

# MAINE STATE LEGISLATURE

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***Report on the  
Accuracy of Election Results***

*Prepared for the 124<sup>th</sup> Maine Legislature  
February 15, 2010*



*Prepared by the Department of the Secretary of State  
Secretary of State Matthew Dunlap*

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## I. EXECUTIVE SUMMARY

Maine's election laws and procedures assure, with great accuracy, that the will of the voters is correctly reflected in election results. Maine has enjoyed a stable, secure and transparent recount process since the mid-1990's, after new requirements for the chain of custody of ballots, the security of ballots and the conduct of recounts were implemented in 1994. Additionally, Maine's elections include many built-in protections designed to assure the integrity of our democracy and provide citizens with confidence in the accuracy of our election results. Key among these protections are the uniform design and central distribution of ballots and election forms; the detailed uniform guidelines for determining voter intent; the rigorous chain of custody requirements for all ballots; the robust central recounts; and the transparency of the process from beginning to end.

In 2009, during the First Regular Session of the 124<sup>th</sup> Legislature, the Resolves of 2009, Chapter 55, "Resolve, Directing the Secretary of State To Report on the Accuracy of Election Results" was adopted. This Resolve directed the Secretary of State to examine the results of at least 20 recent election recounts and to compare those results with the original vote totals for those elections.

There were 21 recounts conducted between November 2006 and November 2008, involving 78 municipalities, all of which were reviewed in preparation for this report. For the purposes of assessing the integrity and accuracy of the elections on the whole, the figures from the 2008 and 2006 election recounts illustrate that the current system of conducting only the recounts that have been requested by candidates (usually in very close races), results in not only a statistically significant number of jurisdictions being recounted, but also a significant number of the ballots cast. It is also clear from the 2008 and 2006 recounts that the municipalities involved constitute a representative sampling of the counting methodologies used in the state (i.e. hand-counting versus machine tabulating).

In both the tabulator municipalities and the hand-count municipalities, changes in the counts appear to be the result of human error rather than machine errors or any deliberate attempt to tamper with the outcome of the election. The percentage of vote total changes from election night compared with the total ballots counted was extremely low and was remarkably close between the hand-counted results (0.64%) and the tabulator results when considering only the 3 types of tabulators still in use today (0.69%). Based on a review of the municipal checklists completed at the 2008 recounts, overall compliance with the legal and procedural requirements for conducting an election also was very good. The results of these procedural audits allow us to enhance and target both general training for all municipalities, as well as specific corrective instruction for municipalities with deficiencies.

As a result of this analysis and report on recounts, we recommend that the Secretary of State implement an ongoing process for reviewing and assessing the recounts, and develop a simple template that can be used for recording and reporting on issues found in the recounts. This information would then be available for the Secretary of State and other policy makers as they consider measures to improve upon the accuracy of counting ballots and reporting election results.



## II. INTRODUCTION

Maine has enjoyed a stable, secure and transparent recount process since the mid-1990's, after new requirements for the chain of custody of ballots, the security of ballots and the conduct of recounts were implemented in 1994. These requirements are discussed in detail in section III of this report. Maine also has had a history of implementing election laws and processes that have removed barriers to voter registration and voting, and due to these reforms, voter turnout for federal elections consistently ranks among the highest in the nation.

The concept of voting system audits was first proposed in Maine in 2005, during the First Regular Session of the 122<sup>nd</sup> Legislature, as LD 1514, "An Act to Enhance the Transparency of Maine's Elections". This bill would have required the Secretary of State, after each election in an even-numbered year, to randomly select a sample of 0.05% of all voting machines used in state elections for a manual recount, and to perform a statistical analysis of the results of these audits, along with a variety of other procedural requirements. This bill was not enacted, primarily because Maine had not yet implemented an Accessible Voting System and had no voting machines in use at that time. (Although 20% of Maine's municipalities in 2005 used optical scan tabulators to count their paper ballots, this bill appeared to be aimed primarily at electronic voting machines rather than tabulating systems.)

By 2007, the Secretary of State had implemented an Accessible Voting System (AVS) in each voting place as required by the Help America Vote Act of 2002 (HAVA). Maine's AVS is the Inspire Vote-by-Phone™ system, which essentially is a ballot marking device rather than an electronic voting machine, and which allows a person to create a marked paper ballot that can be hand-counted at the voting place. Another random audit bill was submitted to the First Regular Session of the 123<sup>rd</sup> Legislature, as LD 1150, "An Act to Establish Random Audits of Voting Machines". The bill had similar elements to the one presented in 2005. There were questions raised about this bill and whether its intent was to audit only "voting machines" which Maine does not have, or whether it would cover optical scan tabulating machines, which were then used by about 25% of Maine's municipalities. There were also concerns about how random audits would work with the existing recount laws and deadlines. The Legislature did not pass this bill.

In 2009, during the First Regular Session of the 124<sup>th</sup> Legislature, LD 1170, "An Act to Ensure the Accuracy of Maine Election Results" was proposed as a concept draft to consider whether the results from the current recount system could be formalized to allay people's concerns about the accuracy of election results. The bill was enacted as the Resolves of 2009, Chapter 55, "Resolve, Directing the Secretary of State To Report on the Accuracy of Election Results". The Resolve directed the Secretary of State to examine the results of at least 20 recent election recounts and compare those results with the original vote totals announced for those elections. This examination was to include elections with ballots that were counted using electronic tabulating machines as well as those with hand-counted ballots. The Resolve also included a requirement that the Secretary of State report back to the Legislature the results of this examination, as well as any recommendations to establish a formal system for providing ongoing information regarding the accuracy of election results in the State. This report fulfills the requirements of the Resolve.



### III. OVERVIEW OF MAINE'S ELECTION INTEGRITY AND THE RECOUNT PROCESS

Maine's elections include many built-in protections designed to assure the integrity of our democracy and provide citizens with confidence in the accuracy of our election results. Key among these protections are the uniform design and central distribution of ballots and election forms; the detailed uniform guidelines for determining voter intent; the rigorous chain of custody requirements for all ballots; the robust central recounts; and the transparency of the process from beginning to end.

The integrity of Maine's elections and the recount process begins with the Secretary of State's central authority to design and disseminate uniform ballots and election forms for all statewide and federal elections. Maine law requires the use of paper ballots, which either are hand-counted (in about 375 municipalities or 75% of the jurisdictions) or are tabulated by optical scan tabulating devices (in about 125 municipalities or 25% of the jurisdictions). The Accessible Voting System (AVS) also produces a paper ballot, marked according to the selections made by the voter using the system. The AVS ballot is placed into the same ballot box that is used by other voters and is hand-counted at the voting place.

Despite differences inherent in the specifications of the different tabulating devices, the ballots are designed to be as uniform as possible, with candidate offices presented in a statutorily prescribed order on the ballot and the candidates listed alphabetically by last name under the office title. The position of common federal and state offices is the same on all ballot styles; and the county offices, although differing from one county to the next, begin in the same place on each ballot and follow the same statutorily prescribed ballot order. The same fonts and font sizes are used for similar categories of information on all ballots, and the instructions are uniform with the exception of necessary differences to describe the voting indicators (squares, ovals or arrows). Ballot questions are presented in the same order and with the same layout and content on all ballots.

In addition to central authority to design ballots, the Secretary of State has the statutory authority to design all forms and instructions supplied to the approximately 500 municipalities that conduct the statewide elections. The use of prescribed, uniform forms by the municipalities provides consistency for the tracking and reporting of election information, especially election results, and streamlines the review of these materials in a recount.

As a result of the Help America Vote Act of 2002 (HAVA), the State has published and used the *Uniform Guidelines for Determining Voter Intent* since 2006, so that ballots counted on election night and at any ensuing recounts follow the same guidelines. Even before HAVA, the Secretary of State developed and provided to all municipalities a uniform process for tabulation and recording of results, as required by Maine Election Law, Title 21-A, section 695. However, the *Uniform Guidelines for Determining Voter Intent* offer much greater detail to election officials for interpreting ballot markings. A copy of these guidelines is found in Appendix B of this report.

All of these requirements provide consistency of process and procedures statewide, helping to ensure the integrity of the conduct of the election. (The authors of this report note that much of the distrust in election and recount integrity that stemmed from the 2000 Presidential Election recounts in Florida was a direct result of that state's lack of uniformity of ballot design,





tabulating forms and instructions and uniform counting guidelines among the local (county) election offices.)

Another key to election and recount integrity is the chain of custody process for ballots. Strong chain of custody requirements ensure the security and accountability for all ballots and are a critical part of the transparency of the election process. For each statewide election, the Secretary of State designs all of the required ballot styles and provides a proofed, camera-ready layout of each ballot style to the contracted printing company. The contractor produces a printer's proof of each style for approval by the Secretary of State, prior to printing the ballots in the quantities specified by the contract. After printing, the contractor shrink-wraps the ballots in lots of 50, and packages the required number of ballots into envelopes or cartons for delivery to municipalities using the delivery labels provided by the Secretary of State. The delivery containers are sealed with a special security tape that prevents anyone from opening the containers without slicing through the tape or otherwise destroying the seal tape or the container itself.

The sealed packages of ballots are transmitted from the printing contractor to the municipal clerks using an inside delivery, signature confirmation process. This allows the State to track the delivery of ballots from the printer to the municipal clerk. The clerk opens and verifies that the correct ballots were received, and completes and returns a customized ballot receipt provided by the Secretary of State, noting any differences between the number of ballots stated on the receipt and the number actually delivered. The clerk must reseal the packages of ballots and protect them until Election Day in a vault or other locked, secure location that is accessible only by the clerk and clerk's staff. On Election Day, the clerk must securely deliver ballots to the voting place, whereupon the election officials open and verify that the correct ballots were received. The election Warden completes and returns a ballot receipt to the clerk, confirming receipt of the specified number of ballots.

During Election Day, the chain of custody is ensured by requiring each voting place to have a minimum of three election officials on duty at all times: a Warden, who is the presiding officer at the voting place, and at least one Democratic election clerk and one Republican election clerk. If more than one set of election clerks is needed, and if these clerks are from the major parties, then there must be an equal number of election clerks from the major parties, or there may be no more than one additional election clerk from either of the parties. Green Independent and Unenrolled election clerks also may be used but do not have to maintain a balance in numbers with the election clerks from the major parties. The voting place must be set up so that there is a guardrail enclosure separating the voting area from the observation area. The voting booths and ballot box must be in view of all persons present, but must be at least 6 feet from the guardrail enclosure to prevent anyone outside the guardrail from seeing someone's voted ballot. The voting place must be large enough to allow at least one party worker from the qualified parties (Democratic, Green Independent and Republican) to remain outside the guardrail enclosure as a poll-watcher; and, if space is not limited, to allow any member of the public to view the process from outside the guardrail enclosure from the time the polls open until after all ballots are counted and sealed for return to the clerk's office.

At the conclusion of voting, and after all ballots are counted and the results announced to the public, the unvoted ballots are sealed in their delivery containers, separate from voted ballots, again using security tape provided by the Secretary of State. The voted ballots, vote tallies and absentee materials are sealed in State-supplied tamper-proof containers with tamper-evident



locks. The election officials also apply a uniquely numbered seal to each container, record the seal number along with the container and lock number on a certificate, and submit the certificate to the Secretary of State with the election results.

In the 125 municipalities that use optical scan machines to tabulate their paper ballots, there are additional chain of custody requirements for the devices themselves. Generally, the clerk is responsible for securing the tabulator machine(s) before, during and after each election, in a vault or other locked, secure location that is accessible only by the clerk and clerk's staff. The approved ballot layouts for each tabulator municipality are provided by the Secretary of State to the two machine vendors. The vendors produce the election-specific program to tabulate the results and provide this program on a memory device for each machine. Once the municipalities receive the printed absentee and Election Day ballots, and the coded memory devices, the clerk must conduct a pre-election logic and accuracy test, to ensure that the election coding is accurate and that the tabulator correctly counts a set of test ballots prepared according to instructions provided by the Secretary of State. Once an error-free test has been performed, the memory device is reset to zero and sealed into the tabulator. The memory device cannot be accessed until after the election, when the memory device is removed, sealed outside of the tabulator, and kept for the required post-election retention period. The clerk delivers the tabulator machine(s) to each voting place on Election Day, just before the polls open. The election officials must open and check the ballot box of the tabulator, to ensure there are no ballots in any of the compartments before voting begins. When the tabulator is plugged in at the voting place, a "zero" tally tape is produced, which verifies that the tabulator has been reset after testing. The election officials verify that the "public counter" mechanism on the front of the machine reads zero as well – indicating that no ballots have been placed through the tabulator. At the end of voting, after the tally tapes have been printed, and all tabulation duties performed, the clerk must retrieve the tabulators from the voting place along with the sealed containers of ballots and other election materials.

When a recount is requested, the Secretary of State alerts the affected municipalities to prepare the voting materials (e.g. voted and unvoted ballot containers, the sealed voting list, any absentee ballots received after Election Day, and the final list of absentee voters) and a transmittal receipt for retrieval by the State Police. The Secretary of State then requests the State Police to pick up the election materials from these municipalities and transmit the materials to a secure location under the control of the Department of Public Safety. The State Police protect the election materials before, during and after the recounts, and provide a secure location for the recounts to be conducted under the supervision of the Secretary of State.

The recount procedures have remained the same since the mid-1990's, and have been followed consistently in all recounts conducted since that time. A copy of the recount procedures is found in Appendix A of this report. When a recount is requested, the Recount Supervisor for the Secretary of State sets the schedule for the recount and communicates with both candidates and their representatives. Included in the communication to the recount participants is a copy of the recount procedures, the *Uniform Guidelines for Determining Voter Intent* and recent Court decisions that further prescribe how certain types of ballot markings should be counted. At the start of each recount, the Recount Supervisor conducts training regarding the recount procedures and the laws and guidelines for counting ballots, and gives an overview of the types of ballots (i.e. hand-counted or machine tabulated) that were cast in the election to be recounted.



During the recount, the first order of business is to conduct a count of the voted ballots. Each participating candidate has six people to act as ballot counters, and these counters for opposing candidates are paired in counting teams overseen by a staff from the Secretary of State's office. The ballots from each municipality are separated into lots of 50, and each lot is counted twice (once by each opposing counter) and an agreed-upon count is recorded on a tabulation form. The tabulation forms are collected and entered into a spreadsheet, and a town-by-town tabulation is made. Sometimes a counting team cannot agree on the way to count a particular ballot; that ballot becomes "disputed" and is set aside until the conclusion of the recount. Generally, the participants will then resolve the disputed ballots and a final count will be determined. Occasionally, the disputed ballots are not resolved. In that event, the recount itself becomes disputed and must be resolved by the appeal authority designated in the Constitution or statute.

In addition to completing a new count of the ballots, the participants may review the accompanying election materials. For example, participants may check the unvoted ballots to ensure that no voted ballots were sealed with them, thus affecting the ballot count. The participants may review the voting list and count the number of names checked off the list as having voted at the election. Absentee ballot envelopes also may be reviewed, usually to look for ballots that should have been counted by the municipality but were not. To the extent possible, the Secretary of State staffs complete a *Municipal Checklist* for each municipality included in the recount. A sample of this checklist is included in Appendix C of this report. The results of this checklist provide an "audit" of whether the municipality has followed the election laws and procedures and allow the Secretary of State to provide additional training or guidance where issues are found.



## IV. ANALYSIS OF 2006 AND 2008 RECOUNTS

There were 21 recounts conducted between November 2006 and November 2008, all of which were reviewed in preparation for this report.

### Extent of Coverage of Past Recounts

There were 6 recounts conducted in 2008 – one of these was for the Primary Election and 5 were for the General Election. Although the number of recounts in 2008 was smaller than usual, three involved State Senate races and one involved a full county race, so the number of municipalities and ballots was higher than the small number of recounts might suggest. The following chart summarizes the number of municipalities and ballots involved in the November 2008 recounts. (Since there was only one recount for June 2008, involving only about 1,000 ballots, it was not included in the following chart.) Overall, the November 2008 recounts involved 78 (or 15.6%) of the 500 municipalities. Nearly 15% of the ballots cast in that election were included in the recounts.

<b>November 2008 Recount Statistics</b>				
# of Hand-count Municipalities Recounted / Percentage of All Hand-Count Municipalities Statewide	# of Machine Tabulator Municipalities Recounted / Percentage of All Tabulator Municipalities Statewide	Total Ballots Cast Statewide	Total Ballots Cast in the Recounts / Percentage of Statewide Ballots Cast	Total Ballots Recounted from Tabulator Municipalities / Percentage of Recounted Ballots
<b>56 / 15%</b>	<b>22 / 18%</b>	<b>744,456</b>	<b>109,348 / 14.7%</b>	<b>71,879 / 66%</b>

There were 15 recounts conducted in November 2006 – 14 of these were for State House District races and one was for a partial county race. The following chart summarizes the number of municipalities and ballots involved in the November 2006 recounts.

<b>November 2006 Recount Statistics</b>				
# of Hand-count Municipalities Recounted / Percentage of All Hand-Count Municipalities Statewide	# of Machine Tabulator Municipalities Recounted / Percentage of All Tabulator Municipalities Statewide	Total Ballots Cast Statewide	Total Ballots Cast in the Recounts / Percentage of Statewide Ballots Cast	Total Ballots Recounted from Tabulator Municipalities / Percentage of Recounted Ballots
<b>62 / 16.5%</b>	<b>15 / 12%</b>	<b>557,734</b>	<b>62,937 / 11%</b>	<b>35,821 / 57%</b>

Overall, the 2006 recounts involved 77 (or 15%) of the 500 municipalities. So, although there were 3 times as many recounts conducted in November 2006 as in November 2008, the number of municipalities involved is about the same for both years. About 11% of the ballots cast in the November 2006 election were included in the recounts.



For the purposes of assessing the integrity and accuracy of the elections on the whole, the figures from the 2008 and 2006 election recounts illustrate that the current system of conducting only the recounts that have been requested by candidates (usually in very close races), results in not only a statistically significant number of jurisdictions being recounted, but also a significant number of the ballots cast. It is also clear from the 2008 and 2006 recounts that the municipalities involved constitute a representative sampling of the counting methodologies used in the state (i.e. hand-counting versus machine tabulating). Additionally, the recounts that are conducted provide state and local election officials with insight as to the types of issues that may result in discrepancies.

### **Recount Documentation Analyzed**

During each recount, the Recount Supervisor created a recount binder that contains the documentation produced during the recount. This documentation includes the election night results as well as the tabulation of the votes at the recount, and wherever possible, notations or observations regarding possible factors that account for discrepancies between the election night count and the recount results. The information in each recount binder was examined, and a recount summary was created for each of the recounts included in this report. The recount summaries for the 2008 recounts are included in Appendix D of this report; the recount summaries for the 2006 recounts are included in Appendix E of this report.

The recount summary includes the following information for each municipality that is part of the recounted district:

- the type of voting system used by the municipality:
  - hand-counted paper ballots, designated with a “P”; or
  - optical scan tabulated ballots, designated with an “A” (Accu-Vote), “E” (Eagle), “O” (Optech 3P) or “M” (ESS M-100) to indicate the type tabulator used;
- the election night count as reported by the municipality;
- the new count derived from the recount;
- the difference between the recount result and the election night result; and
- any notes or observations either made during the recount or confirmed from the review of the recount materials, as to reasons for discrepancies in the count.

### **Counting Errors Identified Through the Recount Process**

In the 21 recounts analyzed for this report, there were no recounts which produced the same total tally at the recount as on election night, although in most of the recounts there were several municipalities in which the recount total was the same as the election night count for one or both candidates. There was only 1 race out of the 21 recounts where errors in the municipal count resulted in a reversed outcome at the recount (i.e. changed the candidate who won the race). That recount was in State House District 102, which is discussed in further detail later in this section. In the rest of the races, although the number of votes changed as a result of the recount, the winning candidate remained the same.

In the municipalities where ballots were hand-counted on election night, a municipal tally sheet was attached to each lot of ballots, indicating the count for each candidate. At the recount, the municipal count was recorded on the left side of the recount tally sheet and the recount total



was recorded on the right side of the recount tally sheet, so that it is possible to compare the counts lot-for-lot. However, it is not possible to determine the exact ballots within a given lot of 50 for which the count changed as a result of the recount.

Where the recount summaries in Appendices D and E have an indication (for hand-count towns) in the notes/observations column such as “2 lots with voter intent differences”, it appears from a review of the tabulation sheets that the recount team reached a different conclusion on how to count some of the ballots in 2 of the lots. This does not necessarily mean the municipality made an error, simply that the recount team made a different determination of voter intent. Examples of voter intent changes are as follows:

- some votes for a candidate being recounted as blanks (where the recount team couldn't determine voter intent);
- some of the blanks being recounted as a vote for either candidate (where the recount team could determine voter intent, although the town couldn't); or
- votes for one candidate being recounted as votes for the other candidate (where the recount team determined voter intent for the other candidate).

There are several other sources of changes for the hand-count municipalities, which reflect actual errors in the election night tallies. All of the changes appear to be simple mistakes of the election officials; there is no indication of a deliberate attempt to change the results. These errors include:

- a given lot of ballots with totals that were tallied incorrectly;
- a given lot of ballots that was not added into the municipality totals (omitted in error);
- an error in either adding the lot totals together or recording the total number of votes for a candidate;
- municipality tally sheets attached to the wrong lot of ballots, making it appear that the tallies were wrong when in fact the tallies were correct, but were made for a different lot of ballots; or
- a number was transposed when recording the vote totals (e.g. 84 was recorded as 48).

In the municipalities where ballots were tabulated by an optical scan device, there is no ability to conduct a lot-by-lot comparison of vote tallies, since the tabulator provides a total vote number for all the ballots. At the recount, the teams put the ballots into lots of 50 and then tally those 50 ballots to get a total for that lot. The lot totals are then aggregated to arrive at a new recount total for the municipality.

In many instances, the changes in the vote totals for the tabulator counts are relatively small (i.e. each candidate picked up a few more votes during the hand recount). Such changes are usually the result of ballots with overvotes for the recounted race. An overvote is when the voter has marked a voting indicator for more than one candidate for the race. The machine cannot discern voter intent, and is programmed to return the ballot to the voter for an opportunity to vote a replacement ballot. If the voter does not wish to correct the error, the ballot is reinserted into the machine, and the overvote is counted as a blank vote for that race (although the rest of the ballot is counted). When overvoted ballots are hand-counted at a recount, it is often possible to determine how the ballot should be counted, using the *Uniform Guidelines for Determining Voter Intent*. This is apparent when the voter marks one voting indicator and then



crosses it out, but marks a second voting indicator with no cross-out. All the tabulator can detect is the overvote – the humans can detect the intent and count a vote for one of the candidates, while the tabulator counted the vote as blank on election night. Again, these differences are akin to the voter intent differences between two hand-counts – they are changes, but not errors.

There are other discrepancies in tabulator municipalities that involve more than a few ballots – with either a number of votes added to or subtracted from the election night count. There were two procedural mistakes made by the election officials that sometimes made it difficult to discern at the recount the exact source of the count discrepancies. In some cases, municipalities did not include a copy of the machine tally tape with their voted materials. Without the machine tally tape, the recount staff could not compare the number of unread or blank ballots or write-in ballots on the tape to the number of fully counted ballots. In other cases, the actual unread ballots and write-in ballots were not designated as such and segregated from the other ballots, with the manual tally of the unread ballots attached. Without such segregation, it is impossible to verify that these categories of ballots were properly handled on election night. The inclusion of the tally tape and correctly segregated lots of unread and write-in ballots make it possible to confirm that the ballots the machine couldn't read (called unread ballots) were properly hand-tallied, or that write-in ballots that the machine had already tallied, were not hand-tallied again by the election officials (resulting in a duplicate count for those ballots).

One contributing factor in the election officials' mistakes regarding the handling of tabulator ballots was that there were 4 types of optical scan tabulators in use in 2006, and 3 in 2008. These tabulators have differences in how they handle certain ballots, like unread ballots or ballots with write-in votes, and the information presented on the machine tally tapes is dissimilar as well. When the election officials encounter issues on election night, they do not always call the Elections Division for advice; thus, they may not correctly understand the problem or may resolve it in a manner that is inconsistent with what we would advise.

In the tabulator municipalities, as with the hand-count municipalities, changes in the counts appear to be the result of human error in the interaction with the tabulator machines, rather than machine errors or any deliberate attempt to change the result. In the one recount where the election night count was overturned, the 2006 House District 102 race in Standish, it was clear to the recount staff that there were two lots of unread ballots that the town had properly segregated and labeled as coming from the unread bin of the machine, but that were not hand-tallied by the election officials. These ballots were not blank – they were marked with a pencil, although all the markings were light. However, the election officials thought that the tabulator had tallied the ballots so they did not hand-tally them. Many of these ballots were absentee ballots that voters may have marked with pencil or other marker with insufficient graphite for the machine to read. (For this style of tabulator, the recommendation is to use the special markers provided at the voting place, or use a No. 2 pencil, which does contain sufficient graphite for the optical scanner to detect.) Had these unread ballots been hand-tallied by the election officials on election night, Mr. Moore would have been the apparent winner, instead of Mr. Shaw (which would have mirrored the recount result). However, had that occurred, the margin of Mr. Moore's victory would have been small, and a recount would likely have been requested. In addition to the election officials' counting mistake, it appeared that a small number of voters from district 103 had been given district 102 ballots in error. There is no way to correct this in a



recount, since the ballots cannot be tied to the voters. This error simply compounded the concern about the outcome of the election.

### **Statistical Analysis of Count Discrepancies**

In addition to the analysis of the number and type of recounts conducted, as reported earlier in this section, we performed a statistical analysis of the changes in vote totals from election night to the recounts. For individual recounts, the changes in the vote totals as a percentage of the total ballots counted ranged from a low of 0.1% (one tenth of one percent) to a high of 3%. The average percentage change in the vote totals was 0.75% (three quarters of one percent).

Count Method	Total Vote Changes	Total Election Night Vote	% Change from Election Night
All	1241	164949	0.75%

Count Method	Total Vote Changes	Total Election Night Vote	% Change from Election Night
Hand Count	393	61523	0.64%
Tabulator-Optech 3P	193	8992	2.15%
Tabulator-without Optech 3P	655	94434	0.69%

Count Method	Total Vote Changes	Total Election Night Vote	% Change from Election Night
A (Accu-Vote)	423	64902	0.65%
E (Eagle)	220	27531	0.80%
M (M 100)	12	2001	0.60%
O (Optech 3P)	193	8992	2.15%
P (Paper Hand-count)	393	61523	0.64%

In the 2006 recounts, the Optech 3P tabulators had a higher percentage of vote changes (2.15%) than the other 3 tabulators then in use (0.69%). The Optech 3P tabulator was the one used in the Standish House District 102 race, whose result was overturned at the recount. The problem with these tabulators was not in the accuracy of the count. Instead, the issue was that the older-style scanning technology could not count the markings made with certain pens or pencils, resulting in a greater number of ballots being segregated by the machine as “unread” ballots, which needed to be hand-counted by the election officials. As the summaries in Appendices D and E show, several 2006 recounts had similar instances of unread ballots that election officials erroneously did not hand tally. In large part, due to these unread ballot issues, our office made a decision in 2007 to discontinue the use of the Optech 3P tabulator machines.

It is important to note that the percentage of vote total changes from election night was very close between the hand-counted results (0.64%) and the tabulator results – without the Optech 3P numbers (0.69%).





## **Procedural Issues Identified Through the Recount Process**

To the extent possible during the recount, a recount staff completes a *Municipal Checklist* form for each municipality, in order to capture information about municipal compliance with election laws and procedures. A sample of the *Municipal Checklist* form is found in Appendix C of this report. Because the candidate who requested the recount (the trailing candidate) determines whether any materials other than the ballots should be reviewed, some areas on the checklist are not completed for every recount or for all municipalities within the recount. For example, if the recount tally from only one municipality differs significantly from election night, the trailing candidate may ask that the voting list be reviewed to determine the number of voters checked off as having voted; or may ask that the absentee ballots be reviewed to ensure that all envelopes with the clerks' notations that the ballot was "OK to cast" are empty (the ballot was removed and counted); or that no loose, voted absentee ballots were omitted from the tally. If the recount does not involve a review of unread ballots, absentee materials or voting lists, then these areas of the checklist cannot be completed.

Based on a review of the municipal checklists for the 78 municipalities included in the November 2008 recounts, overall compliance with the legal and procedural requirements for conducting an election was very good. The largest number of errors involved how the absentee ballot materials were handled. The results of these procedural audits allow us to enhance and target both general training for all municipalities, as well as specific corrective instruction for municipalities with deficiencies. Following is a summary of the results of the procedural audit:

- One municipality had sealed municipal ballots together with state ballots;
- One municipality did not count paper ballots in lots of 50;
- One municipality did not have signed tally sheet(s);
- Two municipalities did not put date and time on absentee ballot applications;
- Three municipalities did not put date and time on absentee ballot envelopes;
- Four municipalities did not seal state voted ballots properly;
- Four municipalities did not apply seals to boxes properly;
- Five municipalities did not mark spoiled ballots properly;
- Seven municipalities did not use state-supplied "Best Locks" to lock boxes; they used locks that the municipalities supplied;
- Seven municipalities did not seal unused ballots properly;
- Seven municipalities did not cancel loose, unused ballots properly;
- Nine municipalities did not use red pens;
- Seventeen municipalities did not check/sign "Voted in the Presence of Clerk" on absentee envelopes; and
- Thirty-five municipalities did not attach absentee ballot applications to the envelopes (the envelopes and applications were kept separate and not matched up as required).



## V. CONCLUSIONS AND RECOMMENDATIONS

Maine's current elections processes and procedures, including recounts, have served us well during the past fifteen years. The fact that in nearly all recounts the apparent winner on election night remained the winner after the recount indicates generally the high level of accuracy for election night results.

Since elections are administered by humans and humans are also involved in the marking of ballots, elections are an inherently human process. No human process is perfect. Our ideal should be perfection; our goal should be perfection and we should strive toward it; however, we need to recognize there will be errors made by humans in the conduct of the election; in the counting of the ballots; and in reporting the election results. That is why we have recounts, so that we can provide a correction and remedy for errors in the election night results for specific races. Moreover, the number and representative nature of the recounts have proven to provide us with all necessary information about the types of issues and human errors that occur in the conduct of the election and the counting of ballots. This insight allows us to continually improve our election processes and the training of our election officials, with the goal of minimizing the Election Day errors and getting closer to attaining the ideal of perfection.

As a result of this analysis and report on recounts, we recommend that the Secretary of State implement an ongoing process for reviewing and assessing the recounts, and develop a simple template that can be used for recording and reporting on issues found in the recounts. This information would then be available for the Secretary of State and other policy makers as they consider measures to improve upon the accuracy of counting ballots and reporting election results.



## Appendix A

### **Candidate Recount Procedures**



*Department of the Secretary of State*  
**CANDIDATE RECOUNT PROCEDURES**

**1. Recount Supervisor**

The recount will be conducted under the supervision of the Secretary of State, or his or her designee.

**2. Public Proceeding**

The recount is a public proceeding and members of the general public may attend, however, space is limited. Only limited conversation will be permitted. Any person who causes a disruption of the recount process will be removed from the room.

**3. Schedule**

The Recount Supervisor will set the schedule for the recount. The recount will begin promptly at the assigned time and will resume promptly after the time allotted for lunch and breaks has concluded.

**4. Instructions**

**Review of procedures.** The procedures governing the recount process will be reviewed by the Recount Supervisor at the beginning of the recount process, and at the start of each day that new counters are present.

**Explanation of ballot markings.** A brief explanation of ballot markings made during counting at the local level and those allowed to be made during the recount process will be provided by the Recount Supervisor.

**Purple pens only.** Only the purple pens provided by the Department of the Secretary of State will be used by all personnel during the recount process. All other writing utensils will be confiscated at the beginning of the recount.

**Food and drink.** There will be no food or drink allowed near ballots or other election materials.

**Order maintained during the recount proceeding.** Conversation between the candidates, their counsel, the counters, and the Secretary of State personnel will be restricted to the recount process. Order in the proceedings will be maintained by the Recount Supervisor. Any person who causes a disruption of the recount process will be removed from the room.

**5. Ballots and Other Election Materials**

**Election materials.** The following materials will be available for inspection at the recount, if applicable: the used ballots, envelopes containing challenge certificates, spoiled ballots, defective ballots, void ballots, used absentee ballots, used absentee envelopes, used absentee applications, test ballots, unused ballots and the incoming voting lists.

**Inspection.** Used ballots will be inspected during the recount process. The voting lists and other election materials are available for inspection while the counting is in progress and immediately afterwards. Once the final count for a municipality has been determined, these items will not be available for inspection again.

**6. Personnel**

**Counters.** Each candidate will provide the number of counters required by the Secretary of State. One counter for each candidate will be paired to form a counting team. It is not recommended that the counsel for a candidate act as a counter. Candidates are prohibited from serving as counters.



**Recount assistants.** Personnel of the Department of the Secretary of State will be assigned to assist the Recount Supervisor. One recount assistant will be assigned to each counting team. The Recount Supervisor will assign recount assistants to other tasks as necessary.

**Persons prohibited from working at the recount.** Confidential state employees, employees of the Legislature, candidates and elected state officials may not participate in ballot recounts in any capacity. This provision does not prohibit employees within the Department of the Secretary of State, election officials, and staff of the Department of the Attorney General and the Judicial Department from performing their duties with respect to a recount.

## 7. Seating

One counter for each candidate will sit beside one another at a table facing a recount assistant. The counters must remain at their designated seats while the recount is being conducted. Each counting team consisting of counters for each candidate and a recount assistant will be assigned an alpha code (A, B, C, etc.).

## 8. Ballot Handling

**Sealed ballot containers and voting lists.** Ballot containers and the voting lists will be unsealed and ballots and other election materials will be unpacked by the Recount Supervisor or recount assistants. At the conclusion of the recount, ballots and other election materials will be repacked and the containers and voting lists resealed by the Recount Supervisor or recount assistants.

**Ballots handled only under supervision.** At no time will the candidates, their counsel or counters be allowed access to the ballots, the voting lists or other election materials without supervision by the Recount Supervisor or recount assistants.

**Recount tabulation.** A Recount Tabulation recording the municipal count (for paper ballots only), the initial and revised counts for each candidate, the number of disputed ballots, and the number of blank votes will be completed for each lot of 50 ballots counted. Each lot will be labeled with the alpha code assigned to the counting team and consecutively numbered.

## 9. Disputed Ballots

**Referred to recount assistant.** All disputed ballots must be referred to the recount assistant assigned to that counting team.

**Identified and recorded.** Each disputed ballot will be labeled on the back with the alpha code assigned to the counting team, the lot number and an identifying sequential number. The municipality, voting district (if any), the candidate on whose behalf the ballot is being disputed, the reason for the ballot being disputed, and the identifying alpha/numeric code must be recorded by the recount assistant on the Record of Disputed Ballots form.

**Segregated.** Disputed ballots will be segregated and stored separately from other ballots and the container labeled with the name of the municipality and the count. Disputed ballots from more than one municipality may be stored together in the same container, but must be wrapped and labeled separately.

**Review of disputed ballots.** Prior to signing the final count, the candidates and/or their counsel may review the disputed ballots jointly and may resolve how individual ballots will be counted. Disputed ballots which are resolved before the final count may be repacked and resealed with the other ballots.

**Photocopied.** Disputed ballots which are not resolved before the final count must be photocopied and stored separately from the original ballots. The photocopy of a disputed ballot is not a public record.



**10. Recount Tabulation by Municipality**

Upon the completion of the recount of ballots from each municipality, the ballots and other election materials will be repacked and the containers and voting lists resealed and neither candidate, nor their respective counsel, will have access to these items again. Each candidate, or their counsel, will be required to sign the Recount Tabulation agreeing to the final count for that municipality, including the number of ballots in dispute.

**11. Withdrawal of Request for Recount**

A candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows that candidate to be the loser. If, during the recount the candidate requesting the recount overtakes and passes the candidate that initially appeared to win the election, the candidate requesting the recount may not withdraw the request and the recount must be completed.

**12. Concession of Election**

If a candidate withdraws the request for a recount or otherwise concedes the election, a statement to that effect must be signed by the candidate or their counsel.

**13. Determination of Election**

The sum of the final counts agreed to for each municipality becomes the final count for the election. If the number of challenged or disputed ballots included in the final count for the election is not enough to affect the result of the election, then the result of the election is determined by the final count.

**14. Automatic Appeal**

For a nomination determined by primary election and for any other election except the Senate or House of Representatives, if there are enough challenged or disputed ballots to affect the result of an election and the election has not been conceded, the Secretary of State shall forward the ballots and related election materials for that election to the clerk of the Supreme Judicial Court. The Supreme Judicial Court shall determine the result of the election pursuant to procedures adopted by court rule. The decision of the Supreme Judicial Court is final and must be certified to the Governor by the Chief Justice.

For all elections to the Senate and House of Representatives, each House shall establish procedures for recount appeals.

**15. Error in Initial Count**

If it is found that a mistake was made in counting the ballots on election day, the Secretary of State shall submit a corrected tabulation to the Governor.

**16. Deposit**

Once the recount has begun, a deposit made by the candidate requesting the recount is forfeited to the State if the resulting count fails to change the outcome of the election. If the recount reverses the election, the deposit must be returned.

**17. Basis Statement**

The basis for the recount procedures outlined herein is found in Title 21-A M.R.S.A. Sections 737-A, in Chapter 501: Rules for Election Recounts, and in the past practices of the Secretary of State in conducting recount proceedings.



## **Appendix B**

### **Uniform Guidelines for Determining Voter Intent**

**(Note: These Guidelines will be Updated for 2010 to  
Reflect Changes in the Election Laws)**



## UNIFORM GUIDELINES FOR DETERMINING VOTER INTENT *Revised by the Office of the Secretary of State, September, 2007*

Title 21-A, section 696, subsection 6 directs the Secretary of State to publish uniform guidelines for determining voter intent based on relevant case law and provisions of Title 21-A.

These guidelines must be used as a reference by election officials in tabulating the results of state and local elections and in all recounts conducted pursuant to Title 21-A.

The guidelines must be included with the instructional materials provided to the clerk, registrar and election officials in each municipality pursuant to section 605 and must be used by the Secretary of State in the training of election officials pursuant to section 505.

### **I. Ballots (or votes) that may not be counted:**

The following types of ballots or votes may not be counted, as a matter of law:

#### **A. Defective ballots. 21-A M.R.S.A. §696(3)**

A ballot that was not prepared (i.e., printed) in accordance with the provisions of Title 21-A is deemed defective and may not be counted. These include:

- ballots that are not completely printed, or for which the printing is illegible
- ballots that are from the wrong municipality or voting district
- machine ballots that are torn or crumpled, or contain a misprinted bar code
- ballots reproduced on a copy machine, and sample ballots, unless the election officials have been expressly authorized by the Secretary of State's office to produce extra ballots in this manner in the event of an emergency pursuant to 21-A M.R.S.A. §604

**Note:** Ballots are not defective if they have been prepared in accordance with instructions by the Secretary of State's office pursuant to 21-A M.R.S.A. §604.

#### **B. Void ballots/distinguishing marks. 21-A M.R.S.A. §696(5)(A)**

A ballot is void if it has been marked by the voter in a manner that shows an intent to distinguish it from other ballots for a fraudulent or dishonest purpose. Such markings are considered "distinguishing marks" as defined in statute, 21-A M.R.S.A. §1(13).

Thus, the ballot should be rejected and marked "void" if it contains any of the following:

- the voter's name
- the voter's initials, other than where the voter has initialed the cross-out of a voting indicator (as described in part II.D of these Guidelines) merely to indicate that he or she made that change
- a number





- a unique symbol where it appears that the voter’s intent was to enable a person to determine who cast the ballot
- a comment or statement that indicates the identity of the voter either individually or as a member of an identified group

**C. Invalid votes. 21-A M.R.S.A. §696(2)**

A vote is deemed invalid by statute, and may not be counted if:

- the voter writes in the name of a person who has not filed a Declaration of Write-in Candidacy as provided by §722-A. (NEW: PL 2007, c. 122)
- the voter writes in the name of a candidate in the blank space provided for a write-in, or pastes in a printed sticker for a write-in candidate on a *primary election* ballot, but does not mark the voting indicator
- the voter pastes in a printed sticker for a write-in candidate on a *general election* ballot, whether or not the voting indicator is marked. 21-A M.R.S.A. §692.
- the voter writes in the name of a fictitious or deceased person, or a person who is not qualified by law to be a nominee or candidate for that office
- the voter marks more names for an office than there are vacancies to be filled (an overvote). Whether or not the voter has expressed an intent to select more than one candidate for an office on the ballot should be determined in accordance with part II of these guidelines.
  - **Note:** If the voter marks the voting indicator for a write-in candidate but leaves blank the space for the write-in candidate’s name and residence (an invalid vote), and also marks the indicator for a named candidate for the same office, that does not constitute an overvote. The vote should be counted for the named candidate.

**II. Votes that may be counted even though the voter has not marked the ballot in accordance with instructions**

Maine’s election laws provide that “If a voter marks the voter’s ballot in a manner that differs from instructions at the top of the ballot but in such a manner that it is possible to determine the voter’s choice, then the vote for the office or question concerned must be counted.” 21-A M.R.S.A. §696(4).

If it is impossible for election officials to determine the voter’s choice, based on the way the voter has marked the ballot, then the vote for the office or ballot question concerned may not be counted. 21-A M.R.S.A. §696(2)(B).

“Voting indicator” is defined in 21-A M.R.S.A. §1(48-A) as “the space provided for marking a vote in accordance with a particular type of ballot.” On ballots designed to be read by an optical scan machine, it is either a broken arrow or an oval, and on paper ballots for manual counting, it is a box or square.

The guidelines set forth below are designed to provide a uniform guide to aid election officials in determining voter intent when the voter has not marked the ballot in accordance with the instructions.



### A. Failure to fully mark voting indicator

Where the voter has made some mark in the voting indicator, but has not fully completed it, the vote should be counted if:

- an “x”, check mark, plus sign, asterisk, star, or a definite line (horizontal, vertical or diagonal) has been placed within the voting indicator
- the majority of space in the voting indicator (arrow, box or oval) is filled in
- it appears from the nature of the mark in the voting indicator space that the voter intentionally moved the pen or pencil across the paper from one point to another
- the voter has marked the voting indicator in the same manner for other offices or ballot questions on the same ballot

The vote should not be counted if:

- there is only a small dot or light pen or pencil mark inside the voting indicator that could have been made by merely resting the pen or pencil on the ballot
- the marking is unclear and is inconsistent with the manner in which the voter has marked the rest of the ballot

### B. Marks made outside voting indicator

If the voter has not marked the voting indicator but has made marks on the ballot that reveal the voter’s choice, then the vote should be counted. This means the vote should be counted if:

- there is an “x”, check mark, plus sign, asterisk, star or definite line, a portion of which is contained in the voting indicator, provided it does not extend into the voting indicator for an opposing candidate or ballot question choice
- the mark made by the voter is near, although not within, the voting indicator and is closer to the indicator or name of that candidate or ballot question choice than to any opposing candidate or ballot question choice
- the voting indicator is circled or underlined, or clearly marked in some other way that indicates the voter’s intent to make a choice
- the candidate’s name or the ballot question choice is circled or underlined
- the candidate’s party affiliation or party designation is circled or underlined
- an arrow or line connects the voting indicator to the candidate’s name or ballot question choice
- a check mark appears next to the candidate’s name or ballot question choice
- the voter has written words of affirmative choice (such as “vote for Smith” or “vote yes”) in the area for the specific contest



- the voter has crossed out the name of all but one candidate for the same office, provided the voter has consistently marked other races on the ballot in this manner

The vote should not be counted if:

- the mark is equidistant between the voting indicators or names of two opposing candidates or ballot question choices
- the mark appears to be a stray mark, not made by the voter with an intent to indicate a choice

### C. Cross-outs or erasures

Where the voter has filled in more than one indicator for an office or ballot question, a vote for one of those candidates or ballot question choices may still be counted under the following circumstances:

- if one of the voting indicators for the two candidates or ballot question choices is crossed out or scribbled over, the vote should be counted for the other candidate or ballot question choice for which the indicator is filled in and not crossed out or scribbled over
- if it is apparent that the voter erased the markings on one indicator, the vote should be counted for the other candidate or ballot question choice for which the indicator is clearly filled in

**Note:** If one indicator is merely filled in more lightly than the other, such that it is impossible to tell whether the voter intended to eliminate one choice, then no vote for that office or ballot question should be counted.

### D. Write-in votes

Where the voting indicator next to the blank space for a write-in candidate has been filled in, or is otherwise marked in accordance with part II of these guidelines, the vote should be counted **for a declared candidate** even if:

- the candidate's name is abbreviated, misspelled or incomplete, provided it is still possible to identify the candidate as the one who is declared for that office
- only the last name of the candidate is included, provided that there is no other declared candidate for that office with the same last name as the declared candidate written in
- the voter has written in the name of a candidate that is already printed on the ballot for that office

**NOTE:** If a voter wishes to vote for a declared write-in candidate, the voter must mark the write-in indicator and must write the name of the candidate in the blank space provided. No municipality of residence is required.



## Appendix C

### **Sample of Municipal Checklist (Used at Recounts)**



Municipal Checklist for the \_\_\_\_\_, General Election Recount

Name of Municipality: \_\_\_\_\_

Date: \_\_\_\_\_

A. Packaging of Election Materials

1. Sealing of used (voted) materials in blue tamper-proof boxes

- Yes No a. Used only blue tamper-proof boxes to seal all voted state ballots
b. All state voted ballots and materials sealed in blue boxes
c. All blue boxes properly labeled on front or side
d. All latches properly closed before applying lock/seal
e. All seals applied through latch hole and closed tightly
f. All boxes locked with State supplied "Best Locks"
g. Certificate of Sealed Ballot Container completed and signed for all blue boxes

2. Sealing of unused ballots in separate cartons/envelopes

- Yes No a. All state ballots still shrink-wrapped are sealed in separate cartons or envelopes
b. All loose state ballots are cancelled with red X or line through each side of ballot
c. Only state (no municipal) unused ballots are sealed in the cartons or envelopes
d. All containers/cartons of unused ballots are sealed with tamper-proof tape
e. All containers of unused ballots are properly labeled on the side

3. Sealing of Incoming Voting List in separate envelope

- Yes No a. Voting list and all certificates of new voters sealed in separate envelope or package
b. Certification is signed by appropriate election officials and used to seal the package

B. Handling of Election Materials

1. Use of red pens/pencils

- Yes No a. Election Officials used only red pens/pencils for Election Day duties

2. Marking and Segregating Certain Ballots

- Yes No a. Spoiled ballots marked, signed and segregated - indicated that a replacement ballot was issued
b. Void ballots marked, signed and segregated
c. Defective ballots marked, signed, and segregated
d. Invalid vote ballots marked, signed, and segregated - paper municipalities: replaced in original lot - machine municipalities: segregated



- \_\_\_ \_\_\_ e. Machine municipalities only:
  - write-in ballots segregated (after recording)
  - unread ballots segregated (after hand-tallies)

**3. Paper Ballots Lots**

Yes No

- \_\_\_ \_\_\_ a. All lots counted in 50, except one
- \_\_\_ \_\_\_ b. Ballots refolded (not rolled) before sealing
- \_\_\_ \_\_\_ c. Official Tally Sheet(s) signed and wrapped around lot with certification side out
- \_\_\_ \_\_\_ d. Rubber band used to seal tally sheet(s) around lot

**4. Incoming Voting List**

Yes No

- \_\_\_ \_\_\_ a. Only one official voting list used and sealed
- \_\_\_ \_\_\_ b. All voters marked with red checkmark or line to left of name
- \_\_\_ \_\_\_ c. Absentee voters marked with "AV" to left of name
- \_\_\_ \_\_\_ d. Challenged voters marked properly (if applicable)
- \_\_\_ \_\_\_ e. All certificates for new voters are enclosed/sealed with list
- \_\_\_ \_\_\_ f. No voter registration/enrollment cards are sealed with list
- \_\_\_ \_\_\_ g. Inactive voters designated with \* on same or separate list from actives
- \_\_\_ \_\_\_ h. Alphabetical list of absentee voters included (if processed centrally)

**5. Absentee Envelopes/Applications**

Yes No

- \_\_\_ \_\_\_ a. Applications attached to corresponding envelopes (where applicable)
- \_\_\_ \_\_\_ b. Applications noted with date and time of receipt
- \_\_\_ \_\_\_ c. Envelopes noted with date and time of receipt
- \_\_\_ \_\_\_ d. Envelopes for "Voted in Presence" are checked and signed by clerk
- \_\_\_ \_\_\_ e. Clerk has noted on envelope whether "OK to Cast" and signed/initialed
- \_\_\_ \_\_\_ f. Only properly completed/witnessed ballots were cast
- \_\_\_ \_\_\_ g. Applications certified by registrar
- \_\_\_ \_\_\_ h. List of "Voted in Presence" certified by registrar
- \_\_\_ \_\_\_ i. List prepared of all voters who were issued an absentee ballot

**6. Notation of Counting Errors or Other Miscellaneous Problems**

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## Appendix D

### 2008 Recount Summary



November 2008 Recounts								
Comparison of Election Night and Recount Totals								
State Senate District 2								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Burns, Richard	Nass, Richard	Burns, Richard	(+/-)	Nass, Richard	(+/-)	
Acton	P	434	897	449	15	933	36	1 lot recorded incorrectly; 1 lot with 56 ballots was not added into the town totals
Berwick	A	2235	1328	2241	6	1333	5	Likely that unread ballots not hand-counted
Cornish	P	341	407	341	0	407	0	
Lebanon	A	1250	1525	1250	0	1527	2	
Limerick	P	619	834	621	2	837	3	
Newfield	P	272	457	272	0	487	30	All lot totals the same at recount as election night; Error by town (-30 for Nass) either in adding the totals or recording the results
North Berwick	A	1286	1208	1289	3	1210	2	
Parsonsfield W1	P	208	239	208	0	239	0	
Parsonsfield W2	P	200	243	200	0	244	1	1 lot with voter intent differences
Shapleigh	P	522	968	525	3	967	-1	4 lots with voter intent differences
Wells	A	2955	2601	2956	1	2602	1	
<b>Total</b>		<b>10322</b>	<b>10707</b>	<b>10352</b>	<b>30</b>	<b>10786</b>	<b>79</b>	

November 2008 Recounts								
Comparison of Election Night and Recount Totals								
State Senate District 15								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Simpson, Deborah	Snowe -Mello, Lois	Simpson, Deborah	(+/-)	Snowe-Mello, Lois	(+/-)	
Auburn W1	A	1299	1120	1300	1	1121	1	
Auburn W2	A	1401	1021	1400	-1	1020	-1	
Auburn W3	A	1159	1053	1175	16	1079	26	Likely that unread ballots not hand-counted
Auburn W4	A	1231	1057	1231	0	1056	-1	
Auburn W5	A	1287	907	1304	17	909	2	Likely that unread ballots not hand-counted
Durham	E	1086	1230	1099	13	1245	15	Likely that unread ballots not hand-counted
New Gloucester	A	1308	1739	1312	4	1739	0	
Poland	A	1248	1790	1237	-11	1785	-5	Appears that ballots with write-ins were hand-tallied (tabulator already counted); resulting in duplicate counts for write-in ballots
<b>Total</b>		<b>10019</b>	<b>9917</b>	<b>10058</b>	<b>39</b>	<b>9954</b>	<b>37</b>	





November 2008 Recounts								
Comparison of Election Night and Recount Totals								
State Senate District 19								
Election Night				Recount				Notes/Observations from Recount
Municipality	Voting System	Benoit, Paula	Goodall, Seth	Benoit, Paula	(+/-)	Goodall, Seth	(+/-)	
Arrowsic	P	140	206	140	0	206	0	
Bath	E	2581	2211	2587	6	2217	6	
Bowdoin	E	812	832	785	-27	809	-23	Appears that ballots with write-ins were hand-tallied (tabulator already counted); resulting in duplicate counts for write-in ballots
Bowdoinham	A	668	1117	668	0	1117	0	
Dresden	P	436	571	435	-1	572	1	4 lots with voter intent differences
Georgetown	P	364	389	364	0	390	1	
Phippsburg	P	909	493	913	4	492	-1	1 lot with voter intent differences; possible tally error as well
Richmond	P	526	1424	523	-3	1427	3	4 lots with voter intent differences
Topsham	A	2655	2689	2655	0	2693	4	
West Bath	A	755	459	755	0	460	1	
Woolwich	A	1195	772	1132	-63	736	-36	Clerk confirmed that ballots with write-ins were hand-tallied (tabulator already counted); resulting in duplicate counts for write-in ballots
<b>Total</b>		<b>11041</b>	<b>11163</b>	<b>10957</b>	<b>-84</b>	<b>11119</b>	<b>-44</b>	



November 2008 Recounts								
Comparison of Election Night and Recount Totals								
Oxford County Commissioner District 1								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Chase, Charleen	Merrill, Steven	Chase, Charleen	(+/-)	Merrill, Steven	(+/-)	
Albany Twp.	P	8	4	8	0	4	0	
Bethel	A	1061	499	1070	9	502	3	1 lot of 12 unread ballots not hand- counted by town
Brownfield	P	432	385	431	-1	385	0	1 lot with voter intent differences
Denmark	P	263	364	264	1	364	0	1 lot with voter intent differences
Fryeburg	P	776	788	774	-2	793	5	4 lots with voter intent differences; possible addition error for Chase
Hanover	P	96	74	96	0	74	0	
Hiram	P	385	378	386	1	375	-3	2 lots with voter intent differences; possible recording/addition errors for Merrill count
Lovell	P	308	305	308	0	325	20	All lot totals the same at recount as on election night; Error by town (-20 for Merrill) either in adding the totals or recording the results
Norway	E	1091	1544	1092	1	1547	3	
Porter	P	335	348	335	0	348	0	2 lots with voter intent differences; Net change 0
Stow	P	101	83	100	-1	83	0	1 lot with voter intent differences
Sweden	P	98	105	98	0	105	0	
Waterford	P	397	499	398	1	499	0	1 lot with voter intent differences
<b>Total Votes</b>		<b>5351</b>	<b>5376</b>	<b>5360</b>	<b>9</b>	<b>5404</b>	<b>28</b>	



November 2008 Recounts								
Comparison of Election Night and Recount Totals								
Oxford County Register of Probate								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Rood, Bruce	Winsor, Tom	Rood, Bruce	(+/-)	Winsor, Tom	(+/-)	
Adamstown/ Cupsuptic Twp.	P	5	5	5	0	5	0	
Albany Twp.	P	164	100	164	0	100	0	
Andover	P	241	277	241	0	277	0	
Bethel	A	787	738	796	9	739	1	12 unread ballots (that the machine couldn't read), and that the election clerks did not hand-count; these ballots tallied as +9 Rood, +1 Winsor, 2 blanks
Brownfield	P	430	370	428	-2	371	1	2 lots with voter intent differences
Buckfield	P	455	572	456	1	573	1	1 lot with voter intent differences; town attached 2 tally sheets to wrong lots
Byron	P	43	33	43	0	33	0	
Canton	P	276	248	276	0	248	0	
Denmark	P	274	342	274	0	342	0	
Dixfield	P	730	503	731	1	505	2	5 lots with voter intent differences
Fryeburg	P	800	742	799	-1	743	1	2 lots with voter intent differences
Gilead	P	63	59	63	0	59	0	
Greenwood	P	194	238	194	0	238	0	
Hanover	P	84	89	84	0	89	0	
Hartford	P	282	321	282	0	321	0	
Hebron	P	261	397	261	0	397	0	
Hiram	P	402	350	402	0	350	0	
Lincoln Plt.	P	4	17	4	0	17	0	
Lovell	P	337	287	338	1	287	0	1 lot with voter intent differences
Magalloway Plt.	P	4	14	4	0	14	0	
Mexico	A	925	456	925	0	455	-1	
Milton Twp.	P	46	24	46	0	24	0	
Newry	P	99	101	99	0	101	0	
Norway	E	1150	1504	1153	3	1512	8	Likely that unread ballots not hand-counted
Otisfield	P	420	581	420	0	580	-1	1 lot with possible tally error

(Comparison Continued on Next Page)



November 2008 Recounts								
Comparison of Election Night and Recount Totals (Continued)								
Oxford County Register of Probate								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Rood, Bruce	Winsor, Tom	Rood, Bruce	(+/-)	Winsor, Tom	(+/-)	
Oxford	E	839	1289	840	1	1296	7	Likely that unread ballots not hand-counted
Paris	E	1165	1453	1191	26	1494	41	Likely that unread ballots not hand-counted
Peru	P	505	354	506	1	355	1	3 lots with voter intent differences
Porter	P	325	386	325	0	386	0	
Roxbury	P	140	94	140	0	94	0	
Rumford	E	1909	992	1906	-3	995	3	
Stoneham	P	111	54	111	0	54	0	
Stow	P	103	79	103	0	79	0	
Sumner	P	220	256	220	0	256	0	
Sweden	P	100	99	100	0	99	0	
Upton	P	21	39	21	0	39	0	
Waterford	P	531	380	521	-10	380	0	1 lot had counting or recording error by town (+10 for Rood)
West Paris	P	358	510	358	0	510	0	
Woodstock	P	327	425	327	0	425	0	
<b>Total</b>		<b>15130</b>	<b>14778</b>	<b>15157</b>	<b>27</b>	<b>14842</b>	<b>64</b>	

June 2008 Recounts								
Comparison of Election Night and Recount Totals								
State House District 107								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Innes, Melissa	McLaughlin, Kimberly	Innes, Melissa	(+/-)	McLaughlin, Kimberly	(+/-)	
Yarmouth	A	485	485	484	-1	482	-3	3 Disputed Ballots
<b>Total</b>		<b>485</b>	<b>485</b>	<b>484</b>	<b>-1</b>	<b>482</b>	<b>-3</b>	
				<b>485</b>		<b>484</b>		<b>Supreme Judicial Court Determined Result</b>



## **Appendix E**

### **2006 Recount Summary**



November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 7								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Churchill, John	Sutherland, Patricia	Churchill, John	(+/-)	Sutherland, Patricia	(+/-)	
Castle Hill	P	68	86	67	-1	86	0	2 lots with voter intent differences
Chapman	P	46	123	47	1	123	0	1 lot with voter intent differences
E Plt.	P	11	7	11	0	7	0	
Hammond	P	16	17	16	0	17	0	
Littleton	P	176	129	176	0	129	0	
Mapleton	P	328	422	328	0	422	0	
Masardis	P	47	44	49	2	45	1	2 lots with voter intent differences
Monticello	P	145	132	144	-1	132	0	1 lot with voter intent differences
Oxbow Plt.	P	13	21	13	0	21	0	
Presque Isle	O	131	149	131	0	150	1	Appears that District 7 ballots given to some District 5 voters
T11 R4	P	5	7	5	0	7	0	
T7 R5	P	0	0	0	0	0	0	
TD R2	P	0	2	0	0	2	0	
Wade	P	53	43	53	0	43	0	
Washburn	P	376	237	376	0	237	0	
<b>Total</b>		<b>1415</b>	<b>1419</b>	<b>1416</b>	<b>1</b>	<b>1421</b>	<b>2</b>	<b>Final result was disputed and determined by the House.</b>

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 20								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Hall, Darren	Pratt, Benjamin	Hall, Darren	(+/-)	Pratt, Benjamin	(+/-)	
Bradley	P	206	338	206	0	338	0	
Brewer	M	68	54	66	-2	53	-1	
Clifton	P	137	156	137	0	156	0	
Dedham	P	423	362	423	0	362	0	
Eddington	P	369	557	369	0	556	-1	12 lots with voter intent differences; net difference -1 for Pratt
Holden	P	862	630	872	10	629	-1	Total recorded incorrectly
<b>Total</b>		<b>2065</b>	<b>2097</b>	<b>2073</b>	<b>8</b>	<b>2094</b>	<b>-3</b>	



November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 32								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Emery, Harold	Prescott, Harold	Emery, Harold	(+/-)	Prescott, Harold	(+/-)	
Cutler	P	162	64	162	0	64	0	
Eastport	P	336	345	340	4	343	-2	1 lot 2 votes reversed (4 vote swing)
Lubec	P	375	431	371	-4	434	3	1 lot 3 votes reversed (6 vote swing)
Machias	P	380	335	382	2	337	2	several tally errors
Machiasport	P	221	221	221	0	216	-5	1 lot incorrect tally
Roque Bluffs	P	69	68	67	-2	66	-2	1 lot incorrect tally
Whiting/ Trescott Twp	P	127	157	127	0	157	0	
<b>Total</b>		<b>1670</b>	<b>1621</b>	<b>1670</b>	<b>0</b>	<b>1617</b>	<b>-4</b>	

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 39								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Duprey, Brian	Higgins, David	Duprey, Brian	(+/-)	Higgins, David	(+/-)	
Dixmont	P	279	229	279	0	229	0	
Hampden	E	1604	1666	1607	3	1668	2	
Newburgh	P	348	314	346	-2	317	3	1 lot 2 votes reversed (4 vote swing)
<b>Total</b>		<b>2231</b>	<b>2209</b>	<b>2232</b>	<b>1</b>	<b>2214</b>	<b>5</b>	

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 43								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Ash, Walter	Giles, Jayne	Ash, Walter	(+/-)	Giles, Jayne	(+/-)	
Belfast	A	1535	1433	1537	2	1437	4	
Belmont	P	154	223	155	1	223	0	Counting errors
Northport	P	354	409	357	3	407	-2	Counting errors
<b>Total</b>		<b>2043</b>	<b>2065</b>	<b>2049</b>	<b>6</b>	<b>2067</b>	<b>2</b>	



November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 44								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Misluk, Peter	Walker, Robert	Misluk, Peter	(+/-)	Walker, Robert	(+/-)	
Islesboro	P	212	146	213	1	146	0	1 lot with voter intent differences
Liberty	P	199	218	199	0	218	0	
Lincolnton	A	510	624	509	-1	628	4	Unread ballots incorrectly tallied
Morrill	P	156	213	155	-1	214	1	5 lots with voter intent differences
Searsmont	P	340	244	341	1	244	0	
Appleton	P	342	271	342	0	272	1	2 lots with voter intent differences
Hope	P	316	369	341	25	396	27	1 lot not added in on Election night
<b>Total</b>		<b>2075</b>	<b>2085</b>	<b>2100</b>	<b>25</b>	<b>2118</b>	<b>33</b>	

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 55								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Cotta, David	Thompson, Judd	Cotta, David	(+/-)	Thompson, Judd	(+/-)	
Albion	P	455	354	459	4	356	2	5 lots with voter intent differences
Benton	P	445	501	447	2	503	2	5 lots with voter intent differences
China	M	925	954	931	6	957	3	Challenged ballots
<b>Total</b>		<b>1825</b>	<b>1809</b>	<b>1837</b>	<b>12</b>	<b>1816</b>	<b>7</b>	

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 81								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Knight, Gary	Souther, Clark	Knight, Gary	(+/-)	Souther, Clark	(+/-)	
Leeds	P	460	416	466	6	411	-5	1 lot was miscounted
Livermore	P	484	530	483	-1	530	0	2 lots with voter intent differences
Livermore Falls	P	571	635	572	1	635	0	4 lots with voter intent differences
Wayne	O	356	280	356	0	277	-3	
<b>Total</b>		<b>1871</b>	<b>1861</b>	<b>1877</b>	<b>+6</b>	<b>1853</b>	<b>-8</b>	





November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 91								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Bessey, Nancy	Carter, Timothy	Bessey, Nancy	(+/-)	Carter, Timothy	(+/-)	
Adamstown/Cupsuptic Twps	P	0	0	0	0	0	0	
Dallas Plt.	P	123	66	123	0	66	0	
Eustis	P	180	115	182	2	115	0	1 lot with voter intent differences
Kingfield	P	275	213	275	0	214	1	3 lots with voter intent differences
Rangeley	P	408	166	409	1	165	-1	4 lots with voter intent differences
Albany Twp.	P	84	122	84	0	122	0	
Bethel	O	511	751	519	8	773	22	Likely that unread ballots not hand-counted by the election clerks
Gilead	P	31	46	31	0	46	0	
Hanover	P	62	48	62	0	84	36	Town attached tally sheets to wrong lots twice; total vote for Carter of 84 was reported incorrectly as 48.
Langtown Twp.	P	0	0	0	0	0	0	
Lincoln Plt.	P	17	6	17	0	6	0	
Magalloway Plt	P	8	6	8	0	6	0	
Milton Twp.	P	16	37	16	0	37	0	
Newry	P	63	111	63	0	111	0	
Stoneham	P	40	86	40	0	86	0	
Upton	P	29	16	29	0	16	0	
Woodstock	P	257	326	258	1	326	0	1 lot with voter intent differences
<b>Total</b>		<b>2104</b>	<b>2115</b>	<b>2116</b>	<b>12</b>	<b>2173</b>	<b>58</b>	

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 94								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Hanley, Bruce	Hayes, Theresa	Hanley, Bruce	(+/-)	Hayes, Theresa	(+/-)	
Buckfield	P	333	494	335	2	504	10	2 lots with voter intent differences; counting or recording error by town
Hartford	P	192	289	192	0	289	0	
Paris	O	1186	866	1194	8	872	6	Unread ballots not hand-tallied by town
Sumner	P	162	233	162	0	233	0	
<b>Total</b>		<b>1873</b>	<b>1882</b>	<b>1883</b>	<b>10</b>	<b>1898</b>	<b>16</b>	



November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 102								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Moore, Gary	Shaw, Michael	Moore, Gary	(+/-)	Shaw, Michael	(+/-)	
Standish	O	1588	1601	1641	53	1635	34	2 lots of unread ballots were not hand-tallied by the town. The ballots were marked in light pencil which the machine couldn't read. Also, it appears that some District 102 voters were given District 103 ballots.
<b>Total</b>		<b>1588</b>	<b>1601</b>	<b>1641</b>	<b>53</b>	<b>1635</b>	<b>34</b>	<b>The recount overturned the election night results. Final result was disputed and determined by the House.</b>

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 121								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Dill, Cynthia	Duddy, Jennifer	Dill, Cynthia	(+/-)	Duddy, Jennifer	(+/-)	
Cape Elizabeth	A	2432	2256	2345	-87	2201	-55	Appears that ballots with write-ins were hand-tallied (tabulator already counted); resulting in duplicate counts for write-in ballots
<b>Total</b>		<b>2432</b>	<b>2256</b>	<b>2345</b>	<b>-87</b>	<b>2201</b>	<b>-55</b>	

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 127								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Babine, Shawn	McDonough, John	Babine, Shawn	(+/-)	McDonough, John	(+/-)	
Scarborough	A	2096	2145	2108	12	2151	6	11 unopened absentees were counted; also likely that unread ballots were not hand-tallied
<b>Total</b>		<b>2096</b>	<b>2145</b>	<b>2108</b>	<b>12</b>	<b>2151</b>	<b>6</b>	



November 2006 Recounts								
Comparison of Election Night and Recount Totals								
State Representative District 128								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Most, Sylvania	Pendleton, Peggy	Most, Sylvania	(+/-)	Pendleton, Peggy	(+/-)	
Scarborough	A	2048	2069	2053	5	2079	10	Likely that unread ballots were not hand-tallied
<b>Total</b>		<b>2048</b>	<b>2069</b>	<b>2053</b>	<b>5</b>	<b>2079</b>	<b>10</b>	

November 2006 Recounts								
Comparison of Election Night and Recount Totals								
Knox County Commissioner District 1								
Election Night				Recount				Notes/Observations from Recount
Municipality	Sys.	Beebe-Center, Anne	Carter, Bradford	Beebe-Center, Anne	(+/-)	Carter, Bradford	(+/-)	
Owl's Head	P	355	392	382	27	410	18	4-6 voters given wrong ballot; appears that 1 lot of ballots was not included in the tally
Rockland	E	1245	1328	1280	35	1355	27	18 challenged ballots; also likely that unread ballots were not hand-tallied
Rockport	O	875	698	904	29	727	29	2 challenged; wrong pens used resulting in a number of ballots that the machine couldn't read - likely that unread ballots were not hand-tallied
South Thomaston	P	336	376	342	6	384	8	1 lot of 15 absentee ballots that was not included in the town count
<b>Total</b>		<b>2811</b>	<b>2794</b>	<b>2908</b>	<b>97</b>	<b>2876</b>	<b>82</b>	