Dear Directors,

A recount has been demanded for the statewide contest of North Carolina Supreme Court (Beasley seat). **Plan to conduct a MACHINE recount so results can be reported to our office by the close of business this Thursday, November 20.** If other recounts have been demanded in your county, you may also conduct the other recount at the same time as this statewide recount, following the same general process. Remember that other contests under the jurisdiction of the State Board of Elections may still be demanded up until noon on Tuesday (we will contact those affected counties on Tuesday afternoon).

Below, find step-by-step instructions for conducting your recount and reporting the results of the statewide recount.

**Step 1: Schedule the recount and provide notice.** Schedule the recount at the time when a bipartisan team can conduct the recount, and if possible, your full board. Provide notice of the recount as you would for any other meeting or public event (e.g. on your website, post a notice on the office front door, etc.) Provide information to SBE as to where and when the recount will be completed by this survey: [https://www.surveymonkey.com/r/KV5B3JH](https://www.surveymonkey.com/r/KV5B3JH)

**Step 2: Conduct the recount as scheduled.**

- **Pre-reconciliation.** Before beginning the recount, be sure to take any steps to ensure that the total number of ballots/votes are reconciled. However your ballots/votes are divided, ensure you have all of those groups, divided the same way they were divided for canvass.
- **Instructions for recount team and any observers present:** If anyone observes a potential issue of disagreement, they should have been instructed to bring it to the attention of the Elections Director or other person managing the recount IMMEDIATELY, so the issue can resolved. This
may require documentation or a decision of the County Board to resolve the issue, but it is important that it is attended to immediately, as opposed to a complaint arising after the fact.

- **Count the vote totals**, including overvotes and undervotes.
  - **Paper ballots**: Ballots should be fed through the tabulator, creating a new results tape for each precinct/grouping. It is only necessary to make modifications to data in Unity if any results for this contest changes.
  - **IVotronics**: First, make sure you canvass results have been backed up. The memory stick/PEB from all machines should be re-read into Unity, for the affected contest(s).

If you need to review procedures for recounts, please enter a Helpdesk ticket and you will receive direct assistance from SBE staff.

If you need a guide sheet customized for your county, we can provide that to you. Here is a simple sample guide of how recounts should be tallied and recorded for your internal records:

<table>
<thead>
<tr>
<th>Precinct/group</th>
<th>Cheri Beasley Canvass</th>
<th>Cheri Beasley Recount</th>
<th>Mike Robinson Canvass</th>
<th>Mike Robinson Recount</th>
<th>Overvotes Canvass</th>
<th>Overvotes Recount</th>
<th>Undervotes Canvass</th>
<th>Undervotes Recount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A</td>
<td>6</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1B</td>
<td>9</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One-stop</td>
<td>10</td>
<td>4</td>
<td>2</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mail-in abs.</td>
<td>2</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>27</strong></td>
<td><strong>26</strong></td>
<td><strong>2</strong></td>
<td><strong>1</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Step 3: Report the results of the machine recount of the North Carolina Supreme Court (Beasley seat) contest to SBE.** In the Election Reporting application, import the ASCII file and submit, just as you would on Election Night or Canvass Day.

**Step 4: The Director prints out and signs the attached “Certification of Machine Count” form**, which certifies the date and time of the recount, and whether any results changed.

**Step 5: This is only necessary if results from the machine count changed any part of the official results for the North Carolina Supreme Court (Beasley seat) contest.** Have the Board sign a “County Canvass Abstract Cover Sheet for Recounts,” available in the Election Reporting Application, attached to the new abstract and send electronically and by mail to replace the earlier abstract.

The applicable statute and rules are included below (parts of the rules relevant to a statewide machine count are highlighted), and attached along with this Numbered Memo is the full packet of materials to help you with this process.

Thank you for all of your hard work and again responding to a very quick turnaround. Again, please contact us with any questions or guidance that is specific to your county’s voting systems and methods of vote-reporting.
§ 163-182.7. Ordering recounts.

(a) Discretionary Recounts. - The county board of elections or the State Board of Elections may order a recount when necessary to complete the canvass in an election. The county board may not order a recount where the State Board of Elections has already denied a recount to the petitioner.

(b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections. - In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing and must be received by the county board of elections by 5:00 P.M. on the first business day after the canvass. The recount shall be conducted under the supervision of the county board of elections.

(c) Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board of Elections. - In a ballot item within the jurisdiction of the State Board of Elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate are not more than the following:

(1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item, one percent (1%) of the votes cast for those two candidates.

(2) For a statewide ballot item, one-half of one percent (0.5%) of the votes cast in the ballot item, or 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board of Elections by noon on the second business day after the county canvass. If at that time the available returns show a candidate not entitled to a mandatory recount, but the Executive Director determines subsequently that the margin is within the threshold set out in this subsection, the Executive Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board of Elections.

(d) Rules for Conducting Recounts. - The State Board of Elections shall promulgate rules for conducting recounts. Those rules shall be subject to the following guidelines:

(1) The rules shall specify, with respect to each type of voting system, when and to what extent the recount shall consist of machine recounts and hand-to-eye recounts. Hand-to-eye recounts shall also be ordered as provided by G.S. 163-182.7A.

(2) The rules shall provide guidance in interpretation of the voter's choice.

(3) The rules shall specify how the goals of multipartisan participation, opportunity for public observation, and good order shall be balanced. (2001-398, s. 3; 2003-278, ss. 10(b), 10(c); 2005-323, s. 6(a); 2005-428, s. 11(b).)
08 NCAC 09 .0104  OFFICIALS CONDUCTING RECOUNT
08 NCAC 09 .0105  CHALLENGE OF RECOUNT PROCEDURES

History Note:  Authority G.S. 163-179.1; 163-192.1;
ARRC Objection May 19, 1988;
Temporary Rule Eff. April 18, 1988 for a period of 136 days to expire on August 31, 1988;
Expired Eff. August 31, 1988;
Eff. October 1, 1988;
Temporary Repeal Eff. April 15, 2002;

08 NCAC 09 .0106  GENERAL GUIDELINES

(a) Prior to each recount, the board of elections shall confer with affected parties and candidates and describe to them the process of conducting recounts.

(b) In the case of tie votes, the winner shall be determined by lot only in the case set out in G.S. 163-182.8(2). Where there are 5,000 or fewer votes cast, there shall be only one determination by lot for each tied election. There shall be no determination by lot until the time has expired for the affected candidate(s) to request a recount, unless all of the affected candidate(s) waive their right in writing to request a recount.

(c) During the conduct of recounts, in the cases where the board of elections must interpret the voter's choice, the following shall apply:

1. When it is impossible to determine a voter's choice for an office, the ballot shall not be counted for that office but shall be counted for all other offices;
2. If a ballot is marked for more names than there are positions to be filled, it shall not be counted for that office but shall be counted for all other offices;
3. If a ballot has been defaced or torn by a voter so that it is impossible to determine that voter's choice for one or more offices, it shall not be counted for such offices but shall be counted for all offices for which the voter's choice can be determined; and
4. If a voter has done anything to a ballot other than mark it properly with pen or pencil, it shall be counted unless such action by the voter makes it impossible to determine the voter's choice.

(d) The following shall apply in counting punch card ballots:

1. All of the candidates for whom the voter has indicated a preference shall be counted if the corresponding chad is completely punched out or hanging by one corner (showing that three of the four corners have been punched out); and
2. If the chad has not been punched out or is not hanging by one corner, then the determination must be made if the voter has shown consistency in marking the ballot. If the voter has shown consistency in marking choices on the ballot - all of the candidates for whom the voter has indicated a preference shall be counted.

(e) In conducting recounts of lever, direct record electronic, and any other types of voting machines that require a county board member or designated official to reprint tapes and to read the totals and another board member to record the totals for each candidate such recount shall be conducted by a bi-partisan team of four: two officials (one from each of the two parties having the largest number of registered voters in the state) reading and confirming the totals per machine and two officials (one from each of the two parties having the largest number of registered voters in the state) recording the results simultaneously.

(f) In conducting hand to eye recounts or recounts of paper ballots, a bi-partisan team of four shall be used: two officials (one from each of the two parties in the State with the largest number of registered voters) to relay the results of each ballot with one person reading the ballot and the other official observing the ballot and the person reading the results of the ballot, and two officials (one from each of the two parties in the State with the largest number of registered voters) recording the tally of votes for each candidate on paper while stating aloud after each choice is read on the fifth tally for a particular candidate, the word "tally."

(g) The county board of elections shall conduct recounts in two circumstances. In the first circumstance, the recount is mandatory under G.S. 163-182.7(b). In the second circumstance, the recount is not mandatory but the county
board of elections or the State Board of Elections determines, using its authority in G.S. 163-182.7(a), that in order to complete the canvass a recount is necessary.

(h) A candidate shall have the right to call for a hand-eye recount, as to elections conducted by optical scan marksense or punchcard systems, within 24 hours after a mandatory or discretionary recount or by noon on the next business day of the county board office, whichever is later, if the apparent winner is the apparent loser after the first recount, unless human error resulted in the vote count change.

(i) Any candidate shall have the right to file an election protest within 24 hours after a recount or by noon of the next business day of the county board office, whichever is later.

History Note: Authority G.S. 163-22; 163-182.7; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004.

08 NCAC 09 .0107 RECOUNT OF OPTICAL SCAN/MARKSENSE/PUNCHCARD BALLOTS

(a) How to conduct the first recount. In the first recount, all ballots that were originally counted by the optical scan equipment are to be counted again by the optical scan equipment producing another machine count. A “machine count” total is a ballot count produced by a voting system that uses machines. All ballots that were rejected for tabulation purposes by the machines - commonly called “outstacked” or center bin ballots - are to be recounted by hand and eye using the team of four guidelines outlined in 08 NCAC 09 .0106.

(b) The steps after the first recount. When the first recount, including absentee and provisional ballot recount totals, has been completed, the board of elections shall follow these steps:

1. The county board must determine whether the first recount produces a change in the winner;
2. If the apparent winner after the initial balloting is the apparent loser after the first recount, that candidate shall be entitled to demand a second recount, by hand and eye, of all ballots;
3. If the apparent winner after the initial balloting remains the apparent winner after the first recount, Subparagraph (4) of this Rule must be considered;
4. The county board must determine whether there is a discrepancy in the machine totals between the initial balloting and the first recount;
5. If the machine totals from the initial balloting and the first recount are the same, no second recount is necessary;
6. If the machine totals from the initial balloting and the first recount are not the same, Subparagraph (b)(7) of this Rule must be considered;
7. The county board must determine whether the discrepancy in the machine total can be reconciled;
8. The county board shall determine if the discrepancy in the machine total between the initial balloting and the first recount can be explained. The county board shall examine the outstack/center bin ballots from the first recount, determine how they should be counted, and reconcile the count with the machine count on the initial balloting. If this reconciliation produces the same machine total for the first recount as the machine total in the initial balloting, no second recount is necessary; and
9. If the reconciliation produces a different machine total for the first recount than the machine total in the initial balloting, the losing candidate is entitled to demand a second recount, by hand and eye, of all ballots.

History Note: Authority G.S. 163-22; 163-182.7; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004.

08 NCAC 09 .0108 DIRECT RECORD ELECTRONIC AND LEVER (DIRECT RECORD MECHANICAL) VOTING MACHINES

(a) In the first recount, all votes cast on each unit shall be retabulated and results provided. The results provided shall be re-read using the team of four rules outlined in Section I of these Rules;

(b) When the first recount has been completed, the board of elections shall follow these steps:
The county board must determine whether the first recount produces a change in the winner;

If the apparent winner after the initial balloting is the apparent loser after the first recount, that candidate shall be entitled to demand a second recount;

If the apparent winner after the initial balloting remains the apparent winner after the first recount, Subparagraph (b)(4) of this Rule must be considered;

The county board must determine whether there is a discrepancy in the machine totals between the initial balloting and the first recount;

If the unit totals from the initial balloting and the first recount are the same, no second recount is necessary;

If the unit totals from the initial balloting and the first recount are not the same, Subparagraph (b)(7) of this Rule must be considered;

The county board must determine whether the discrepancy in the machine total can be reconciled;

The county board shall determine if the discrepancy in the unit totals between the initial balloting and the first recount can be explained. (Possible acceptable explanations may include problems with the setup of the ballot, problems with the software or other unit malfunction); and

If the reconciliation produces a different unit total for the first recount than the unit total in the initial balloting, the losing candidate is entitled to demand a second recount provided by the county board of elections.

A manual recount, by hand and eye, of ballots is not possible whenever a lever machine or direct record electronic voting machine error occurs.

The State Board of Elections shall hear any appeals of recount protests.

History Note: Authority G.S. 163-22; 163-182.7; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004.

08 NCAC 09 .0109 MANUAL HAND TO EYE RECOUNTS

Mandatory recounts, as set out in G.S. 163-182.7, by hand-eye optical scan/marksense/punchcard voting shall be conducted as follows: If a sample of the precincts of the voting units in question were recounted by hand-eye and produced results with that of the mandatory recount in those precincts such that one could reliably assume that any problems with scanning equipment was confined to those precincts in which there was a difference that could not be reconciled in the totals between the original count and the mandatory recount, then:

The mandatory recount by hand-eye initially shall occur in only 10 percent of the voting jurisdiction's precincts.

Those precincts shall include all those precincts in which a different total was produced by the machine-read count of ballots for the first count, including the outstacked/center bin, and the mandatory recount, as well as a sufficient number of additional precincts to constitute a total of at least 10 percent of the precincts of the voting jurisdiction.

However, in any event, at least five percent of the voting jurisdiction's precincts included in the sample shall have experienced the same count for machine-read ballots, including the outstacked/center bin, in the original count, and in the mandatory recount.

The precincts included in the sample which had the same machine-read count in the original and mandatory recount shall be chosen by random draw by lot from a container held by the Chair of the county board of elections, with all precincts which did not experience a difference in count by number being placed into the container, with the candidate whom appears to have been the loser after the mandatory recount drawing said lots.

If the hand-eye recount of those precincts which did not experience a difference in count from the original count and the mandatory recount results in a different total from that produced on the previous counts, in any precinct, then upon request of the apparent losing candidate, all precincts for that race shall be recounted by hand-eye.
(6) After two machine count of votes (including the initial election or primary night count), any recount conducted in cases involving optical scan marksense and punchcard voting equipment shall be a manual hand-eye recount.

History Note: Authority G.S. 163-22; 163-182.7; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004.