

NO. A26-0997

FILED

June 26, 2026

**State of Minnesota
In Supreme Court**

**OFFICE OF
APPELLATE COURTS**

MINNESOTA VOTERS ALLIANCE and DIANE NAPPER,

Petitioners,

v.

CITY OF MINNEAPOLIS and CASEY CARL, in his official capacity as City Clerk
of the City of Minneapolis,

Respondents.

BRIEF OF PETITIONERS

UPPER MIDWEST LAW CENTER

Douglas P. Seaton (#127759)
Nicholas J. Nelson (#391984)
Austin M. Lysy (#505052)
12600 Whitewater Drive, Suite 140
Minnetonka, MN 55343
(612) 428-7000
Attorneys for Petitioners

MINNEAPOLIS

CITY ATTORNEY'S OFFICE
Kristyn Anderson, City Attorney
Gregory P. Sautter
Adam Szymanski
City Hall, Room 210
350 South Fifth Street
Minneapolis, MN 55415
612-673-2683
Attorneys for Respondents

KEITH ELLISON

Minnesota Attorney General
Allen Cook Barr
445 Minnesota Street, Suite 600
St. Paul, MN 55101-2125
651-757-1487
Attorney for Steve Simon

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STATEMENT OF THE ISSUE

Minnesota law requires that polling places be staffed by election judges, who must come from both major parties, meet statutory qualifications, and receive legally mandated training. During Minnesota's 18-day early voting period, voters can appear at polling places and vote just like on Election Day. But Minneapolis argues that early-voting polling places do not require any election judges, and can be staffed by anyone the city hires.

Are election judges required at early-voting polling places?

Most apposite case:

- *Minnesota Voters Alliance v. County of Ramsey*, 971 N.W.2d 269 (Minn. 2022).

Most apposite constitutional and statutory provisions:

- Minn. Stat. §203B.30
- Minn. Stat. §203B.081
- Minn. Stat. §204C.15
- Minn. Stat. §204C.12
- Minn. Stat. §201.061

INTRODUCTION

Petitioners ask the Court to hold that early voting for Minnesota elections requires the presence of election judges, as contemplated by Minnesota law.

In order to ensure the fair, lawful, and bipartisan administration of elections, the Minnesota Election Law requires election judges to be nominated by major political parties, to meet specific eligibility criteria, and to receive state-mandated training. In the polling place, the law assigns election judges a range of responsibilities, from handing out ballots to questioning challenged voters under oath about their eligibility. During early voting—which may occur for 18 days before Election Day—the Election Law allows city clerks to reassign *some* of these responsibilities to “early voting officials,” who are not subject to the same eligibility, bipartisanship, and training requirements as election judges. But the Election Law says nothing to authorize early voting officials to perform election judges’ more sensitive responsibilities, such as deciding voter eligibility challenges, physically marking ballots for voters who need help, or carrying blank ballots out of the polling place for curbside voting.

Despite this, the City of Minneapolis intends to hold early voting at the upcoming general election without any election judges at all. Although the Election Law expressly assigns these sensitive responsibilities to qualified election judges, the City apparently intends to hand them over to others. This impending violation of law risks eroding public confidence in our elections. The Court should correct it, and hold that early voting for Minnesota elections requires election judges.

STATEMENT OF THE CASE AND FACTS

I. Election Judges Under Minnesota Law.

This case is about election judges: the public servants who staff Minnesota’s polling places and otherwise administer elections. Minnesota law includes detailed provisions for election judges in order to ensure the lawful, fair, and bipartisan administration of our elections.

The appointment of election judges is governed by Minn. Stat. §204B.21. In May of each election year, “each major political party may submit a list of potential election judges, which the secretary of state compiles and distributes to each county and municipality.” *Minn. Voters All. v. Cnty. of Ramsey*, 971 N.W.2d 269, 276 (Minn. 2022); Minn. Stat. §204B.21, subd. 1. Each municipality (or each county, for precincts not within any municipality) “appoints election judges from this list.” *Minn. Voters All.*, 971 N.W.2d at 276; Minn. Stat. §204B.21, subd. 2. For state general elections, at least four judges must be appointed for each precinct. Minn. Stat. §204B.22, subd. 1. But “[n]o more than half the judges in a precinct may be affiliated with the same major political party.” *Minn. Voters All.*, 971 N.W.2d at 277; Minn. Stat. §204B.19, subd. 5.¹ A municipality or county “may appoint election judges not appearing on the major party lists *only after* it has exhausted the candidates on the list.” *Minn. Voters All. v. Gelms*, 13 N.W.3d 173, 175 (Minn. 2024) (citation omitted); Minn. Stat. §204B.21, subd. 2.

¹ If a polling place or precinct has an odd number of election judges, the permitted maximum proportion of election judges from any party is half plus one. Minn. Stat. §204B.19, subd. 5.

Minn. Stat. §204B.19 prescribes additional qualifications for election judges: they must be eligible to vote in Minnesota, must not be related to or domiciled with another election judge serving in the same precinct, and must not be a candidate on the ballot or related to a candidate on the ballot.

The Secretary of State is required by law to develop mandatory training materials for election judges, to ensure that they know how to administer elections in a lawful, fair, and bipartisan manner. Minn. Stat. §204B.25, subd. 2; *see generally* Minn. R. Ch. 8240 (election judge training program); Minn. R. 8240.1600 (election judge basic training course, including “early voting procedures,” subp. 4(H)(2)). The Secretary of State has indeed promulgated lengthy training curricula for election judges.²

“By statute, the duties of an election judge begin before election day and election judges may continue to serve after an election has ended.” *KSTP-TV v. Ramsey Cnty.*, 806 N.W.2d 785, 792 n.10 (Minn. 2011). For instance, the law requires election judges to sit on ballot boards for 30 days before an election and to participate in recounts after the election. *See id.* (citing statutes). “An individual who is selected to serve as an election judge” is entitled to paid time off from his or her work “for the purpose of serving as an election judge.” Minn. Stat. §204B.195.

In polling places, the general Election Law assigns many responsibilities exclusively to election judges. Election judges count and initial all ballots

² Office of the Minnesota Secretary of State, *Election Judge Training*, <https://sos.mn.gov/election-administration-campaigns/election-administration/election-judge-training/> (last accessed June 25, 2026).

delivered to each precinct. Minn. Stat. §204C.09, subd. 1. They assist voters who need it outside the polling place. Minn. Stat. §204C.15, subds. 2-3. They oversee the polling place roster, Minn. Stat. §204C.10, administer voter registration at the polling place, Minn. Stat. §201.061, subd. 3, administer challenges to voter eligibility, Minn. Stat. §204C.12, hand voters their ballots and explain how to mark them, Minn. Stat. §204C.13, subds. 1-2, receive and replace spoiled ballots, Minn. Stat. §204C.13, subd. 3(e), provide voters with receipts, Minn. Stat. §204C.10(d), and determine the total number of ballots cast at the end of the election, Minn. Stat. §204C.20, subd. 1.

For some of the most sensitive tasks that can be undertaken in or near a polling place, the Election Law requires two election judges, one from each political party. For instance, the law allows a voter who is physically unable to mark his or her ballot, or who cannot read English, to have a party-balanced pair of election judges mark the voter's ballot according to the voter's instructions. Minn. Stat. §204C.15, subd. 1. Voters who face physical challenges in getting inside a polling place from their vehicles have the right to a party-balanced pair of election judges, who come out of the polling place and help the voter vote (and register to vote, if necessary) at the curbside. *Id.* subd. 2. Similarly, voters with disabilities needing assistance entering a polling place may request two election judges to escort them through the lines to register to vote (or update their registrations) and vote. *Id.* subd. 3.

II. Early Voting in Minnesota.

This case is also about early voting. In Minnesota, early voting occurs “during the 18 days before a federal, state, or county election,” at polling places designated by each county auditor or municipal clerk. Minn. Stat. §§203B.081, subds. 1a & 3; *see id.* subd. 4 (designations by auditor or clerk); 203B.05, subd. 1 (authorizing early voting administration by municipal clerks). Pursuant to Minn. Stat. §203B.001, “[t]he Minnesota Election Law is applicable to ... early voting unless otherwise provided in” Chapter 203B. *See* Minn. Stat. §200.01 (identifying Minnesota Election Law as chapters 200 through 211C).

Minnesota law provides for two alternative early-voting procedures. Minn. Stat. §203B.081, subd. 1a, provides for early voting pursuant to procedures described by Minn. Stat. §203B.30. But these early voting procedures do not take effect until the Secretary of State certifies them to the Revisor of Statutes. *See* Minn. Laws 2023, Ch. 62, Art. 4, §§42 & 68. Before that certification, early voting occurs under an “alternative procedure” for “absentee voting in person” that is set forth in Minn. Stat. §203B.081, subd. 3.

In response to this Petition, the Secretary of State has asserted that he made the required certification in May 2026. Secretary of State’s Mem. at 2 (June 18, 2026). To our knowledge, this is the only public indication that the required certification has been made. As of the filing of this brief, the Revisor’s website continues to note that certain early-voting provisions are not effective until the Secretary certifies them.³ The Secretary’s filing in this case cites no

³ Office of the Revisor of Statutes, 2025 Minnesota Statutes, 203B.081, <https://www.revisor.mn.gov/statutes/cite/203b.081> (last accessed June 26, 2026), 203B.30, <https://www.revisor.mn.gov/statutes/cite/203B.30> (last

public certification, but states that a staff member can provide a declaration that the certification has occurred. Secretary of State’s Mem. at 2 (June 18, 2026). But as the remainder of this brief explains, for the purposes of this case the legal rules and procedures governing pre-certification and post-certification early voting are substantially similar.

Under either set of early voting procedures, early voting bears many similarities to regular voting on Election Day. Early voters appear in person at polling places, receive their ballots at the polling place, mark their ballots at the polling place, and place them into a ballot box before departing. *See* Minn. Stat. §§203B.30, subd. 2; 203B.081, subd. 3(b)-(d).

Early voting of this kind accounts for a significant share of the vote in Minnesota. For the 2024 election, the Secretary of State reports that 839,000 early in-person votes were cast statewide.⁴ In Hennepin County, early voting accounted for more than one-third of all 2024 general election votes.⁵ The City of Minneapolis itself operated about 14 early voting sites—three long-term sites that were open for most of the 18-day early voting period, and eleven more

accessed June 26, 2026) (see bottom of webpages).

⁴ Office of the Minnesota Secretary of State, *2024 Election Statistics*, <https://www.sos.mn.gov/elections-voting/election-results/2024/2024-general-election-results/2024-election-statistics/?searchTerm=results&utm> (expand “Early Voting” menu under “Voter Turnout” subheading) (last accessed June 25, 2026).

⁵ Office of the Minnesota Secretary of State, Elections Division, *2024 General Election Early Balloting* (June 2025), <https://www.sos.mn.gov/media/oqfnjrlx/2024-in-person-absentee-early-voting-map.pdf>.

“pop-up” sites that were open only one day each.⁶ Thus, Minneapolis’ early-voting sites were open for between 50 and 60 total business days during the 2024 general election. By comparison, on Election Day itself, Minneapolis operates about 137 precinct polling places.⁷

III. Election Judges in Minnesota Early Voting.

In particular, this case is about the role of election judges in early voting.

During early voting, the law allows some election-related tasks to be performed by “early voting officials.” Early voting officials need not be formally appointed election judges but can be other individuals hired by the city clerk or county auditor. Minn. Stat. §203B.30, subd. 1; *see* Minn. Stat. §203B.081, subd.3(e).⁸ The Election Law includes no restrictions on, or requirements for, who city clerks may hire as early voting officials, or how they must be trained. At early-voting polling places, early voting officials are permitted to confirm that voters are registered, to initial and issue ballots to voters, to receive and

⁶ *Compare* Cilek Decl. Ex. A at 1 (list of early voting sites provided by Minneapolis) *with* City of Minneapolis, *Vote early in-person*, <https://web.archive.org/web/20240918122859/https://vote.minneapolismn.gov/voters/vote-early-in-person/> (Sept. 18, 2024, at 12:28:59 UTC).

⁷ City of Minneapolis, *2026 Minneapolis Voting Map* (updated May 21, 2026), <https://vote.minneapolismn.gov/media/-www-content-assets/documents/Minneapolis-Polling-Place-List-and-Map.pdf>.

⁸ Section 203B.30 contains the “new” early voting provisions that take effect upon certification by the Secretary of State, while §203B.081 contains the pre-certification early voting provisions. Both statutes refer to city or county employees who may assist with early voting. Although only §203B.30 actually calls these employees “early voting officials,” for the sake of clarity this brief uses the phrase “early voting officials” in both statutory contexts.

replace spoiled ballots, and to record that a voter has voted. Minn. Stat. §§203B.30, subd. 2; 203B.081, subd. 3. Under the “new” early voting procedures that take effect upon certification by the Secretary of State, early voting officials may also secure the voted and unvoted ballots at the end of the day. Minn. Stat. §203B.30, subd. 3(b)-(d).

But Minnesota law reserves other important aspects of the early-voting process for election judges. For instance, Minn. Stat. §204C.12 allows any voter to “challenge an individual based on personal knowledge that the individual is not an eligible voter”—and it expressly requires that such challenges be resolved by “**the election judges**,” after “[a]n **election judge**” questions the potential voter under oath. (Emphases added.) Section 204C.12 is part of the general Election Law. But nothing in chapter 203B (the early voting law) provides any different procedure for voter-eligibility challenges during early voting, or authorizes early voting officials to take over this task. Quite the contrary: §203B.30, subd. 2(a) expressly provides that voter-eligibility challenges during early voting be resolved “as provided in section 204C.12”—that is, by election judges.

Similarly, the Election Law requires that election judges be available to register voters at the polling place. Minn. Stat. §201.061, subd. 3, requires that voters who register (or update their registrations) at the polling place must prove residence in the precinct they are registering for—either by presenting various forms of written documentation, or by having a designated person vouch for them, under oath, “in the presence of **the election judge**” (emphasis added). And again, the early voting law provides no replacement or alternative

voter-registration procedure. Quite the contrary: §203B.30, subd. 2(a), states that voters may register at an early voting site “in the manner provided in section 201.061, subdivision 3.”

The early-voting law likewise says nothing to exempt early voting from the Election Law’s requirement that certain very sensitive tasks be conducted by party-balanced pairs of election judges. Thus, when Minnesotans with physical or language limitations come to a polling place during early voting, they have the statutory right to “the aid of **two election judges who are members of different major political parties**” in marking their ballots. Minn. Stat. §204C.15, subd. 1 (emphasis added). And early voters who cannot leave their vehicles similarly have the right to “[t]**wo election judges who are members of different major political parties**” in “assist[ing] the voter to register” and to cast a ballot. *Id.* subd. 2 (emphasis added).

These are only examples. The Election Law assigns many other duties to election judges that the early-voting laws do not abrogate or re-assign to early voting officials. *E.g.*, Minn. Stat. §204C.08, subd. 1c (election judges must continuously display the American flag in polling place), subd. 1d (election judges must post Voter’s Bill of Rights), subd. 3 (election judges must inspect ballot box and hold the key thereto).

IV. Minneapolis Is Preparing to Hold Early Voting Without Any Election Judges at All.

To administer polling places on Election Day itself, Minneapolis hires nearly 2,000 election judges.⁹ This case arose when Petitioners learned that

⁹ City of Minneapolis, “Apply to work on Election Day,” <https://vote.minneapolismn.gov/election-workers/apply-for-election-jobs/> (last accessed June 25,

Minneapolis is preparing to hold early voting for the 2026 general election without any election judges at all—and certainly without having election judges from both major parties present at each polling place.

Petitioner Minnesota Voters Alliance (MVA) is a nonprofit association of citizens, volunteers, and experts focused on fair, accurate, and secure elections. In connection with the 2024 elections, MVA was aware that Minneapolis advertised early voting—and, moreover, that Minneapolis specifically advertised services such as curbside voting and voter registration, for which Minnesota law requires the presence of election judges.¹⁰ Following the 2024 election, MVA inquired through data requests about all persons who worked at Minneapolis polling places during the early-voting period, including their job titles. Cilek Decl. ¶3. The City’s response to this request revealed that *none* of Minneapolis’ 2024 early-voting workers were election judges; all of them had the job titles of “Seasonal Election Support Specialist” or “Program Assistant.” *Id.* ¶6 & Ex. A. By contrast, when MVA made a similar data request about persons who worked on Minneapolis’ ballot boards, the City’s response listed “Election Judge” as the job title of almost every ballot-board member. *Id.* ¶¶7-8 & Ex. B.

MVA became even more concerned when Minneapolis began publicly preparing to hold the 2026 elections without any election judges. The City is currently advertising to hire election judges—but its advertisement is titled

2026).

¹⁰ City of Minneapolis, *Vote early in-person*, <https://web.archive.org/web/20240918122859/https://vote.minneapolismn.gov/voters/vote-early-in-person/> (Sept. 18, 2024, at 12:28:59 UTC).

“Apply to work **on Election Day**,” and asks applicants to help “make Election Day happen.”¹¹ Nevertheless, earlier this year, Minneapolis again began advertising early voting for the 2026 general election—this time at six sites, one scheduled to be open for 15 days of early voting, and the other five open one day each.¹² Once again, for all six locations, Minneapolis was advertising services like curbside voting and voter registration, for which the law requires election judges. *Id.*

Petitioner Diane Napper has similar concerns. Ms. Napper has lived in Minneapolis for many years and has served as an election judge on Election Day in Minneapolis for several elections recently. Napper Decl. pp.1-2. But because Minneapolis is not hiring election judges for early voting, it would be impossible for Ms. Napper (or most other election judges) to serve in that capacity.¹³

¹¹ City of Minneapolis, “Apply to work on Election Day,” <https://vote.minneapolismn.gov/election-workers/apply-for-election-jobs/> (last accessed June 25, 2026).

¹² City of Minneapolis, *Vote early in-person*, <https://web.archive.org/web/20260306143755/https://vote.minneapolismn.gov/voters/vote-early-in-person/> (Mar. 6, 2026, at 14:37:55 UTC).

¹³ Respondents have questioned Ms. Napper’s eligibility to work as an election judge at early voting anywhere in Minneapolis, on the ground that she is running for an office that is on the ballot in some Minneapolis precincts (but not others). But Ms. Napper’s eligibility to actually work during early voting is inapposite and immaterial to her ability to bring this Petition. Minn. Stat. §204B.44(a) “gives authority to ‘[a]ny individual’ to file a petition, and [this Court has] broadly construed the legislative grant of standing in section 204B.44 controversies.” *Grove v. Simon*, 2 N.W.3d 490, 499 (Minn. 2024). Under this rule, the Court has indicated that “a registered voter ha[s] a sufficient interest in the election to bring a claim under section 204B.44,” *id.* (cleaned

ARGUMENT

The question presented by this Petition is important—but not difficult. The Election Law is crystal clear. During early voting, *some* tasks that are assigned to election judges on Election Day may be assumed by non-election-judge “early voting officials.” But other, sensitive tasks during early voting—such as resolving eligibility challenges and administering the vouching process—are still assigned by law only to duly appointed, qualified, and trained election judges. And the *most* sensitive tasks—such as physically marking ballots for voters who need help and carrying blank ballots out of the polling place to voters who cannot get out of their vehicles—are reserved for party-balanced *pairs* of election judges, both during early voting and on Election Day. The Election Law expressly requires that each of these services be provided by election judges, it clearly requires that these services be available during early voting, and it says nothing to suggest that non-election-judge city employees may take them over.

Indeed, Minneapolis’ filings in this case so far suggest that it agrees that this is what the Election Law says. The City protests that staffing election judges for early voting would be “unduly difficult,” (Respondents’ Mem. at 1 (June 18, 2026)), but that is unavailing where the law clearly requires it. In any event, Minneapolis already hires well over a thousand election judges for

up), and Ms. Napper undisputedly satisfies that standard. Indeed, Ms. Napper undisputedly is suing about issues that directly affect her own city and her own precinct. So while she is indeed interested in serving as an early-voting election judge, her legal ability to do so at any particular polling place is not a prerequisite to her bringing this Petition, nor could it change the outcome of this case in any other way.

Election Day. This is many times the number who would be required to fully staff Minneapolis’ early-voting sites—so if Minneapolis just asked them, it likely could fulfill its staffing obligations rather easily.

I. Legal Standard.

“The object of all” statutory interpretation “is to ascertain and effectuate the intention of the legislature.” Minn. Stat. §645.16; *see Engfer v. Gen. Dynamics. Adv. Info. Sys., Inc.*, 869 N.W.2d 295, 300 (Minn. 2015). “If the statutory language is unambiguous,” this is done simply by “enforc[ing] the plain meaning of the statute,” and there is no need to “explore the spirit or purpose of the law.” *Engfer*, 869 N.W.2d at 300 (citation omitted); *see* Minn. Stat. §645.16. In interpreting statutory language, “words and phrases are construed according to rules of grammar and according to their common and approved usage.” Minn. Stat. §645.08(1); *Engfer*, 869 N.W.2d at 300 (“plain and ordinary meaning”) (citation omitted).

This Court “read[s] multiple parts of a statute together so as to ascertain whether the statute is ambiguous.” *Pfoser v. Harpstead*, 953 N.W.2d 507, 517 (Minn. 2021) (cleaned up). “Statutes relating to the same subject are presumed to be imbued with the same spirit and to have been passed with deliberation and full knowledge of all existing legislation on the subject and regarded by the lawmakers as being parts of a connected whole.” *State v. Clark*, 755 N.W.2d 241, 249-50 (Minn. 2008) (citation omitted).

On the other hand, “if, as applied to the facts of the particular case,” the statutory language “is susceptible to more than one reasonable interpretation,” *Engfer*, 869 N.W.2d at 300, then “the intention of the legislature may be

ascertained by considering, among other matters:

- (1) the occasion and necessity for the law;
- (2) the circumstances under which it was enacted;
- (3) the mischief to be remedied;
- (4) the object to be attained;
- (5) the former law, if any, including other laws upon the same or similar subjects;
- (6) the consequences of a particular interpretation;
- (7) the contemporaneous legislative history; and
- (8) legislative and administrative interpretations of the statute.”

Minn. Stat. §645.16. But the Court “will not read into a statute a provision that the legislature has omitted, either purposely or inadvertently.” *Reiter v. Kiffmeyer*, 721 N.W.2d 908, 911 (Minn. 2006) (citation omitted).

In construing the absentee ballot statute—which includes the pre-certification early-voting provisions in Minn. Stat. §203B.081—this Court has indicated that statutes “in derogation of the general election law ... should be strictly construed.” *Bell v. Gannaway*, 227 N.W.2d 797, 803 (Minn. 1975) (citation omitted). Because “voting by absentee ballot is a privilege, not a right,” this Court has explained that “the legislature may mandate the conditions and procedures for such voting,” and “strict compliance with [them] is mandatory.” *Sheehan v. Franken (In re Contest of Gen. Election)*, 767 N.W.2d 453, 462 (Minn. 2009) (cleaned up).

Early-voting statutes are equally in derogation of the general election law, so a similar rule of strict construction is appropriate with respect to them.

But as we explain herein, the outcome of this case does not depend on what standard of statutory construction the Court applies. Under any plausible standard, Minnesota law requires the presence of election judges at early-voting polling places.

II. The Election Law Unambiguously Requires Election Judges at Early-Voting Polling Places.

The question for the Court’s decision is whether the Minnesota Election Law requires election judges—or more specifically, a party-balanced pair of election judges—at each early-voting polling place. The starting point for answering that question is that “[t]he Minnesota Election Law is applicable to ... early voting,” except where Chapter 203B displaces it with other provisions specific to early voting. Minn. Stat. §203B.001. Of course, the Minnesota Election Law requires that a great many services and functions in the polling place be performed by election judges. *See supra* Statement, §I at 4-5, §III at 9-10. So the question in this case becomes: for purposes of early voting, does Chapter 203B either eliminate or reassign *all* of these services? If it does not—that is, if early voting must include even one function or service that the Election Law requires to be performed by election judges—then the Election Law necessarily requires election judges to be present at each early-voting polling place while it is open. By the same token, if the Election Law gives voters the right to even one service at an early-voting polling place that, under the law, must be performed by a party-balanced pair of election judges, then it necessarily requires two election judges (from different parties) to be present at each early-voting site while it is open.

A. Under the Election Law, Early Voting Requires Multiple Services that Require Election Judges.

The Election Law in fact assigns many duties to election judges that Chapter 203B does not eliminate or reassign for early voting. Indeed, Chapter 203B expressly *incorporates* a number of these duties into early voting.

In this brief, we will principally focus on four of those duties: two that require election judges in general, and two that require party-balanced pairs of election judges. The first two duties are resolving challenges to voter eligibility and administering the vouching process for voter registration. The second two duties are providing ballot-marking assistance to voters and administering curbside voting and voter registration.

1. Election judges must resolve eligibility challenges during early voting.

First, the Election Law requires that challenges to voter eligibility be resolved by election judges—and the early-voting laws, far from displacing this responsibility, expressly incorporate it.

In a polling place, any “voter may[] challenge an individual based on personal knowledge that the individual is not an eligible voter.” Minn. Stat. §204C.12, subd. 1. Indeed, every polling place may include two designated challengers, one from each party. Minn. Stat. §204C.07, subds. 1, 4. Eligibility challenges must be made in writing and under oath. Minn. Stat. §204C.12, subd. 2. When a challenge is lodged, the Election Law specifies what must happen:

An election judge shall administer to the challenged individual the following oath:

“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?”

The election judge shall then ask the challenged individual sufficient questions to test that individual’s residence and right to vote.

Id. subd. 2 (emphases added); *see* Minn. Stat. §645.44, subd. 16 (“‘Shall’ is mandatory.”). Then, “**the election judges**” must “determine[e] the legal residence of [the] challenged individual,” as “governed by the principles contained in [Minn. Stat.] section 200.031.” Minn. Stat. §204C.12, subd. 3 (emphasis added). (Section 200.031 articulates 13 principles for determining residence, ranging from generalities such as that a person lives “in the precinct where the individual’s home is located” to specific rules such as how to determine residence “[i]f an individual’s home is destroyed or rendered uninhabitable by fire or natural disaster.”) The election judges’ decision determines whether the challenged individual is allowed to vote. Minn. Stat. §204C.12, subd. 3. Failure in these duties by an election judge is a gross misdemeanor. *Id.* subd. 5.

As a general matter, then, §204C.12 unquestionably requires election judges to be present at the polling place in order to resolve voter eligibility challenges. The remaining question is whether the early-voting statutes either transfer this obligation to early voting officials or eliminate eligibility challenges for early voters. The early-voting statutes unquestionably do *not* do that. Nothing in Chapter 203B says or suggests that. And considering that improperly handling an eligibility challenge is a criminal offense, *see id.* subd. 5, it would be extremely unusual for the law to impose this liability on early voting officials by silent implication. In fact, the “Procedures for Early Voting” provided by §203B.30—which take effect upon the Secretary of State’s

certification—expressly provide that “[i]f a voter’s status is challenged, the voter may resolve the challenge **as provided in section 204C.12.**” *Id.* subd. 2 (emphasis added). As just explained, §204C.12 expressly requires *election judges* to resolve eligibility challenges. Therefore, the Election Law very plainly requires that election judges be present at early-voting polling places to resolve eligibility challenges.

2. Election judges must be present at early-voting polling places to administer the vouching process.

Second, the Election Law requires election judges to register voters through the vouching process—and here again, the early-voting statutes expressly incorporate this procedure.

The Election Law allows voters to register (or update their registrations) “at the polling place,” but in order to do so, a voter must “provid[e] proof of residence” in the precinct where he or she is registering. Minn. Stat. §201.061, subd.3(a). Section 201.061, subdivision 3(a), also provides four methods for proving residence. Three of these methods require presenting written documentation of residence, such as a driver’s license or other documents approved by the Secretary of State. *Id.* subd. 3(a)(1)-(3). The fourth method of proving residence—the only one that does not require written documentation—is by

having a voter who is registered to vote in the precinct, or an employee who provides proof that they are employed by and working in a residential facility in the precinct and vouching for a resident in the facility, sign an oath **in the presence of the election judge** vouching that the voter or employee personally knows that the individual is a resident of the precinct.

Id. subd. (3)(a)(4) (emphasis added).

So again, §201.061, subd. 3, is completely unambiguous that the vouching process requires an election judge to receive this sworn statement. By its terms, however, this statute applies only to “register[ing] to vote ... on election day.” *Id.* That raises the question: does the early-voting law incorporate this registration process, or does it eliminate the vouching process for early voting or reassign responsibility for it to early voting officials? And here again, the early-voting statute is unambiguous on this question. Minn. Stat. §203B.30—the “Procedures for Early Voting” that take effect upon certification by the Secretary—expressly provides that “[a]n individual who is not registered to vote must register ... **in the manner provided in section 201.061, subdivision 3**” (emphasis added).¹⁴ As just explained, §201.061, subd. 3, gives Minnesotans the right to register (or update their registrations) through vouching before an election judge. Therefore, the Election Law plainly requires election judges to be present at early-voting polling places.

3. Party-balanced pairs of election judges must be present at early-voting sites to offer ballot-marking assistance.

Third, the Election Law expressly requires party-balanced pairs of election judges to provide ballot-marking assistance, and the early-voting provisions say nothing to abrogate or reassign this responsibility.

Minn. Stat. §204C.15, subd. 1, is entitled “Physical assistance in marking ballots.” It provides that:

A voter who claims a need for assistance because of inability to read English or physical inability to mark a ballot may obtain the

¹⁴ The pre-certification version of the early voting law, Minn. Stat. §203B.081, subd. 3, contains no clear direction on this point.

aid of **two election judges who are members of different major political parties**. The election judges shall mark the ballots as directed by the voter and in as secret a manner as circumstances permit. A voter in need of assistance may alternatively obtain the assistance of any individual the voter chooses[, except for] the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union.... Before the ballots are deposited, the voter may show them privately **to an election judge** to ascertain that they are marked as the voter directed. An election judge or other individual assisting a voter shall not in any manner request, persuade, induce, or attempt to persuade or induce the voter to vote for any particular political party or candidate.

Id. (emphases added). This provision allows a voter to tell a party-balanced pair of election judges how the voter wishes to vote, and then requires the election judges themselves to physically mark the ballot according to the voter's wishes. Alternatively, this provision gives voters the right to have third parties mark their ballots in the polling place—and then to tell an election judge who they wished to vote for and to have the election judge review their ballots to ensure they are marked correctly.

It is absolutely clear, then, that the Election Law requires party-balanced pairs of election judges to be present at polling places to assist in marking ballots. Does the early-voting statute abrogate or reassign that requirement? Again, it unquestionably does not. The early-voting provisions obviously contemplate that voters will receive and mark ballots in the polling place. But they are simply silent about ballot-marking assistance; they say nothing about it either way. What remains, then, is the statutory command that “[t]he Minnesota Election Law is applicable to ... early voting unless otherwise provided in this chapter.” Minn. Stat. §203B.001. As just explained, the Election Law expressly requires party-balanced pairs of election judges to be present in

polling places to provide ballot-marking assistance. Therefore, that requirement applies to early-voting polling places as well.

4. Party-balanced pairs of election judges must be present at early-voting polling places to administer curbside voting and voter registration.

Fourth and finally, the Election Law expressly requires party-balanced pairs of election judges to help with curbside voting and registration—and here again, the early-voting provisions say nothing to abrogate or reassign this responsibility.

Subdivision 2 of Minn. Stat. §204C.15 provides for curbside voting and voter registration. It provides (with emphasis added):

An individual who is unable to enter a polling place ... may register or update the voter's registration and vote without leaving a motor vehicle. **Two election judges who are members of different major political parties** must assist the voter to register or to update a registration, as applicable, and to complete a voter's certificate and must provide the necessary ballots.

“Must’ is mandatory.” Minn. Stat. §645.44, subd. 15a. This provision thus requires a party-balanced pair of election judges to walk out of the polling place carrying blank ballots and voter-registration materials, to speak to the voter through the open window or door of his or her car, and to accept the required proof of residence there. If the voter cannot personally complete the registration paperwork, this provision requires the party-balanced election judges to do so themselves, according to the voter's instructions. The election judges then must hand the blank ballot(s) to the voter through the car window or door to allow the voter to mark them. Alternatively, subdivision 2 provides that “[t]he voter may request additional assistance in marking ballots as provided

in [Minn. Stat. §204C.15,] subdivision 1”—in which case the voter may tell the election judges through the car window or door how the voter wishes to vote, and the election judges must physically mark the ballots according to those instructions while standing at the curbside outside the polling place. After the ballots are marked, the pair of election judges carry the ballots and completed registration back into the polling place and deposit the ballots in the ballot box.

As with the previous examples, it is beyond question that the Election Law requires party-balanced election judges to administer this curbside registration and voting procedure. And as with the previous examples, there is no way to plausibly assert that the early-voting laws abrogate or reassign this responsibility. Here again, Chapter 203B is completely silent about curbside voting or registration; it says nothing about them either way. So this situation too is governed by the statutory requirement that “[t]he Minnesota Election Law is applicable to ... early voting unless otherwise provided in this chapter.” Minn. Stat. §203B.001. As just explained, the Election Law expressly requires party-balanced pairs of election judges to be present in polling places to provide curbside voting or registration. Therefore, that requirement applies to early-voting polling places as well.

B. Nothing in the Early Voting Law Suggests that “Early Voting Officials” may Displace Election Judges Wholesale.

Despite these clear statutory directions, Respondents have suggested that, when the legislature enacted the early-voting provisions, it meant to allow “early voting officials” to do *everything* during early voting that the law requires election judges to do on Election Day. Respondents’ Mem. at 1-2 (June

18, 2026). But this argument finds no support whatsoever in the statute.

Minnesota’s Election Law spans 15 chapters of the Minnesota Statutes. *See* Minn. Stat. §200.01. It contains many dozens of references to election judges. We discussed many of them above: among other things, election judges are responsible for administering almost every aspect of election law and procedure in polling places. *See supra* Statement §I at 4-5. By contrast, the “Procedures for Early Voting” that take effect upon certification by the Secretary of State are not nearly so comprehensive. They are found in Minn. Stat. §203B.30, which has only about 450 words. We reproduce it here in full, with underlining supplied for tasks assigned to early voting officials:¹⁵

Subdivision 1. **Definition.** For purposes of this section, “early voting official” means the county auditor, city clerk, a deputy of the auditor or clerk, or an election judge.

Subd. 2. **Voting procedure.**

- (a) When a voter appears in an early voting polling place, the voter must state the voter’s name, address, and, if requested, the voter’s date of birth to the early voting official. The early voting official must confirm that the voter’s registration is current in the statewide voter registration system and that the voter has not already cast a ballot in the election. If the voter’s status is challenged, the voter may resolve the challenge as provided in section 204C.12. An individual who is not registered to vote must register and a voter whose name or address has changed must update the voter’s registration in the manner provided in section 201.061, subdivision 3. A voter who has already cast a ballot in the election must not be provided with a ballot.
- (b) Each voter must sign the certification provided in section

¹⁵ Section 203B.30 was amended by Minn. Laws 2026, Ch. 102, Sec. 4 & 5, <https://www.revisor.mn.gov/laws/2026/0/102/laws.0.4.0#laws.0.4.0> (presentment version). These amendments have not yet been codified into the Minnesota Statutes, but we have endeavored to incorporate them into the text quoted here.

204C.10. The signature of an individual on the voter's certificate and the issuance of a ballot to the individual is evidence of the intent of the individual to vote at that election. After the voter signs the certification, two early voting officials must initial the ballot and issue it to the voter. The early voting official must maintain a printed copy of the voter certificate. The voter must immediately retire to a voting station or other designated location in the polling place to mark the ballot. The voter must not take a ballot from the polling place. If the voter spoils the ballot, the voter may return it to the early voting official in exchange for a new ballot. After completing the ballot, the voter must deposit the ballot into the ballot counter and ballot box. The early voting official must immediately record that the voter has voted in the manner provided in section 203B.121, subdivision 3.

Subd. 3. **Processing of ballots.** Each day when early voting occurs, the early voting officials must:

- (1) remove and secure ballots cast, noting the date, voting location, and number of ballots cast;
- (2) without inspecting the ballots, using the procedures in section 204C.20, subdivisions 1 to 4, ensure that the number of ballots removed from the ballot box is equal to the number of voter certificates that were signed by voters in subdivision 2, paragraph (b); and
- (3) seal and secure all voted and unvoted ballots and signed voter certificates present in that location at the end of the day.

The ballot board must count the ballots after the polls have closed on election day following the procedures in section 203B.121, subdivision 5, paragraph (b).

This short statute assigns early voting officials a short list of specific tasks of polling-place administration. Nothing about it suggests that, for early voting, the Legislature meant to replace *every* applicable statutory reference to "election judges" with "early voting officials." Had the Legislature wanted early voting officials to perform every applicable task during early voting that election judges perform on Election Day, it could easily have said that. It did

not. Quite the contrary, the Legislature took the trouble of listing, in detail, a limited number of specific tasks that early voting officials may perform—and it expressly said that all other questions are governed by the general Election Law, including its assignments of numerous tasks to election judges. Minn. Stat. §203B.001.

These are precisely the circumstances where this Court “appl[ies] the canon of interpretation *expressio unius est exclusio alterius*—which means ‘the expression of one thing is the exclusion of another’—to determine the plain meaning of the statute. This canon creates a presumption that an omission in a statute is by deliberate choice, not inadvertence, and this presumption is particularly strong when a statute is uncommonly detailed and specific.” *State v. Zielinski*, 32 N.W.3d 847, 857 (Minn. 2026) (cleaned up). This forecloses any argument that the early-voting laws are really meant to allow early voting officials to do things like elicit sworn testimony, decide eligibility challenges, mark ballots, or carry blank ballots out for curbside voting. The Legislature specified in detail what early voting officials may do—and it did not include these tasks. It even clarified that any matters not covered by the early-voting law remain governed by the general Election Law, which expressly assigns these tasks to election judges.

The pre-certification version of the early-voting statute is very similar in this respect. It contains only one subdivision assigning duties to early voting officials, Minn. Stat. §203B.081, subd. 3, which has about 300 words. We again reproduce this in full:¹⁶

¹⁶ Due to a quirk of the revising process, the precise version of §203B.081 that

- (a) In elections not eligible to use early voting under subdivision 1a, the county auditor may make available a ballot counter and ballot box for use by the voters during the 18 days before the election. If a ballot counter and ballot box is provided, a voter must be given the option either (1) to [drop off an already-completed absentee ballot] or (2) to vote in the manner provided in this subdivision.
- (b) If a voter chooses to vote in the manner provided in this subdivision, the voter must state the voter's name, address, and date of birth to the county auditor or municipal clerk. The voter shall sign a voter's certificate, which must include the voter's name, identification number, and the certification required by section 201.071, subdivision 1. The signature of an individual on the voter's certificate and the issuance of a ballot to the individual is evidence of the intent of the individual to vote at that election.
- (c) After signing the voter's certificate, the voter shall be issued a ballot and immediately retire to a voting station or other designated location in the polling place to mark the ballot. The ballot must not be taken from the polling place. If the voter spoils the ballot, the voter may return it to the election official in exchange for a new ballot. After completing the ballot, the voter shall deposit the ballot into the ballot box.
- (d) The election official must immediately record that the voter has voted in the manner provided in section 203B.121, subdivision 3.
- (e) The election duties required by this subdivision must be performed by an election judge, the county auditor, municipal clerk, or a deputy of the auditor or clerk.

This statute likewise gives early voting officials a short list of specific tasks.

was in effect after the 2023 amendments is not available in the Revised Statutes. Some of the 2023 amendments to this section took effect immediately, while others do not take effect until the Secretary of State certifies them. *See* Minn. Laws 2023, Ch. 62, Art. 4, §§42-50. The Revisor codified all of these amendments into the 2023 Minnesota Statutes, with a note that some of them do not take effect until certification by the Secretary. Here, we have endeavored to reproduce subdivision 3 with only the 2023 amendments that took immediate effect.

Nothing about it suggests that it was meant to allow early voting officials to do anything else, let alone everything that election judges do on Election Day. Quite the contrary, the statute specifies that early voting officials may perform only “[t]he election duties **required by this subdivision.**” *Id.* subd. 3(e) (emphasis added). Clearly, then, polling-place election duties required by *other* provisions of the Election Law must be performed as prescribed by those other provisions, not by early voting officials.

In summary: Respondents are correct that the law’s provision for early voting officials allows cities to *reduce* their reliance on election judges. Early voting does not require four election judges in each polling place, as Election Day does. But Respondents are badly wrong to suggest that the law allows cities to completely *eliminate* election judges from early voting. The plain language of the Election Law leaves no room for doubt: some tasks during early voting can be performed by early voting officials, while others are still reserved for election judges, and some remain reserved for party-balanced pairs of election judges. Thus, each early-voting polling place must, during its hours of operation, be staffed by at least two election judges, one from each major party. The statute admits of no other reasonable reading.

III. The Division of Labor Chosen by the Legislature Makes Good Policy and Practical Sense.

The plain statutory language just discussed should end the inquiry. “When the words of a law ... are clear ..., the letter of the law shall not be disregarded under the pretext of pursuing the spirit.” Minn. Stat. §645.16. But even if further examination were warranted, the Legislature’s division of labor

between election judges and early voting officials makes very good sense, as a matter of both policy and practicality.

As we have described above, election judges are subject to state-mandated qualifications, training, and bipartisanship requirements, while early voting officials are not. *See supra* Statement §I at 3-4. And “Minnesota has a long tradition of attention to ballot integrity.” *Republican Party v. O’Connor*, 712 N.W.2d 175, 177 (Minn. 2004). In that light, it makes perfect policy sense that the early-voting law allows early voting officials to take over some of the more routine tasks of polling-place administration, while reserving the most sensitive or discretionary tasks to election judges. Early voting officials may check in voters, initial and issue ballots, receive and replace spoiled ballots, and (under the post-certification law) secure the ballots at the end of the day. *See supra* Statement §III at 8-9. On the other hand, only election judges may receive sworn testimony or attestations, render decisions about voter eligibility, physically mark ballots for voters, carry blank ballots out of the polling place to allow curbside voting, or bring the marked ballots back from the curbside into the polling place. *See supra* Statement §III at 9-10. These tasks inherently involve a greater exercise of judgment or a greater risk of abuse. So it is entirely reasonable for the Legislature to facilitate early voting by allowing the more routine tasks to be reassigned to early voting officials, while reserving the more sensitive and discretionary tasks to election judges who meet the statutory standards for qualifications, training, and bipartisanship.

Respondents have suggested that it would be infeasible to staff election judges for early voting, even on this reduced basis. Respondents’ Mem. at 1-2

(June 18, 2026). Again, this argument is simply inapposite, because the statute unambiguously requires at least two election judges at each early-voting polling place. *See supra* Argument §II(A)(3)-(4) at 20-23. Government officials may not disregard the law just because it would be easier than obeying.

But in any event, there is little reason to think that cities would face any serious difficulty in staffing early-voting polling places with party-balanced election judges. For starters, there is no indication that Respondents have even tried to do this. As we have described, it does not appear that Minneapolis has even *asked* election judges to work during early voting. *See supra* Statement §IV at 10-12. “[P]ublic officials *** are presumed to be able to perform” their statutory duties, and cannot show inability when they have “made no effort to meet” them. *State ex rel. Phillips v. Neisen*, 217 N.W. 371, 372 (Minn. 1928). So any plea of hardship by Respondents rings especially hollow.

Here, if Respondents *did* make some effort, they likely would find it rather easy to staff early-voting polling places with election judges. To staff its 137 precinct polling places¹⁷ with four election judges each on Election Day, Minneapolis already must hire approximately 500 election judges for Election Day alone—and in fact, Minneapolis appears to staff above that level, and to hire nearly 2,000 election judges for Election Day. *See supra* Statement §IV at 10. In comparison, for the 2024 general election, Minneapolis operated early-voting polling places for a cumulative total of less than 60 days—and no more

¹⁷ City of Minneapolis, *2026 Minneapolis Voting Map* (updated May 21, 2026), <https://vote.minneapolismn.gov/media/-www-content-assets/documents/Minneapolis-Polling-Place-List-and-Map.pdf>.

than four of these polling places were open on any given day. *See supra* Statement §II at 7-8, n.6. Since the law requires only two election judges at each early-voting polling place, ***all*** of Minneapolis’ early-voting polling places could potentially be staffed by as few as eight total election judges—who would remain available to work on Election Day as well. And the law entitles election judges to paid time off work to perform any or all of these duties. Minn. Stat. §204B.195. As a result, it seems quite likely that Respondents could fully staff Minneapolis’ early-voting sites out of the pool of election judges they are already hiring for Election Day—or at most, with a rather small number of additional hires.

*

The Election Law mandates training, qualifications, and bipartisanship for election judges for very good reasons. It is vital to the health of our democracy not just that elections actually are run fairly and lawfully, but also that Minnesotans know there are safeguards in place to ensure that is so. When the law requires these safeguards, as it does here, cities like Minneapolis may not disregard them. If they try to, as Minneapolis has here, the courts should offer swift correction.

CONCLUSION

The Court should grant the Petition and enter judgment declaring and directing that Minneapolis must staff at least two election judges, one from each major party, at each early-voting polling place during all the hours it is open.

Respectfully submitted,

Dated: June 26, 2026

UPPER MIDWEST LAW CENTER

/s/ Nicholas J. Nelson

Douglas P. Seaton (#127759)

Nicholas J. Nelson (#391984)

Austin M. Lysy (#505052)

12600 Whitewater Dr., Suite 140

Minnetonka, Minnesota 55343

nicholas.nelson@umlc.org

(612) 428-7000

Attorneys for Petitioner

CERTIFICATE OF COMPLIANCE

I hereby certify that this document conforms to the requirements of Minn. R. Civ. App. P. 132.01, is produced with a proportional 13-point font with 14-point major headings, and the length of this document is 8,385 words, including all footnotes and headings, and excluding the cover, table of contents, table of authorities, signature block, and certificates. This Brief was prepared using Microsoft Word 365, Version 2605.

Dated: June 26, 2026

/s/*Nicholas J. Nelson*
Nicholas J. Nelson

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that this Brief is being filed and served on all counsel of record for all parties via the Minnesota appellate court electronic filing system.

Dated: June 26, 2026

/s/*Nicholas J. Nelson*
Nicholas J. Nelson