

William Gardner

Secretary of State

NH State Capitol

Main St. Concord NH

c/o Karen.Ladd@sos.nh.gov

Dear Secretary Gardner,

I am writing to you in order to advise you of my desire to appeal the recount that occurred on 11/12/20 in my race for state representative in Rockingham District 7 to RSA 665:8 and the various statutes and regulations which entrust oversight of the voting machines to the Ballot Law Commission.

As you know, the results as reported in this race seem to be unique. The hand-count results from the recount were inconsistent with the results reported from the machine count that occurred on Election Day to an extent and in a manner that raise significant questions of potentially systemic import. Within a margin of 3 votes (which almost certainly reflect ballots that were unable to be read by the machines), each of the Republican candidates received counts that were 300 more than reported from the machines. I was the highest-ranking Democrat in the machine count and received 99 votes less in the hand count (again within a margin of 3 of a multiple of 100). Each of the other democratic candidates received roughly 20 more votes in the recount than they had been credited on Election Day. (These changes are in stark contrast with the adjustments received by any of the top four candidates, which as stated above were within 3 votes of a multiple of 100).

The variance in results is not due to computational error- the tally sheets have been reviewed by the election officials, the campaigns, the political parties, and the recount staff without any report of a math mistake.

There then appear to be only two rational explanations—either the machines were programmed to reflect unwarranted adjustments in multiples of 100 to the totals of all the Republican candidates and the top voter receiver among the democrats OR a significant number of ballots were double counted during the counting process. (Double counting of course doesn't explain to any degree why my count would drop by 99).

Because of the potential for systemic problems were the machines to have been incorrectly programmed, it is the obligation of the Secretary of State and the Ballot Law Commission to conduct an inquiry and determine what is the cause of the discrepancy. If the machines were incorrectly programmed, it is imperative to know whether this was a localized problem or a systemic threat to the integrity of the election results as reported. (I would note here that I am not alleging this to be true and not offering any opinion as to any putative reasons for any mis-programming, as both would be premature in the absence of a review that either establishes or disproves mis-programming).

The AccuVote OS system used in NH is the only system available to localities in NH because it is the only system approved by the Ballot Law Commission. It is believed to be the oldest system still in use in the country and press reports note that the software has not been supported by Microsoft with security fixes in many years. Supervision of all machine vote counting systems is entrusted by statute solely to the Ballot Law Commission, which is of course under the supervision of the Department of State.

Accordingly, we ask in the first instance that you preserve all voting machines in the state they currently are by immediately advising all local election officials that they must not engage in the erasure of data from the recent election until such time as a full review of this matter has occurred.

Should it be determined that there was no malfunction of the machines, that inexorably leads to the conclusion that the hand-count supervised by the Secretary of State was marred by duplicate counting of several hundred ballots. I will be asking the Ballot Law Commission to order the Secretary to allow the candidates involved to inspect the rejected absentee ballots, as is their absolute right under statute, in order to determine whether there exist sufficient numbers of wrongly rejected absentee ballots as to change the results. This clear statutory right of inspection of rejected absentee ballots was inexplicably not permitted during my recount and needs to occur so that I can decide whether to go forward with this appeal. (In fact, I should have had this information available before having to decide whether to seek a recount.).

I believe the citizens of NH deserve an immediate answer to my request for a directive halting any erasures of data so that they can continue to have trust in the integrity of NH elections.

I have written this with the assistance of my legal counsel, Paul Twomey, and you can direct any responses to him.



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