

Information related to the Windham, NH 2020 General Election Recount

The disparity between the 2020 General Election night count in Windham and the recount for the Rockingham, District 7 state representative race has generated a great deal of interest. Considerable speculation is being applied to the circumstances of this discrepancy, and the following information is an attempt to clarify the current status of trying to explain the different results.

Democratic state representative candidate Kristi St. Laurent requested a recount after losing her race by 24 votes. The results of the recount showed the four republican candidates each gaining approximately 300 votes and St. Laurent losing 99 votes. The other three democratic candidates each gained in the range of 18 to 28 votes which is not unusual in a recount of machine counted ballots in a town the size of Windham. The same candidates for state representative who won on election night were also the winners after the recount. The recount was appealed to the NH Ballot Law Commission who held a public hearing and then voted unanimously to uphold the election of the four republican candidates.

Once the recount process is complete and any appeals are finished, the ballots are resealed and kept for 22 months from the date of the election as required by federal law. The ballots may not be unsealed without a court order or an act of the legislature. The statutes do not permit more than one recount of the same office (RSA 660:3), and there is no statutory authority to conduct audits of the ballot counts after an election.

The nearly 400 vote difference is a large discrepancy, and we would all like to know what happened. While the paper work and procedures related to the election night results and the recount are still under review, an explanation of what may have occurred is not obvious. The town of Windham records do not indicate any significant errors, and the conduct of the recount was transparent and public. None of the observers or ballot counters present at the recount were able to recall any errors that would explain the difference between the election night count and the recount. There is a significant human element in conducting New Hampshire elections, and a simple human error impacting the count one way or the other cannot be ruled out. However, jumping to conclusions of what caused the disparity at this point is mere speculation and conjecture.

A great deal of the speculation about the difference in vote totals centers around the AccuVote ballot counting devices used in New Hampshire elections. The AccuVote machines are the only ones approved for use by the NH Ballot Law Commission (RSA 656:41), and the last approval to upgrade the AccuVote was issued in 2010. The decision to use an AccuVote ballot counting device is made at the local level, and is usually made to reduce the resources needed to conduct a hand-count. The devices are tested by the city or town clerk immediately prior to an election to make sure they are working properly (RSA 656:42).

The AccuVote devices have been in use in New Hampshire since the mid 1990's. After hundreds of recounts, they have proven their ability to accurately count ballots that are properly marked by the voter. They are stand-alone units that are not hooked up to the internet or each other. All modems have been removed from the AccuVote, and all external ports have been disabled. There is no Wi-Fi or blue tooth capability. Access points into the machines are controlled with numbered seals, and logs are kept identifying who had access to the machines and for what purpose. The AccuVote and component parts

are no longer being manufactured, and a new ballot counting device will have to be approved by the Ballot Law Commission in the not too distant future based on a request from a city or town.

Dominion Voting Systems currently owns the intellectual property rights of the AccuVote device through the acquisition of another voting services company. Former owners of the AccuVote include Business Records Corp., Global, Diebold, ES&S, Premier and others. Dominion Voting Systems has never manufactured or programmed the devices used in New Hampshire. A long-time local vendor, LHS Associates from Salem, NH, sells and services the AccuVote ballot counting devices used in New Hampshire and other New England states. They also program the memory card used in each AccuVote device to properly read and record the choices made on each ballot as it is fed through the machine.

There were 16 recounts held after the 2020 General Election involving state representative, state senate and executive council districts. The recounts involved approximately 168,000 ballots representing more than 22 percent of the ballots cast in the 2020 General Election. The Windham state representative district was the only recount with a discrepancy outside of what one would expect to see from a machine count town.

The State Senate recently passed Senate Bill 43, which would authorize the Secretary of State and Attorney General to conduct an audit of the AccuVote Ballot Counting devices used in Windham using the actual ballots cast in the 2020 General Election. If this bill passes the House of Representatives and is signed by the Governor, we will be able to conduct a thorough and transparent audit of the ballot counting devices used in Windham.