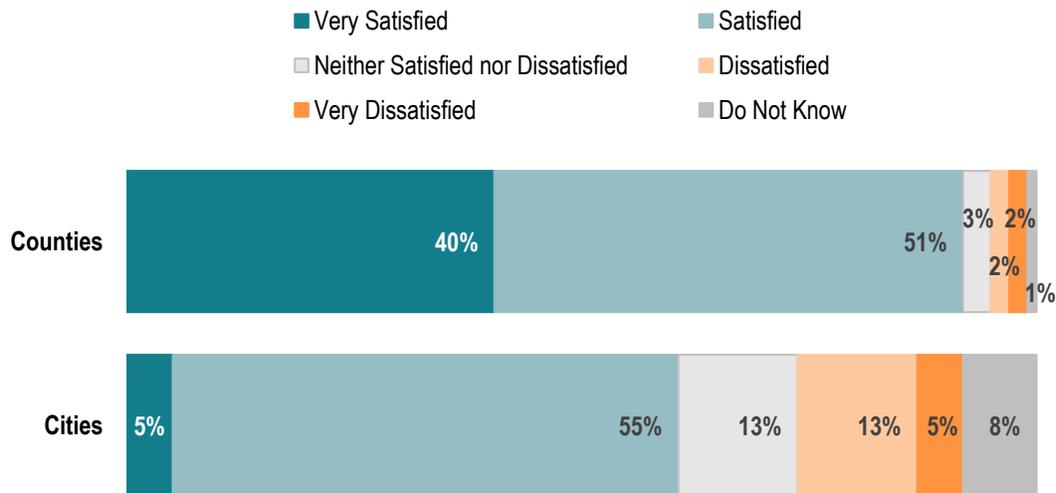
County election officials offered suggestions for improvements to SVRS training or capabilities. Six counties that responded to our survey suggested that the Office of the Secretary of State provide more or improved training to county election officials. For example, one person said that in-person or web-based training to strengthen SVRS skills would be useful; another suggested a break-out session at the regular training for staff new

³⁸ We did not analyze data provided by the departments of Corrections, Health, or Public Safety, nor did we analyze data from the State Court Administrator's Office on name changes, placement in guardianships with revocation of voting rights, or findings of legal incompetence. We do not know the extent to which any of those data may have similar reliability issues.

³⁹ We do not know the number of voters affected by these issues. The State Court Administrator's Office identified the issues while researching a sample of eight cases we sent them. The office plans to take a comprehensive look to identify remaining data issues, including looking back to 2010, when it began using its current process to send these data to the Secretary of State's Office.

⁴⁰ We surveyed 45 city election officials in Hennepin County and Duluth. We received responses from 38 officials, yielding a response rate of 84 percent. We surveyed those cities because they had been delegated certain responsibilities over elections or because county officials recommended them. They and many other cities throughout the state use SVRS to issue absentee ballots. Because we surveyed a nonrandom sample of such cities, our results may not be representative of all cities that use SVRS.

Exhibit 2.7: Most county and city election officials were satisfied with SVRS’s performance during peak usage in 2016.



NOTES: SVRS is the Statewide Voter Registration System. The survey question asked: “How satisfied were you with the system performance of SVRS during peak usage around the 2016 state general election?” We surveyed county election officials in all 87 Minnesota counties; we received responses from 86 county officials (a 99 percent response rate). We surveyed 45 city election officials in Hennepin County and Duluth; we received responses from 38 city officials (an 84 percent response rate). We chose these cities because they had been delegated certain responsibilities over elections or because county officials recommended them. They and many other cities throughout the state use SVRS to administer absentee voting. Because we surveyed a nonrandom sample of cities, our results may not be representative of all cities that use SVRS. Percentages do not sum to 100 percent due to rounding.

SOURCE: Office of the Legislative Auditor, analysis of surveys of county and city election officials.

to SVRS. The Nobles County election official expressed interest in having dial-in or livestreaming options for participating in the Office of the Secretary of State’s trainings. She said that she would like to have all of her staff who work on election-related issues attend the trainings, but doing so would leave her office vacated for three days. Some county election officials have developed a list of desired changes to the reports generated by SVRS.

Several county election officials commented on the willingness of the Office of the Secretary of State to work with counties to address their concerns with SVRS. In general, counties had extremely positive things to say about the Office of the Secretary of State in written comments and during site visits. One county election official wrote:

Honestly, I can’t say enough good things about the employees of the Secretary of State’s office and the help that they provide. During the election process we always receive very informational emails from their office to inform [us of] the various steps in the process we need to be working on or what to watch out for. All of the election guides and calendars posted on their website are extremely helpful. They really help the election process run smoothly.

Another county election official wrote:

I would give the States Election division a rating of excellent in giving guidance and on responding to questions in a timely and accurate [manner]. They are a joy to work with and [it] is comforting to know that they are supportive of the work we do. Staffing levels are lean in the [county auditor-treasurer’s office] and elections are in addition to our full time jobs. We would not be able to manage elections without the States support and guidance.

In contrast to positive statements about SVRS, some county and city election officials described a system that is overtaxed.

SVRS is an aging system that is showing signs of strain. A small number of county election officials who responded to our survey said that SVRS can be sluggish or crash during peak usage. They and staff from the Office of the Secretary of State noted that SVRS—now more than a decade old—was not designed to do the tasks it now does or to accommodate the number of users who access the system around election time. Several city officials we surveyed also commented on SVRS’s sluggishness. One wrote, “SVRS worked well in non-peak times, but we experienced quite a bit of problems (very slow, or frozen screens) during peak days during the last week of absentee voting.” Another city official described SVRS as “antiquated.” Some city officials suggested that SVRS be updated to cope with the heavy volume of absentee ballots submitted just before an election.

Since first being developed in 2004, several new components have been added to SVRS. Legislative changes related to absentee balloting, in particular, have created a number of challenges for the system. First, the 2010 Legislature required cities that process absentee ballot applications to have access to the absentee module in SVRS.⁴¹ This required adding a new feature to SVRS and constituted a shift from the system’s original county-oriented design.⁴²

Second, the 2013 Legislature authorized no-excuse absentee balloting, which has caused the volume of accepted absentee ballots to increase enormously.⁴³ About 267,000 absentee ballots were accepted for the 2012 state general election; in 2016 that number grew to almost 678,000. SVRS was not designed to handle this volume of transactions.



The biggest issue with SVRS performance was in the week leading up to the election when the absentee volume was extremely high throughout the state. SVRS was not capable of handling the heavy load at times and the system bombed out more times than was acceptable.

—County Election Official

⁴¹ *Laws of Minnesota* 2010, chapter 194, sec. 3, codified as *Minnesota Statutes* 2017, 203B.05, subd. 1.

⁴² As an example, the city of St. Cloud is spread across three counties: Stearns, Benton, and Sherburne. The 2010 change required SVRS to be retooled so that a city election official in St. Cloud could process absentee ballot applications for the entire city using one log-in as opposed to three.

⁴³ *Laws of Minnesota* 2013, chapter 131, art. 1, sec. 2, codified as *Minnesota Statutes* 2017, 203B.02, subd. 1. Previously, in order to obtain an absentee ballot, a voter had to reasonably expect to be unable to go to the polling place on election day due to absence from the precinct, illness, disability, or other reasons specified in law. Since 2013, any eligible voter may vote by absentee ballot for any reason.

Finally, the Office of the Secretary of State anticipates future challenges. For example, state law will require SVRS to be able to handle political party affiliation data to ensure that a voter votes in only one party's primary during the 2020 presidential nominating primaries.⁴⁴

RECOMMENDATION

The Office of the Secretary of State should begin to modernize SVRS.

The Office of the Secretary of State estimates that it would cost approximately \$1.4 million over four years to modernize SVRS. The office told us that when it develops a new system, the office will roll it out in piecemeal fashion over a period of time, rather than launch the entire system on one particular day. We encourage the office to work with the Legislature to find the resources to accommodate this effort.

⁴⁴ *Minnesota Statutes* 2017, 207A.12(b).

Chapter 3: Election Day Access

As we explained in Chapter 2, several circumstances can lead to an individual's information being inaccurate in the Statewide Voter Registration System or on the voter roster. In addition, people who are eligible to vote might face barriers to registering or updating their registration. Minnesota has processes—election day registration and the oath for challenged voters—to provide access to voting for people in these circumstances. Because these options permit people to vote before county election staff can fully assess their eligibility, election day registration and the oath for challenged voters may raise integrity concerns in some situations.

Minnesota's options for election day access allow voting by eligible persons who would otherwise be unable to vote. However, they may also permit ineligible people to vote.

In this chapter, we describe election day registration and the oath for challenged voters. For the latter option, we focus on registered voters who are “challenged” on the voter roster due to a felony conviction. We discuss the extent to which voters used these methods to obtain a ballot in Minnesota during the 2016 general election. We also describe methods by which county election officials identify registration or voting by possibly ineligible persons. We present information on investigations of alleged ineligible registration or voting and prosecutions of cases. Finally, we present information on registration and voting convictions.

Election Day Registration

Voters whose information is accurate on the voter roster may sign the roster and receive a ballot to vote on election day. However, people who are not listed on the voter roster or whose information is not current must register before they can vote. Election day registration allows them to do so.

Use

Eligible voters might register on election day for various reasons. For example, people who have never registered to vote in Minnesota might register on election day so they can vote. People who have registered might use election day registration if they find they are not listed on the voter roster on election day. A registered voter's name may be missing from the roster if, for example, his or her record became “inactive” after a period of not voting. Registered voters who are listed on the voter roster might need to register on election day if they did not update their registration after a move or name change.

More than 10 percent of Minnesota voters used election day registration during the 2016 general election, mostly to update or reactivate their registration.

Data from the Secretary of State’s Office indicate that over 355,000 Minnesota voters, approximately 12 percent of the more than 2.96 million Minnesotans who voted in the 2016 general election, registered on election day. Fewer voters registered on election day in 2016 than in the prior two presidential elections. More than 540,000 voters registered on election day in 2008, accounting for over 18 percent of voters that year.

Most of the 2016 election day registrants were not registering for the first time in Minnesota. As Exhibit 3.1 shows, the greatest number of election day registrants—over 40 percent—were registered voters who updated their registration. Almost 25 percent of election day registrants used the process to reactivate their registration. Over three-quarters of the voters who reactivated their registration had become inactive due to not voting or initiating activity on their voter record in four years.¹ Approximately 32 percent of 2016 election day registrants registered for the first time.

Exhibit 3.1: Most voters who registered on election day in 2016 updated or reactivated their registration.

	Election Day Registrants (in thousands)	Percentage
Updated registration	153	43%
Registered for the first time	115	32
Reactivated registration	<u>89</u>	25
Total	356	

NOTES: We estimated the numbers of registrants using data provided by the Office of the Secretary of State from the Statewide Voter Registration System. Numbers do not sum to the total due to rounding.

SOURCE: Office of the Legislative Auditor, analysis of data from the Statewide Voter Registration System.

Election officials in the eight counties we visited characterized election day registration as “beneficial,” “definitely a good thing,” and “vitaly important.”² They identified populations within their communities for whom election day registration provides access to

¹ As we explained in Chapter 2, each year the Secretary of State’s Office changes voters’ status in the Statewide Voter Registration System to “inactive” if they have not voted or initiated activity on their voter record in the past four years. Voter rosters do not include the names of persons with inactive records.

² We visited Blue Earth, Crow Wing, Hennepin, Mahnomon, Nobles, Ramsey, St. Louis, and Stevens counties. Six of the eight counties we visited had more election day registrants as a percentage of 2016 voters than most counties, ranging from 12.5 percent to 18.0 percent. We selected our site visit counties purposively to ensure the sample reflected a cross-section of Minnesota counties. The factors we considered during our selection process included the percentage of 2016 voters who registered on election day, the total population of the county, whether the county used e-pollbooks in 2016, median household income, the percentage of the population that is nonwhite, the percentage of the population that is foreign born, the percentage of the population that lived in the same residence one year ago, and the region of the state.

voting. For example, election officials in Blue Earth, Ramsey, St. Louis, and Stevens counties mentioned that college students use election day registration, while officials in Hennepin and Mahnommen counties highlighted its use by young people more generally. Other groups of voters who use election day registration, according to county election officials, include renters, other mobile or transitory populations, and new citizens.

Given differing demographic characteristics in counties, election day registration may be more relevant for voters in some counties than others. For example, counties with older residents or residents who move less often may see less need for and use of election day registration. In the median Minnesota county, 11.8 percent of voters in 2016 used election day registration, but the percentage ranged from a low of 6.1 percent in Cook County to a high of 18.4 percent in Clay County.

Process

We outlined the process of election day registration in Chapter 1. Election day registration is a paper-based process in most polling places, but an electronic process in others. While individuals at some polling places may register to vote by completing a paper application form, others may complete an electronic application using an e-pollbook.³ We asked county and some city election officials about election day registration.⁴ We also reviewed the results of Crow Wing County's survey of its election judges after the 2016 general election. We thought the opinions of these election judges was an important addition to our analysis, since they administer the process.⁵

The majority of city and county election officials we surveyed thought election day registration went smoothly during the 2016 general election.

Eighty-five percent of county election officials and 72 percent of city election officials who responded to our survey indicated that election day registration was a smooth process to administer during the 2016 general election.⁶ Similarly, over 70 percent of election judges in Crow Wing County (33 of 45) reported no problems administering election day registration.

³ E-pollbooks (or electronic pollbooks) are tablet computer devices that election judges in some election precincts use to sign in voters at the polling place and to perform election day registration. The registration process is not completely electronic as it requires voters to sign a printed receipt affirming their eligibility to vote.

⁴ We surveyed county election officials in all 87 Minnesota counties and 45 city election officials in Hennepin County and Duluth. Eighty-six county election officials responded (99 percent response rate), as did 38 city election officials (84 percent response rate).

⁵ The Crow Wing County election official surveys head election judges to learn about administrative issues during elections. The survey asked about election day registration, e-pollbooks, and other topics. The county provided us with copies of survey responses from 45 election judges. We did not survey election judges directly due to our concerns about our ability to compile a comprehensive mailing list in a timely manner.

⁶ As we discuss later, 3 percent of county election officials thought the process was difficult to administer. No city election officials thought it was difficult.

Election officials attributed smooth administration of election day registration in 2016 to well-trained and experienced election judges, a lower volume of such registrants, and e-pollbooks.

Many county election officials attributed the ease of election day registration to the quality of their election judges or online voter registration. One county election official wrote:

What made it smooth? It is a long established, ingrained process that staff and election judges are well-trained on. Since Minnesota state law has provided for election day registration for [many] years, experienced election judges and staff are skilled in administering EDR [election day registration]. Public information, posters, and other materials from the Office of the Secretary of State assist in communicating the required identification and residency documentation to voters. We have a particular focus on EDR in training election judges, and recommend staffing these functions in the polling place with election judges that have the right skills, in teams of two whenever possible....

One county election official described the role of online registration in reducing the number of election day registrants:

In 2016, the availability of online registration for the first time in a presidential election reduced our anticipated number of election day registrants by approximately 40%. That made it easier for our election judges to register those voters who needed to register at the polling place on election day.

In addition to well-trained election judges and online registration, election officials said e-pollbooks improved the registration process on election day. Some precincts in Crow Wing and Hennepin counties were among those that used e-pollbooks during the 2016 general election.⁷ County election officials in both counties had positive reviews of the technology. They described more accurate and streamlined registration and check-in processes. For instance, during election day registration, e-pollbooks prevented election judges from inadvertently skipping required fields on the voter registration application and issued polling place notifications if registrants were in the wrong location. E-pollbooks also (1) offered multiple ways for election judges to find a voter's name on the roster and (2) allowed voters to check in with any election judge working with persons who registered before election day, rather than waiting in line based on their last name.

⁷ A precinct is a geographic area defined by local government officials for election administration purposes. Residents in a precinct vote for the same offices from among the same candidates on election day.



The use of [e-]pollbooks helped election day registrations. Judges who in the past did not want to be the registration judge, now will, with the pollbooks.

—City Election Official

The [e-]poll books made EDR [election day registration] much easier and much more efficient. Poll Books also allowed all election judges to do EDR instead of the select few, best election judges, as in past elections without the poll books. This helped with scheduling the judges.

—City Election Official

Thirteen city election officials in Hennepin County attributed the ease of election day registration to the use of e-pollbooks. For instance, some officials thought e-pollbooks made the registration process smoother and more efficient and eliminated human error. Some city officials wrote that e-pollbooks increased the level of comfort at the registration table for election judges who previously did not want the responsibility.

County election officials spoke about technological advantages from voters' perspectives, too. The Hennepin County election official commented that e-pollbooks increase voter privacy, while the Crow Wing County election official shared a similar opinion. She said voters

liked the technology because people could not see their personal information on the roster.⁸ Lastly, both officials said e-pollbooks reduced the amount of time spent posting voter history after the election. Thus, elections staff completed a process that once required weeks in a matter of hours or a few days.⁹

In spite of positive reviews of e-pollbooks, relatively few polling places used them in the 2016 general election.

The majority of precincts did not use e-pollbooks during the 2016 general election. Eight percent of precincts statewide used e-pollbooks, which comprised at least some precincts in Crow Wing, Hennepin, Ramsey, Stearns, and Wright counties.

Officials in several counties reported plans to expand use of or start using e-pollbooks in future elections. For instance, Minneapolis was the only city in Hennepin County that did not have e-pollbooks for the 2016 general election. However, the city deployed the new technology during municipal elections in 2017. The Crow Wing County election official said she plans to purchase additional e-pollbooks for some precincts that did not have them in the 2016 general election. She is also considering having one e-pollbook specifically designated to election day registration in some precincts, as the technology simplifies the registration process during and after elections. The Crow Wing County election official plans to implement e-pollbooks with grant money appropriated by the Legislature.

The 86 county officials who responded to our survey included 81 officials from counties that did not use e-pollbooks in 2016. Over half of these officials (51 percent) said their county would use or was considering using e-pollbooks in November 2018. Another five officials said municipalities in their county might use e-pollbooks in 2018.¹⁰

⁸ Voters who sign a paper roster might see information about other registered voters. Under a law passed by the 2017 Legislature, an election judge must make sure information about a voter's challenged status is concealed from other voters. *Laws of Minnesota 2017*, chapter 92, art. 1, sec. 18, codified as *Minnesota Statutes 2017*, 204C.10(e).

⁹ The survey of Crow Wing County election judges also showed that election judges who used e-pollbooks during the 2016 general election rated the process of registering new voters favorably (22 out of 26). Two judges considered the process challenging: one stated that the process was slow and would take time to get used to and the other described it as complicated.

¹⁰ Twenty-seven of the 81 county officials indicated that either the county or municipalities in the county did not have plans to use e-pollbooks in 2018. Eight county officials did not know about future e-pollbook plans.

County election officials cited several reasons for not using e-pollbooks, including implementation costs, county size, and access to internet connectivity. Overall, county officials commented that the cost of e-pollbooks prohibited their use of the technology. However, more jurisdictions may be able to purchase e-pollbooks in the future. The 2017 Legislature appropriated \$7 million for grants to counties, municipalities, and school districts to offset costs of purchasing voting equipment, including up to 75 percent of the cost of e-pollbooks.¹¹ The Secretary of State’s Office, which is administering the grants, received requests for funding that exceeded the appropriation. In early 2018, the office awarded the funds, including \$2.4 million for e-pollbooks.



We have a small population and the cost/benefit is not there where it’s a good fit for us at this time. Paper works just fine for our small population.

—County Election Official

The county does not have the funds available for EPollbooks. Many of the townships would not be able to connect for county-wide internet. The town halls do not have internet or even very good cell phone service at some of the polling places.

—County Election Official

Some election officials we surveyed and spoke with identified challenging aspects of election day registration.

Most election officials described the process of administering election day registration as smooth. However, some officials did not agree. Three percent of county election officials indicated that the election day registration process was difficult to administer. One official attributed difficulties to the volume of registrants and election judges feeling rushed and making mistakes. Another official said the process was not difficult, but it was time consuming.

During our site visits, election officials in Crow Wing, Nobles, and Stevens counties said that election day registration can be challenging for election judges when they verify voters’ required documentation. For instance, the Stevens County election official said an election judge can work with a registrant for 15 to 20 minutes, ensuring he or she has proper proof of residence. And the Nobles County election official commented that unique scenarios can be difficult to navigate. For instance, a person who lives in a household where the utilities are in another individual’s name would be unable to provide a utility bill as proof of residence.



As we are a small county with limited staff, it was time consuming to manually enter the [election day registrations] after election day. It is also challenging to read [identification] numbers resulting in a lot of returned [Minnesota driver’s license/social security number] verifications which we also had to manually process. We are hoping to alleviate this issue by implementing e Pollbooks.

—County Election Official

Other county election officials said that processing election day registrations after the election was time consuming due to the volume of registrants and the legibility of applications. For example, the Stevens County election official said that data entry after an election is very time consuming and frustrating, and it requires significant follow-up because of difficulties reading handwriting on voter registration applications. The quote on the left shows similar sentiments expressed by another county election official.

¹¹ *Laws of Minnesota* 2017, First Special Session, chapter 4, art. 1, sec. 6, subd. 5; and art. 3, sec. 17.

Proofs of Residence

We described in Chapter 1 the types of documents that election judges can accept as proof of residence for election day registrants. For example, an election day registrant may present a Minnesota driver's license that includes his current address or, if he does not have such a license, a photo identification card and one of a selection of documents that includes his current address.

Almost three-quarters of Minnesota voters who registered on election day in 2016 proved their residence using a current Minnesota driver's license, learner's permit, or identification card, or a receipt for one of these forms of identification.

Exhibit 3.2 shows that more than 70 percent of voters who registered on November 8, 2016, used a current Minnesota driver's license, learner's permit, or identification card when they registered, or a receipt for one of these. The second most common means of proving residence, used by approximately 14 percent of election day registrants, involved using a driver's license or related document—such as a driver's license from another state—and a bill showing the voter's current residence.

Six percent of election day registrants, over 20,000 voters, had another voter from their precinct vouch for them. Vouching is a process in which a registered voter in the same precinct may sign an oath that he or she “personally know[s]” that an election day registrant is a resident of the precinct.¹² Registered voters can vouch for up to eight people who live in their precinct.¹³ Election judges record each voucher's name and the number of people for whom he or she vouched. We reviewed the vouching documents from a nonrandom sample of 86 precincts from our eight site visit counties.¹⁴

¹² *Minnesota Statutes* 2017, 201.061, subd. 3(a)(4).

¹³ *Ibid.* Employees of residential facilities may vouch for facility residents, and they may vouch for more than eight persons. Residential facilities include, for example, transitional housing, nursing and veterans homes, and shelters for battered women. *Minnesota Statutes* 2017, 201.061, subd. 3(a)(4) and (c).

¹⁴ We requested documents, including vouching logs, from 7 to 13 precincts in each county we visited. Vouching logs list vouchers by name (and voter identification number, if available) and the number of persons for whom they vouched. We excluded from our analysis employees of residential facilities who vouched for facility residents. For some precincts, we reviewed vouchers' oaths, too. Vouchers sign an oath for each person for whom they vouch, declaring that they (the voucher) are a registered voter in the precinct and know the person for whom they are vouching is a resident of the precinct. *Minnesota Rules*, 8200.5100, subp. 1(D), and 8200.9939, published electronically June 15, 2016.

Exhibit 3.2: Most voters who registered on election day in 2016 used a current Minnesota driver's license, learner's permit, state identification card, or a receipt for same.

	Registrants (in thousands)	Percentage
Primary identifications		
Current Minnesota driver's license, learner's permit, identification card, or a receipt for same	257	72%
Voucher	21	6
Valid registration in same precinct	3	1
Tribal identification card	<1	0
Notice of late registration	<u><1</u>	<u>0</u>
Total	281	79%
Other proofs		
Driver's license, learner's permit, or state identification card, or a receipt for same, and bill	48	14%
Name on housing list of postsecondary school and student identification card	9	3
Student identification card and bill	3	1
United States passport and bill	2	1
United States military identification and bill	<1	0
Tribal identification card and bill	<u><1</u>	<u>0</u>
Total	63	18%
No valid identification recorded^a	<u>12</u>	3%
Total	356	

NOTES: We estimated the numbers of registrants using data provided by the Office of the Secretary of State from the Statewide Voter Registration System. Numbers do not sum to the total due to rounding. Percentages may not sum to the totals due to rounding.

^a "No valid identification recorded" means the election judge did not record a valid form of identification on the voter registration application.

SOURCE: Office of the Legislative Auditor, analysis of data from the Statewide Voter Registration System.

Half of our 86 sample precincts had no more than one voucher during the 2016 general election, and most vouchers provided proof of residence for only one person.

As Exhibit 3.3 shows, election judges at 31 sample precincts did not record any vouchers on election day in 2016, and judges in another 12 precincts recorded only one voucher. Election judges in six sample precincts recorded more than 20 vouchers, with vouchers in one precinct in Minneapolis numbering more than 200. Almost 90 percent of the vouchers in the sample precincts vouched for only one person. None of the vouchers in our sample precincts vouched for the maximum of eight persons allowed by state law, although one

Exhibit 3.3: Over one-third of sample precincts had no vouchers during the 2016 general election.

Number of Vouchers	Precincts	Percentage of Precincts
0	31	36%
1	12	14
2 to 5	16	19
6 to 10	15	17
11 to 20	6	7
21 or more	6	7
Total	86	

NOTES: Exhibit reflects vouching information for a nonrandom sample of 86 precincts from Blue Earth, Crow Wing, Hennepin, Mahnomon, Nobles, Ramsey, St. Louis, and Stevens counties. The exhibit does not include (1) vouchers for absentee voters or (2) residential facility staff. An employee of a residential facility, such as a battered women shelter or nursing home, may vouch for facility residents. Counties did not provide vouching logs for all sample precincts. In the absence of vouching logs, we reviewed vouching oaths. Vouchers must sign an oath for each person for whom they vouch. Vouching logs and vouching oaths we reviewed may not fully reflect vouching activity in the precincts. One vouching log reflected vouching for two precincts, only one of which was in our sample. Thus, vouching for that sample precinct may be overstated.

SOURCE: Office of the Legislative Auditor, analysis of precinct vouching logs and oaths.

person vouched for seven voters and vouching logs did not reflect the number of persons for ten vouchers.¹⁵

Most election officials thought changes to the options allowed as proof of residence on election day are unnecessary.

As Exhibit 3.4 shows, 56 county election officials thought additional documents or processes for proof of residence were unnecessary, and 63 county officials did not think any of the currently allowed options should be discontinued. Twenty of the 38 city election officials who responded to our survey thought additional documents or processes were unnecessary, and 23 officials thought the current options should remain.

State law requires election judges who are responsible for election day registration to “attempt to keep” a count of the people who try to register but cannot due to lack of proof of residence.¹⁶ Election judges may record unsuccessful registration on a precinct “incident log” or keep counts on a separate document. These counts will be incomplete if election judges do not record such attempts. In addition, the counts do not reflect people who do not try to register because they do not have proof of residence. Nonetheless, we reviewed

¹⁵ Ramsey County’s election official reported that his office surveys the residence of vouchers in a sample of precincts after each state general election. He said that the survey conducted after the 2016 election found that 7.6 percent of election day registrants in Ramsey County used a voucher as their proof of residence. The survey found that 86 percent of the vouchers lived at the same street address as the voter for whom they vouched, while another 5 percent of vouchers lived on the same street. Eight percent of vouchers lived elsewhere in the same precinct, and 1 percent of vouchers were staff members of a residential facility. We did not review the survey methods or validate the reported findings.

¹⁶ *Minnesota Statutes* 2017, 201.061, subd. 7.

Exhibit 3.4: Most election officials thought more options for proof of residence on election day were unnecessary, and most thought current options should remain.

Are there any **additional** documents or processes that you think should be *permissible* as an election-day registrant's proof of residence?

	No	No Opinion	Yes	Don't Know
County election officials	56	22	6	2
City election officials (N=38)	20	14	1	3

Are there any documents or processes that you think should be *discontinued* as an election-day registrant's proof of residence?

	No	No Opinion	Yes	Don't Know
County election officials	63	18	4	1
City election officials (N=37)	23	11	1	2

NOTES: The survey asked election officials to respond "based on your county's/city's experience with election-day registration in the 2016 general election." We surveyed county election officials in all 87 Minnesota counties; we received responses from 86 county officials for a 99 percent response rate. We surveyed 45 city election officials in Hennepin County and Duluth; we received responses from 38 city officials for an 84 percent response rate. We chose these cities because they had been delegated certain responsibilities over elections or because county officials recommended them.

SOURCE: Office of the Legislative Auditor, surveys of county and city election officials.

documents that reflected unsuccessful election day registrations at 86 sample precincts to learn the extent to which persons were unable to register on election day in 2016.¹⁷

Among documents we reviewed from 86 sample precincts, we identified 45 possible incidents of unsuccessful election day registration.

We estimated that fewer than 0.5 percent of the more than 9,400 people who attempted to register on election day in our 86 sample precincts were unsuccessful.¹⁸ Twelve sample precincts accounted for all of the unsuccessful election day registrations we identified.

Most of the 45 incidents of unsuccessful election day registrations occurred in sample precincts in Hennepin and Ramsey counties. We counted 12 unsuccessful registrations in sample precincts in Hennepin County and 28 in sample precincts in Ramsey County. Election officials in these two counties were the only ones among the eight we visited that asked election judges to keep separate counts of unsuccessful election day registrations, in addition to incident logs.

¹⁷ We requested incident logs and records of unsuccessful election day registrations from 7 to 13 precincts in each of the eight counties we visited.

¹⁸ The estimate in the text likely undercounts election day registrations that occurred in a polling place and, thus, overstates the percentage of people who tried but were unable to register on election day at the polling place. We estimated election day registrations at the polling place by assuming absentee voters and polling-place voters registered on election day at the same rate, but statewide figures indicate that a smaller percentage of absentee voters registered on election day in 2016 than did polling-place voters. Using different assumptions, we estimated 11,810 election day registrants and 0.4 percent of unsuccessful election day registrants.

We identified the remaining five possible incidents of unsuccessful election day registration in sample precincts in Crow Wing and Stevens counties. For example, one incident log noted that a college student was turned away, and other logs identified three individuals who did not have proper documentation.

Oath for Challenged Voters

We described in Chapter 2 that county election staff may challenge a voter's eligibility to vote for various reasons. For example, county election staff will challenge a person's eligibility to vote if data indicate the registrant is not a United States citizen. County election staff indicate a voter's eligibility is in question by adding "challenged" to the voter's record in SVRS.

All voters certify their eligibility to vote when they sign the voter roster to receive a ballot. The roster includes a statement affirming each component of eligibility (for example, residence, age, and citizenship), as well as the statement: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both."¹⁹ Most registered voters with a "challenged" notation in SVRS (and on the voter roster when it is printed) must swear an additional oath and answer questions to address the challenge before they may sign the roster and vote.²⁰ Like election day registration, the oath for challenged voters allows persons who are eligible to vote to do so, overriding outdated or inaccurate information in the voter roster. However, like election day registration, it also creates the potential for ineligible persons to vote.

We focused our review of the oath for challenged voters on voters challenged due to a felony conviction. A person who is serving a sentence for a felony conviction is ineligible to register or vote under Minnesota law.²¹ Most persons in the voter registration system who were challenged in August 2017 were challenged for name, address, or postal issues. Of the remaining challenges, most were voters challenged due to a felony conviction. In this section, we describe how registered voters who have been convicted of a felony become challenged on the voter roster. We also describe the oath to address the challenge and the extent to which persons challenged due to a felony conviction voted in the 2016 general election.

Felony Challenges

In Minnesota, the voter roster must include a notation for persons whose eligibility to vote is challenged in the Statewide Voter Registration System (SVRS). The notation includes that the voter is challenged, along with the reason for the challenge.²² For a person

¹⁹ *Minnesota Statutes* 2017, 204C.10(a).

²⁰ *Minnesota Statutes* 2017, 204C.12, subd. 2. One exception is that voters who are challenged due to having voted in the wrong precinct in the previous election must show proof of residence before voting. Documents to show proof of residence are the same as those used for election day registration.

²¹ *Minnesota Statutes* 2017, 201.014, subd. 2; and 201.054, subd. 2(1).

²² *Minnesota Rules*, 8200.9115, subp. 1, published electronically June 15, 2016.

challenged due to a felony conviction, “Challenge – Felony” is printed on the roster by the voter’s name.²³

County election staff challenge a voter’s record due to felony conviction based on data reported by the State Court Administrator’s Office or the Department of Corrections.

As required by law, the State Court Administrator’s Office reports felony convictions to the Secretary of State’s Office.²⁴ These data, which include offenders’ names and dates of birth, help the Secretary of State’s Office identify registered voters who are convicted of a felony. The reporting by the State Court Administrator’s Office is automatic; a computer program identifies and reports felony convictions electronically based on information that district court staff enter in the Minnesota Court Information System. If information reported by the State Court Administrator’s Office matches information about a registered voter in SVRS, SVRS reports the information to the appropriate county. State law requires county election staff to challenge the voter’s status in SVRS.²⁵

Data from the State Court Administrator’s Office is helpful for identifying people who already have a voter record in SVRS when they are convicted of a felony. In contrast, data reported by the Department of Corrections help the Secretary of State’s Office identify persons who register to vote after they have been convicted of a felony or who were not identified through the court data described above. Monthly, as required by law, the Department of Corrections reports information to the Secretary of State’s Office about individuals who are on adult probation in the community for a felony conviction or who are in prison or serving the remainder of their executed prison sentence in the community on supervised release.²⁶ The Secretary of State’s Office reports information that appears to match voters’ records to the counties where the voters are registered. As with voters identified using court data, state law requires county staff to challenge the record of a person who has a voter record and is listed in the data provided by the Department of Corrections.²⁷

²³ See Appendix A for additional information about how people may serve all or part of their sentence in the community following a felony conviction. As noted earlier, a new law requires election judges to make sure information about a voter’s challenged status is concealed from other voters. *Laws of Minnesota 2017*, chapter 92, art. 1, sec. 18, codified as *Minnesota Statutes 2017*, 204C.10(e).

²⁴ *Minnesota Statutes 2017*, 201.145, subd. 3(a). We analyzed data reflecting the more than 40,000 felony convictions reported by the State Court Administrator’s Office between July 1, 2016, and June 30, 2017. We analyzed felony discharges reported, too.

²⁵ *Minnesota Statutes 2017*, 201.145, subd. 3(d). The 2017 Legislature added the requirement that county election officials challenge a voter’s record within seven days of receiving the information. *Laws of Minnesota 2017*, chapter 92, art. 1, sec. 12.

²⁶ *Minnesota Statutes 2017*, 201.145, subd. 3(b).

²⁷ *Minnesota Statutes 2017*, 201.145, subd. 3(d). The 2017 Legislature added the requirement that county election officials challenge a voter’s record within seven days of receiving the information. *Laws of Minnesota 2017*, chapter 92, art. 1, sec. 12. The National Voter Registration Act requires United States attorneys to provide notification of felony convictions in federal court to the chief state election official in the state where the person who was convicted lives. National Voter Registration Act of 1993, 52 *U.S. Code*, sec. 20507(g) (accessed electronically October 25, 2017). United States attorneys submit this information by paper to the Secretary of State’s Office, which forwards the information to the appropriate county so county staff can challenge the voter’s record, if there is one. The Secretary of State’s Office estimated that federal felony convictions reported to the office number two dozen to three dozen per year.

As required by state law, both the State Court Administrator's Office and the Department of Corrections also provide information to the Secretary of State's Office to identify voters who should have a felony challenge removed from their voter record.²⁸ State law directs the State Court Administrator's Office to report daily persons whose civil rights have been restored.²⁹ Monthly, the Department of Corrections reports information on individuals who have been discharged from their felony prison sentence during the previous four years.³⁰

Registrants whose records have been challenged by county election staff due to felony conviction must complete an oath for challenged voters before voting. An election judge administers the oath to a challenged voter on election day. The process begins with the election judge asking, "Do you solemnly swear (or affirm) that you will fully and truly answer all questions put to you concerning your eligibility to vote at this election?" Assuming the voter answers in the affirmative, the election judge is directed to ask questions appropriate to establish the person's right to vote.³¹ For example, an election judge may ask a person who is challenged due to a felony conviction if he or she is on probation or parole for a felony conviction.³² County election officials may direct judges to ask other questions. For example, the training one county election official provides to election judges includes three questions for persons challenged due to a felony conviction: (1) What is your legal name? (2) Have you ever been convicted of a felony? (3) If yes, have your civil rights been restored? If a voter's answers indicate the voter is eligible, the election judge is to draw a line through the challenge notation on the roster and permit the voter to sign the roster and vote.³³

Use

At our request, the Secretary of State's Office ran a statewide report to identify voters with a "challenged" record who voted in the 2016 general election. According to the report, more than 26,000 persons with a challenged voter record voted in the 2016 state general election.³⁴ As we have explained previously, county election staff may challenge a voter's eligibility to vote for various reasons, such as questions about the voter's citizenship or residence. Appearing in this report does not necessarily mean that a person was ineligible to vote.

Of the more than 26,000 persons who voted in the 2016 general election while their voter record was challenged, 612 voters were challenged due to a felony conviction. At least 403 of these voters—or 0.01 percent of the more than 2.96 million voters who participated

²⁸ *Minnesota Statutes* 2017, 201.145, subd. 4(b), (c), and (e).

²⁹ *Minnesota Statutes* 2017, 201.145, subs. 1 and 4(b). The State Court Administrator's Office uses a process similar to the one we described for the office's reporting of convictions. The restoration of rights reported by the State Court Administrator's Office is case specific. SVRS keeps track of felony convictions and the restoration of voting rights by case, so the voter record for persons serving sentences for more than one case remain "challenged" until they have completed all of their sentences.

³⁰ In Minnesota, offenders who are sent to prison generally serve one-third of their sentence under community supervision (typically referred to as supervised release or parole).

³¹ *Minnesota Statutes* 2017, 204C.12, subd. 2.

³² Minnesota Office of the Secretary of State, *2016 Election Judge Guide* (St. Paul), 15.

³³ *Ibid.*

³⁴ A county-specific version of this report, which identifies persons whose record in SVRS was challenged for any reason, is available to county election staff. The report does not identify voters whose records were inactive and who used election day registration.

in the 2016 general election in Minnesota—likely completed the oath for challenged voters prior to casting their ballot. The remaining voters registered on election day.

We could not reach a conclusion about the eligibility of most of the 403 challenged voters who completed the oath. Firm conclusions about voters' eligibility require investigation, and many of the investigation outcomes we reviewed did not identify the subject of the investigation. In addition, some investigations were ongoing, so conclusions about eligibility had not been made. Our data analysis, which suggests some of the voters were eligible, is not definitive. In addition, we were able to identify only 16 of the 403 voters as having been reported by the State Court Administrator's Office as discharged from a felony conviction over a one-year period. The voters we could not identify as discharged may have been ineligible to vote. However, the voters may have been, for example, (1) released by the Commissioner of Corrections rather than the courts, (2) discharged by the courts earlier than the period covered by the data we analyzed, (3) listed with errors or omissions in the data (so we could not identify them as the same person), or (4) incorrectly challenged. We described in Chapter 2 and illustrate below that the "challenge" status may not be accurate for some voters.

Some of the voters in the 2016 general election who were "challenged" on the voter roster due to a felony conviction were eligible to vote, but others were not.

In several cases, the oath for challenged voters allowed voters who were eligible to vote to do so. County officials investigated at least 9 of the 403 challenged voters and determined that 4 of the voters' right to vote should not have been challenged (the voter had not been convicted of a felony or the challenge should have been removed). The other five investigations concluded that the voters were ineligible to vote.³⁵

We identified another 16 voters who may have been eligible to vote on November 8, 2016, although their voter record was challenged. Information provided by the State Court Administrator's Office indicated these individuals had been discharged from a felony sentence before the election, but their voter record in SVRS still showed a challenge. It is possible some of these voter records were still correctly challenged. The voters may have been serving multiple sentences for felony convictions, or county election staff may have had additional information that kept them from removing the challenge from the voter record.

However, we found reporting delays and other issues that may have caused the "challenge" notation on some of these 16 voters' records to be incorrect. In some cases, the State Court Administrator's Office reported restoration of rights to the Secretary of State's Office the same day a voter's rights were restored, but the county had already generated its voter rosters. In another case, there appears to have been a delay between when the State Court Administrator's Office sent a report and county staff updated the voter's status. In a final case, it appears that the voter had not been convicted of a felony.

³⁵ As we explained above, reports of investigation outcomes did not always contain sufficient information for us to identify the person under investigation. It is likely that county officials investigated more than the nine voters reflected here, finding additional voters who were correctly challenged (and ineligible to vote) or incorrectly challenged.

It is unclear when voting rights should have been restored for some of the voters who were challenged on the voter roster due to a felony conviction.

We observed a final issue for several voters who were challenged on the voter roster due to a felony conviction but voted in the 2016 general election. Under state law, court discharge restores the voting rights for offenders on probation following a felony conviction.³⁶ The reports from the State Court Administrator's Office restoring some voters' rights showed a gap of approximately seven months between the discharge date and the date of the report restoring their voting rights. For example, a December 30, 2016, report to restore voting rights would show a discharge date of June 3, 2016. Staff from the State Court Administrator's Office explained that six months of this gap is required by state law; the office allowed additional time, nearly a month, for other actions that might be occurring on the case that would prevent a discharge.³⁷

We do not offer a recommendation to address this situation for two reasons. First, state law requires the court to wait six months before discharging an offender in these circumstances. We do not know the extent to which the Legislature considered the effect this could have on voting rights or how a change to clarify voting rights in these circumstances might have other consequences. Second, we identified a relatively small number of voters who were affected by this issue, although some challenged voters, who would not be reflected in our data, may have chosen not to vote if they were uncertain of their eligibility. Still, we highlight this issue because the "challenge" notation and additional oath process may negatively affect an eligible voter's experience.

We stated above that investigations found instances in which ineligible persons cast a ballot, presumably after taking an oath to address the challenge. We discuss ineligible registration and voting below.

Ineligible Registration and Voting

Under Minnesota law, certain categories of persons are ineligible to vote or to register to vote. These include: persons who are currently serving a sentence for a felony conviction, persons under guardianship who have had their voting rights removed by a court, and persons found by a court to be legally incompetent.³⁸

While proponents of election day registration and the oath for challenged voters view these processes as important for voter access and participation, critics are concerned that these

³⁶ *Minnesota Statutes* 2017, 609.165, subd. 1.

³⁷ In late 2017, the State Court Administrator's Office shortened the period for additional case activity to zero to three days, after reviewing the process internally. Staff said the longer time period accommodated paper-based processes that now occur electronically. See Appendix A for additional discussion. Regarding the six months required by law, *Minnesota Statutes* 2017, 609.14, subd. 1(b), allows: "When it appears that the defendant violated any of the conditions of probation during the term of the stay, but the term of the stay has since expired, the defendant's probation officer or the prosecutor may ask the court to initiate probation revocation proceedings under the Rules of Criminal Procedure at any time within six months after the expiration of the stay. The court also may initiate proceedings under these circumstances on its own motion." *Minnesota Statutes* 2017, 609.135, subd. 2(f), requires that a "defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended..., or the defendant has already been discharged."

³⁸ *Minnesota Statutes* 2017, 201.014, subd. 2; and 201.054, subd. 2(1).

processes are inadequate to prevent ineligible persons from registering and voting. That is, they view these election day access processes as integrity issues.

The information provided by a voter on election day—either through registration or oath—is not subjected to computer verification prior to the voter casting a ballot.

Information provided by most voters who register before an election is subjected to verification based on their Minnesota driver’s license number, state identification number, or the last four digits of their social security number. Voters who register before election day also may be compared to lists of deceased persons, persons serving a sentence for a felony conviction, and noncitizens. By contrast, election day registrants are not subjected to these checks before being permitted to vote. While people who register on election day must provide proof of identity and proof of residing in the precinct, the information they provide on election day is not confirmed at the time.³⁹

Similarly, the attestation of persons who swear the oath for challenged voters on election day is not confirmed at the time. Registrants whose eligibility is “challenged,” for example, because of a felony conviction are allowed to cast a ballot if they swear under oath that they are eligible to vote because they have completed their sentence.

In this section, we discuss how county officials identify and investigate potentially ineligible registrants and voters, regardless of whether they registered on election day. We also present data related to recent prosecutions and convictions of election-related charges. Finally, we discuss steps taken to prevent ineligible registration and voting.

Identification

Concerns about voting often center on two competing interests: ensuring sufficient access so that all eligible persons can register and vote, and providing sufficient safeguards so that ineligible persons cannot register and vote.

In this section, we discuss how counties identify possibly ineligible registrants and voters. For election day registrants, one process involves the postal verification cards (PVCs) sent out after the election. Ineligible election day registrants may also be identified through the continual updating of voter information in SVRS, which we discussed in Chapter 2. For persons who swear an oath to address a challenge, we believe the current process may be deficient. We offer recommendations related to both groups.

Ineligible Use of Election Day Registration

After an election, county election staff enter information from election day registrations into SVRS and credit the persons with voter history.⁴⁰ During this process, if a county official posts voter history to someone whose status in SVRS is “inactive,” SVRS displays the following warning message: “Additional research may be needed to verify the voter’s

³⁹ A voter who updates or reactivates a registration on election day may have previously undergone identification, residence, and other data checks prior to voting. However, these checks may have been based on old information, such as a former name.

⁴⁰ As we discussed in Chapter 2, voter history is a notation in SVRS that indicates that a person voted in a given election.

status. If necessary, correct the voter status after submitting.” In such cases, the Office of the Secretary of State recommends that county staff pause the record update in SVRS and thoroughly review the registration before completing it.

Election day registrants’ information is then subjected to the same verification process that occurs for voters who register before the election, which includes sending a PVC. Because these postcards are not supposed to be forwarded by the U.S. Postal Service, a returned PVC may indicate that a voter did not live at the address she provided when registering to vote on election day. Alternatively, a returned PVC may indicate that the person moved between election day and the mailing of the PVC or is temporarily away. County officials have six weeks to enter election day registrations into SVRS and, in 2016, could receive an indefinite extension for doing so. Therefore, a PVC may not be mailed until months after the election, increasing the possibility that the voter has since moved. State law requires county election officials to notify the county attorney of election day registrants for whom the county election official, based on any PVCs returned as undeliverable, is unable to determine eligibility to vote.⁴¹

The 2017 Legislature created new reporting requirements for the Secretary of State’s Office and counties related to returned PVCs. The law now requires county election officials to report to the Office of the Secretary of State the total number of PVCs returned as nondeliverable, the total number of those for which the county could determine a reason for return (along with the reason), and the total number for whom the county did not receive sufficient proof of eligibility to vote. The Secretary of State must, in turn, report those data to the Legislature.⁴²

While county officials have several weeks or more to enter election day registrations into SVRS, state law requires county election officials to send PVCs to “a random sampling of the individuals registered on election day” within ten days after an election.⁴³ An administrative rule further specifies that the random sample should equal 3 percent of election day registrants.⁴⁴

Many counties are not complying with the statutory requirement to send postal verification cards to a random sample of election day registrants within ten days after an election.

First, as part of our site visits, we asked county officials how they select their 3 percent sample. Among the counties we interviewed, none described a sampling methodology that would yield a random sample of election day registrants. Most county officials said that they “randomly” selected precincts that would provide enough election day registrants that, once entered into SVRS, would meet or exceed the 3 percent sample size. Some county officials, therefore, described drawing a random sample of *precincts*, but none described a random sampling of *individuals*, as required by state law.⁴⁵ As a consequence, the sample

⁴¹ *Minnesota Statutes* 2017, 201.121, subd. 3(a).

⁴² *Laws of Minnesota* 2017, chapter 92, art. 1, sec. 11, codified as *Minnesota Statutes* 2017, 201.121, subd. 3.

⁴³ *Ibid.*

⁴⁴ *Minnesota Rules*, 8200.2700, published electronically May 22, 2008.

⁴⁵ In statistics, a random sampling is one in which every possible sample of size N from a population (in this case, every possible sample of 3 percent of election day registrants in a given county) has a known, nonzero probability of selection.

would have the potential to detect election irregularities, if any, only in the sampled precincts rather than across the entire county.

Second, counties enter registrants' information into SVRS before mailing PVCs. We used SVRS data to determine whether counties entered into SVRS 3 percent of election day registrants within ten days after the 2016 state general election. We found that 14 counties did not enter into SVRS at least 3 percent of election day registrations by the end of November 18, 2016. In fact, 12 of the 14 counties had not entered into SVRS any election day registrations within ten days after the election.

RECOMMENDATION

The Legislature should amend *Minnesota Statutes 2017, 201.121, subd. 3(a)*, to remove the random sampling requirement or clarify its purpose.

Based on the relatively small sample size set by the Office of the Secretary of State, we do not believe the random sampling serves any useful purpose. The Legislature should consider removing it.

Alternatively, the Legislature should clarify a purpose for the random sample in state law. Based on the purpose, the Office of the Secretary of State should re-evaluate its administrative rule setting the sample size. A sample size of 3 percent might be insufficient, particularly in small counties with limited numbers of election day registrants. The office should consider whether a single percentage-based sample size is appropriate for all counties, regardless of the number of election day registrants in the county. Also, depending on the Legislature's intent, it is important for counties to select the random sample based on the correct unit of analysis (that is, individuals rather than precincts). Systematically excluding some voters from the sample because of which precinct they live in will lead to a biased sample that does not represent the true return rate of PVCs for election day registrants.

Ineligible Voting or Registration Due to Felony Conviction

Similar to election day registration, a voter's oath to address a challenge is not confirmed against other data at the time of the oath. Three SVRS features can help county election officials identify people who registered or voted while ineligible due to a felony conviction, but they are not definitive. County election staff refer the information to the county attorney or law enforcement for further investigation.

First, SVRS warns county elections staff when they update the record of a voter who is challenged due to a felony conviction. For example, a person convicted of a felony might submit a voter registration application. If SVRS has a record for the person that reflects a felony conviction, SVRS notifies the county staff person entering the registration information.⁴⁶ Second, SVRS reports data from the Department of Corrections to counties, which we described earlier in this chapter. We identified at least 14 voters reported by the State Court Administrator's Office as having been convicted of a felony before the 2016 general election but who were not "challenged" on the voter roster. These voters, some of whom registered on election day, could be identified by this report if indeed they were

⁴⁶ Under state law, it is a felony to intentionally register to vote when serving a sentence for a felony conviction. *Minnesota Statutes 2017, 201.054, subd. 2(1)*.

servicing a sentence for a felony conviction when they registered or voted.⁴⁷ Third, county election staff may run an SVRS report that identifies voters in their county whose status changed from “challenged” to “active” due to voting. The report, titled “Voters Updated Due to Voting,” includes people challenged due to felony conviction who voted.⁴⁸

In a supplement to our survey, we asked county election officials whether or how they use the two SVRS reports.⁴⁹ Related to the report of Department of Corrections data, most county election officials who responded reported that they forward to the county attorney or law enforcement the names of people identified as registering or voting while possibly serving a sentence for a felony conviction.⁵⁰

Many county election officials said they do not use the “Voters Updated Due to Voting” report to identify possibly ineligible voters.

A staff person from the Office of the Secretary of State told us that “Voters Updated Due to Voting” is a starting point for identifying persons who may have voted while ineligible. However, over two dozen county election officials indicated that they do not use it for this purpose. Election officials in some counties may have found the report unnecessary; the statewide report we analyzed did not list voters challenged due to felony conviction in every county. In addition, according to a staff person from the Secretary of State’s Office, county election staff may have other methods for keeping track of voters whose eligibility needs investigation, such as flagging in the voter roster names of “challenged” voters who voted.

RECOMMENDATION

County election officials should consider using the “Voters Updated Due to Voting” report to identify persons who may have voted while ineligible.

We think the “Voters Updated Due to Voting” report is a useful resource. First, it may identify persons who completed an oath to address a challenge and voted, but who were not eligible to vote. This report could also identify persons who were challenged on the roster but registered on election day. The statewide report we discussed above identified 612 voters who were challenged due to a felony conviction, over 200 of whom appeared to have registered on election day. For counties that have other methods to identify ineligible voters, the report could serve as verification that county staff identified all voters to investigate. Second, the “Voters Updated Due to Voting” report may help county election staff identify data or process issues that contribute to inaccurate challenges. For example, our analysis of the statewide report revealed some voters who perhaps should not have been challenged. If county election staff observed similar instances among their county’s voters, they might be able to identify the cause of inaccuracies and corrective steps.

⁴⁷ As we explained in Chapter 2 and illustrated earlier in this chapter, some conviction messages may have been sent in error.

⁴⁸ When county election staff record a vote for a person who has a challenged record in SVRS, the system changes the voter’s record from “challenged” to “active.”

⁴⁹ We asked these questions separately from our survey of county election officials. We asked these questions of the 86 county election officials who responded to our first survey, and we received responses from 54 counties.

⁵⁰ Some county officials indicated other processes for addressing names listed on the report. Several county officials responded that the report for their county has not included names to forward.

While the “Voters Updated Due to Voting” report identifies persons whose names were printed on the rosters with a “Challenged—Felony” notation, it does not identify voters whose records had become inactive but who were challenged due to a felony conviction. For example, one voter became “inactive” in 2015. In 2016, the voter was convicted of a felony and county staff added a “challenge” to his voter record. The person then registered on election day in 2016 and voted. But because the voter’s record was “inactive,” he would not have been listed on the voter roster and would not be identified for further investigation by the “Voters Updated Due to Voting” report.

RECOMMENDATION

The Office of the Secretary of State should consult with counties about the need for a report to identify inactive voters who register while ineligible to do so.

We think a report that identifies inactive voters who register while ineligible could be useful to county election officials. It would provide information on possibly ineligible voters who would not be identified by the “Voters Updated Due to Voting” report and that need further investigation. Even though other SVRS tools described above might identify voters who registered while ineligible, a report that focused on inactive voters who register would provide a targeted list. If county election officials agree that such a report would be useful, the Secretary of State’s Office should work with them to determine the report’s scope and contents. For example, the report could focus on different types of ineligibility or registration, or it could be broader. A possible shortcoming of such a report is that it could over-identify potentially ineligible registrants due to outdated information. It would be important for the Secretary of State’s Office to compare voters in the report to persons the Department of Corrections has reported as discharged from felony prison sentences, for example, before making the report available to county election officials.

Investigation

State law requires county election officials who have knowledge or a belief that ineligible registration or voting has occurred to refer that information to the county attorney of the county where the incident took place and to the Office of the Secretary of State.⁵¹ Other sections of state law require county officials to report possible violations of election laws to the county attorney as well.⁵²

County officials follow different processes when they identify potentially ineligible people as having registered or voted.

County election officials differ in (1) the amount of work they do before referring individuals for investigation and (2) the officials to whom they refer the cases. County officials may conduct additional research before referring cases involving suspected ineligible voting or registration. For example, many counties reported in our survey that they check information on the Minnesota Court Information System public website or consult community corrections staff or data. However, counties differ in the amount of this

⁵¹ *Minnesota Statutes* 2017, 201.27, subd. 2. This law relates to any violations of *Minnesota Statutes* 2017, Chapter 201. Officials in the Secretary of State’s Office told us that they have not received any such reports in recent memory.

⁵² *Minnesota Statutes* 2017, 201.121, subd. 3; and 201.145, subs. 3(e) and 5(d).

type of research that they conduct. For example, Hennepin County's election staff said they might do less research than other counties before making referrals and, regardless of what their research shows, staff forward all persons they identify as potentially ineligible registrants or voters to the relevant police department so that law enforcement can determine which cases have merit.

Two county attorneys with whom we spoke interpret state law as requiring county election officials to refer cases of possible ineligible voting or registration to law enforcement agencies rather than county attorneys. The 2013 Legislature introduced ambiguity into the referral requirements by amending state law to read:

A law enforcement agency that is notified by affidavit of an alleged violation of this chapter shall promptly investigate. Upon receiving an affidavit alleging a violation of this chapter, a county attorney shall promptly forward it to a law enforcement agency with jurisdiction for investigation.⁵³

However, most county election officials send possible instances of ineligible persons registering or voting to their county attorneys. According to our survey of county election officials, 55 counties referred instances of suspected ineligible persons registering, voting, or committing other election offenses to their county attorney's office for investigation following the 2016 state general election; 3 counties—Hennepin, Itasca, and Ramsey—referred cases directly to law enforcement. The remaining 28 counties that responded to our survey said they did not have any cases of suspected ineligible persons registering, voting, or committing other election offenses related to the 2016 election.

Once they have received information from county elections staff, some county attorney's offices do some or all of the investigation, while others refer the cases to law enforcement. For example, the county attorney's offices in Anoka and St. Louis counties have investigators who investigate these cases. In Blue Earth and St. Louis counties, a county attorney does preliminary investigation as to a person's felony status before cases are sent to investigators. Some county attorneys refer all cases to the sheriff's office, while others refer them to the police or sheriff depending on where the offense occurred.

We do not make a recommendation related to the differences in county officials' practices because we do not see that it causes a material harm. However, differences in practice could affect the quality of data reported about election-related investigations. Data on the outcomes of completed investigations may be incomplete. We discuss these investigations in the next section.

⁵³ *Laws of Minnesota* 2013, chapter 131, art. 3, sec. 3, codified as *Minnesota Statutes* 2017, 201.275(a).

Investigation Results

Minnesota rules require county attorneys to “report the outcome of any investigation of alleged violations of voter registration laws” to the Secretary of State’s Office.⁵⁴ We compiled information from reports county attorneys submitted in calendar year 2016 through September 2017. These reports included investigations of offenses dating back several years.

At least 237 of reported investigations (74 percent) involved the eligibility of a registrant or voter.⁵⁵ Approximately 200 of these investigations specifically involved a person who may have been ineligible to register or vote due to a felony conviction, and appeared to include investigations to determine whether county election staff should “challenge” a voter in SVRS.

County attorneys’ reports of election-related investigations for an almost two-year period suggest 69 instances of ineligible persons who registered or voted, but the reports may be an unreliable source of information.

Some county attorneys’ reports included information about investigations still underway, but 218 of the investigations had been completed. Almost one-third of the completed investigations summarized in the county attorney reports we reviewed—69 investigations—suggested that a person who was not eligible to register or vote did so.⁵⁶ At the same time, 143 of the completed investigations (66 percent) did not find voting or registration by an ineligible person.⁵⁷ Reflecting upon all investigations related to the 2016 general election, staff from the Hennepin County Attorney’s Office told us: “The vast majority of cases involve individuals that are *mistakenly* identified as ineligible to vote” [emphasis in original].

In theory, the county attorney reports could allow collection of data on all registration-related investigations and their outcomes. However, their usefulness for this purpose is limited for a few reasons. First, the administrative rule does not specify the information county attorneys should report. Some reports we reviewed were very detailed, including the original allegation, the investigation report, and the county attorney’s charging decision. Other reports included only summary information or information on charges (for example, “we have charged one individual with a violation of the election laws”). These reports may not give complete information on all investigations. Second, as we described above, some county election officials refer allegations to law enforcement agencies. In these cases, county attorneys might report only investigations they considered prosecuting, rather than

⁵⁴ *Minnesota Rules*, 8200.7200, published electronically May 22, 2008.

⁵⁵ Other allegations included voting twice and voting in the wrong precinct. Approximately 17 percent of the reports did not specify the allegation.

⁵⁶ The 69 instances include 32 in Hennepin and Ramsey counties, in which law enforcement completes investigations. We assumed cases referred to the county attorneys for charging decisions found the alleged act of voting or registration by an ineligible person had occurred. The outcome of 6 of the 218 completed investigations was unclear.

⁵⁷ As we explained above, county attorney reports may have included investigations of registered voters’ felony status, rather than responses to alleged law violations. Had we been able to omit such reports consistently from our review, the percentage of investigations finding registration or voting by an ineligible person had occurred would be higher.

all investigations.⁵⁸ Finally, the reports we reviewed covered more than investigations into alleged violations of voter registration laws. Reports included investigations into other election-related offenses, such as voting more than once, and appeared to include investigations into whether county election staff should “challenge” registered voters in SVRS due to felony convictions.⁵⁹

Prosecution

State law requires county attorneys to prosecute cases involving ineligible registration and voting if they have probable cause for doing so. The law reads:

If there is probable cause for instituting a prosecution, the county attorney shall proceed according to the generally applicable standards regarding the prosecutorial functions and duties of a county attorney....⁶⁰

The laws establishing penalties for election-related offenses set up two different legal standards: that a person (1) *intentionally* registered while ineligible to vote or (2) voted *knowing* they were ineligible.⁶¹ To secure a conviction, a prosecutor would have to prove beyond a reasonable doubt both the act of ineligible registration or voting and the intention or knowledge of wrongdoing. In our examination of county attorney’s reports to the Office of the Secretary of State, we noted county attorney’s charging decisions.

Among investigations with charging decisions, county attorneys filed charges in 29 of the 54 cases that suggested that a person had registered or voted while ineligible to do so.

Although investigations into ineligible registration and voting indicated that 54 people had committed one or both of those acts, county attorneys did not always prosecute those cases.⁶² One reason attorneys decide not to prosecute is because they cannot prove the ineligible person’s intention or knowledge of wrongdoing. One county attorney report we reviewed summarized a case in which there was no evidence that county corrections staff had reviewed the agreement listing voting restrictions with the probationer, including that the probationer had not signed it. In a second case, the county attorney concluded that the voter’s mental capacity was too diminished to support that he knew he should not have voted while serving a

⁵⁸ For example, the Hennepin County election office referred more than 300 cases of possible ineligible registration and/or voting related to the 2016 election to local police departments. As of October 2017, police departments had referred only 15 of those cases to the county attorney’s office for a charging decision and had closed another 282 of them as unfounded. The report to the Secretary of State’s Office appears to reflect only cases that had been referred to the county attorney’s office.

⁵⁹ For the investigations that appeared to be research into whether a voter should be challenged, we did not see an allegation that a person registered or voted while ineligible. Instead, the issue appeared to be whether an already-registered voter was serving a sentence for a felony conviction.

⁶⁰ *Minnesota Statutes* 2017, 201.275(a).

⁶¹ *Minnesota Statutes* 2017, 201.014, subd. 3; and 201.054, subd. 2(1). *Minnesota Statutes* 2017, 609.02, subd. 9, defines the terms “know” and “intentionally”: “(2) ‘Know’ requires only that the actor believes that the specified fact exists. (3) ‘Intentionally’ means that the actor either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result. In addition, ...the actor must have knowledge of those facts which are necessary to make the actor’s conduct criminal and which are set forth after the word ‘intentionally.’”

⁶² County attorneys had not made charging decisions for 15 of the cases.

sentence for a felony conviction. In some cases, county attorneys noted that the statute of limitations for prosecuting a case had expired.

Convictions

We analyzed data on all election-related charges filed between July 1, 2012, and June 30, 2017, to determine the rate of convictions for voting and voter registration related offenses.⁶³

Among charges filed over a five-year period, fewer than half of charges filed for persons voting or registering while ineligible resulted in a conviction.

As Exhibit 3.5 shows, county attorneys filed 162 charges between July 1, 2012, and June 30, 2017, related to (1) ineligible people knowingly voting or (2) ineligible people registering to vote.⁶⁴ Thirty-six percent of the charges resulted in a conviction; the rest were dismissed or resulted in an outcome other than a conviction.

Under state law, intentionally registering to vote when ineligible and knowingly voting when ineligible are felony offenses.⁶⁵ As Exhibit 3.5 shows, the majority of convictions for registering or voting while ineligible did not result in a felony-level sentence. Of the 46 convictions for which we had sentencing information, 14 were gross misdemeanors and 10 were misdemeanors.⁶⁶ Half of the felony convictions received a stay of imposition. Offenders who receive a stay of imposition are placed on probation or are given other sanctions instead of being sentenced to prison. When offenders complete probation or other sanctions, the felony-level conviction is deemed a misdemeanor.

Finally, we researched the method of voter registration used by the 35 persons who were charged by June 30, 2017, with registering or voting while ineligible between October 2016 and February 2017. Nineteen persons had registered on election day, while 11 registered before the election. We could not determine the registration method for the remaining five individuals.

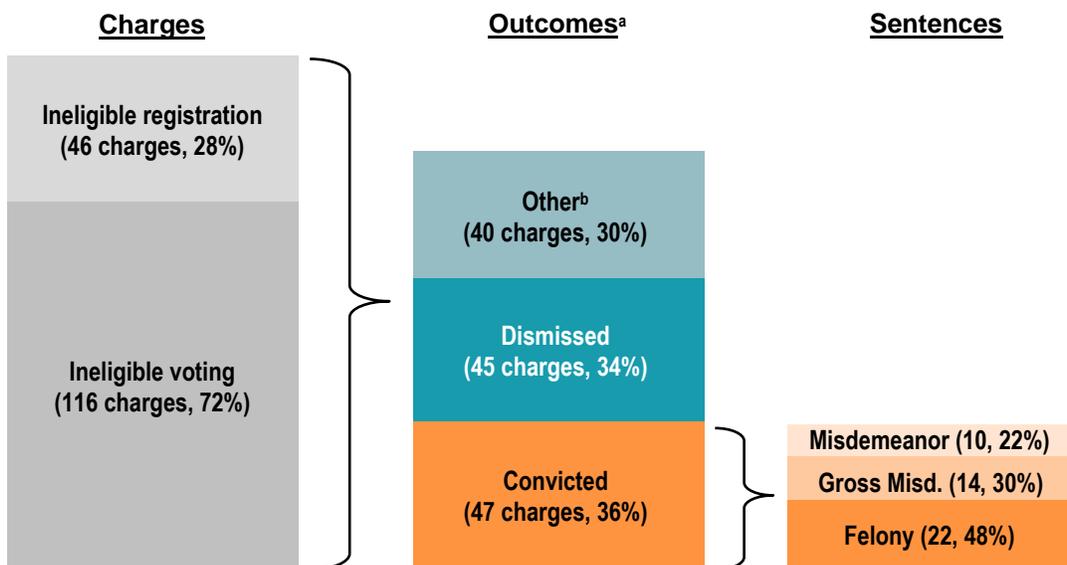
⁶³ We took this approach for two reasons. First, as we discussed above, county attorney reports did not always include sufficient information for us to be able to identify cases in the court information system. Second, time elapses between when an alleged offense occurs and when it is prosecuted. Due to the timing of our evaluation, we would have only a partial picture of charges and their resolution if we focused on offenses associated with the 2016 election.

⁶⁴ Our analysis is based on charges with dispositions. Thirty charges were still pending as of August 2017. Charges for registering or voting while ineligible accounted for most of the election-related charges during the five-year period (162 of 189 charges). Some offenses omitted from our analysis include voting more than once, registering in more than one precinct or where not a resident, absentee voting offenses, perjury under oath, and polling place damage.

⁶⁵ *Minnesota Statutes* 2017, 201.014, subd. 3; and 201.054, subd. 2(1).

⁶⁶ Total number of convictions does not equal total number of sentences because one charge had not been sentenced.

Exhibit 3.5: Among charges with outcomes, 36 percent of charges of voting or registering while ineligible resulted in a conviction.



NOTES: Exhibit reflects charges filed between July 1, 2012, and June 30, 2017. “Ineligible registration” refers to persons intentionally registering to vote when ineligible, and “Ineligible voting” occurs when persons knowingly vote when ineligible. “Gross Misd.” refers to a gross misdemeanor. The number of sentences does not equal the number of convictions because one charge had yet to be sentenced.

^a Percentages are based on charges with dispositions. Thirty charges were still pending as of August 2017.

^b The other charges had outcomes of acquitted, continued for dismissal, pretrial diversion, and stay of adjudication. Persons found not guilty of a crime are acquitted. A continuance for dismissal or pretrial diversion is when prosecution is suspended for a period of time on certain conditions and if those conditions are met, the case is dismissed. Under a stay of adjudication, the court postpones final judgment on a charge for a period of time. A person who abides by conditions of the stay will not be convicted.

SOURCE: Office of the Legislative Auditor, analysis of data provided by the State Court Administrator’s Office.

Prevention

The discussion above focused on identifying, investigating, and prosecuting people who register or vote when they are ineligible to do so. Providing individuals with access to information about the status of their felony sentence might help prevent voting by ineligible persons. We interviewed two individuals about ways people in the community who are serving a sentence for a felony conviction might be informed of restrictions on voting and registration.⁶⁷ We also asked county election officials in eight counties about resources they

⁶⁷ We spoke with the Field Services Director from the Department of Corrections and the Director of the Minnesota Association of Community Correction Act Counties. These officials are familiar with supervision of felony offenders in the community. In Community Correction Act (CCA) counties, county employees supervise adult felony offenders in the community. Other counties contract with the Department of Corrections to supervise these offenders. As of the end of 2016, 33 CCA counties supervised approximately 70 percent of adult felony offenders in the community.

provide to election judges who have questions about the eligibility of voters challenged due to a felony conviction.

Officials we interviewed described ways that individuals may be informed of restrictions on their eligibility to register and vote due to a felony sentence.

Some county election officials described how persons who may be serving a sentence in the community may learn about their felony status on election day. For example, in Crow Wing County, election judges can contact county election staff with questions regarding a voter's eligibility. County staff then contact the county attorney. The Crow Wing County election official recalled that this process prevented a person who was still serving a sentence for a felony conviction from voting during the 2016 general election. In Mahnomon County, one county election staff person described assisting voters who were unaware of the status of their felony sentences by contacting staff from the county court administrator's office to review voters' conviction status. The Minnesota Department of Corrections offers a hotline during voting hours, which county election staff may call with questions regarding the status of voters' felony sentences. Persons who may be on probation in Hennepin County can discuss the status of their sentence with a probation officer by telephone on election day.



Do not register to vote or vote until discharged from probation and your civil rights are fully restored.

—Minnesota Department of Corrections, felony probation agreement template

Felony offenders on probation may be informed of restrictions on their registration and voting rights through their probation agreement or other documents. Sample probation agreements we reviewed included a statement reflecting these restrictions among other conditions of probation. We saw a separate notice that addressed only registration and voting rights used by one agency that supervises felony offenders. The probation agreements and notice required the offender's signature acknowledging receipt of the information.

According to the Director of Field Services at the Department of Corrections, offenders attend a transition re-entry class prior to their release from prison.⁶⁸ The presentation includes a slide informing offenders that it is a felony to register or vote while serving a sentence for a felony conviction. The Ramsey County election official showed us a memorandum that the county's community corrections department sent prior to the 2012 general election to individuals under felony supervision. The memorandum reminded offenders that "under Minnesota Law, it is illegal to: 1. Register to vote in any federal, state, or local election, or 2. Vote in any election" if they had been convicted of a felony and that doing either could result in a new charge for a felony offense.

Agencies also have practices to inform felony offenders of the restoration of their voting rights at the conclusion of a sentence. We reviewed sample documents that courts might use to inform persons of their discharge from probation and their right to vote. Department of Corrections' policy includes notification to offenders on supervised release of the restoration of their voting rights at the conclusion of their sentence.

⁶⁸ In Minnesota, offenders who are sent to prison generally serve the last third of their sentence under community supervision.

Officials in some counties take additional steps to inform individuals who have completed their felony sentence about voting rights. For instance, the Ramsey County election official provided us with a letter that the county's community corrections department sends to individuals leaving probation or supervised release. The letter informs such individuals of their right to participate in elections (if they are not under felony supervision in another jurisdiction). The Crow Wing County election official said she communicates with probation officers before elections to remind them to inform released individuals of their eligibility to vote. She said she tells officers that persons released from their felony sentence may bring their paperwork to the polling place showing that they have been discharged from their sentence. She added that these reminders facilitate the voting process for everyone, especially election judges who must verify voters' eligibility.



Chapter 4: Registration Services and Barriers

Minnesota provides several ways to register to vote, including by paper, online, or while renewing a driver's license. Even so, not all eligible Minnesotans have registered to vote. An estimated 83 percent of adult citizens in Minnesota were registered to vote in 2016.

In this chapter, we examine voter registration services and barriers to registration. We collected information about voter registration services provided in 2016 by state agencies, the Secretary of State's Office, and county and city election officials. We also reviewed Community Action agencies' voter registration plans and activities. To understand reasons why people who are eligible to vote do not register, we asked Community Action agencies and election officials about barriers to registration.¹

Registration Services

State law requires state agencies and others to provide voter registration services. For example, the Department of Public Safety must ensure that the application for a Minnesota driver's license or identification card may also serve as a voter registration application. In addition, state agencies must provide voter registration services to their employees and members of the public.² Exhibit 4.1 lists these and other requirements for voter registration services.³

We asked state agencies about voter registration services they provided in 2016. We also asked the Secretary of State's Office and county and city election officials about voter registration activities of their offices. Finally, we asked Community Action agencies for copies of their voter registration plans.

State Agencies

As shown in Exhibit 4.1, state law requires state agencies to provide "voter registration services" to employees and members of the public.⁴ We reviewed information about the voter registration efforts of the 23 state agencies represented on the Governor's Cabinet.

¹ Community Action agencies provide access to a range of public programs to help low-income persons become self sufficient and engaged in their community. For example, agencies offer weatherization and energy assistance, Head Start programs, transportation assistance, and literacy programs.

² *Minnesota Statutes* 2017, 201.161 and 201.162.

³ Several of Minnesota's requirements for voter registration services parallel requirements in the National Voter Registration Act (NVRA). NVRA requires, for example, that a voter registration form be part of the application for a state driver's license and that registration forms and assistance be available at state agencies that provide public assistance. As we explained in Chapter 1, Minnesota is exempt from NVRA. National Voter Registration Act of 1993, 52 *U.S. Code*, secs. 20503(b)(2), 20504, and 20506(a)(2)(A) (accessed electronically October 25, 2017).

⁴ *Minnesota Statutes* 2017, 201.162.

Exhibit 4.1: Minnesota law requires voter registration services by several agencies.

1. State agencies must provide “voter registration services” for employees and members of the public.
2. Applications for a Minnesota driver's license or identification card must also serve as a voter registration application.
3. Forms or booklets for Minnesota's individual income tax return must include a voter registration form in odd-numbered years.
4. Community-based public agencies or nonprofit corporations that carry out obligations of state agencies must provide voter registration services for employees and the public.
5. County agencies must provide voter registration cards to every individual eligible to vote who applies for a public assistance program at the time application is made and upon request or at the time of redetermination of eligibility.
6. County auditors must (1) maintain a supply of voter registration applications at locations they have designated for registration before elections and (2) provide applications to people or groups who request a reasonable number for distribution.
7. Postsecondary institutions that enroll students accepting state or federal financial aid must provide voter registration forms to each student as early as possible in the fall quarter.
8. School districts must make voter registration applications available twice each year to students of the district who will be eligible to vote at the next election.

SOURCES: *Minnesota Statutes* 2017, 201.161; 201.1611; 201.162; 201.091, subd. 8; 256.925; and 289A.08, subd. 14; and *Minnesota Rules*, 8200.1700, published electronically May 22, 2008.

Most Cabinet-level state agencies said they provided voter registration services to employees *and* members of the public leading up to the 2016 general election, but several agencies did not.

Representatives of 14 of the 23 state agencies represented on the Governor's Cabinet said their agency provided voter registration information to both employees and members of the public in 2016, as highlighted in Exhibit 4.2. Representatives from another six agencies said their agency provided registration information to employees but not members of the public. Agencies provided information to employees through various methods, such as e-mails, articles or announcements in internal newsletters or on intranet sites, and Secretary-of-State publications.

Exhibit 4.2: In 2016, most state agencies of the Governor’s Cabinet provided voter registration services to their employees and the public, as required by state law.

Governor’s Cabinet State Agencies	Provided Voter Registration Services to:		
	Own Employees	Public	Other State Agencies’ Employees
Administration	✓	✓	✓ ^a
Agriculture	✓		
Commerce	✓		
Corrections	✓	✓	
Education	✓		
Employment and Economic Development	✓	✓	
Health	✓		
Higher Education	a	✓	
Housing Finance	✓	✓	
Human Rights	✓ ^a	✓	
Human Services	✓	✓	
Iron Range Resources and Rehabilitation	a		
Labor and Industry	✓	✓	
Management and Budget	✓		✓ ^b
Mediation Services	a		
Military Affairs	✓	✓	
MNIT	✓	✓	
Natural Resources	✓	✓	
Pollution Control	✓		
Public Safety	✓	✓	
Revenue	✓	✓	
Transportation	✓	✓	
Veteran Affairs	✓	✓	

NOTES: *Minnesota Statutes* 2017, 201.162, says, in part, “each state agency...shall provide voter registration services for employees and the public.” This exhibit is based on self-reported data. The Metropolitan Council, not shown, reported that it provided voter registration services to both employees and members of the public. The Metropolitan Council is a member of the Governor’s Cabinet, but it is not a state agency.

^a The Department of Administration’s Small Agency Resources Team (SmART) sent an e-mail about voter registration services to all active employees of SmART agencies, including the Office of Higher Education, the Department of Human Rights, the Iron Range Resources and Rehabilitation Department, and the Bureau of Mediation Services. The Deputy Commissioner of the Department of Human Rights re-sent the message to that agency’s employees.

^b The Department of Minnesota Management and Budget (MMB) sent an e-mail about voter registration services to over 100 Human Resources contacts in state agencies, providing agencies with information they could forward to employees and include in internal publications. MMB also posted voter registration information on Employee Self Service, a website that state employees may use to manage and access information about their benefits, payroll, and other employment-related topics.

SOURCE: Office of the Legislative Auditor, analysis of information provided by members of the Governor’s Cabinet.

Several state agencies’ representatives mentioned voter registration information provided by the Department of Minnesota Management and Budget (MMB). MMB sent an e-mail with voter registration information to state human resources directors, which directors could share with their agency’s employees. MMB also posted an announcement on Employee Self Service, the website state employees may access for employment-related tasks and information. The three agencies that did not provide voter registration services to

employees are clients of the Department of Administration Small Agency Resources Team (SmART). SmART sent voter registration e-mails to employees of its client agencies.

The departments of Administration and Human Services also provided information to make state agencies and service providers aware of the requirement to provide voter registration services. The Office of Grants Management in the Department of Administration lists the section of state law with the requirement on its website among other grant-making laws. The Department of Human Services reported that it includes the voter registration requirements in its standard contract language for service providers.

Cabinet-level state agencies reported a range of approaches to providing voter registration services to members of the public in 2016.



Among state agencies' voter registration services, state law requires:

Nonpartisan voter registration assistance, including routinely asking members of the public served by the agency whether they would like to register to vote and, if necessary, assisting them in preparing the registration forms must be part of the job of appropriate agency employees.

—*Minnesota Statutes 2017, 201.162*

Representatives from 15 Cabinet-level state agencies said their agency provided voter registration services to members of the public in 2016. Several agencies' public voter registration efforts involved having voter registration applications available at a reception desk or at a place visible to the public. We do not know, however, the extent to which agency employees asked members of the public if they would like to register or provided voter registration assistance. Information from the Department of Revenue indicated that the agency instructs employees who work at the front desk to provide voter registration assistance to employees or members of the public, if requested, and it is part of their job description. In contrast, a representative from the Department of Natural Resources said the agency has not added the responsibility for providing voter registration assistance to any specific employee's job description, noting "In order to appropriately implement a process for doing so we believe that we need to assess...what training [employees] might need in order to properly assist and respond to questions."

Some agencies' efforts went beyond making voter registration applications available. For example, in addition to including a registration form in the 2015 income tax booklet (as required by law), the Department of Revenue required tax software vendors to include registration information and a link to the Secretary of State's website.⁵ The Department of Human Services provided opportunities for program clients to "opt in" to receive voter registration services. Exhibit 4.3 lists these and other methods state agencies reported using to provide voter registration services to the public.

⁵ State law requires the Department of Revenue to include a voter registration form in the individual income tax booklets for odd-numbered years. *Minnesota Statutes 2017, 289A.08, subd. 14.* The tax booklet for the 2015 tax year, which taxpayers would use in 2016, included a voter registration form.

Exhibit 4.3: Cabinet-level state agencies reported various ways they provided voter registration services to the public in 2016.

Employment and Economic Development	<ul style="list-style-type: none"> State Services for the Blind provided access to websites with voting and registration information through an e-mail to public subscribers.
Human Rights	<ul style="list-style-type: none"> Featured several voting-related videos on its website with links to voter registration information
Human Services	<ul style="list-style-type: none"> Provided applicants for numerous programs, such as Group Residential Housing, Minnesota Family Investment Program, and MinnesotaCare, with the option of receiving voter registration information The Commission of Deaf, Deafblind, and Hard of Hearing conducts biannual activities that include online videos through which clients can learn about checking their registration status, online registration, and other topics.
Labor and Industry	<ul style="list-style-type: none"> Included voter registration information in three publications, including a newsletter to apprentices and the “CCLD Review” (a Construction Codes and Licensing Division newsletter) Posted voter registration notices at computers in the public service area
Military Affairs	<ul style="list-style-type: none"> Worked with the Secretary of State’s Office to send voter registration materials to all facilities for service members, family members, and the public
Natural Resources	<ul style="list-style-type: none"> Placed voter registration materials in agency’s licensing center and lobby kiosk
Public Safety	<ul style="list-style-type: none"> Included voter registration information in the Driver’s Manual Included a voter registration form as part of the application for a Minnesota driver’s license or identification card
Revenue	<ul style="list-style-type: none"> Included a voter registration form in the 2015 income tax booklet Required tax software vendors to include registration information and a link to the Secretary of State’s website

NOTE: Exhibit does not include all services reported by state agencies represented on the Governor’s Cabinet.

SOURCE: Office of the Legislative Auditor, summary of selected information provided by members of the Governor’s Cabinet.

The statutory requirement that state agencies provide voter registration services to members of the public is difficult for some agencies to implement.



Due to the sensitive nature of our mediation work outside of our offices and across the state of Minnesota, it would be more challenging to promote voter registration services in those situations.

—Bureau of Mediation Services

Exhibit 4.2 shows that 8 of the 23 state agencies reported not providing voter registration services to the public in 2016. The representative from the Department of Health wrote, “We have found the statute conceptually difficult to implement and it is not clear who ‘appropriate agency employees’ are.” Representatives from the Iron Range Resources and Rehabilitation Department and the Bureau of Mediation Services noted they have little interaction with the public, with one of them also highlighting challenges to providing the services.

RECOMMENDATION

The Legislature should amend *Minnesota Statutes 2017, 201.162*, to clarify its expectations of state agencies to provide voter registration services to members of the public.

Minnesota law requiring state agencies to provide voter registration services to employees and members of the public does not differentiate among state agencies or the services they provide. Over one-third of the Cabinet-level state agencies did not provide voter registration services to the public in 2016, and some agency representatives voiced uncertainty about how to implement the requirement in their agency. Current Minnesota law echoes the National Voter Registration Act, from which Minnesota is exempt. But the federal law suggests agencies that provide voter registration services might be a subset of all state agencies.⁶

The Legislature should consider whether there are state agencies or programs that should be exempt from this requirement. It may be that asking members of the public about their voter registration status and offering assistance with completing applications is more compatible with the work of some state agencies or programs than others.

Secretary of State

As we described in Chapter 1, the Secretary of State is Minnesota's chief election official. The Secretary of State's Office maintains the Statewide Voter Registration System and works with counties and municipalities on administration of elections. The office may also engage in activities to encourage voter registration. Although state law does not require the Secretary of State's Office to promote voter registration, we asked staff about the office's voter registration efforts in 2016.⁷

The Secretary of State's Office encouraged voter registration in 2016 in a variety of ways, and most county election officials thought the office's efforts were "good" or "excellent."

The Office of the Secretary of State used a variety of methods to encourage voter registration. For example, the office launched a voter registration competition among the state's post-secondary institutions, provided educational and promotional materials in English and 11 other languages, and mailed postcards to 18-year-olds after their birthday. The office also worked with Minnesota's professional sports franchises to record registration and voting messages and included messages in non-English print media.

⁶ The National Voter Registration Act requires states to designate "voter registration agencies," to include (1) all state offices that provide public assistance and (2) all state offices that provide state-funded programs "primarily engaged in providing services to persons with disabilities." Furthermore, the act requires states to designate other voter registration agencies, but it does not require that all state agencies be designated as voter registration agencies. National Voter Registration Act of 1993, 52 *U.S. Code*, sec. 20506(a) (accessed electronically October 25, 2017).

⁷ *Minnesota Statutes 2017*, 204B.27, subd. 6, permits the Secretary of State's Office to engage in activities to increase voter registration, but it does not require such activities.

As part of our evaluation, we surveyed county election officials about several registration-related topics, including the Secretary of State's voter registration efforts.⁸ Fifty-eight percent of county election officials characterized the office's efforts prior to the 2016 general election as "excellent," while another 27 percent characterized the efforts as "good."⁹ Two county election officials with whom we spoke during site visits said that the Secretary of State's Office developed materials they used to provide voter registration information in their counties.

Election Officials

State law requires little from election officials related to voter registration services. The law requires that county auditors maintain a supply of voter registration applications at locations they have designated for registration before elections. It also requires that they provide applications to people or groups who request a reasonable number for distribution.¹⁰ We asked county election officials and selected city election officials whether and how they promoted voter registration in 2016.¹¹

Most county election officials and surveyed city election officials reported providing voter registration information in multiple ways.

We asked election officials about several approaches to providing voter registration information, listed in Exhibit 4.4. As the exhibit shows, almost all election officials reported providing a link on the county or city website to general voter registration information on the Secretary of State's website. Some officials reported providing voter registration applications and/or encouraging online voter registration. Twelve county election officials indicated they did six or more of the seven listed approaches, and all but 2 of the 86 counties indicated taking multiple approaches to providing information.¹²

Several county and city election officials noted other efforts their offices had taken to facilitate voter registration prior to the 2016 state general election. For example, Olmsted County's election official said the office printed and distributed business-like cards that included the Secretary of State's website address for election information. Sherburne County provided voter registration applications at the county fair. Officials from the cities of Brooklyn Center, Hopkins, Medina, Osseo, and Richfield reported providing voter registration applications in "new resident" packets and/or to people who file to homestead their property.

⁸ We surveyed county election officials in all 87 Minnesota counties; we received responses from 86 county officials (99 percent). The question read: "How would you characterize the Office of the Secretary of State's efforts to promote voter registration prior to the 2016 general election?"

⁹ Seven percent said "fair," and 8 percent selected "do not know."

¹⁰ *Minnesota Statutes* 2017, 201.091, subd. 8; and *Minnesota Rules*, 8200.1700, published electronically May 22, 2008.

¹¹ In addition to the county election officials mentioned above, we surveyed 45 city election officials in Hennepin County and Duluth; we received responses from 38 officials (84 percent). We chose these cities because they had been delegated certain responsibilities over elections or because county officials recommended them.

¹² One county election official indicated that her county had done all approaches except providing registration applications upon request and to groups conducting registration drives. She noted that her office had fulfilled requests for applications in the past and would have in 2016, but the office did not receive any.

Exhibit 4.4: County and city election officials used a variety of approaches to make information about voter registration accessible.

Which of the following did your county/city do in advance of the 2016 state general election?	Percentage of Counties (N=86)	Percentage of Cities (N=38)
Provided a link on the county/city website to general information on voter registration from the Office of the Secretary of State	95%	95%
Provided a link on the county/city website to online voter registration application	87	95
<i>Upon request</i> , distributed voter registration applications to county health agencies/public health clinics, libraries, schools, banks, or other locations	77	42
Provided paper voter registration applications to groups conducting registration drives	59	45
Provided county/city-developed voter registration information on the county/city website	33	58
Encouraged groups conducting registration drives to register people online	33	32
<i>Proactively</i> distributed voter registration applications to county health agencies/public health clinics, libraries, schools, banks, or other locations	22	39
None of the above	0	0

NOTES: We instructed election officials to select all that apply. We surveyed county election officials in all 87 Minnesota counties; we received responses from 86 county officials for a 99 percent response rate. We surveyed 45 city election officials in Hennepin County and Duluth; we received responses from 38 city officials for an 84 percent response rate. We chose these cities because they had been delegated certain responsibilities over elections or because county officials recommended them.

SOURCE: Office of the Legislative Auditor, surveys of county and city election officials.

Several county and city officials reported using social media, traditional media, and newsletters to share information. For example, during our site visit, Crow Wing County's election official said the county customized tools provided by the Secretary of State's Office to send social media messages that promoted voter registration. In survey responses, several city election officials also mentioned using e-mail, Twitter, or Facebook to share voter registration information. Rock County's election official reported working with a local newspaper to draft an article to encourage residents to register before election day, while Hennepin, Roseau, and Stearns counties' election officials reported issuing press releases. Washington County provided information in its residential newsletter, as did several cities.

Election officials also described working with different groups of voters or potential voters. For example, during our site visit, the election official in Stevens County described working with the University of Minnesota-Morris to inform students of their voting options and promote registration prior to election day; she characterized the effort as "a great success," citing a significant reduction in election day registrations in the precinct in 2016 compared to 2014.¹³ The election official from Sibley County said the office gave presentations to high school civics classes. Ramsey County's election official reported working with an

¹³ The precinct that serves University of Minnesota-Morris students who live on campus saw 433 voters in 2014, 297 of whom registered on election day (69 percent). For the 2016 general election, 512 persons voted in that precinct, with 220 of them registering on election day (43 percent).

organization to register voters in chronically under-registered areas of St. Paul. City election officials from Deephaven, Minnetonka, and Mound reported outreach to senior facilities or group housing.

During our site visits, we learned of ways that three county election officials try to address barriers to voting for non-English speakers. These practices could also be helpful for people registering the same day. The Ramsey County election official said he asks bilingual staff who do not typically work in the elections area to be available during in-person absentee voting. Election judges in Mahnomon and Nobles counties have access to a phone number for interpreter services to help address the needs of non-English speaking residents.

Community Action Agencies

Under Minnesota rules, Community Action agencies must maintain a voter registration plan, among other documents.¹⁴ To understand the types of registration services that might be provided by organizations other than state agencies and county and city election offices, we asked Community Action agencies to provide us with a copy of their voter registration plan. Representatives from 18 of the 24 Community Action agencies responded to our request for information.

Most Community Action agencies provide voter registration services, but not all have the voter registration plan required by administrative rule.

Representatives from 18 Community Action agencies—all of those that provided information—reported providing voter registration services. Most of them reported asking program applicants about their registration status and offering registration materials and assistance if the applicant desired. For example, representatives from five agencies mentioned this activity particularly related to the Energy Assistance Program application process. Three agencies' representatives said they provide voter registration assistance to parents with children enrolled in the Head Start program. Representatives from three agencies said their agency provides free rides to polling places on election day. These rides could help individuals who need to register that day.

Six of the nine voter registration plans we received from Community Action agencies specifically noted that voter registration services must be nonpartisan. For example, one plan stated: "We must carry out all voter engagement activities on a strictly Non-Partisan basis. Encourage People to Vote: It is about participating and not suggesting who to vote for."¹⁵ Three of the agencies' plans explicitly stated that applicants for services must be made aware that registering is not a condition of receiving assistance. For example, one

¹⁴ *Minnesota Rules*, 9571.0040, subp. 3E, published electronically February 6, 2009. Minnesota's 24 Community Action agencies receive funding from the federal Community Services Block Grant and the Minnesota Community Action Grant, among other sources. While Minnesota rules require agencies to have a voter registration plan, some sources of federal funding prohibit voter registration activities. For example, neither federal Head Start funds nor federal Community Services Block Grant funds may be used to provide voter registration activities or transportation to the polls. 42 *U.S. Code*, secs. 9851(b)(1) and (2), and 9918(b)(2) (accessed electronically February 22, 2018). However, a nonpartisan organization may use Head Start facilities during hours of operation "to increase the number of eligible citizens who register to vote in elections for Federal office." 42 *U.S. Code*, sec. 9851(b)(2) (accessed electronically February 22, 2018).

¹⁵ Community Action Partnership of Hennepin County, "CAP-HC 2017 Voter Registration Outreach Plan," 1.

plan said, "...all applicants will be made aware that voter registration is optional and not required."¹⁶

Finally, while all 18 agencies that responded to our request reported providing voter registration services, 9 agencies did not provide a copy of their voter registration plan. The representatives from some of these agencies reported that their agency did not have such a plan. A representative from the Office of Economic Opportunity (OEO) in the Minnesota Department of Human Services said the office intends to request agencies' voter registration plans in 2018 as part of fulfilling federal regulations.¹⁷

Barriers to Registration

In addition to asking Community Action agencies about the voter registration services they offer, we asked them whether they were aware of barriers to voter registration in the communities or among the populations they serve.

Most Community Action agency representatives who responded to our request for information identified barriers to voter registration for the people they serve.

Representatives from 16 of the 18 Community Action agencies that responded to our request for information identified barriers to voter registration. Two agencies reported no barriers to voter registration for the people and communities they serve.

More than half of the Community Action agency representatives who identified barriers to registration identified uncertainty about the registration process or eligibility as a barrier among their clients or in their communities.¹⁸ They specifically mentioned clients not knowing (1) where or how to register or vote, (2) which documents they need to register or vote, and (3) how a felony conviction affects their voting rights.

The next most cited barriers to voter registration for people served by Community Action agencies related to feeling disconnected or disinterested and lack of transportation. Comments related to the former barrier included that people feel disconnected from the process of government decision making or that their vote does not matter.

Several agency representatives highlighted factors that could make completing the registration process difficult for their clients, including: lack of identification or proof of residence, language, literacy, Internet access, and lack of paper voter registration applications. Some Community Action agency representatives also noted the mobility of the populations they serve as a barrier to voter registration.

¹⁶ Mahube-Otwa Community Action Partnership, Inc., "Voter Registration and Voter Education Plan."

¹⁷ Among other things, the Office of Economic Opportunity is responsible for overseeing federal Community Services Block Grant funds in the state. Minnesota rules require Community Action agencies to keep several organizational documents on file, such as their articles of incorporation, data privacy policies, and voter registration plan. The agencies must make copies available to OEO if requested. *Minnesota Rules*, 9571.0040, subp. 3, published electronically February 6, 2009.

¹⁸ We categorized responses into themes. We have not listed all barriers identified by Community Action agency representatives.

Most election officials we surveyed were unaware of barriers to registration for eligible voters, or they thought barriers were adequately addressed.

As Exhibit 4.5 shows, a majority of county election officials were unaware of barriers to registration for eligible voters in several different categories. For example, 84 percent of county election officials were unaware of barriers to registration for persons of color, and 57 percent of county election officials were unaware of barriers to eligible voters who are not proficient in English. Around one-third of county election officials indicated that they were aware of barriers to registration for several of the listed categories of voters, but they thought the barriers were addressed. For example, 35 percent of county election officials thought barriers to registration for post-secondary students were adequately addressed.

Exhibit 4.5: Most county election officials were unaware of barriers to voter registration for eligible voters.

Eligible Voters:	Not Aware of Barriers	Barriers Are Adequately Addressed	Barriers Could Be Better Addressed	Do Not Know
Of color	84%	6%	2%	8%
Who are members of federally recognized American Indian tribes	72	5	3	20
Who recently moved to the county from another Minnesota county	70	29	1	0
Who recently moved to the state	64	34	1	1
Who are post-secondary students	63	35	1	1
Living in health care facilities	59	37	3	0
Hospitalized on election day	58	33	2	7
Without access to transportation	58	26	6	9
With disabilities	57	36	5	2
Not proficient in English	57	20	10	13

NOTES: The question read: “Indicate whether you are aware of any barriers to voter registration for the following groups and, if so, the extent to which such barriers are adequately addressed by current policies and practices—whether by the county, the Office of the Secretary of State, or other organizations.” We surveyed all 87 counties and received responses from 84 to 86 counties for each category. Some rows do not sum to 100 percent due to rounding.

SOURCE: Office of the Legislative Auditor, survey of county election officials.

We asked city election officials in Hennepin County and Duluth about barriers to registration, too. City election officials who responded to the survey were more aware of barriers for most of the groups of eligible voters than were county election officials. For example, while 57 percent of county election officials were unaware of barriers to registration for eligible voters with disabilities, only 42 percent of city officials were unaware of barriers for this group. Yet for all groups listed in the survey, 74 percent or more of city officials who responded to our survey were unaware of barriers or thought that barriers were adequately addressed.

For most groups of eligible voters we asked about, a relatively small number of county election officials—one to four officials—thought more could be done to address barriers to registration. However, nine county election officials, representing 10 percent of those who responded to the question, thought barriers could be better addressed for persons who are

not proficient in English. Six city election officials also thought barriers could be better addressed for this group. Election officials from seven counties commented on the need for registration forms in alternate languages or interpretation services. One of these officials suggested a translation service that is available on more than just election day to help address questions that arise on other days. An official from another county suggested increasing the number of voters a person can vouch for and assist. Two city election officials emphasized the need for oral voter registration information in different languages, not just in writing. Although election officials did not mention the online registration application specifically, we noted that it is in English only.

Five county election officials thought more could be done to address barriers to registration for people who do not have access to transportation, echoing a barrier cited by Community Action agencies. Counties suggested ways to overcome transportation barriers, including a local ride hotline, election day shuttles, or a bus system to transport voters to the polls on election day. One county election official thought promoting online registration and options for voting early could help address transportation challenges, too. A city election official thought providing information well in advance of an election could help eligible voters facing barriers. This official suggested, for example, that community newsletters could help eligible voters who do not have a computer and lack transportation by providing a phone number to call for a voter registration or absentee ballot application.

Finally, we asked county and city election officials whether they were aware of barriers facing any groups of voters we did not ask about. One county election official said that people staying at domestic abuse shelters may face barriers because of the sudden and possibly temporary change to their living arrangements. One city official identified homeless voters as a group that has a barrier to registration on election day due to proof of residence requirements. Another city election official said voters living in assisted living facilities that are not health care facilities face challenges.

Election officials' responses may reflect the demographic characteristics of the population in their community more than the extent to which barriers exist for each group. For example, 20 percent of county election officials and 16 percent of city officials who responded to our survey did not know if members of federally recognized American Indian tribes faced barriers to voter registration. However, the election official from Cass County, which includes part of the Leech Lake reservation, cited a need for more voter advocacy programs, registration drives, and research to address low voter registration and turnout among tribal populations.

We do not make recommendations to increase voter registration services or address specific barriers to registration. The resources available to provide services or address barriers, and the types of barriers that are most prevalent, could vary by community. Instead, we hope that learning about barriers to registration and approaches different organizations have used to provide services might help legislators, election officials, and others consider approaches that might work in their communities.

List of Recommendations

- The Office of the Secretary of State should improve the online voter registration application. (p. 21)
- The Office of the Secretary of State should begin to modernize the Statewide Voter Registration System. (p. 36)
- The Legislature should amend *Minnesota Statutes* 2017, 201.121, subd. 3(a), to remove the random sampling requirement or clarify its purpose. (p. 54)
- County election officials should consider using the “Voters Updated Due to Voting” report to identify persons who may have voted while ineligible. (p. 55)
- The Office of the Secretary of State should consult with counties about the need for a report to identify inactive voters who register while ineligible to do so. (p. 56)
- The Legislature should amend *Minnesota Statutes* 2017, 201.162, to clarify its expectations of state agencies to provide voter registration services to members of the public. (p. 70)



Community Supervision and Restoration of Voting Rights

APPENDIX A

In Minnesota, people serving a sentence for a felony conviction are ineligible to register or vote. As of December 31, 2016, over 50,000 adults in Minnesota were serving a felony sentence in the community.¹ While people serving their sentence in the community after a felony conviction may not legally register or vote, election day registration and the oath for challenged voters may inadvertently enable them to do so.

In this appendix, we explain Minnesota’s process of community supervision. We also explain a circumstance in which the restoration of voting rights for some individuals may be unclear.

Community Supervision

Persons convicted of a felony may serve all or part of their sentence in the community. Sentencing has two steps: (1) imposition of a sentence and (2) execution of the sentence. Imposition is the official statement of a sentence. For example, a court might impose a two-year prison sentence. Execution of that sentence occurs when the offender is sent to prison.

A “**stay**” puts a prison sentence on hold. An offender may serve his or her entire sentence in the community.

For some felony convictions, the court may “stay”—or put on hold—the prison sentence for a period of time. The court may stay either step of sentencing. For a stay of imposition, the court records a conviction but does not impose a prison sentence.² For a stay of execution, the court records a conviction and imposes a prison sentence but does not send the offender to prison. Under a stayed sentence, a judge places the offender on probation and may impose a period of confinement in a local facility, such as a jail. Other conditions of a stay might include fines, domestic abuse counseling or treatment, or community work service, for example. For the period of the stay, the offender is serving at least part of their felony sentence in the community.

People who are sent to prison in Minnesota typically serve the last third of their sentence in the community under supervised release.

When the court executes a prison sentence, the offender is sent to prison. In Minnesota, offenders who are sent to prison generally serve two-thirds of their sentence in prison and one-third of their sentence under community supervision (typically referred to as supervised release or parole).

¹ This figure includes people on probation following a stay of adjudication. A stay of adjudication is not considered a conviction in Minnesota and, as such, individuals who receive a stay of adjudication may register and vote.

² A stay of imposition has the added benefit that the conviction will be recorded as a misdemeanor on the offender’s criminal history if the offender successfully completes the conditions of the stay.

Restoration of Voting Rights



When a person has been deprived of civil rights by reason of conviction of a crime and is thereafter discharged, **such discharge shall restore the person to all civil rights and to full citizenship, with full right to vote** and hold office, the same as if such conviction had not taken place, and the order of discharge shall so provide.

—*Minnesota Statutes 2017, 609.165, subd. 1*

Under state law, discharge from a felony sentence restores voting rights to a person deprived of these rights due to a conviction.³ The discharge—or release from a sentence or conditions of a stay—can occur when the sentence expires or, for a stay, by court order.⁴ But we found that some offenders’ right to vote may be unclear for a period of time. Specifically, for offenders on probation due to a felony conviction, there may be a roughly six-month period when their voting rights are unclear.

We described above that an offender may be on probation for a felony conviction under a “stayed” sentence. If an offender abides by the terms of probation, the offender’s probation officer may recommend that the court discharge the offender early. However, other offenders may violate the terms of their probation. In these cases, the court may extend or alter the terms of their stay or, for serious or repeated violations, the court may revoke the stay, resulting in commitment to prison.

Some offenders will reach the end of their stay with the court having neither revoked or extended the stay, nor discharged the offender. State law directs that these offenders be discharged six months after the stay expires.⁵

Staff from the State Court Administrator’s Office explained how they met this requirement related to restoration of voting rights: Roughly seven months (210 days) after an offender’s stay expired, the court’s computer system reported restoration of the offender’s voting rights to the Secretary of State’s Office. Staff explained that 210 days covered the six months required by state law and about one month in case a probation officer or prosecutor had requested revocation of the stay.⁶ Although the State Court Administrator’s Office sent the report to the Secretary of State’s Office 210 days after the stay expired, the report backdated the discharge date to the day the stay expired.

³ *Minnesota Statutes 2017, 609.165, subd. 1.*

⁴ *Minnesota Statutes 2017, 609.165, subd. 2.*

⁵ *Minnesota Statutes 2017, 609.135, subd. 2(f)*, requires that a “defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended..., or the defendant has already been discharged.” *Minnesota Statutes 2017, 609.14, subd. 1(b)*, allows: “When it appears that the defendant violated any of the conditions of probation during the term of the stay, but the term of the stay has since expired, the defendant’s probation officer or the prosecutor may ask the court to initiate probation revocation proceedings under the Rules of Criminal Procedure at any time within six months after the expiration of the stay. The court also may initiate proceedings under these circumstances on its own motion.”

⁶ In late 2017, staff from the State Court Administrator’s Office reviewed this practice and now reports the restoration of rights in these cases 184 days after the stay expires. The Minnesota Court Information System is based on days, and 184 days is the maximum number of days in six months (for example, July through December). A six-month period can be as short as 181 days, but if the State Court Administrator’s Office reported restoration of rights earlier than 184 days after a stay expired, it might discharge some persons before the six months required by law.

Exhibit A.1 illustrates this process for a fictional registered voter, Bob Johnson, who pleaded guilty to a felony offense on June 3, 2013.⁷ The court imposed a prison sentence but stayed execution of the sentence, instead placing Johnson on probation. The State Court Administrator’s Office reported the conviction to the Secretary of State’s Office, and county election staff promptly noted a challenge on Johnson’s voter record in the Statewide Voter Registration System.

Exhibit A.1: It may be unclear whether some felony offenders are eligible to vote on election day.

June 3, 2013	<ul style="list-style-type: none"> • Bob Johnson pleads guilty to a felony offense. • The court imposes a prison sentence but stays execution of the sentence for three years. Johnson is put on probation. • The State Court Administrator’s Office notifies the Secretary of State’s Office of Johnson’s conviction. • County election staff mark Johnson’s voter record in the Statewide Voter Registration System as “Challenged – Felony.”
June 3, 2016	<ul style="list-style-type: none"> • Johnson’s stay expires, but he has not been discharged from probation.
November 8, 2016	<ul style="list-style-type: none"> • Johnson goes to his polling place to vote. • The election judge asks Johnson to complete the oath for challenged voters because “Challenged – Felony” is printed next to Johnson’s name on the voter roster. • Johnson completes the oath for challenged voters and votes.
December 30, 2016	<ul style="list-style-type: none"> • The State Court Administrator’s Office notifies the Secretary of State’s Office to restore Johnson’s voting rights, with a discharge date of June 3, 2016.

SOURCE: Office of the Legislative Auditor.

Johnson’s stay of execution expired on June 3, 2016, and he voted on November 8, 2016. The voter roster at his polling place noted “Challenged—Felony” next to his name, and he completed the oath for challenged voters before voting. Because the court had not discharged Johnson, one might think he was not eligible to vote. However, as Exhibit A.1 shows, several weeks later the State Court Administrator’s Office reported the restoration of Johnson’s voting rights to the Secretary of State’s Office, with a discharge date of June 3, 2016. At this later date, it appeared Johnson was eligible to vote on November 8.

⁷ Although we provide a fictional example, we observed a 210-day gap between the reported discharge date and the date voting rights were restored for some persons who voted in the 2016 general election.



Statewide Voter Registration System Records

APPENDIX B

Exhibit B.1: In August 2017, Minnesota's Statewide Voter Registration System contained over 5.4 million records.

Status	Records	Listed on Voter Roster?
Active	3,243,688	Yes
Challenged ^a	30,661	Yes
Postal return ^b	17,882	
Felony	7,837	
Other ^c	4,856	
Guardianship	55	
Citizen	31	
Inactive ^d	1,371,732	No
Deceased	464,792	No
Deleted ^e	302,221	No
Pending ^f	201	No
Total	5,413,295	

^a "Challenged" indicates there is a question about the registrant's eligibility to vote or to vote in the precinct. A challenge does not necessarily mean that the person is ineligible to vote. Because a registrant may be challenged for more than one reason, registrants may be counted more than once. Challenged registrants must swear an oath for challenged voters before voting or, in some cases, provide proof of residence.

^b "Postal return" indicates that the U.S. Postal Service returned an election mailing as "undeliverable." The postal service may not forward election mailings and their return might indicate a registrant's residence is in question.

^c "Other" includes challenges due to a name change, an issue with both the person's name and address, identifying information that was unverifiable with data from either the Department of Public Safety or the Social Security Administration, voting out of precinct, or requesting an absentee ballot be sent to a different address than the person's verified address.

^d "Inactive" indicates that the person's registration has lapsed because the person has moved out of state, has not voted or initiated other activity on their record in the last four years, or has submitted a written request for removal of his or her record. Because a registrant may be inactive for more than one reason, registrants may be counted more than once in this number.

^e "Deleted" indicates that county election staff entered the record into SVRS erroneously. Deleted records have no associated voter history.

^f "Pending" indicates that a voter registration application is deficient (for example, missing a signature), that the registrant submitted the application fewer than 21 days before an election, that the registrant is not yet 18 years of age but will be by the next election, or that county staff could not assign the address provided by the registrant to an election precinct.

SOURCE: Office of the Legislative Auditor, analysis of data from the Statewide Voter Registration System.





STATE OF MINNESOTA
Office of Minnesota Secretary of State
Steve Simon

March 8, 2018

James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

Thank you for the opportunity to review and respond to the program evaluation report on Voter Registration from the Office of The Legislative Auditor. This report reflects a thorough and comprehensive review of Minnesota's voter registration system. I appreciate the report's attention to detail, and its recognition of the complex election administration work at both the state and local levels.

This report shows that, while Minnesota is rightly proud of its strong and nation-leading voting systems, there are improvements that should be made to enhance and strengthen our systems. I agree with each of the report's recommendations, especially the need to modernize and secure the Statewide Voter Registration System database (SVRS). This is a critical and urgent priority, especially in light of the fact that Minnesota was one of twenty-one states targeted by a foreign government during the 2016 election. While we successfully maintained the integrity of Minnesota's systems, two of the twenty-one targeted states suffered intrusions into their statewide voter registration databases. The gravest threat to the security of our elections would be to ignore the prospect of an attack by outside forces seeking to undermine our election system. As Minnesota's chief election officer, I am committed to working closely with the legislature and local elections officials to strengthen and secure Minnesota's election systems.

I have provided my office's specific response to each recommendation below, and we look forward to working with the legislature and local election officials to implement these recommendations.

Recommendation 1: The Office of the Secretary of State should improve the online voter registration application.

The report recommends that my office improve the online voter registration application tool by providing both a "please review" screen before submitting the application and a verification prior to

submitting the application to determine if the voter is already registered. We agree with this recommendation, and will work to implement both of these suggestions. While the online voter registration application tool already has a “please review” functionality that is limited to reviewing the address field, we will update the online voter registration tool to include in the “please review” page the ability to review the name as well. We will also add functionality that will screen applicants prior to submitting a voter registration application to see if the voter is already registered. We intend to have these changes in place by June 1, 2018.

Recommendation 2: The Office of the Secretary of State should begin to modernize SVRS.

In my judgment, this is the most important and urgent recommendation in the entire report. Upgrading, securing, and modernizing Minnesota’s Statewide Voter Registration System is an immediate and vital priority of my office. Securing our election system means protecting instruments like SVRS from attack. We know that Minnesota’s election system was targeted for attack during the 2016 election by forces acting at the direction of a foreign government. While we successfully secured all of our systems in Minnesota, two of the twenty-one targeted states suffered intrusions into their voter registration databases. The top threat to election integrity here in Minnesota and across the United States is the threat of a cyber-attack on our election system. The need is real, and the stakes could not be higher.

We have been working with legislators since last year to address this issue – we cannot make meaningful changes without the necessary resources. State investment is crucial. The current SVRS was launched in 2004 using more than \$1.2 million of state general fund dollars and more than \$5.1 million in federal Help America Vote Act funds. The system is nearly 15-years-old, and as the report observes, SVRS has expanded since 2004 to include many new functions – while processing significantly more transactions and information. By way of comparison, Apple is on its eighth iteration of the iPhone, the first of which was not sold until three years *after* our SVRS was introduced. While we have diligently and successfully maintained the integrity of SVRS with patches and temporary measures, we are long overdue for a more sustained update.

SVRS is the backbone of Minnesota’s election system. It is not only where all data on Minnesota’s registered voters resides, but also where election officials process and track absentee and mail ballots, produce election day voting rosters, and track and process all election day voter history. The importance of modernizing and securing voter registration systems cannot be overstated.

I am committed to working with the legislature to ensure that Minnesota invests in our current SVRS so that we have the modern and secure system that Minnesotans deserve.

Recommendation 3: The Legislature should amend Minnesota Statutes 2017, 201.121, subd. 3(a), to remove the random sampling requirement or to clarify its purpose.

We agree with the recommendation that the sampling requirement related to postal verification cards should either be removed by the legislature or clarified. This is a timely recommendation, as the legislature amended this statutory section in 2017 to expand the mandated reporting on all postal verification card returns. My office will work with the legislature to address this recommendation, and

determine if there is a legislative purpose for this random sampling requirement in light of the new reporting on all postal verification cards.

Recommendation 4: County election officials should consider using the “Voters Updated Due to Voting” report to identify inactive voters who register while ineligible to do so.

Although this recommendation is directed to county election officials, we are committed to working with counties to help facilitate this recommendation.

Recommendation 5: The Office of the Secretary of State should consult with counties about the need for a report to identify inactive voters who register while ineligible to do so.

As the report states, there are several tools and warnings already available in SVRS that would identify inactive voters who registered but who may be ineligible to vote. However, we agree that a streamlined report that focuses solely on inactive voters with potential eligibility issues, like the “Voters Updated Due to Voting” report for active voters, could be useful to counties. My staff will work with county election officials to develop a new report specifically tied to inactive voters, with the intent that the report be available for the November 6, 2018, general election.

Recommendation 6: The Legislature should amend Minnesota Statutes, 2017, 201.162, to clarify its expectations of state agencies to provide voter registration services to members of the public.

We agree that the statutory obligation requiring state agencies to provide voter registration services should be clarified. As the report states, there are some agencies not currently providing required voter registration services, and other agencies are simply not sure how to provide those services. My office has worked to provide resources and materials to state agencies to help them comply with this statutory section. However, further clarity in statute regarding agency expectations would benefit both state agencies and the public they serve.

Again, thank you for the opportunity to respond to the findings in your report, and for the work of your office in preparing this report. I appreciate the report’s recommendations and will work with the legislature and local election officials to implement these recommendations. Together, we can and must modernize and further secure Minnesota’s voter registration systems.

Sincerely,

A handwritten signature in black ink that reads "Steve Simon". The signature is written in a cursive, flowing style.

Steve Simon
SECRETARY OF STATE





MINNESOTA ASSOCIATION OF COUNTY OFFICERS

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February 26, 2018

James R. Nobles, Legislative Auditor
Office of the Legislative Auditor, Room 140
Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155-1603

Dear Mr. Nobles,

Thank you for the opportunity to review and comment on the report on Voter Registration. Representatives from the Minnesota Association of County Officers (MACO) have reviewed the report and provided comments and suggestions to your office. It is our opinion that the information contained in the report has been thoroughly and objectively compiled.

Voter Registration is a complex topic. The report has addressed the issues of how persons register to vote, election day registration, how Minnesota treats felons registering to vote, and the modernization of the State Voter Registration System (SVRS).

We are supportive of the recommendations contained in the report. We especially think that it is of prime importance that adequate funding be accorded the State Voter Registration System (SVRS) for improvements in performance and functionality. The system was not designed to handle the growing numbers of absentee voters that slow down the system right before election day.

In addition, MACO also supports the immediate restoration of voting rights for individuals who are not incarcerated and permitting voters to use electronic signatures to sign pollbooks.

Again, thank you for including MACO in your list of organizations who had the opportunity to review and comment on the Voter Registration report. Hopefully your report will increase the knowledge of all parties interested in improving the voter registration and voting experience for our citizens.

Sincerely,

Randy R. Schreifels
MACO President



Forthcoming OLA Evaluations

Board of Animal Health's Oversight of Deer and Elk Farms
Early Childhood Programs
Guardian ad Litem Program

Recent OLA Evaluations

Agriculture

Agricultural Utilization Research Institute (AURI), May 2016
Agricultural Commodity Councils, March 2014
"Green Acres" and Agricultural Land Preservation Programs, February 2008
Pesticide Regulation, March 2006

Criminal Justice

Mental Health Services in County Jails, March 2016
Health Services in State Correctional Facilities, February 2014
Law Enforcement's Use of State Databases, February 2013
Public Defender System, February 2010
MINNCOR Industries, February 2009
Substance Abuse Treatment, February 2006

Economic Development

Minnesota Investment Fund, February 2018
Minnesota Research Tax Credit, February 2017
Iron Range Resources and Rehabilitation Board (IRRRB), March 2016
JOBZ Program, February 2008

Education, K-12 and Preschool

Minnesota State High School League, April 2017
Standardized Student Testing, March 2017
Perpich Center for Arts Education, January 2017
Minnesota Teacher Licensure, March 2016
Special Education, February 2013
K-12 Online Learning, September 2011
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