Minnesota Elections Administration

Recount Manual

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Introduction

This guide is for election officials who may be participants in an election recount. Citations in this guide refer to Minnesota election laws within Minnesota statutes or rules. If you are using an interactive electronic edition of this guide, you may click on the citations to retrieve current statute or rule.

Portions of this guide contain procedures based on best practices, rather than statute or rule. If employing these portions, do not consider the information to hold the same authority as that information governed by federal and state law.

Election Recounts

Minnesota election law authorizes administrative recounts after the canvassing board certifies the results. Rather than seeking a court order, the election administrator, on behalf of the appropriate canvassing board, may conduct a manual recount. A recount is limited in scope; its sole purpose is to determine the number of votes validly cast for the office or question to be recounted. A recount is performed by a canvassing board or by its staff. Minn. Stat. 204C.35; Minn. Stat. 204C.36; Minn. Rules 8235

Publicly Funded Recounts

A recount of votes at no cost to the candidate may be requested by the candidates in the cases below. The governing body assumes responsibility for the expenses of the recount. See *Recount Requests* for details of the request process.

Federal and State Offices

A losing candidate for nomination or election to federal or state office may file a written request for a publicly funded recount of the votes cast when the difference between the votes for that candidate and the winning candidate is:

- Less than one-half of one percent of total votes cast for state legislative offices,
- Less than one-quarter of one percent of total votes cast, for statewide federal office, state constitutional office, statewide judicial office, congressional office or district judicial office, or
- Ten votes or less, when the total number of votes cast is 400 or less, for any federal or state office.

Minn. Stat. 204C.35, subd. 1

Local Offices

A losing candidate for nomination or election to a county, municipal or school district office may request a publicly funded recount of the votes cast if the difference between the votes cast for that candidate and the winning candidate is:

- Less than one-half of one percent of the total votes if there are more than 400 but less than 50,000 votes cast for the office,
- Less than one-quarter of one percent of the total votes if there are more than 50,000 votes cast for the office, or
- Ten votes or less if the number of votes cast is 400 or less.

In the case of offices where two or more seats are being filled, the difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.

Minn. Stat. 204C.36, subd. 1

Ballot Questions

A publicly funded recount of votes cast for a county, school or municipal ballot question may be requested by any person eligible to vote on the question if the difference between the votes cast for the question and against the question is:

- Less than one-half of one percent of the total votes if there are more than 400 but less than 50,000 votes counted for the question,
- Less than one-quarter of one percent of the total votes if there are more than 50,000 votes counted for the question, or
- Ten votes or less if the number of votes counted for the question is 400 or less.

The request for a recount must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question.

If the difference falls within one of the thresholds above, and a written recount request is received, the recount is conducted by the:

- County Auditor for a county question;
- Governing body of a municipality for a municipal question; and
- School district canvassing board for a school question. When recounting special questions, this canvassing board consists of:
  - The school board clerk
  - A school board member other than the clerk
  - The county auditor of the county with the greatest number of school district residents
  - The district court administrator of the judicial district with the greatest number of school district residents
  - The mayor or town board chair of the school district's most populous municipality

Minn. Stat. 204C.36, subd. 3; 205A.10, subd. 5

Discretionary Recounts

Discretionary recounts are usually at the expense of the person requesting them, unless certain conditions are met. See *Recount Requests* for details about the request process, and *Recount Expenses* for a discussion of how expenses are handled for discretionary recounts.

Candidate Recounts

A losing candidate can request a manual recount, at the losing candidate's expense, when the vote difference is greater than what is described in *Publicly Funded Recounts*.

The candidate requesting the recount may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted.

Minn. Stat. 204C.36, subd. 2

Ballot Question Recounts

If the difference between the votes for and the votes against a ballot question is greater than what is described in Publicly Funded Recounts above, a recount can still be requested by any person eligible to vote on the ballot question, at their expense, who submits a petition containing the signatures of 25 voters eligible to vote on the question.

Minn. Stat. 204C.36, subd. 3

Recount Requests

Written requests are required for all recounts. The request should include the office or question for which the recount is requested, and be filed with the filing officer within the time limit specified below. Information specific to certain circumstances is included below.

Candidate Requests

Publicly Funded Recount Requests

In the case of federal, state and judicial races which fall within the publicly funded recount threshold (see *Federal and State Offices*), the losing candidate shall be notified by the filing officer, immediately following the canvassing board meeting, that the candidate has the option to request a recount of votes at no cost to the candidate. The written request for such a recount must be received by the filing officer no later than 5:00 p.m. on the second day after the canvass. Minn. Stat. 204C.35, subd. 1

In the case of local races which fall within the publicly funded recount threshold (*Local Offices*), the written request must be filed with the filing officer by 5:00 p.m. on the fifth day after the canvass of a primary or special primary, or by 5:00 p.m. on the seventh day after the canvass of a special or general election. Minn. Stat. 204C.36, subd. 1

Discretionary Recount Requests

For all discretionary recounts, candidates must file a written request for the recount with the filing officer, along with a bond, cash or surety in an amount set by the governing body of the jurisdiction for the payment of the recount expenses. These materials must be filed by the fifth day after the canvass of a primary or special primary, or by the seventh day after the canvass of a special or general election.

The candidate requesting the recount may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted. The bond, cash or surety for the amount of the full recount must still be provided before any precincts are to be recounted.

A discretionary recount of a primary does not delay delivery of the notice of nomination to the winning candidate. Minn. Stat. 204C.35, subd. 2; Minn. Stat. 204C.36, subd. 2

Ballot Question

In the matter of a ballot question recount, the written request for the recount must be filed with the filing officer of the county, municipality, or school district placing the question on the ballot, and must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question. If the difference between the votes for and the votes against the question is greater than the difference provided in Minn. Stat. 204C.36, subd.1, the person requesting the recount shall also file with the filing officer of the county, municipality, or school district a bond, cash, or surety in an amount set by the appropriate governing body for the payment of recount expenses. The written request, and any bond, cash, or surety required must be filed during the time for notice of contest for the election for which the recount is requested. Minn. Stat. 204C.36, subd. 3

Time Limits

Requests for a publicly funded recount of federal, state and judicial races must be received by the filing officer no later than 5:00 p.m. on the second day after the primary or general election canvass. Requests for a publicly funded recount for local races must be submitted in writing to the election jurisdiction by 5:00 p.m. on the fifth day after the canvass of the primary or special primary, or by 5:00 p.m. on the seventh day of the canvass of the special or general election. Requests for discretionary recounts or ballot questions must be filed during the time for notice of contest. Minn. Stat. 204C.35, subd. 2; Minn. Stat. 204C.36; 209.021 subd. 1

Recount Expenses

A person or candidate requesting a discretionary recount is responsible for the following expenses: the compensation of the Secretary of State, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; the costs of necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

Responsibility for expenses can change in certain circumstances. If the winner of a race is changed by a discretionary recount, the cost of the recount is paid by the jurisdiction conducting the recount. The jurisdiction conducting the recount is also responsible for the cost of the recount when the result of a manual recount is different from the result reported on Election Day by a margin greater than the standard for acceptable performance of voting systems, which is a variation of one-half of one percent.

Minn. Stat. 204C.35, subd. 3; Minn. Stat. 204C.36, subd. 2; Minn. Stat. 204C.36, subd. 4; Minn. Stat. 206.89, subd. 4

Recount Officials

State, County, Municipal and School District Recounts

The secretary of state or secretary of state's designee is the recount official for recounts conducted by the State Canvassing Board. The county auditor or auditor's designee is the recount official for recounts conducted by the county canvassing board. The municipal clerk or clerk's designee is the recount official for recounts conducted by the municipal canvassing board. The school district clerk or clerk's designee is the recount official for recounts conducted by the school district canvassing board.

Alternative Recount Assignments

The recount official may delegate the duty to conduct a recount to a county auditor or municipal clerk if both parties agree to the delegation.

When the person who would otherwise serve as recount official is a candidate or related to a candidate for the office to be recounted, per Minn. Rule 8235.0200 the appropriate canvassing board shall select an election official from another jurisdiction to conduct the recount. Minn. Rule 8235.0200

Giving Notice

Within 24 hours after determining that a publicly funded recount is authorized or requested or within 48 hours of receipt of a written request for a discretionary recount and filing of a security deposit if one is required, the official in charge of the recount shall send notice to the candidates for the office to be recounted and the county auditor of each county wholly or partially within the election district. The notice must include the date, starting time, and location of the recount, the office to be recounted, and the name of the official performing the recount. The notice must state that the recount is open to the public. Minn. Stat. 204C.361; Minn. Rules 8235.0300

Notification is also critical in securing the public perception of valid and accurate recount proceedings. It should extend well beyond specified requirements. Specific effort should be made to contact all interested parties in a ballot question recount. There is also value in being able to state that these parties were requested to be present at the recount if persons are unhappy with the outcome of a recount.

Recount Scope

The scope of all publicly funded and discretionary recounts is limited to the determination of the number of votes validly cast for the office being recounted. Only the ballots cast and the summary statements for the precinct(s) being recounted are considered during the recount proceedings. Envelopes that were not opened and original ballots that have been duplicated are not reviewed during the recount proceedings. These ballots are only examined as part of an election contest.

Minn. Stat. 204C.35; Minn. Stat. 204C.36; Minn. Rules 8235.0700

Prepare and Organize

Prior to the Recount

Prior to the recount, prepare a recount packet with a checklist and a recount calendar. Have all forms, supplies, badges identifying roles, and contact information organized to ensure that all information given to individuals is provided in a consistent format. This will save time and allow the focus of a recount to be on election specific issues. Determine how results will be released - as counting progresses or at completion. Determine how many original copies of recount results are needed.

Recount worksheets for federal, state and county recounts can be printed from the OSS Election Reporting System (ERS) after the state canvassing board has certified the original federal or state results, or the county canvassing board has certified the county office results. A generic recount worksheet template for other recounts is included in the Appendix.

After the canvassing board has met, OSS will mark the offices to be recounted in ERS. Then, counties can print the Recount Worksheets by selecting “Recount” in the County User menu, then selecting the Print Recount Worksheet option, selecting the office to be recounted from the drop-down list, and clicking on the View Report button.

The first two columns of the worksheet will be pre-filled with the canvassed result and contains spaces for the recount results for the candidates and challenged ballots to be recorded for each precinct. Officials for other local recounts may prepare their own recount worksheet in a similar format.

Print the report by clicking on the export icon, and selecting a format such as a pdf file. The worksheet can then be printed from the window which has opened in the selected format.

Challenged ballot labels, if available, may be printed through a Recount menu option. Otherwise, a pdf of challenged ballot labels will be made available for federal and state offices. The labels contain a challenged ballot number that is sequential within a county for each office being recounted. Officials for other local recounts may prepare their own challenged ballot labels in a similar format.

Facilities, Accessibility, and Equipment

All recounts must be accessible to the public. In a multi-county recount, the secretary of state may locate the recount in one or more of the election jurisdictions or at the site of the canvassing board. Each election jurisdiction where a recount is conducted shall make available without charge to the recount official or body conducting the recount adequate accessible space and all necessary equipment and facilities.

Minn. Stat. 8235.0600

Facilities

Setting up the facilities is important. In addition to setting up the room where the recount takes place, remember to consider security needs and parking availability for those involved in the process. The required number of counting tables should be set up. Be aware of logistics as you set up the room (e.g., bringing and removing election materials; bathrooms unlocked). Any tables or workspace provided for the candidates, with places for the candidates' counsels or representatives, should be separate from the tables where the counting

takes place. Set up the room so there is a “staging area” that can be seen from the viewing area, a counting area, and a viewing area for the public and members of the media.

Only those people directly involved in the recount are allowed within the recount area (the staging and counting areas). These individuals are limited to the recount official and legal adviser, and candidates or the candidates' representatives. The public and the press are only allowed in the public viewing area to observe the proceedings. Cell phones, cameras, and video cameras may be used in the public viewing area provided that they are not disruptive. Badges should be provided which identify the people present and their different capacities. Minn. Rules 8235.0700

Staffing and Training

Bring as many staff or election judges that you will need to organize and conduct the recount. Require name badges for all authorized personnel. Establish firm guidelines for release of all information both to the media and staff members. Schedule the training/information dissemination session for staff. Keep your team informed.

General Procedures

At the opening of a recount, the recount official or legal adviser must present the procedures for the process, such as those contained in this section.

A recount official must be in the room at all times. If the recount official must leave the room, they must delegate a deputy recount official (or assistant deputy recount official) to preside over the proceedings during their absence.

Minn. Rules 8235.0700

Election Materials

The custodian of the ballots shall make available to the recount official the precinct summary statements, the sealed precinct boxes or containers containing the voted ballots, and any other election materials requested by the recount official. No ballots or election materials may be handled by candidates, their representatives, or members of the public. The sealed materials must be unsealed and resealed in public view.

Minn. Rules 8235.0700

Securing Election Materials

The official who has custody of the voted ballots is responsible for keeping secure all election materials. Registration cards of voters who registered on Election Day may be processed as required by part Minn. Rules 8200.2700. All other election materials must be kept secure by precinct as returned by the election judges until all recounts have been completed and until the time for contest of election has expired.

Minn. Rules 8235.0400

Observation

The recount official shall arrange the counting of the ballots so that the candidates or the candidates' representative may observe the ballots as they are sorted. After they have been sorted, one additional representative per candidate may observe the ballots while they are being counted. If other election materials are handled or examined by the recount officials, the candidates and their representatives may observe them. The recount official must ensure that public observation does not interfere with the counting of the ballots and preparation of a summary of the recount vote by precinct.

Candidates may have additional representatives in the public viewing area of the room. Minn. Rules 8235.0700

Managing the Process

The recount official or their designee is in charge. Acknowledge everyone present (your team, candidates, legal counsels, election officials, public, and press). Everyone has a role. Always explain what is about to occur and explain why. Be completely thorough and transparent. Never hold a private conversation with only one of the parties. Always appear in control of yourself and the situation.

The recount official provides detailed instructions both orally and in writing:

- Roles of recount officials, observers and staff.
- General procedures for the recount.
- Sealed containers only opened when recount team and observers are present.
- All ballots and materials will be in public view.
- Sorting process
- Counting process
- Challenge ballot process

If candidates or their representatives have concerns or suggestions, listen. Make sure everything you do and that occurs during the recount fills the process with accountability, credibility and trust. Make a defendable decision and carry it out consistently.

Example Instructions

Hand Count Instructions

This is an administrative recount conducted under Minnesota Statutes 204C.35 and Minnesota Rules 8235. It is solely to physically recount the ballots for this race. It does not revisit voter eligibility, campaign law compliance, or whether absentee ballots were properly accepted.

If recount officials find a difference in the vote count, this is not unusual, and this is why we have the recount law. Normally any differences in the count are due to determination of voter intent, and generally offset one another. Characteristically, what we find is that a slight change one way, in one precinct, is balanced off by a corresponding change in the other direction in another precinct. Normally the results of the election are not changed by these adjustments, but it does happen.

I am the recount official. **No one else touches the ballots** once they are out of the sealed cases unless I specifically allow it. Make any concerns regarding the process known immediately to me. Ballots will be recounted by precinct. We will count one precinct at a time as provided in Minn. Stat. 204C.361 (b). This means that a recount official shall maintain the segregation of ballots by precinct, but the recount official may recount more than one precinct at a time in physically separate locations within the room in which the recount is administered.

Ballots will be removed from the sealed case(s). Any ballots that have not already been separated by precinct – for example, ballots cast through the early voting process – will first be separated into their respective precincts. Once all ballots are grouped together by precinct, staff will begin the recounting process, one precinct at a time per table. Staff will turn all ballots to be facing in the same direction. Ballots will then be separated into three piles: One for candidate A to my left, one for candidate B to my right, and a third pile for all other ballots. Voter's intent will be determined pursuant to Minn. Stat. 204C.22.

The candidate or candidate's representative has the right to challenge which piles I have decided to place the specific ballot in. Challenges may not be automatic or frivolous. Staff will count the ballots by piling the ballots crosswise in groups of 25. A candidate or their representative may immediately request to have a specific stack of 25 counted a second time, but not the entire pile. Vote counts for each candidate will be announced. For challenged ballots, the challenger needs to describe why they challenge the decision. I may decide they are right. If I do not agree and the challenge is not withdrawn, I will write why it is challenged on the ballot and place it in an envelope marked "Challenged Ballots". The challenged ballots will be brought to the canvass board and they will examine them and make a final decision on how to count them.

Counts will be recorded for each precinct on the recount summary statement. Counts for federal and state offices will recorded on the summary statement with the votes as determined by the recount official for either of the two candidates or "Other." Counts recorded for challenged ballots on the summary statement are a subset of the totals for the candidates. {Change this statement if challenged ballots will be recorded differently for local offices.} The ballots will be resealed in the cases. At the end of the recount, I will write on the front of the challenged ballot envelope which precinct(s) and how many ballots are in the envelope, seal it and have staff assisting with the recount sign over the flap of the envelope. The recount summary statement and challenged ballots will be presented to the canvass board. After completing the recount in each precinct, I will furnish a report of the recount results of all precincts at the conclusion of the recount. After the recount is finished, the ballots, other than challenged ballots, will be resealed and returned to the County Auditor. The State (or County/Municipal/School District if applicable) Canvassing Board will declare the winning nominee after reviewing the summary statement of the recount vote prepared by the Recount Official, and resolving any ballot challenges.

Counting and Challenging Ballots

Ballots must be recounted by precinct and only ballots from one precinct at a time can be on a table at one time. Recount teams of at least 2 recount officials conduct the counting for a precinct. This means that a recount official shall maintain the segregation of ballots by precinct but may recount more than one precinct at a time in physically separate locations within the room in which the recount is administered. The recount official recounts ballots in accordance with Minn. Stat. 204C.22. Ballot containers must always be opened and resealed in public view. The sorting, counting, and review of ballots for a precinct must be completed and all ballots must be securely stored before breaks for meals can be taken or counting is finished for the day. Minn. Rules 8235.0700

Preparing Ballots from Absentee and Early Voting

If absentee, mail, and early voting ballots are not already separated by precinct, the recount official must open the ballot containers from the absentee and early voting. One member of the recount team sorts the ballots by precinct. A second member of the recount team then reviews the sorted ballots to verify that the ballots have in fact been properly sorted by precinct. When completed, the ballots are sealed in separate envelopes by precinct.

Counting

The recount official opens the polling place ballot containers (including any write-ins) and the absentee ballot containers for the precinct. The polling place ballots (including write-ins) are combined with the ballots from the appropriate absentee/early voting ballots and recounted and reported as one total.

The recount team prepares the ballots so they are all facing in the same direction, and then the recount sorter examines the ballots to determine (using Minn. Stat. 204C.22) for whom the ballot was cast. The recount sorter places ballots for candidate A in one pile to their left, one pile for candidate B to their right, and all other ballots in a third pile (includes ballots for other candidates, overvotes, undervotes, etc.). A candidate or their representative has the right to challenge in which pile a specific ballot is placed, and whether there are identifying marks on that ballot.

The canvassing board/recount official will provide instructions on how challenged ballots will be reported on the recount worksheet. The two options are:

Option 1 (default; programmed in ERS, used for all county, state and federal recounts) Vote totals in candidate and "Other" column reflect the recount official's determination of the voter's intent, including ballots that have been challenged by a candidate's representative. Challenged ballots are also reported in the challenged ballot columns. Under this option, if the canvass board rejects all challenges and affirms the recount official's determination, the recount vote totals reported in the candidate columns would not change. If the canvass board disagrees with the recount official's determination and reallocates the vote on a challenged ballot, the vote totals reported in the candidate/other columns would be adjusted by the canvassing board.

Option 2 Vote totals in candidate and "Other" column reflect only the recount official's determination of the voter intent only for non-challenged ballots. Challenged ballots are only reported in the challenged ballot columns. Votes on challenged ballots are only assigned to a candidate or "Other" after a decision on the challenge is made by the canvassing board.

After all ballots have been placed in the appropriate piles, the recount team counts the ballots in each and stacks them crosswise in groups of 25. A candidate or their representative may immediately request that a specific pile of 25 be recounted a second time, not the entire pile.

When finished, the vote counts for each pile are announced, the recount official reviews any challenged ballots with the candidates or their representatives and any needed adjustments to the pile counts are made, and the counts are also recorded on the recount worksheet.

All ballots except the challenged ballots must then be resealed in the ballot containers and returned with the other election materials to the custodian of the ballots. The recount official may make copies of the challenged ballots, but must be accompanied by another individual if leaving the room to make copies. After the count of votes for all precincts has been determined each day, the challenged ballot envelope must be sealed and kept secure along with the recount worksheet for later presentation to the canvassing board. (Minn. Stat. 204C.361; Minn. Rules 8235.0800)

Challenges

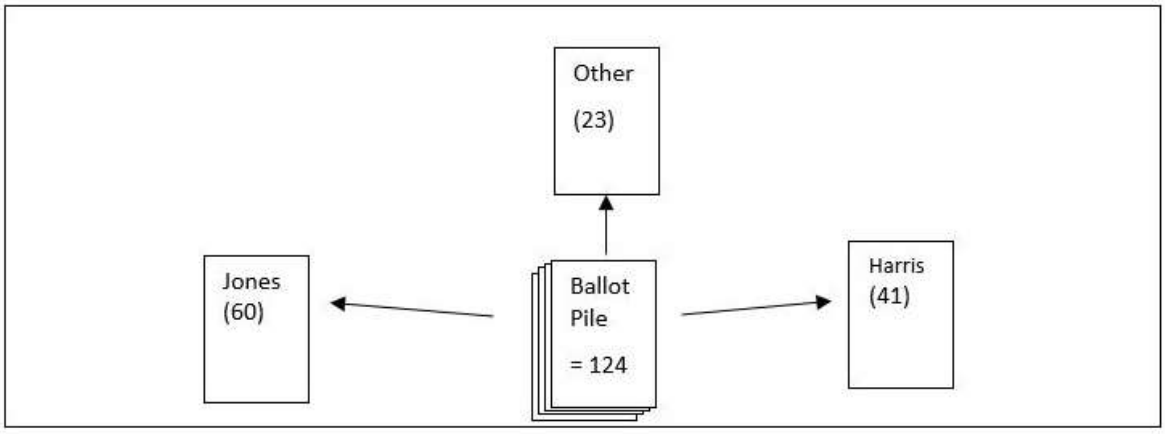
A candidate or candidate's representative has the right to challenge in which pile a specific ballot is placed, and whether there are identifying marks on that ballot.

Challenges may not be automatic or frivolous. Challenges cannot be for an entire precinct or group of ballots. The challenger needs to describe why they are challenging the decision. A challenge for an identifying mark is considered to be frivolous if it is based on an identifying mark other than a signature or identifying number written on the ballot, or a name written completely outside a write-in space. Also, the absence of election judge initials on a ballot cannot be the basis of a challenge. Challenged ballots are place in separate piles for ballots challenged by each candidate. Challenged ballots may be withdrawn by the candidate or candidate's representative.

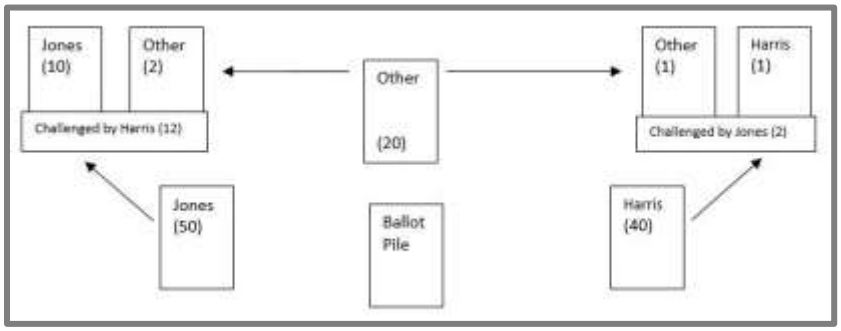
After counting for the precinct is completed, the recount official may review challenged ballots with the candidates or candidates' representatives. They may withdraw previously challenged ballots. If challenged ballots are withdrawn, the ballots are added to the pile as determined by the recount official and the counts for those piles are adjusted. Counts are recorded on the recount worksheet based on the option of reporting described in the Counting section of this guide. All remaining challenged ballots must be labeled on the back of the ballot. The label must include the precinct name, reason for the challenge, the name of the candidate and name of representative initiating the challenge (or candidate represented), numbered sequentially (1, 2, 3, etc. not Smith 1, 2, 3 and Jones 1, 2, 3), and placed in the "Challenged Ballots" envelope for that day. The challenge reason format is "Not {intent determined by sorter}, is {how challenger views intent}" (e.g. "Not Smith, is undervote", "Not Jones, is identifying mark"). Minn. Rules 8235.0800

Sorting and Counting Votes Example

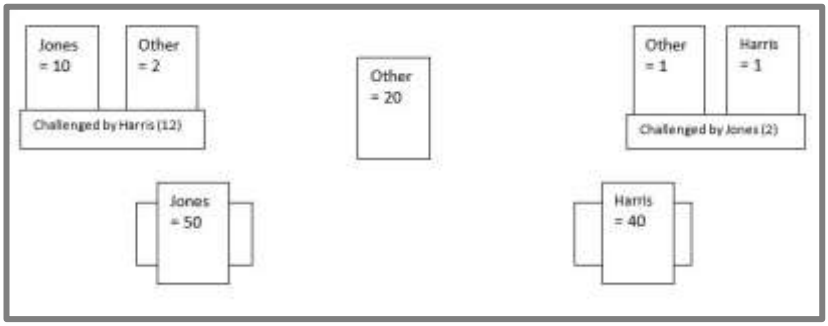
Ballots sorted into piles



Challenged ballots placed in separate piles

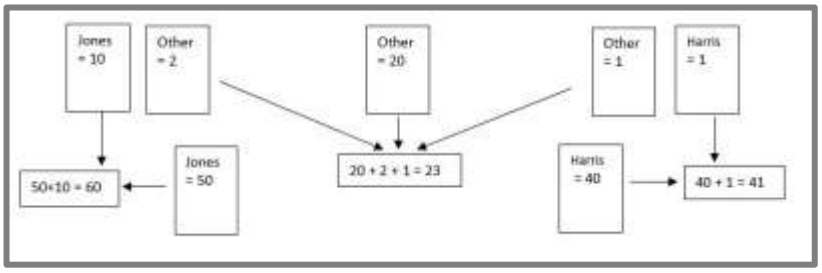


Piles counted in stacks of 25

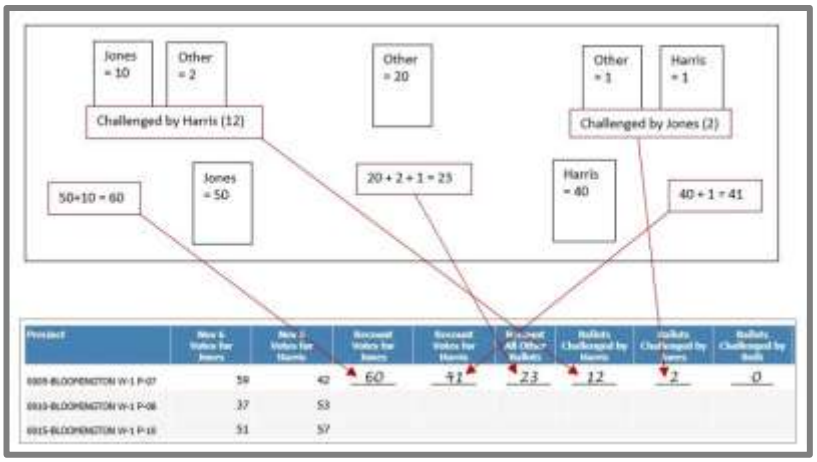


Counting and Recording Votes Example

Candidate vote counts combined



Counts recorded on worksheet



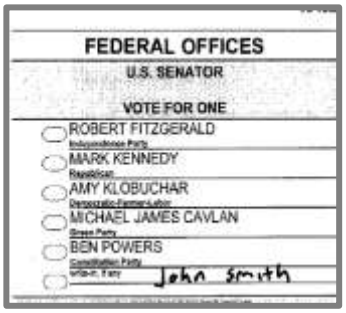
60 + 41 + 23 = 124 Total Ballots

Determining Voter Intent

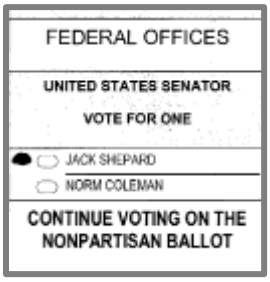
Minnesota law requires that every effort be made to accurately count all votes on a ballot. This means that a ballot or vote must not be rejected for a technicality if it is possible to decide what the voter intended, even though the voter may have made a mistake or the ballot is damaged. Intent is determined only from the face of the ballot. Use the following rules to decide what a voter intended:

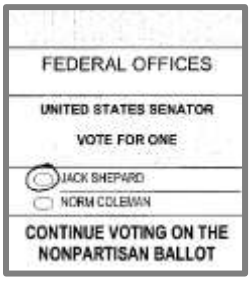
Counted

- If a name is written in the proper place but the write-in target is not marked, count the voter for that individual whether or not write-in target is marked to the left of the written in name.

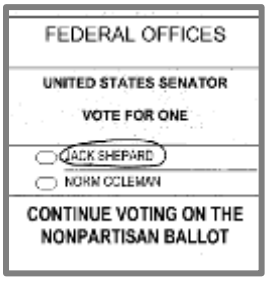


- A mark made out of place but close enough to a name or line to determine voter intent are counted.

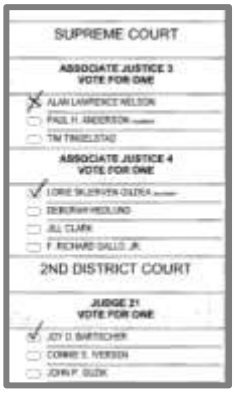




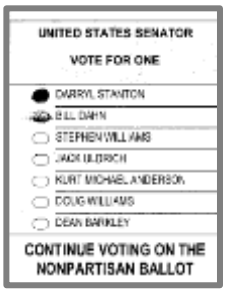


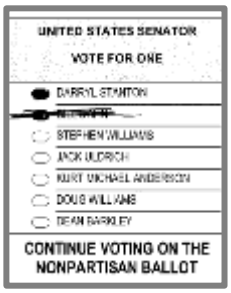


- If two or more different marks are used, count those, provided the marks do not mark the ballot with distinguishing characteristics where the voter's intent is to identify the ballot.

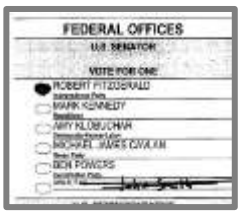


- If marks are made next to two candidates and an attempt was made to erase one of the two, vote is counted for the remaining marked candidate.





- If an attempt is made to obliterate a write-in name a vote is counted for the remaining write-in name or marked candidate.



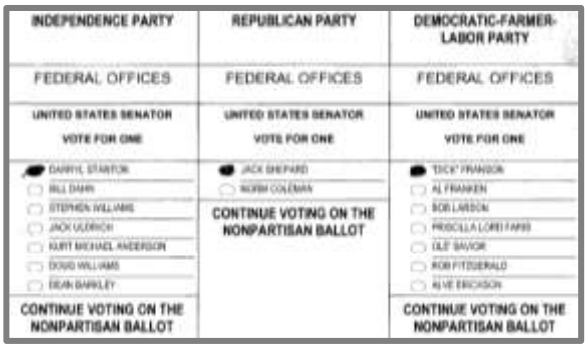
- A write-in for governor without lieutenant governor is counted as a vote for the team of candidates including lieutenant governor.
- Count all printed names with a mark made opposite them and all names written-in, not exceeding the number to be elected for that office.
- Misspellings for names written-in are acceptable provided that voter intent can be determined.
- If voter's choice can only be determined for some of the offices on the ballot, only count those offices on the ballot.
- If voter uniformly uses same mark to mark the ballot, count if possible.
- A ballot cannot be rejected because it is slightly soiled or defaced.
- A ballot that has one or more blank offices is not defective.

Not Counted

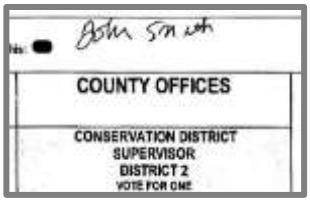
- Marks more candidates than to be elected or nominated ballot is defective for that office. All other offices on the ballot are counted, if possible.

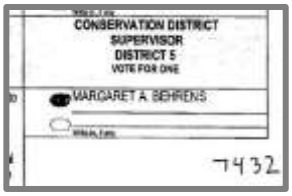


- For a primary, if the voter marks candidates from more than one party, the ballot is totally defective for the partisan offices.



- If the voter used an identifying mark or mark with the intent to identify the ballot, the entire ballot is defective.





- If a voter has voted yes and no on a ballot question, that question is not counted but the rest of the ballot must be counted if possible.
- No write-in votes counted for a primary or a special primary. Any names written on a primary or special primary ballot are an identifying mark and no votes on the ballot would be counted.
- If marks are made opposite of more printed candidate names or write-ins allowed for an office, the ballot is defective for that particular office.
- If the number of candidates for an office is equal to the number of individuals to be elected to that office, and the voter has not marked any name, no vote is counted for any candidate for that office.
- An office is considered blank when no name or response to a question is marked and no name is written in. Minn. Stat. 204C.22

Canvassing Board

The recount official presents the recount worksheet and any challenged ballots to the canvassing board. The candidate or candidate representative who made the challenge may present the basis for the challenge to the canvassing board. The canvassing board rules on the challenged ballots and incorporates the rulings into the canvassing report. The canvassing board certifies the results of the recount. Challenged ballots must be returned to the election official who has custody of the ballots. For general elections, the certificate of election is issued to the winning candidate after the seven days have passed after the canvassing board declared the candidate elected. Minn. Rules 8235.1100

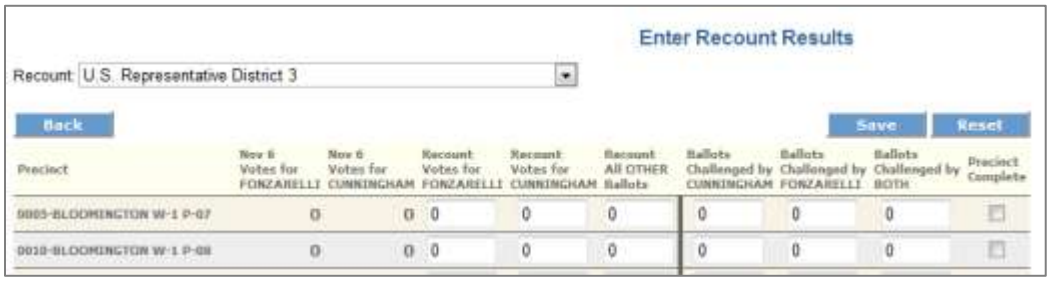
Entering Recount Results Into ERS

To generate canvassing board reports (and update web site with daily recount results, if applicable) for federal, state or county recounts, input the results from the Recount Worksheets into ERS.

1. Select the Enter Recount Results option.



2. Select the recounted office to be updated from the drop-down list.

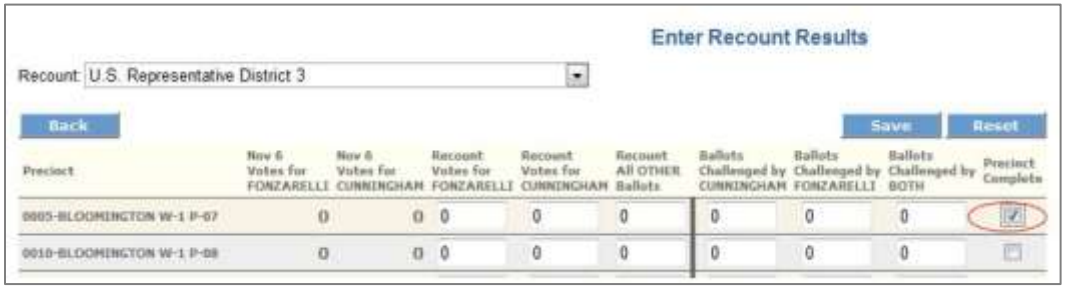


Daily throughout the recount, input data from a single or multiple precincts and click Save. (Do not mark the *Precinct Complete* checkbox until after data is proofed in the next step.) After precinct(s) data has been entered and saved, print the Recount Results report and proof your numbers.

1. Select the Print Recount Results Report option.



2. Export and print the report in the same manner as printing the Recount Worksheet.
3. When data for a precinct(s) has been proofed and is correct, select the Enter Recount Results menu option and check the Precinct Complete checkbox for all precincts which have been proofed. Only precincts with the Precinct Complete checkbox marked will have results displayed on the public recount results web site each evening.



Canvassing Board Reports

For county or state offices wholly within one county, recount results are entered into ERS. The printed Results Worksheet and Challenged Ballot reports can be used to resolve challenged ballots with the canvassing board. After determinations made by the canvassing board on challenged ballots have been input into ERS, updated state or county abstracts are generated within ERS and presented to the county canvassing board.

For federal offices or state offices in multiple counties, recount results input into ERS will be used to prepare a challenged ballot report for the state canvassing board. After determinations made by the canvassing board on challenged ballots have been input into ERS, an updated canvassing report will be generated and presented to the state canvassing board.

Public Recount Results

Federal and state office recounts reported in ERS may be publicly reported daily on the OSS website. For local office recounts, the recount official should notify interested parties of the outcome of the recount and cross reference recount findings in all permanent records. File a copy of Report of Recount Canvass in or with:

- Apparent winner
- Apparent loser
- Secretary of State (for state elections)
- Media
- Precinct tally lists
- Canvass book
- Election work folder
- Voting Equipment vendor if recount demonstrated equipment problems

Election Contests

Contests are judicial proceedings which occur following the filing of a lawsuit. A recount is one possible remedy in an election contest. Any voter in the election district (not just a candidate) may file a contest lawsuit. Time for notice of a contest for an office which is recounted pursuant to Minn. Stat. 204C.35 or Minn. Stat. 204C.36 shall begin to run upon certification of the results of the recount by the canvassing board. An election contest does not delay the timing of issuance of the certificate of election after the canvassing board has declared the results. Minn. Stat. 209

Glossary and Titles

Key Terms

Administrative Recount
A recount conducted by election officials without going to court. Used to verify the accuracy of vote totals.

Canvass / Canvassing Board
The official review and certification of election results. The canvassing board is the group of officials responsible for approving election results and reviewing challenged ballots in a recount.

Canvassing Board Report / Abstract
The official document summarizing the certified election results after canvass or recount.

Challenged Ballot
A ballot where a candidate or their representative disputes how the recount official interpreted the voter's intent.

Discretionary Recount
A recount requested even when the vote margin is outside the publicly funded threshold. Usually paid for by the person requesting it.

Election Contest
A legal challenge (court case) filed after an election to dispute the result. A recount may be part of the remedy.

Election Materials
Most items used or produced in the administration of an election, including voted ballots, voter registration files, precinct summary statements, forms, envelopes, and other required supplies.

ERS (Election Reporting System)
The Office of the Secretary of State's internal system used by counties and the state to enter election and recount results.

ENR (Election Night Reporting)
The public-facing system that posts election results on election night and may display recount updates.

Filing Officer
The official who receives recount requests (e.g., Secretary of State, county auditor, municipal clerk, school district clerk).

Publicly Funded Recount
A recount paid for by the election jurisdiction because the vote margin is small enough to qualify under statute.

Precinct Summary Statement
A certified, precinct-level report completed by election judges that records the number of ballots received, cast, spoiled, duplicated, rejected, and unused, along with vote totals for each candidate or question, undervotes, overvotes, and key administrative details. It serves as the official, signed accounting of all voting activity in that precinct.

Recount Official
The person in charge of administering the recount. They make determinations about voter intent and run the recount process.

Recount Team / Staff
Personnel assisting with ballot sorting, counting, verification, and documentation.

Recount Worksheet
The form used to record vote totals during a recount by precinct, including any challenged ballots.

Absentee Precinct
A unique reporting unit used only in certain elections where all absentee ballots are reported separately instead of being included in precinct totals.

Voter Intent
The legal standard used to decide how a vote should be counted when the mark on the ballot is unclear, unusual, or inconsistent. Defined in Minn. Stat. 204C.22.

Overvote
When a voter selects more choices than allowed for an office.

Undervote
When a voter selects fewer choices than allowed, or does not vote for an office.

Write-In Vote
A vote where the voter writes in a candidate's name instead of marking a printed one.

Identifying Mark
A unique mark intentionally used to identify a ballot—if present, the ballot may be invalid for all offices.

Bond / Surety / Security Deposit
Money or guarantee required to cover cost of a discretionary recount.

Key Roles / Titles

Secretary of State
Recount official for statewide recounts; manages ERS; ensures uniform recount standards.

County Auditor
Recount official for county-level recounts; manages ballots, staff, and reporting within the county.

Municipal Clerk
Recount official for city elections; receives recount requests; oversees ballot custody.

School District Clerk
Recount official for school district elections; part of the special canvassing board for ballot question recounts.

Recount Sorter
Staff member responsible for sorting ballots into piles during the recount.

Candidate Representative
Person designated by a candidate to observe, challenge ballots, and participate in recount proceedings.

Legal Adviser
Attorney supporting the recount official or canvassing board during proceedings.

Custodian of Ballots
The official responsible for secure storage and transport of ballots until recount and contest periods are complete.

Appendix

Notice of Recount

Date of Notice:

Dates of Recount:

Starting Times:

Location:

Office to be recounted:

The recount is open to the public.

Example Local Recount Form-Notice to Candidates

[insert date]

Name

Address

Address

SUBJECT: OFFICIAL NOTICE OF RECOUNT COUNTY COMMISSIONER [ ]

The purpose of this letter is to officially inform you that pursuant to Minn. Stat. § 204C.36, a recount has been requested by candidate [insert candidate name] [at his own expense] or [and must be provided without cost pursuant to state law].

The [Supervisor of Elections or County Auditor] will be conducting a recount of the [insert name of contest and district number] office and will be counting [number of segregated precincts that will be counted at one time] beginning on [insert date] at [insert time] in Room [insert room] of the [insert location and address]. This recount will be open to the public and candidates may be represented by counsel.

If you have any questions or concerns regarding this recount process, please feel free to contact me directly at [insert phone number].

Sincerely,

[insert name]

[Supervisor of Elections or County Auditor]

c: [insert name], _____ County Attorney

[insert name], _____ County Administrator

County Public Information

County Commissioners

Appropriate Clerks

Candidates

Recount Checklist

Forms and Instructions for Recount Team

- ☐ List duties for recount team
- ☐ Outline steps in recount procedure
- ☐ Create checklists for:
  - ☐ General procedures
  - ☐ Oral Instructions
  - ☐ Publicly funded or discretionary recount legal steps
- ☐ Record emergency contact numbers
- ☐ Location and date
- ☐ Backup location identified
- ☐ Review jurisdiction's recount procedures with recount team
- ☐ Determine number of team leaders
- ☐ Prepare examples from State Law
- ☐ With index to recount specific sections

Recount Events

- ☐ Schedule recount activities
- ☐ Establish calendar of events
- ☐ Notify:
  - ☐ OSS Staff
  - ☐ Candidates
  - ☐ County Auditors
  - ☐ County courthouse security
  - ☐ Media –draft media press release
  - ☐ Counters and team leads
  - ☐ Law enforcement
  - ☐ Canvassing Board
- ☐ Schedule information session for recount team
- ☐ Establish firm guidelines for release for ALL information to media & staff
- ☐ Designate media point of contact; only the media point of contact has authority to give recount results
- ☐ Clearly list individual staff and department duties

Ballot Handling

- ☐ Transportation
- ☐ Identify who will schedule (control) ballot transport
- ☐ Memo to involved jurisdictions of procedure for preparing ballots for transportation
- ☐ Determine delivery schedule
- ☐ Security around ballots
- ☐ Hire security
- ☐ 24/7 security
- ☐ Counting Method (single or multiple stations)
- ☐ Determine ballot workflow on-site

Observers and Media

- ☐ Know and enforce limitation on number of observers.
- ☐ Check observers/media in and out. Keep a log.
- ☐ Provide easily identifiable name badges & require their use.
- ☐ Provide observer/media packet. Include:
    - ☐ Schedule of Events
    - ☐ Governing laws, purposes & processes
    - ☐ Copy of original results
    - ☐ Contact information

Recount Results

- ☐ Determine how results will be released; as count progresses or at completion?
- ☐ Notify interested parties of recount outcome.
- ☐ Notify Canvassing Board

Logistics

- ☐ Staffing: on-going or in shifts?
- ☐ Identify number for recount team(s)
- ☐ Identify Recount Officials
- ☐ Costs
- ☐ Furniture – Table & Chairs
- ☐ Recount Set Up
- ☐ May need partitions
- ☐ Include an outer walkway for media and observers.
- ☐ Parking for counters
- ☐ Miscellaneous
- ☐ After hours contacts
- ☐ Maps

Supplies

- ☐ Sealed ballot envelopes/transfer cases
- ☐ Additional ballot envelopes/seals
- ☐ Sticker labels for challenged ballots
- ☐ Envelopes for challenged ballots & challenged ballot copies
- ☐ Printed recount summary statements
- ☐ Incident log
- ☐ Nametags
- ☐ Post-It notes
- ☐ Pens
- ☐ Signs to note “areas” of the recount location
- ☐ Stanchions or other items to clearly define “areas” of the recount location
- ☐ Scissors or other tools to break seals of ballot containers
- ☐ Fingertip moistener or other paper sorting office supplies

Hand Counting Ballots in a Recount

Preparing ballots from Absentee and Early Voting

**If not already completed, ballots from AB/EV must be separated by precinct.

1. The recount official opens the ballot containers from absentee and early voting (including any write-ins);
2. One member of the recount team sorts ballots by precinct;
3. Second member of the recount team reviews sorted ballots to verify they have been properly sorted;
4. When completed, ballots are sealed in separate envelopes by precinct.

Counting a Precinct

**The following steps should be completed by at least one team of 2 recount staff.

1. Recount official opens polling place ballot containers (including any write-ins) and combines ballots with ballots from the appropriate AB/EV precinct envelope;
    a. The precinct ballots (including write-ins) are combined with the ballots from absentee/early voting and all ballots will be counted and reported together as one total.
2. Recount team faces the ballots so they are all facing the same direction.
3. Recount official examines ballots and determines (using Minn. Stat. 204C.22) for whom the ballot was cast;
    a. One pile for candidate A on the left;
    b. One pile for candidate B on the right;
    c. Other ballots in a third pile: other candidates, overvotes, undervotes.
4. Candidate or candidate's representative has the right to challenge in which pile a specific ballot is placed, and whether there are identifying marks on that ballot.
5. Keep the challenged ballots separated in piles by the challenging candidate.
6. Count the ballots in the piles as determined by the recount official.
7. When counting a specific pile, ballots must be stacked crosswise in groups of 25;
    a. Candidate or candidate's representative may immediately request that a pile of 25 be recounted a second time.
8. After all ballot piles have been counted, the vote counts for each candidate are announced and recorded in the candidates and “other” column of the Recount Results Worksheet.
9. Recount official reviews challenged ballots with candidate or candidate's representative;
    a. May withdraw previous challenge
    b. Record remaining challenged ballots in the “Challenged by columns” of the Recount Results Worksheet
    c. If using Option 1 counting method (default and most common), **do not** adjust the candidate column totals.
10. Challenged ballots must be labeled;
    a. Precinct name, reason for the challenge, name of candidate initiating the challenge (or candidate represented and name of representative initiating the challenge);
    b. Format: "Not {intent determined by sorter}, is {how challenger views intent}"; i.e. "Not Smith, is undervote", "Not Jones, is identifying mark";
    c. On back of ballot and numbered sequentially across the county (i.e. 1, 2, 3, etc., not Smith 1, 2, 3 and Jones 1, 2, 3).

11. Challenged ballots placed in "Challenged Ballots" envelope for that day;
    a. Labeled and sealed at the end of the day.
12. The totals are written on the Recount Results Worksheet;
    a. If ERS and ENR are being used to report results, input results daily;
    b. Print Recount Results Worksheet to proof input;
    c. Mark the Precinct Complete checkbox for proofed precincts;
    d. Only precincts with the Precinct Complete checkbox marked will be displayed on the public recount results web site each evening.
13. Recount official may make copies of challenged ballots;
    a. 4 copies (Auditor or clerk (if municipal or school election), OSS (if state election), both candidates);
    b. Accompanied by others if leaving room.
14. Recount official reseals the ballot container for the precinct in public view.
15. Repeat steps for additional precincts.
16. When finished recounting all precincts, the recount official sign completed summary statement (recount worksheet) and sends both the summary statement and "Challenged Ballots" envelope(s) to the appropriate canvassing board.

Recount Worksheet Template

Recount Worksheet

State General Election
Tuesday, [Month] [##], 20[##]

County – [County], Recount – [Office/Question]

Precinct	Nov 8 Votes for [cand1]	Nov 8 Votes for [cand2]	Recount Votes for [cand1]	Recount Votes for [cand2]	Recount All OTHER Ballots	Ballots Challenged by [cand2]	Ballots Challenged by [cand1]	Ballots Challenged by BOTH	Recount Team Initials	Date Precinct Counted
[Precinct 1 Name/Number]	###	###	_____	_____	_____	_____	_____	_____	_____	_____
[Precinct 2 Name/Number]	###	###	_____	_____	_____	_____	_____	_____	_____	_____
Totals:	**####**	**####**	_____	_____	_____	_____	_____	_____		

DRAFT

We certify that the numbers entered on this recount summary statement correctly show the recounted number of votes for each candidate in this recount.

_____ _____ _____

_____ _____ Date:_____

Signatures of recount official(s) _____