

Exhibit 4

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Thursday, December 04, 2008 12:03 PM
To: 'phil thompson'; Jim Gelbmann; Dennis Distad; Tony P. Trimble; allen.paulson@co.clearwater.mn.us; anne.granitz@co.roseau.mn.us; barb.loch@co.meeker.mn.us; becky.murphy@co.beltrami.mn.us; ben.pribyl@co.jackson.mn.us; elections@CO.COOK.MN.US; election@co.nicollet.mn.us; byron.giese@co.swift.mn.us; carolyn.holmsten@co.goodhue.mn.us; auditor@co.grant.mn.us; char.meiners@co.houston.mn.us; charleen.west@co.wadena.mn.us; cmaclennan@co.winona.mn.us; cindy.schultz@co.mcleod.mn.us; cwcauditor@co.crow-wing.mn.us; denise.cooper@co.kanabec.mn.us; djfreed@co.chisago.mn.us; auditor@co.sherburne.mn.us; dicklichd@co.st-louis.mn.us; auditor@co.watonwan.mn.us; donna.quandt@co.pope.mn.us; dougg@co.mower.mn.us; rcelections@co.rice.mn.us; frank.thompson@co.mahnomen.mn.us; gerald.amiot@co.polk.mn.us; gloria.rolfs@co.rock.mn.us; hwinter@co.murray.mn.us; jake.sieg@lqpc.com; james.forshee@co.martin.mn.us; jan.h.johnson@co.cottonwood.mn.us; jleisen@co.wabasha.mn.us; joan.manthe@co.waseca.mn.us; jneyssen@co.benton.mn.us; elections@co.dakota.mn.us; john_h@co.lake-of-the-woods.mn.us; john.thompson@co.faribault.mn.us; jclauson@co.chippewa.mn.us; elections@co.ramsey.mn.us; joyce.steinhoff@co.pipetstone.mn.us; karen.busch@co.todd.mn.us; kschreurs@co.lincoln.mn.us; ktolson@co.pennington.mn.us; elections@co.washington.mn.us; kpeysar@co.aitkin.mn.us; kit.johnson@co.traverse.mn.us; larry_b@co.redwood.mn.us; larry_j@co.renville.mn.us; laura.ihrke@co.steele.mn.us; lengelen@co.carver.mn.us; pfarrl@co.sibley.mn.us; lois.bonde@co.yellow-medicine.mn.us; lori.johnson@co.clay.mn.us; mgustafson@co.kittson.mn.us; mariin.helget@co.brown.mn.us; marsha.goslovich@co.itasca.mn.us; mkes@co.scott.mn.us; Vote@co.hennepin.mn.us; michelle_k@co.big-stone.mn.us; neilwiese@co.stevens.mn.us; fuller.pamela@co.olmsted.mn.us; pheeren@co.hubbard.mn.us; patty.oconnor@co.blue-earth.mn.us; paul.gassert@co.carlton.mn.us; paulavanoverbeke@co.lyon.mn.us; elections@co.anoka.mn.us; elections@co.stearns.mn.us; rick.munter@co.norman.mn.us; bob.hiivala@co.wright.mn.us; bob.peterson@co.koochiching.mn.us; raschmitz@co.red-lake.mn.us; cblaschko@co.le-sueur.mn.us; russn@co.morrison.mn.us; rtange@co.becker.mn.us; sam_m@co.kandiyohi.mn.us; sara.marquardt@co.dodge.mn.us; scott.peters@co.marshall.mn.us; cass.voter@co.cass.mn.us; sbalster@co.nobles.mn.us; sboelter@co.fillmore.mn.us; steve.mcmahon@co.lake.mn.us; terry.treichel@co.isanti.mn.us; t.reddick@mail.co.douglas.mn.us; wbezenek@co.wilkin.mn.us; wstein@co.ottertail.mn.us; kay.mack@co.beltrami.mn; CCJohnso@co.pine.mn.us; tferber@ci.bloomington.mn.us; kengberg@ci.bloomington.mn.us; tmarshall@ci.robbinssdale.mn.us; tgerhardt@ci.chanhassen.mn.us; doboszenski@ci.rogers.mn.us; sjenkins@townofhassan.com; sknutson@ci.brooklyn-center.mn.us; sengdahl@ci.plymouth.mn.us; sborders@cityofdayton.mn.com; rcolotti@ci.champlin.mn.us; greenwood@visi.com; ngibbs@cityofrichfield.org; nacyc@cityofrockford.org; llarson@ci.osseo.mn.us; kbachmeier@ci.corcoran.mn.us; kporta@edenprairie.org; janet.lewis@ci.crystal.mn.us; devin.montero@brooklynpark.org; daniel-hanover@comcast.net; danay@cityofdeephaven.org; cheri@ci.excelsior.mn.us; johnson@ci.greenfield.mn.us; terryo@hopkinsmn.com; thirsch@ci.independence.mn.us; jmoeller@ci.long-lake.mn.us; cpatnode@ci.loretto.mn.us; skollanderson@ci.maple-grove.mn.us; cityhall@mapleplain.com; chad.adams@ci.medina.mn.us; dmaeda@eminnetonka.com; mregnier@ci.minnetonka-beach.mn.us; thaarstad@ci.minnetrista.mn.us; bonnieritter@cityofmound.com; vleone@ci.new-hope.mn.us; lv@ci.orono.mn.us; stboni@visi.com; jpanchyshyn@ci.shorewood.mn.us; wlewin@mchsi.com; clink@cityofonkabay.net; sandy@wayzata.org; shelley@cityofwoodlandmn.org; Michelle.DesJardin@co.hennepin.mn.us

Cc: fknaak@klaw.us; Lillehaug, David
Subject: Final Instructions For Rejected Absentee Ballot Envelope Sorting
Attachments: Detailed Instructions for Sorting Rejected Absentee Ballots.rtf

Greetings:

The document for which you have all been waiting. I apologize for the delay in getting this to you. If you haven't already done so, please e-mail me if you are willing to conduct a public sorting of your rejected absentee ballots. If so, please designate the date, time and location.

Thank you and please consider my sincere apologies for imposing on your time. I really appreciate any cooperation you are able to provide.

12/15/2008

My best regards.

Sincerely,

Jim Gelbmann
Deputy Secretary of State
(651) 201-1344
(651) 334-4077

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Detailed Instructions For Sorting All Currently-Rejected Absentee Ballots Cast In The U.S. Senate Race

PURPOSE

The State Canvassing Board has heard anecdotal evidence of individuals who have had their absentee ballot rejected for the 2008 General Election through no fault of their own. These ballots were rejected as a result of administrative or clerical errors made by election workers and judges who were overworked and stressed in their attempts to deal with one of the largest voter turnouts in Minnesota History. Ballots that were sent to the wrong precinct, registered voters who were incorrectly characterized to be non-registered due to an innocent oversight by an election judge or Absentee Ballot Board, or disabled individuals whose signature marks were not recognized as signatures by Election Judges are just several examples of voters who were disenfranchised by errors made by others.

The State Canvassing Board, which is responsible for certifying that the results of the election are accurate, is interested in learning approximately how many of these disenfranchised voters exist among the estimated 10,000 to 12,000 rejected absentee and mail-in ballots cast. Simultaneously, the Board is seeking an Attorney General's Opinion to determine if it has the authority to open these mistakenly-rejected absentee ballot envelopes and count the votes in the U.S. Senate race.

At this time, the purpose is not to open and count the votes in these mistakenly rejected absentee ballots. Instead it is to provide the State Canvassing Board with an estimate of the number of absentee ballots that were rejected for legitimate reasons along with the number of absentee ballots that were mistakenly rejected.

This task goes beyond a mere listing of the reasons for rejecting an absentee ballot that are listed on the envelope. It requires the election workers to further document that the reasons listed are accurate. The integrity of our election system, and the need to make sure every effort is made to count every vote that is legitimately cast by a qualified, registered voter, is dependent upon your voluntary participation in this process. No voter should be required to rely on an election contest to ensure his or her vote is counted by the State Canvassing Board. If the Board lacks the authority to count absentee ballots that were mistakenly rejected, it is critical that the Board be able to document the number of mistakenly-rejected absentee ballots in its final certification of the election results.

INSTRUCTIONS

Every county or city that has agreed to assist in this project is asked to participate in a sorting of the rejected absentee ballots into five distinct categories. All jurisdictions who decline to participate will be asked to provide detailed information consistent with these reporting standards to the State Canvassing Board and such information may also be subject to data practices requests by the two Senate campaigns. The Office of the Secretary of State reserves the right to complete the project on behalf of the jurisdiction if a local jurisdiction declines to complete the project themselves.

Those jurisdictions with 20 or fewer rejected absentee ballots may opt to do the sorting of the ballots themselves in a public process that is announced at least 24 hours in advance, or they may opt to make copies of rejected absentee ballot envelopes and the corresponding applications and mail them to the Secretary of State's Office where they will be sorted in a public setting on a date and time announced by the Secretary of State. The local election official of the jurisdictions that opt to have the Secretary of State's Office complete the

review and sorting of the ballots shall be available to respond to inquiries by the secretary of state as to whether the voter signed in on the roster, is noted on the roster as having voted by absentee ballot or is noted as having registered on election day, or as to whether it appears that there may be a voter registration application in the original envelope.

All other jurisdictions with more than 20 rejected absentee ballots that are willing to assist the Secretary of State's Office with this project in exchange for compensation that will be detailed below, are asked to contact Jim Gelbmann, Deputy Secretary of State, by e-mailing him the date, time and location the public sorting of the rejected ballots will take place. Jim's e-mail address is: jim.gelbmann@state.mn.us .

Preparing for the Sorting of Rejected Absentee Ballots

The sorting of rejected absentee ballots must be conducted in a public setting. Representatives of the two Senate Campaigns and all other interested individuals must be allowed to watch – but not participate in or challenge – the sorting of the ballots. The Election Official who is responsible for the sorting of the ballots shall establish a reasonable public viewing area within the room where the ballots are to be sorted. No candidate representative has the right to question or challenge the decision made by the election official(s) and/or election judges relative to the category into which each absentee ballot is placed. The Election Official has the right to request that any individual who attempts to interfere with, or influence the decision of, the panel to leave the room.

The Primary Election Official for each location shall be designated by the Office of the Secretary of State. The Official shall appoint two individuals to assist with the sorting of the ballots. These individuals must be either non-partisan professional election staff employed by the jurisdiction or municipalities within the jurisdiction, or two qualified election judges, one from each of two different major political parties.

The Election Official must establish a date, time and location for the sorting of the ballots and must notify Deputy Secretary of State Jim Gelbmann of this date, time and location at least 48 hours in advance. (This will give our Office adequate time to give the candidates' representatives the required 24 hours notice.)

The review will begin on or about December 8, 2008 and will continue until all previously rejected absentee ballot envelopes in the jurisdiction(s) both retained at county or city offices after processing by an absentee ballot board and/or those retained with precinct materials, are reviewed. The State and Election Official agree that this process should be completed on or before December 18, 2008, unless civil litigation delays completion. The results of the review, along with all explanatory notes shall be electronically transmitted to the Secretary of State as well as mailed to the State on or before December 18, 2008, pursuant to instructions to be provided by the Secretary of State.

If the Election Official responsible for the review has made copies of the envelopes, they may use the copies to conduct the review instead of the original previously-rejected absentee ballot envelopes. Election Officials may conduct preliminary investigations relative to each rejected absentee ballot prior to the actual public sorting process. For example, if an absentee ballot was rejected because an individual was determined to be not registered to vote, the Election Official and his or her assistants may verify the non-registered status of the voter on election day by reviewing either the election day roster and/or the Statewide Voter Registration System (SVRS). In any event, a further investigation of the reason for the rejection of the ballot must be conducted – either during the public sorting process or in preparation for the process.

Throughout the process, Election Officials must keep previously-rejected absentee ballot envelopes secure and not separated from the materials they were stored with prior to the sorting process. At the end of the process, Election Officials may keep the five categories of previously-rejected absentee ballot envelopes segregated using rubber bands or paper clips, but must continue to store them securely, as they were prior to the sorting process.

Conducting the Sorting of The Previously-Rejected Absentee Ballots

I. Previously-rejected non-UOCAVA absentee ballot envelopes not processed for acceptance or rejection by an absentee ballot board (accepted and rejected in the precinct)

These envelopes will be reviewed and sorted based on the following five criteria. Absentee ballots received after election-day need not be included in this sorting process and shall not be reported as part of any of the five categories.

1. The ballot envelope was rejected because the voter's name and address on the return envelope are not the same as the information provided on the absentee ballot application.
2. The voter's signature on the return envelope is not the genuine signature of the individual who made the application for the ballot, or the certificate has not been completed as prescribed in the directions for casting an absentee ballot. Ballot envelopes that have signatures that are similar, but not identical to, the signature on the application should not be placed in this category, but shall be placed in category five. For example, if a voter signed that application James R. Gelbmann, but signed the ballot envelope Jim Gelbmann using similar handwriting, that ballot envelope shall be placed in category five. Also, if the voter signed using a signature mark on both the application and the envelope that the election judges did not recognize as a legal signature, that ballot shall be placed in category five.
3. The voter was not registered and eligible to vote in the precinct or has not included a properly completed voter registration application. Election personnel shall use available voter rosters and/or SVRS to determine whether the voter was registered on Election Day. Voters whose records in SVRS are "inactive" as well as voters whose records are challenged because of a felony status or other reason were properly rejected and should be put in this category, unless they included a voter registration application with their absentee ballot. Also include in this category voters who have died prior to election-day.

If the review of a ballot envelope determines that the ballot envelope was rejected because it was inadvertently delivered to the wrong precinct, election personnel shall use that precinct's voter roster and/or SVRS to determine whether the individual was registered at the address for the other precinct on Election Day. If they were, that ballot shall be placed in category five.

- 3a. If the reason for rejection of the absentee ballot was that the voter's name does not appear on the roster or in SVRS, the actual absentee ballot envelope must be reviewed instead of the copy. Without opening the secrecy envelope, the official making the review

shall attempt to determine if a voter registration card or form is enclosed in the secrecy envelope. If it is determined that a voter registration card or form is likely to be included inside the secrecy envelope, the Election Official shall report that ballot separately as part of Category 3a. If the secretary of state is making the review, then the election official who provided the materials to the secretary of state shall make the actual physical review under this item.

4. The voter had already voted at the election, either in person or by absentee ballot. Elections personnel shall use available voter rosters to determine whether the voter had already voted.

Election Officials shall create a fifth category of previously rejected absentee ballot envelopes as described below:

5. If the rejected absentee ballot envelope does not meet one of the four reasons listed in categories 1 through 4, or if the reason used to reject the previously-rejected absentee ballot envelope is not based on factual information (e.g. the voter was initially determined not to be registered to vote at the address given, but a subsequent review determines the voter was registered at that address), that absentee ballot envelope will be counted as part of a fifth category of previously-rejected absentee ballot envelopes - absentee ballot envelopes that were mistakenly rejected on election day.

If the Election Official and his or her two assistants do not agree into which of the first four categories the ballot envelope should be placed (e.g. because it was appropriately rejected for more than one reason), the previously rejected absentee ballot envelope will be assigned at random to one of the appropriate categories. If the election judges do not agree as to whether the previously-rejected absentee ballot envelope was appropriately or inappropriately rejected, the ballot will be assigned to the fifth category. Please note the disagreement on a 'sticky note' and attach it onto the envelope.

The Election Official shall make reasonable efforts to keep the public informed throughout the sorting process. For each ballot placed in the fifth category, the Election Official shall briefly state the reasoning for placing the ballot in the fifth category. For example, the Official may say: "This voter was initially determined to be a non-registered voter on or prior to election day, but a further review confirms that the voter was registered on election day."

The Election Officials will not open or count the votes contained in any of the five categories of rejected absentee ballot envelopes, nor will Election Officials compile a list of names and addresses of voters whose previously-rejected absentee ballot envelopes are placed in any of these five categories.

The Deputy Secretary of State shall be available by phone to provide additional detailed instructions or clarifications to Election Officials to supplement these paragraphs, as necessary. His Office number is (651) 201-1344. His cell phone number is (651) 334-4077.

II. Previously-rejected ballot envelopes, both UOCAVA and non-UOCAVA, that were

originally accepted by an absentee ballot board but rejected at the precinct.

These envelopes should automatically be placed in the fifth category described above, unless the previously-rejected absentee ballot envelope was appropriately rejected because the person already voted or was known to be deceased on November 4, 2008.

III. Previously-rejected UOCAVA absentee ballot envelopes rejected by an absentee ballot board

These envelopes will be reviewed to and sorted as follows:

1. The voter's name on the return envelope fails to appear in substantially the same form as on the application;
2. The voter has not signed the federal oath;
3. The voter has not set forth the same voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as submitted on the application, if the voter has one of these documents, and, after making a reasonable effort, the election judges cannot satisfy themselves through other information provided by the applicant or voter that the ballots were returned by the same person to whom the ballots were transmitted; or
4. The voter has already voted at that election, either in person or by absentee ballot. Elections personnel shall use available voter rosters or other UOCAVA materials to determine whether the voter had already voted. Also include in this category envelopes that were rejected because the voter died prior to November 4.

The Election Officials will create a fifth category of previously rejected absentee ballot envelopes as described below:

5. If the rejected absentee ballot envelope does not meet one of the four reasons listed in categories 1 through 4, or if the reason used to reject the previously-rejected absentee ballot is not based on factual information, that absentee ballot envelope will be counted as part of a fifth category of previously-rejected absentee ballots - absentee ballot envelopes that were mistakenly rejected on or before election day.

If the election judges do not agree into which of the first four categories the ballot envelope should be placed (e.g. because it was appropriately rejected for more than one reason), the previously rejected absentee ballot envelope will be assigned at random to one of the appropriate categories. If the election judges do not agree as to whether the previously-rejected absentee ballot envelope was appropriately or inappropriately rejected, the ballot will be assigned to the fifth category. Please note the disagreement on a 'sticky note' and attach it onto the envelope.

The Election Official will not open or count the votes contained in any of the five categories of rejected absentee ballot envelopes, nor will the Election Official compile a list of names and addresses of voters whose previously-rejected absentee ballot

envelopes are placed in any of these five categories.

The Deputy Secretary of State shall be available by phone to provide additional detailed instructions or clarifications to Election Officials to supplement these paragraphs, as necessary. His Office number is (651) 201-1344. His cell phone number is (651) 334-4077.

IV. Optional: Mail Ballots

At the discretion of the local Election Official, previously rejected ballots from mail ballot precincts may also be reviewed to determine whether any were rejected due to an administrative error, through no fault of the voter.

The only authorized reasons for rejecting a ballot in a mail ballot precinct are:

1. The voter did not sign the return envelope.
2. The return envelope was not signed by an authorized witness.
3. It was known that the voter had died prior to November 4.

Any previously-rejected mail-in ballot that is determined to have been mistakenly rejected shall be included in "category 5" for non-UOCAVA ballots.

Post-Sorting Instructions

After sorting all previously-rejected absentee ballots into the five aforementioned categories, the Election Official and his or her two assistants shall count the number of ballots in each category. This shall include a count of the number of ballots in categories 1, 2, 3, 3a, 4, and 5 for non-UOCAVA ballots and/or the number of ballots in categories 1, 2, 3, 4, and 5 for UOCAVA ballots.

The Election Official shall report the number of ballots in each category to the individuals in the public viewing area.

Election Officials may keep the categories of previously-rejected ballot envelopes segregated using rubber bands or paper clips, and must return them to the location in which they were being securely stored, as they were prior to the sorting process.

The number of ballots in each category shall be reported electronically to the State using a survey tool (details of which will be sent to all participating Election Officials by the end of the day on December 4). Please be sure to identify the jurisdiction for which you are reporting and the name of the Election Official and all assistants who participated in the sorting of the ballots. The Election Official shall also report whether he or she included any previously-rejected mail-in ballots in his or her sorting procedures.

After transmitting the results of the sorting process electronically, the Election Official shall fax or mail the results, including the Election Official's Signature, to the Deputy Secretary of State. The Fax number is: 651-215-0682. The mailing address is: Jim Gelbmann, Deputy Secretary of State, 180 State Office Building, Saint Paul, Minnesota 55155.

Compensation

All local jurisdictions willing to assist the Secretary of State in this process will be reimbursed for the cost of hiring two election judges (or additional election judges if you intend to operate more than one table) at the rate paid on Election Day plus an amount of \$0.25 for each rejected absentee ballot and/or mail-in ballot reviewed. Since many counties had a minimal number of

rejected absentee ballots, every county that participates will receive a minimum of \$25.00 for their effort. A contract for these services will be sent to you shortly.