

Canvass and Recount Procedures



Montana Secretary of State

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The seal of the State of Montana is a large, faint watermark in the background. It features a circular border with the text "SEAL OF THE STATE OF MONTANA" and "1889". Inside the circle, there is a landscape with mountains, a river, and a banner at the bottom that reads "ORO - Y - PLATA".

Overview

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The background of the slide features a large, faint watermark of the Seal of the Board of Supervisors of the State of Nevada. The seal is circular and contains the text "SEAL OF THE BOARD OF SUPERVISORS OF THE STATE OF NEVADA" around the perimeter. In the center, there is a depiction of a landscape with a mountain, a river, and a banner that reads "ORO - Y - PLATA".

Background

- The canvass is a process that ensures the number of ballots voted are the number of ballots counted, and that no ballots are missing or counted more than once.
- Ballots are counted on election night, but election results are not canvassed by the county until up to 14 days later.
- The canvass is what makes your election results official.
- Canvassing also ensures that election results are accurate.

Who Conducts the Canvass and When?

School Elections – School Board Trustees

- At the first regular or special meeting of the trustees conducted after the receipt of the certified tally sheets of any school election from all the polls of the district, the trustees shall canvass the vote.

All other elections – Board of County Commissioners

- Canvass board meets at the regular place of meeting within 14 days after each election.
- In counties with machine tabulators, canvass cannot begin until at least one day after post-election audit of tabulators.
- Provisional, FWAB and electronically transmitted UOCAVA ballots that are not counted on election night are counted after 3 p.m. on the Monday following the election; do not schedule your canvass before this date and/or before the post-election audit.

Who Conducts the Canvass and When?

- If one or more of the members of the governing body cannot attend the canvass, they may appoint another county officer (elected officer or deputy) to attend in their place.
- If election is combined with another political entity, that governing body may join the County Commissioners in canvassing the vote.
- The Election Administrator is the secretary of the canvass board.
- Between Election Night and the canvass, the ballots must be kept sealed and secure.
- Sealed ballots can be opened only to:
 - count provisional ballots,
 - for the post-election audit, and
 - in case of a recount, or
 - otherwise only by a court order.

Conducting the Canvass

- The canvass must be public, and the date, time, and location should be published or posted as any public meeting is.
- It must proceed by opening the returns, auditing the tally books or other records of votes cast, determining the vote for each individual and for and against each ballot issue from each precinct, compiling totals, comparing the number of votes cast to the number of electors and the number of persons who voted, and declaring or certifying the results.
- The board checks each race in the county by precinct, based on the tally sheets or machine totals tapes. One member reads, while two other members check the printed results.
- The canvass board reviews the poll books and compares the number of ballots cast in a precinct, according to tabulator reports (or tally books if hand counting), to how many ballots the poll book says should have been cast.

Conducting the Canvass

The canvass report contains:

- The total number of voters voting in each precinct or district
- The name of each individual receiving votes.
- The number and title of each ballot issue.
- The number of votes received for each candidate.
- The number of votes for or against each ballot issue.
- The canvass report is generated from results entered into "Returns" under "Election Management" in "electMT". *(For federal elections only.)*
- If applicable, write-in votes for an individual shall be entered in the report in the same place as the votes for other individuals for the same office, but shall be identified as write-in votes.

Conducting the Canvass

- If, during a canvass, the board finds that the votes returned for any candidate or ballot issue exceeds the number of electors or the total number of persons who voted in a precinct or finds any error in a precinct or precincts, the board shall immediately investigate the discrepancy or error until the discrepancy or error is reconciled and documented or is determined to have no impact on the outcome of the election.
- The investigation must be concluded within 2 days.
- The board may require the election administrator to conduct a recount of the votes cast in a race or races, a ballot issue or ballot issues, or the precinct or precincts, or to inspect the ballots as part of its investigation.

Conducting the Canvass

After the Canvass the board declares:

- Nominated (primary election) or elected (general election) any local candidate receiving the most votes.
- The adoption or rejection of a local ballot issue.

Section [13-15-405\(5\), MCA](#), requires the board certifies to the Montana Supreme Court the results of the canvass for justice of the peace and municipal judges.

Commissioner of Political Practices

Before Certificates of Nomination or Election are issued, the [Commissioner of Political Practices](#) (COPP) must notify election administrators in writing that the candidate has complied with campaign finance requirements:

[13-37-127 MCA](#). Withholding of certificates of nomination or election.

- (1) A certificate of election may not be granted to any candidate until the candidate or the candidate's treasurer has filed the reports and statements that must be filed pursuant to the provisions of this chapter. A candidate for an elective office may not assume the powers and duties of that office until the candidate has received a certificate of election as provided by law. A certificate of election may only be issued by the public official responsible for issuing a certificate or commission of election.
- (2) In carrying out the mandate of this section, the commissioner must, by written statement, notify the public official responsible for issuing a certificate of nomination or election that a candidate or the candidate's treasurer has complied with the provisions of this chapter as described in subsection (1) and that a certificate of nomination or election may be issued.

Commissioner of Political Practices

- Once all the candidates have met their requirements with the [COPP](#) and you have received a certification from that office, you must provide a Certificate of Nomination or election to everyone declared nominated or elected by the board.
- The SOS office provides certificates to candidates who are declared nominated or elected by the State Canvass Board.

State Canvass Procedures

The county canvass report for all federal, state, and state district offices must be sent to the Secretary of State by the deadline provided for each election.

- The canvass report is generated and printed from results entered by each county in the Electronic Statewide Election Reporting System (eSERS).
- The SOS provides a single large white pre-addressed envelope for mailing the canvass report to the SOS – you should always use that envelope to send your canvass.

Why are Recounts Conducted?

- The purpose of a recount is to provide accurate results of the votes cast in a close election. A recount is an administrative process described in [Title 13, Chapter 16](#), Montana Code Annotated (MCA).
- The conditions under which a recount can be conducted are found in [13-16-201 MCA](#).
- The only automatic recounts are if there is a tie vote. Any other recount must be petitioned for by the unsuccessful candidate or by an elector for an unsuccessful ballot issue.

Recounts Continued...

For a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court:

- Margin less than or equal to $\frac{1}{4}$ of 1% or less than or equal to 10 votes (or margin greater than $\frac{1}{4}$ of 1% up to $\frac{1}{2}$ of 1% for a bond recount).
- The defeated candidate may file a petition for a recount within 5 days of the official county canvass.

For a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court:

- Margin less than or equal to $\frac{1}{4}$ of 1%; or
- Margin greater than $\frac{1}{4}$ of 1% up to $\frac{1}{2}$ of 1%.
 - Petition filed with SOS within 5 days of state canvass.
 - In the (b) scenario, the petitioner must post a bond to cover the estimated costs of the recount.

Who Needs to Be Present for a Recount?

- The following people have a right (or are required) to be present at the recount ([13-16-411](#), MCA):
 - Recount Board (Board of County Commissioners);
 - Election Administrator;
 - Candidates (or the candidate's representative);
 - Media, if they would like to attend;
 - Extra elections staff, if needed.

Where is a Recount Conducted?

The law states that “the board shall convene at the usual meeting place of the governing body” ([13-16-204](#), MCA):

- The recount is open to the public, but the audience may be limited to prevent interference with the procedures. It is recommended to choose a room/location with enough space for everyone.
- If space is limited, ensure you have at least enough room for the people who need to be there or have a legal right to be there, including the media. ([13-16-411](#), MCA)

When are Recounts Conducted?

- If the SOS receives a recount petition on a statewide or state district office, the SOS shall immediately notify each election administrator in each county which includes any precincts that voted for the office, and a recount must be conducted in those precincts.
- Immediately upon receiving a petition for a recount either from the SOS or an individual, as applicable, the election administrator shall notify the members of the county recount board.
 - Recommendation: notify the county recount board of the possibility of a recount petition before you receive the recount petition.
- The county recount board shall convene at the usual meeting place of the governing body without undue delay but not later than 5 days after receiving notice from the election administrator.

Recounts Helpful Tips

Scheduling a recount:

1. Build a timeline for your recount with the following dates (all are calendar days; dates that fall on a weekend are the next business day).
 - Date provisional ballots are counted – usually at 3pm the sixth day after the election (generally Monday at 3pm after election day).
 - Date of canvass of results – within 14 days after the election.
 - Date by which recount must be conducted if there is a tie – within 5 days of canvass.
 - Date by which petition for recount must be filed by defeated candidate is within 5 days of canvass, if the vote is not a tie but is within the recount margin.
 - Dates during which a recount would be conducted if a defeated candidate petitions for a recount – within 5 days of receiving petition.
 - Date for canvass of recount – immediately after the recount, the county recount board shall certify the result.

Recounts Helpful Tips continued...

Tips for Scheduling a Recount continued...

2. Communicate, the timeline can be a moving target, and the recount process involves a lot of different parties.

- Communicating the schedule and the process helps ensure everyone who has a right to be there is able to attend and makes it clear that no candidate has an unfair advantage.

3. Conducting a Recount

- The Secretary of State's [Recount Guide](#) provides some flexibility in the steps for conducting a recount. The overall purpose is to:
 - Sort ballots into piles for each candidate.
 - Tally votes for each candidate.
 - Provide the opportunity for candidates to challenge how a ballot is counted.

Recounts Helpful Tips continued...

Step-By-Step instructions for conducting a recount:

- Have everyone present sign in, including staff and media.
- Read through the Instructions/Description of Recount Procedure to provide an overview of the process.
- Begin sorting ballots into piles for each candidate, and a pile for all other ballots (overvotes, undervotes, write-ins).
- As ballots are sorted, cross-stack ballots into piles of 25.
 - You may keep tallies as you sort, or you may first sort, then go through each pile again to mark tallies.
- Use the cross-stacks of 25 to double check against the tally.
- Provide candidates and/or their representatives with the opportunity to challenge the way a ballot is being sorted/counted.

Recount Helpful Tips continued...

- Keep a log of all challenges and label each challenged ballot. On both the log and the challenged ballot, write the Challenged Ballot #, Pct/District/Ward, Name of Challenger, Reason for Challenge, and Outcome of Challenge. The Reason for Challenge is always in the format of “Not_____, Is_____.”
- For example, if a candidate argues that the ballot should be considered an undervote, not a vote for Candidate A, the reason for Challenge is: “Not Candidate A, is Undervote.”
- Challenges may be resolved by the Recount Board immediately as they come up or may be set aside for the Recount Board.
- When the challenge is resolved, a tally should be added to the tally sheet for that ballot.
- Challenged ballots should be stored together and separate from the other ballots.
- Count the total number of ballots and the total number of tallies on the tally sheet.
- If the numbers do not match, check again and/or re-tally. The numbers must match.

Recount Helpful Tips continued...

- Finalize and sign off on all reports:
 - Tally Sheets;
 - Recount Summary and Certification Report;
 - Canvass documents.
 - (Canvass should be scheduled to immediately follow recount)

Preparing for a Recount

- Gather Supplies:
 - Pens/Pencils
 - Ballots for all precincts involved in recount:
 - Resolution Board logs
 - Original ballots that were remade by Resolution Board
 - Write-in ballots
- Security Seal Log
- Security Seals for resealing ballots after recount
- Container(s) for resealing ballots (note: any challenged ballots should be sealed separately)

Preparing for a Recount continued...

- Review
 - Montana [Recount Guide](#)
 - [Title 13, Chapter 16](#), MCA: Recounts and Tie Votes
- Prepare and print:
 - Copies of the Montana [Recount Guide](#)
 - Guide to Determining a Valid Vote and Valid Write-In Vote (included in the [Recount Guide](#)).
 - Note: Provide this to your Recount Board so they can reference for any questioned ballots.
 - Extra copies of Instructions/Description of Recount Procedure (see sample on following slide)

Preparing for a Recount continued...

Sample Instructions/ Description of Recount Procedure

INSTRUCTIONS/DESCRIPTION OF RECOUNT PROCEDURE Recount of Ballots Cast in the Election for East Helena Ward 2 Councilmember at the November 7, 2017 Municipal General and County Special Election

This is an administrative recount held pursuant to Title 13, Chapter 16, Montana Code Annotated, which requires an automatic recount in the event of a tie vote.

The purpose of this recount is to provide accurate results of the votes cast in the East Helena Ward 2 Councilmember race at the November 7, 2017 Election. The recount is not to determine who was eligible to vote. It is not to determine if campaign laws were violated. It is not to determine if mail ballots were properly accepted. Again, the purpose is to count the votes cast in this race.

If a difference in the vote count is discovered through this recount, please be aware that this is not unusual and this is why Montana has a recount law.

I, Paulette DeHart, am the official in charge of the recount, and the County Commissioners constitute the Recount Board. No one should touch the ballots unless I or the Recount Board specifically allow it. Please make any concern regarding any aspect of the recount process known to me immediately.

The recount will be conducted as follows:

1. Ballots will be removed from the containers they were sealed in on election night.
2. Votes for the Ward 2 Councilmember race will be tallied on previously prepared tally sheets and sorted into the following piles: Ballots cast for Donald Dahl, ballots cast for Kelly Harris, challenged ballots, and all other ballots cast in the Ward 2 Councilmember race.
 - a. If during this time a candidate disagrees with the determination of for whom the ballot should be counted and sorted, the candidate (or his representative) may challenge.
 - b. Challenges may not be automatic or frivolous. Challenges cannot be made for an entire group of ballots.
 - c. The challenger must describe why they challenge.
 - d. Challenges may be withdrawn at any time.
 - e. Challenged ballots will be examined by the recount board who will determine the outcome of the ballot based upon the principles of voter intent outlined in 13-15-206, MCA and ARM 44.3.24.
 - f. Challenged ballots will be labeled with the name of the person making the challenge, reason for challenge, and outcome of the challenge. A record of all challenges will also be kept on a log of challenges.
3. Once all piles have been tallied, the total number of ballots in each pile will be compared to the vote totals on the tally sheet. If the totals do not match, the ballots will be counted and/or tallied again.
4. Vote totals will be recorded on the Recount Report and Certification of Recount. The recount results as determined by the recount board are the official election results, and will be immediately presented to the county canvass board to be certified.
5. Ballots will be resealed. Challenged ballots shall be sealed separately and identified as challenged ballots.

Preparing for a Recount continued..

- Preparing for a Recount
- Prepare/Print Out
 - Recount Activity log
 - Recount Challenge log

East Helena Ward 2 Councilmember Recount Log of Activity 2017 Municipal General and County Special Election

Date and Time	Description of Activity	Reported by	Additional Notes

East Helena Ward 2 Councilmember Recount Log of Challenges 2017 Municipal General and County Special Election

Number	Precinct/ District/ Ward	Name of Challenger	Reason for challenge	Outcome of Challenge (successful, unsuccessful, withdrawn, frivolous)	Notes or other activity
			Not _____, is _____.	Successful Unsuccessful	
			Not _____, is _____.	Successful Unsuccessful	
			Not _____, is _____.	Successful Unsuccessful	
			Not _____, is _____.	Successful Unsuccessful	

Preparing for a recount continued...


- Prepare/Print Out
 - Labels for challenged ballots (can handwrite on ballots instead of using labels - ensure all required information is written on ballot)

Challenged Ballot # _____ Pct/District/Ward: _____

Name of Challenger: _____

Reason for Challenge: Not _____,
is _____.

Outcome of Challenge: Successful Unsuccessful



Report and Certification of Recount

State of Montana
County of Lewis and Clark

We hereby certify that this constitutes a full, true and complete report and certification of the recount of the number of votes cast, and declaration of results in each precinct/ward/district of said Lewis and Clark County for the offices/issues enumerated and we hereby present the official recount results attached to the County Canvass Board for certification.

RESULTS OF RECOUNT:

Candidate/Ballot Issue Choice	Votes Before Recount	Votes After Recount
DONALD E. DAHL JR	165	
KELLY HARRIS	165	

Attest our hands this 20th day of November, 2017.

County Recount Board

Attest my hand and seal this 20th day of November, 2017.

Election Administrator

- Report and Certification of Recount

Troubleshooting

- Always consult with your election judges and your county attorney if you discover a discrepancy; try to resolve the issue before your canvassing board meets.
- If you have not conducted a canvass or a recount before, consult another county election administrator to determine if they have administrative procedures or instructions that you can use.
- Determining the margin required for a recount can be complicated; feel free to check with the SOS.
- Do not calculate the margin required for a recount based on unofficial results; the canvassed results are the only results that determine whether there is a recount, so you should have time to calculate whether there is a potential recount.