

Special Committee on Voter Confidence Meeting Minutes

Amended and approved July 26th

Meeting date: July 12, 2022 at 1:00 P.M.

Location: State Archives Research Room,
9 Ratification Way
Concord, NH 03301

In Attendance:

Committee: Bradford E. Cook (Co-chair), Richard Swett (Co-chair), Andrew Georgevits, Ken Eyring, Amanda Merrill, Jim Splaine, Douglass Teschner, and Olivia Zink

Secretary of State's Office: Secretary of State David Scanlan, Senior Deputy Secretary of State Patricia Lovejoy, Anna Fay, David Lang, Patricia Piecuch, and Jennie Taggart

Committee Co-Chair Bradford Cook opened the meeting at 1:06 P.M. Committee members and Secretary of State (SOS) Staff stated their names and town/city of residence. Co-Chair Cook discussed the meeting agenda and date/time of future Committee meetings. Committee member Jim Splaine moved to approve the 06/07/2022 draft minutes, seconded by Committee member Andrew Georgevits. All in favor. None opposed. Co-Chair Cook announced that the Committee has received numerous written communications via email and they would be added to the record.

Co-Chair Cook discussed the Ballot Law Commission's purpose and authority when selecting ballot counting devices. He read off the standards used to choose ballot counting devices, which can be found on the SOS website.

SOS Scanlan discussed the creation of the Committee and said New Hampshire's elections are run properly and are the best in the country. Secretary Scanlan emphasized the importance of transparency and dialog. Secretary Scanlan thanked members of the Committee for their work as well as the public for their participation. He said the large turnout was great.

Election Director Patricia Piecuch, Attorney Eric Forcier and LHS Associates President Jeff Silvestro walked through the process of using the Accuvote ballot counting device. Ms. Piecuch discussed the use of locks, seals, and machine logs. She also explained where the ballots land in the ballot box, depending on the type of ballot. Committee member Splaine asked Ms. Piecuch to define UOCAVA. She said the acronym stands for Uniformed and Overseas Citizens Absentee Voting Act. Co-Chair Richard Swett asked if all doors and drawers are locked at all times. Ms. Piecuch stated that the hand count draw is the only one that is not locked. Committee member Amanda Merrill asked what type of votes go into the side door. Ms. Piecuch explained the types of ballots that go into the side door and discussed hand counted ballots/overvotes. Committee

member Doug Teschner asked how the machine detects overvotes. Ms. Piecuch described the recognition process. She pointed out the seals on the ballot counting machine and explained how they work. She discussed the use of the canvas bag log, explaining two local election officials must be involved. A record of the broken seal, date/time, seal number and reason must be logged along with two witness signatures - either election officials or appointed officials. She talked about the process for opening up and powering the Accuvote machine on Election Day. A zero report was run and Ms. Piecuch explained that the report remains locked in the ballot machine until the end of election night.

Committee member Jim Splaine asked Ms. Piecuch when she refers to elected officials, is she referring to Secretary of State Staff or people who live in that community? Ms. Piecuch said she is referring to locally elected volunteers at the polling place – the moderator and whomever they designate for the election process. Mr. Splaine asked if these volunteers are residents of the polling district. Ms. Piecuch confirmed they are.

LHS associate Jeff Silvestro explained how memory cards are formatted. Mr. Silvestro stated that once LHS receives ballot info, a database is created and catalogued and sent to clerks for testing. He explained that memory cards are shipped in an anti-static bag within a package. Mr. Silvestro opened the memory card package, showed the inventory sheet with serial numbers and an instructional sheet with contact information. He said two memory cards are sent in case a backup is needed. Mr. Silvestro made it clear that his participation was for the demonstration only; memory card inspection, deployment, and security is always done by election officials, not LHS. Committee member Teschner asked about the info on memory cards and if new memory cards are used each election. Mr. Silvestro said memory cards are either replaced or reformatted.

Co-Chair Cook asked for ballots to be run through the machine in ‘Election Day’ mode. Senior Deputy Secretary of State Patricia Lovejoy presented the Committee with 25 marked ballots, including 4 folded (2 correctly and 2 through ovals), write-ins, overvotes, and some incorrectly marked ones. Mr. Silvestro fed the 25 ballots into the machine, one at a time. He said at the end of Election Day, the moderator inserts an ender card that signals the Accuvote machine to print the final tally. The tally tape was passed to Senior Deputy SOS Lovejoy to verify. SOS Scanlan mentioned the new law that requires a breakdown of over/under votes and confirmed all overvoted ballots must be hand counted. Senior Deputy SOS Lovejoy said the machine count completely matched the hand count. She stated the only ballot the machine did not pick up was the ballot with names circled rather than filled out ovals. She explained the hand count procedure after elections.

Committee member Georgevits asked who is responsible for preparing the machine before polling places open and who can watch the process. Ms. Piecuch said anyone can watch the process and the testing process is also open to the public and occurs the Tuesday or Wednesday prior to Election Day. Committee member Teschner asked Ms. Piecuch to discuss memory cards and chain of custody. Ms. Piecuch said each memory card needs to be tested prior to election day and that one memory card is kept in the machine, secured by a seal. Co-Chair Swett asked for an explanation of the ballot testing process. Ms. Piecuch said each polling place is given 50 test

ballots, which are inserted into the ballot machine 4 different ways (face up, head first; face up, feet first; face down, head first; face down, feet first). The test ballots and result tapes must be preserved by law.

There was a discussion about the number of polling locations and Accuvote machines used in the state.

Committee member Georgevits asked Mr. Silvestro to explain the process of putting information on the memory card. Mr. Silvestro explained that during the General Election LHS receives the election information, design ballot and puts information on a database, which generates the layout, length, style and timing marks. The information is then programmed onto the memory card by connecting the Accuvote machine to the terminal. He emphasized that the programming is not connected to the internet. Co-Chair Swett asked under the worst-case scenario what could be done to alter the tally report of the Accuvote machine. Mr. Silvestro said the software is locked down so it is impossible to change that card or the outcome.

Mr. Silvestro said in 2010 the firmware was updated to prevent hacks like the one performed by Harry Hursti. He mentioned that Hursti had full access to the entire machine and programming. Mr. Silvestro showed the seals on the machine. He explained the protection and prevention of access to the machine, emphasizing that there is no way to access the machine. Ms. Piecuch further explained the seals and the log that is kept of voided seals.

Committee member Merrill asked about overvotes. Senior Deputy SOS Lovejoy said obvious overvotes are identified during hand counts. She said the recently passed law that takes effect during the 2022 elections stipulates all overvotes must be kicked out of the machine and hand counted. Co-Chair Swett asked under what circumstances a voter gets to discard a bad/spoiled ballot. Senior Deputy SOS Lovejoy said a voter gets three chances before putting the ballot through the machine. Co-Chair Cook said once the voter's ballot is counted by the machine, they don't get another chance.

There was a discussion about ballot paper and what would happen if a photocopied ballot was put through the machine. Mr. Silvestro said a photocopied ballot doesn't have a good chance of making it through and being read by the machine. Senior Deputy SOS Lovejoy explained the SOS Office tested three different types of paper in spring 2022. She said when the ovals were fully filled in, the results of every single test were exact.

Committee member Georgevits discussed the checks and balances of signatures, stating that potential doubt can be created if log signatures are missing. Ms. Piecuch said the forms are public and can be requested under the Right-To-Know law, RSA 91-A. She said the Attorney General's office checks polling places as well.

Co-Chair Cook asked how long Accuvote machines have been used in NH. Mr. Silvestro said the machines have been used for 20 years. Co-Chair Cook stated that LHS is the sole vendor and brought up past criticism of machines/ballots. Mr. Silvestro explained that NH is not the only state that has only one machine vendor. Co-Chair Cook expressed concerns about the age of Accuvote machines. Mr. Silvestro says LHS intends to service the machine through the 2024

elections. He stated its memory cards are not manufactured anymore; there is a finite number; technology is phasing the system out. The Committee and Mr. Silvestro discussed which states still use Accuvote machines, different models of the machine, and the age of NH machines.

Co-Chair Swett asked if other states have similar complaints and experiences. Mr. Silvestro said that in states that conduct random risk-limiting audits, the temperature of controversy is lower. He also explained that new machines have digital archives of ballots and increased encryption, which he sees as improvements. Co-Chair Swett asked what can be done to increase confidence in elections and technology. Mr. Silvestro said it is not his place to endorse risk-limiting audits; however, he sees benefits to having random audits. Senior Deputy SOS Lovejoy mentioned plans for more post-election audits. Mr. Silvestro stated that what NH is doing with seals and locks is above and beyond what other jurisdictions do. He announced he would not be able to stay for the public comment period.

Public Comment

Ken Hajjar, Raymond, stated he worked as a sales and marketing manager at LHS Associates for about 20 years. He said he has done many machine demonstrations and pre-election audits, stating the hand count results and machine results always matched. Mr. Hajjar said he has full confidence in machines, if they are programmed correctly and the pre-election testing is done properly. He added he had to take an oath to work at polling places. He also discussed public criticism of voting machines and what would happen if machines weren't used.

Matt Rowe of Voting Works, California, discussed open source code voting technology. Mr. Rowe briefly described what open source software is, how it is different than most other machines, and how it helps increase voter confidence. He said anyone with open source software can view the source code and how it works. He also said other measures, ballot papers and post-election audits are needed to ensure trust in elections. Committee member Georgevits asked if the current system NH uses is open source or closed and if the Ballot Law Commission (BLC) has ever asked to see the source code. Mr. Rowe stated it is closed. Co-Chair Cook said BLC doesn't get involved with that part of the regulation; it just certifies the machines and the Legislature can change the law to make the code open source. There was discussion about current software. Mr. Rowe emphasized that open source is not open to manipulation.

Rep. Russell Muirhead, Grafton D-12, teaches Political Science at Dartmouth College and serves as a member on the House Election Law Committee. Mr. Muirhead discussed election data and said political and social scientist can't find evidence of widespread voter fraud. Mr. Muirhead mentioned *The Myth of Voter Fraud*. He stated the AG and SOS haven't found systematic voter fraud. He discussed double voting and the lack of findings on it. He also talked about official audits and how they increase confidence with voters. Mr. Muirhead discussed the Arizona audit, HB 1467, and the accuracy of optical scanners. Committee member Georgevits asked about discrepancies with Accuvote machines picked up by AG's office and if a three-step audit could increase confidence. Mr. Muirhead says 10 years of regular audits will let voters know how confident they can be. Committee Georgevits discussed fraud vs. discrepancies and how they affect voter confidence. Committee member Teschner mentioned the Braver Angels workshop

on trust and asked how we can build trust in the US. Mr. Muirhead stated that he is hopeful that this Committee and its engagement will help build trust. He also said trust and friendship can be built between those who disagree.

James Ziagra, Disability Rights Center-NH, discussed the use of voting technology in federal elections and concerns about poll worker training, competence, and etiquette when interacting with voters with disabilities. Mr. Ziagra mentioned the One4All system and how it works. He discouraged the Committee from removing the system, emphasizing the importance of electronic systems for voters with disabilities. His suggestions include providing training to town clerks and moderators to ensure that several people at each polling location know how to operate the One4All accessible voting system. He also requested training for all election officials, poll workers, and volunteers that encourages appropriate conduct and etiquette when interacting with voters with disabilities.

William Zolla, Manchester, expressed confidence in NH elections. Mr. Zolla moved from Chicago, Illinois in 2018 and discussed the differences between IL and NH elections. He questioned the purpose or need of this Committee, quoting Governor Sununu, Chair of the NH Republican Party Stephen Stepanek, and SOS Scanlan's positive comments about NH elections. Mr. Zolla mentioned concerns surrounding the Independent State Legislature Theory, which would give legislators rather than local election officials control of the elections.

David Kiley, Atkinson, discussed IT sophistication lags, visibility, the lack of forensic assets, and transparency. He testified that the chain of custody can't really be monitored. Mr. Kiley mentioned relaxed IT procedures, how easily e-poll books can be hacked, outsourcing to one vendor, safeguards before and after elections and the lack of visibility.

Roy Schweiker, Concord, testified on the lack of state regulation to provide a change in city charter, the lack of explanations of the amendments people vote on and RSA 49-B. Mr. Schweiker said the AG stated there is no regulation and mentioned the need to fill out a petition. Co-Chair Cook shared Mr. Schweiker's concerns about the lack of explanations of the amendments being voted on.

Robert Early, Amherst, said the state should not purchase Dominion ballot counting machines, stating that they have creditability problems and both the machines and the SOS Office are not transparent. He spoke on the Windham audit and how it aggravates the system. Mr. Early said machines should have open-source code and recommends an audit on two sample towns, chosen by political parties to hand count and compare to machine counts.

Betty Dunn, Windham Deputy Moderator, gave testimony about the 2020 Windham elections and said she's happy to clear up any questions about the audit. To understand the process used to set up the machines for the audit, she suggested that people read the actual audit posted on the SOS website, referencing page 34+35. Ms. Dunn said the issue with the fold in the ballot is what caused discrepancies, stating she had no idea that it would cause the result it did. She stated there was no warning about using the folding machine and said they will not be used in the future. Committee member Teschner said the folds were unintentional but the report from the SOS and AG listed some concerns. He said he appreciates the work of local officials but asked what

accountability there is when mistakes are made. Ms. Dunn stated that in Windham the town clerk, moderator, and herself participated in training. Committee member Ken Eyring asked Ms. Dunn if election officials should be certified so they understand the laws. Ms. Dunn said it certainly is a possibility. There was a discussion about who should be qualified, elected, appointed, or volunteers.

Linda Bundy, Antrim, testified that she has confidence in elections and results. Ms. Bundy stated that she agrees with Gov. Sununu's and SOS Scanlan's comments on elections being safe and secure. She mentioned that only four people have been prosecuted for voter fraud in the past three years. Ms. Bundy said elections can be improved by modernizations, new ballot counting devices, e-poll books, NH's participation in the Electronic Registration Information Center (ERIC) and increased education of election and poll workers. She encouraged public service announcements and social media posts by SOS regarding elections. She also said the success of absentee voting in 2020 supports the use of no-excuse absentee voting.

Linda Comarota, Bedford, testified on standardization and training. She mentioned the *Checklist Manifesto* and a one-pager on accountability. Ms. Comarota discussed corrective methods that would ensure transparency including marking mistakes clearly and ensuring machine tabulators are only used by election officials who are always supervised. She recommends open source codes and said ballot tapes should be stored at the local and state levels.

Thomas Oppal, Canaan, stated there is no evidence of any election outcome being overturned because of voter/election fraud. Mr. Oppal supports more training, but highlighted that most poll workers are volunteers and elected officials are not paid much, which makes it hard to increase training. He also quoted the *Heritage Foundation's* data regarding voter fraud, stating that it found 1,357 cases of voter fraud in 40 years. Mr. Oppal said while voter fraud does exist, it is rare. He testified that the issue is not a lack of confidence but a lack of participation. Mr. Oppal suggested the Committee help increase voter participation and invited the Committee to hold a meeting in Grafton County, preferably at night. Co-Chair Cook confirmed the Nashua meeting will be held in the evening and stated there will be a meeting in Berlin. Mr. Oppal concluded that beliefs that aren't based on evidence are simply not facts.

Deb Roux, Manchester, testified that she does not have confidence in NH elections. Ms. Roux presented a replica of the Forefather's Monument from Plymouth, Massachusetts and described what it represents. She said the lack of answers from elected officials decreases voter confidence. Ms. Roux brought up concerns with software, memory cards, and ballot counting machines, stating that the machines are unconstitutional. She encouraged the Committee to look up Walter Doherty, Jeffrey O'Donnell, and Tina Peters. Ms. Roux suggested hand counting ballots and conducting forensic audits. She then invited her friend, Felisa Blasek, Windham, to talk about special ballots the state can purchase.

Ms. Blasek presented a \$100 bill to discuss the importance of authentication. She passed out sample ballot paper with a QR Code, a watermark, and hologram that would allow voters to track their ballots with their phones. She stated that the ballot is made by the same company that the US Mint uses to produce security of the \$100 bills.

Co-Chair Swett said Ms. Roux's and Ms. Blasek's testimony represents a significant portion of the population that is concerned about voter confidence and the election process. He also stated that the Committee is here to take advice and suggestions from everybody but added that there are many things that need to be taken under advisement.

Diane Fisher, Hampstead, cited the Committee's mission statement, which mentions "growing concerns about voter confidence." Ms. Fisher discussed voter apathy and the SAU 16 elections. She explained that she worked with Linda Brown gathering data on the 2022 Exeter elections and passed out a synopsis. She said they looked at tapes and checklists from six towns. Ms. Fisher presented the Election Manual Procedure, stating it needs to be improved and that towns are not following procedures correctly. Co-Chair Cook asked if files contained discrepancies or assertions of a mass coordinated problem and asked if the findings were presented to SAU 16. Ms. Fisher stated that it had only been presented to the Committee.

Linda Brown, Sandown, said the data seemed to suggest elections have been disrespected. She highlighted closing times on the tapes from ballot counting machines, noting discrepancies. Ms. Brown talked about absentee ballots, same-day voters/ registration, and Article 1 of the School Board election. She discussed how absentee voting is identified on the checklist, emphasizing discrepancies do not help with voter confidence. Ms. Brown asked for standardization of the checklist procedure. She discussed the 2020 Bedford election and passed out the moderator's report. She said it doesn't feel like the system is safe and secure. Co-Chair Cook asked what could be done to make sure officials are educated and the process is being followed. He suggested the data be referred to the SOS office.

Co-Chair Swett stated that trust is built with baby steps and that lack of trust is an issue not only in NH but worldwide.

Co-chair Cook announced the next SCVC meeting is scheduled for July 26th at 1pm in Laconia.

Committee member Jim Splaine made a motion to adjourn the meeting, Committee member Olivia Zink seconded it. All voted in favor. None opposed.

Meeting adjourned at 5:23pm.