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# OVER-VOTE REPORT TESTIMONY

Submitted: September 20<sup>th</sup>, 2022

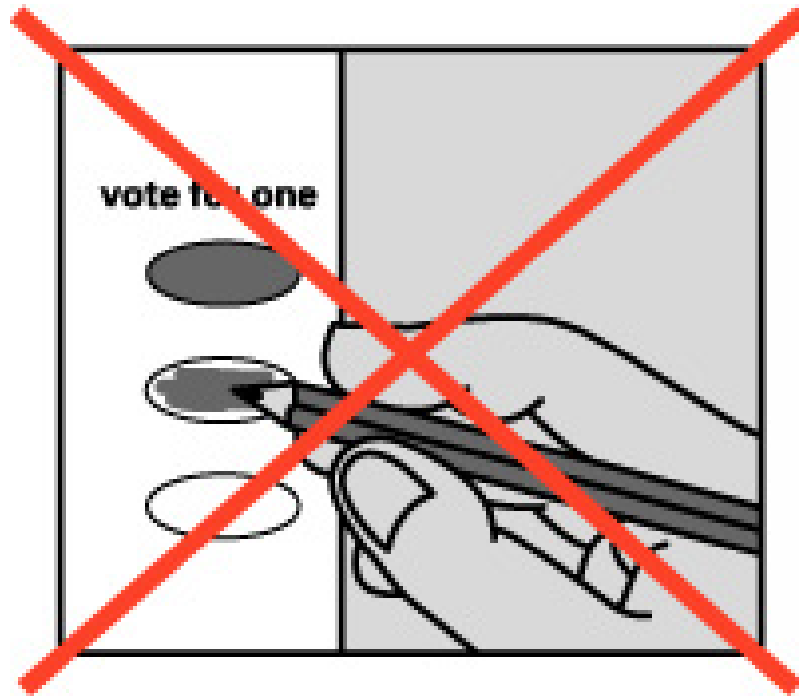


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# Executive Summary

This report is submitted at the request of the co-chairs, Richard Swett and Bradford E. Cook of the Special Committee on Voter Confidence. This report is put forward to demonstrate the statewide inordinate amount of false overvotes that occurred during the November 3<sup>rd</sup>, 2020, General Election.

An overvote occurs when more votes are cast than the maximum allowed in a contest.



If you accidentally vote for more than the allowed number of candidates for a particular office.

Keep in mind that the area of the ballot that is overvoted will not be counted other than as an overvote. The rest of the ballot areas will be counted accordingly.

# SB-43 Forensic Audit Findings

## FOLDED BALLOTS

It is important to understand that the fold hypothesis was NOT broadly tested throughout NH Cities and Towns. This concern was brought forward during the forensic audit. Having the authority under SB 43, the auditors were requested to review other towns results with high overvote rates similar to Windham during the audit process. This was a simple and reasonable request that could have easily provided answers to some of the anomalies. The refusal to perform this logistical task was interpreted by many as a lack of openness and sincerity for a thorough investigation.

The overall findings of the auditors stated on page 106 of the SB43 Forensic Audit Report stated: *“We were able to review AccuVote report tapes from two towns (Amherst and Rye) that counted most or all absentee ballots on one machine. These tapes, unlike the ones from Windham, did not show higher blank vote rates on the absentee-ballot machines.66”*

- The footnote states: **“66 We could not review all such report tapes statewide: many are sealed among cast ballots.”**

**This Statement made by the auditors is false at its face.** This false statement in the auditor’s report added to an even higher degree of concern and lack of voter confidence in the audit process.

Almost every machine tape statewide was and are today still available.

The auditor’s refusal to look at high false overvoted machine rates in other Towns & Cities throughout New Hampshire was a reason to call into question the purpose for the forensic audit. There was a clear lack of effort to do a meaningful study of the high overvote rates that disenfranchised so many Granite Staters on both sides of the political spectrum.

## False Overvotes

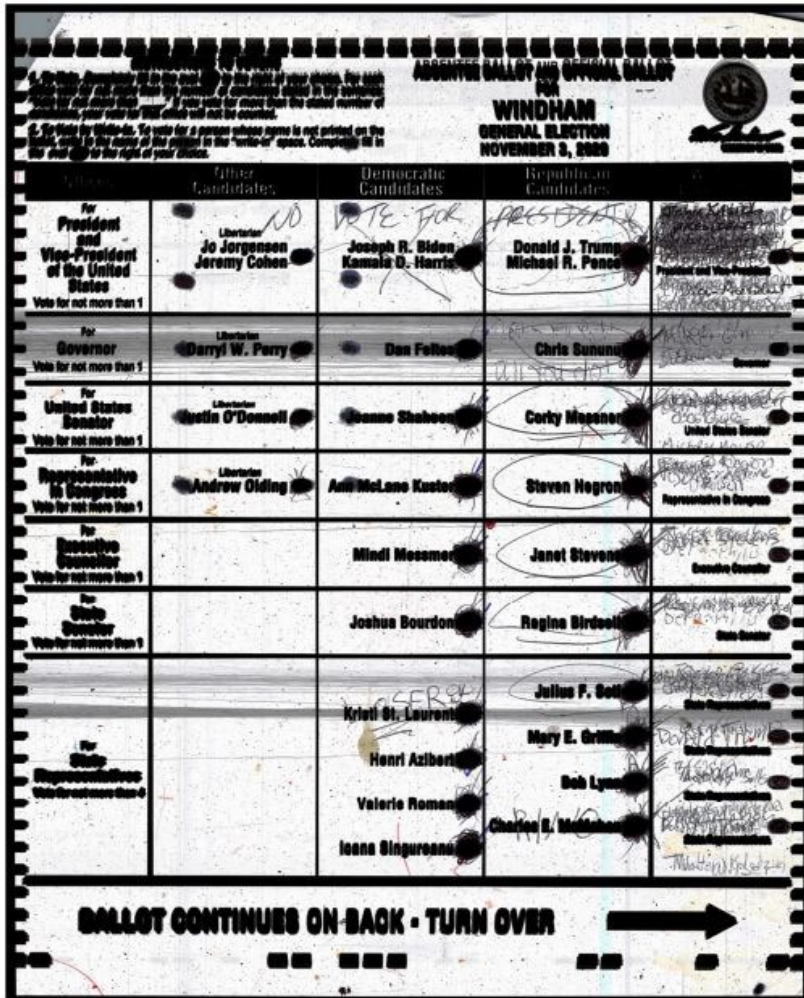
As described above, an overvote occurs when more votes are cast than the maximum allowed in a contest. The result of an overvote means the vote(s) in that contest are not counted in the final tally.

- The SB43 Audit found that folds through ballot ovals caused false overvotes.
- This provided an explanation for the high false overvote rates that occurred in the Windham General election on November 3<sup>rd</sup> 2020.
- This error appears to have caused each Windham Republican candidate to lose appx. 300 votes.



*Microscopic photo of unused absentee ballot folded during the audit using the folding machine. The fold goes through Kristi St. Laurent's vote target.*


The image below demonstrates many folds that went through the democratic candidate Kristi St. Laurent's oval. Creating the false overvote condition when each of the four Republican candidates had a vote selected for each of them.



Superposition of reference scans; note the many folds through St. Laurent's target

## “Phantom Votes”

- As shown in the illustration above when a fold goes through an oval in a contest where less than the maximum votes are cast the fold is counted as a vote.
- When the fold goes through oval it can also be counted erroneously for that candidate.
- This instance happened appx. 99 times in the Windham Election as shown below.

For <b>State            Representatives</b> Vote for not more than 4		<b>Kristi St. Laurent</b> <input type="radio"/>	<b>Julius F. Soti</b> <input type="radio"/>	<input type="radio"/> State Representatives
		<b>Henri Azibert</b> <input type="radio"/>	<b>Mary E. Griffin</b> <input type="radio"/>	<input type="radio"/> State Representatives
		<b>Valerie Roman</b> <input type="radio"/>	<b>Bob Lynn</b> <input type="radio"/>	<input type="radio"/> State Representatives
		<b>Ioana Singureanu</b> <input type="radio"/>	<b>Charles E. McMahon</b> <input type="radio"/>	<input type="radio"/> State Representatives
<b>BALLOT CONTINUES ON BACK - TURN OVER</b>				

*A ballot with a fold likely to create a phantom vote for St. Laurent*

## Accuracy, reliability, and consistency

The handcount that took place in 2020 was performed by the Secretary of States office. The Hand count in 2021 was performed by the SB 43 auditors. The results were within 2 votes.

candidate	Hand count			Machine count*					
	2020	2021	diff	2020	2021				
					1	2	3	4	
St. Laurent	4357	4355	-2	4456	4355	4349	4352	4367	
Azibert	2808	2808	0	2787	2804	2805	2802	2800	
Roman	3443	3442	-1	3415	3434	3436	3432	3432	
Singureanu	2782	2782	0	2764	2777	2778	2776	2776	
Soti	4777	4776	-1	4480	4742	4744	4727	4700	+/- 44
Griffin	5591	5591	0	5292	5558	5557	5540	5516	+/-41
Lynn	5089	5089	0	4786	5055	5055	5037	5011	+/-44
McMahon	5554	5554	0	5256	5520	5520	5502	5477	+/-43
write in	n/a	34		41	41	41	41	41	

\* Machine-count results include 80 (for 2020) or 78 (for 2021) ballots that had to be hand counted. The 2021 results for machine 1 are adjusted for 11 ballots that went through the machine twice.

Two broad findings stand out here. **First, the audit hand count results are very close to the recount results.** Second, the audit machine count results are closer to the hand count

The Election Day machine results could NOT be re-created when the ballots were fed through each of the four machines during the SB 43 audit. In fact, the results produced by each machine during the audit were significantly different from one another. This validates concerns about the accuracy of the machines.

## **Beyond Windham**

**All these discoveries should have led to further investigations into similar high over vote anomalies in other municipalities by the SB43 auditors – but unfortunately, that was not the case.**

**So that effort was undertaken by the Government Integrity Project, which looked at multiple communities Statewide. The results were shocking – and indicate that similar “Windham Incidents” took place throughout NH towns.**

**That is why it is important to understand how overvotes occurred and potentially played a significant role in producing erroneous results during New Hampshire’s November 2020 General Election.**

**The refusal of the SB43 auditors to perform additional research into these other towns is concerning and leads to a greater distrust of NH elections.**

**It is important to understand how false overvotes can negatively impact elections. In 2020, it appears that voters in both parties were disenfranchised throughout the State of New Hampshire.**

The following highlights some of the most egregious examples.

What we should expect:

Table 1. In-Person Overvoting, by Voting System, Florida's 2008 Presidential Race

Voting System	In-Person Turnout	In-Person Overvotes	In-Person Overvote Rate
Sequoia Insight Plus	521,364	1262	0.24%
Premier OS or OSX	2618392	848	0.03%
ES&S DS200	2814242	12181	0.43%
ES&S M-100	324348	640	0.20%
ES&S Optech	240873	68	0.03%
State total	6519219	14999	0.23%

What we got:

#### IDENTIFIED STATEWIDE OVERVOTE RATES

Town/City	Machine #	Overvote Rates %
Merrimack	3	22.78
Manchester Ward 10	8	14.99
Nashua Ward 8	8	9.92
Windham	2	8.91
Goffstown	5	9.42
Sandown	2	8.94
Portsmouth	3	5.2



# Sandown

Below demonstrates similarly to Windham how Democratic voters were disenfranchised due to Overvotes. Like Kristi St. Laurent in Windham was the recipient of “Phantom votes” so was Jess Edwards in Sandown. Sandown Town Moderator Kevin Major admitted to using a folding machine, like Windham.

**INSTRUCTIONS TO VOTERS**

1. To Vote. Completely fill in the oval  to the right of your choice. For each office vote for not more than the number of candidates stated in the sentence;  Vote for not more than \_\_\_\_  If you vote for more than the stated number of candidates, your vote for that office will not be counted.

2. To Vote by Write-In. To vote for a person whose name is not printed on the ballot, write in the name of the person in the “write-in” space. Completely fill in the oval  to the right of your choice.

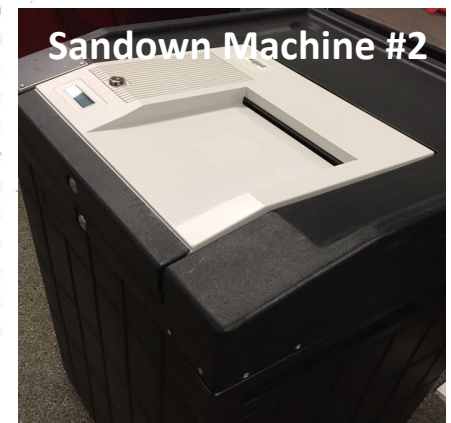
**ABSENTEE BALLOT AND OFFICIAL BALLOT FOR SANDOWN GENERAL ELECTION NOVEMBER 3, 2020**

**SAMPLE**

Offices	Other Candidates	Republican Candidates	Democratic Candidates	Write-in Candidates
For President and Vice-President of the United States Vote for not more than 1	Libertarian Jo Jorgensen <input type="radio"/> Jeremy Cohen <input type="radio"/>	Donald J. Trump <input type="radio"/> Michael R. Pence <input type="radio"/>	Joseph R. Biden <input type="radio"/> Kamala D. Harris <input type="radio"/>	President and Vice-President <input type="radio"/>
For Governor Vote for not more than 1	Libertarian Darryl W. Perry <input type="radio"/>	Chris Sununu <input type="radio"/>	Dan Feltes <input type="radio"/>	Governor <input type="radio"/>
For United States Senator Vote for not more than 1	Libertarian Justin O'Donnell <input type="radio"/>	Corky Messner <input type="radio"/>	Jeanne Shaheen <input type="radio"/>	United States Senator <input type="radio"/>
For Representative in Congress Vote for not more than 1	Libertarian Zachary S. Dumont <input type="radio"/>	Matt Mowers <input type="radio"/>	Chris Pappas <input type="radio"/>	Representative in Congress <input type="radio"/>
For Executive Councilor Vote for not more than 1		Janet Stevens <input type="radio"/>	Mindi Messmer <input type="radio"/>	Executive Councilor <input type="radio"/>
For State Senator Vote for not more than 1		Bill Gannon <input type="radio"/>	Jon Morgan <input type="radio"/>	State Senator <input type="radio"/>
		Jess Edwards <input type="radio"/>	Michael D'Angelo <input checked="" type="radio"/>	State Representatives <input type="radio"/>
		Oliver Ford <input type="radio"/>	Ben Geiger <input checked="" type="radio"/>	State Representatives <input type="radio"/>
		Jason Osborne <input type="radio"/>	Matthew Krohn <input checked="" type="radio"/>	State Representatives <input type="radio"/>
		Tony Piemonte <input type="radio"/>	Russ Norman <input checked="" type="radio"/>	State Representatives <input type="radio"/>
		Chris True <input type="radio"/>	Jane W. Van Zandt <input checked="" type="radio"/>	State Representatives <input type="radio"/>
For State Representatives Vote for not more than 5	<b>OVERVOTE</b>			



**Overvote Rate 7.0%**



**Overvote Rate 8.9%**

BALLOT CONTINUES ON BACK - TURN OVER

This shows historically Chris True as the top vote recipient. However, in the General Election Jess Edwards is the top vote recipient due to receiving “Phantom Votes”. This also disenfranchised Democratic voters whereas their votes were falsely overvoted.

States Representatives									
Blank	1,741	21.3%	2,677	22.7%	4,418	22.1%	Primary 2020		
Jess Edwards	986	12.0%	1,316	11.2%	2,302	11.5%	640	1427	313
Oliver Ford	859	10.5%	1,152	9.8%	2,011	10.1%	396		
Jason Osborne	909	11.1%	1,194	10.1%	2,103	10.5%	667	1337	345
Tony Piemonte	884	10.8%	1,196	10.1%	2,080	10.4%	666	1333	0
Chris True	942	11.5%	1,283	10.9%	2,225	11.1%	718	1532	450
Michael D'Angelo	405	4.9%	653	5.5%	1,058	5.3%			
Ben Geiger	364	4.4%	567	4.8%	931	4.7%		919	0
Matthew Krohn	348	4.3%	569	4.8%	917	4.6%			
Russ Norman	352	4.3%	565	4.8%	917	4.6%			
Jane W Van Zandt	391	4.8%	621	5.3%	1,012	5.1%			



# Goffstown

**OVERVOTE  
RATE 1.1%**

BALLOTS CAST BY PRECINCT  
 PRECINCT 43  
 CARD 10042 QUANTITY 2289

BALLOTS CAST SUMMARY  
 BLANK VOTE 1  
 OVERVOTED 43  
 UNDERVOTED 418  
 WRITE-IN 19

WE, THE UNDERSIGNED,  
 DO HEREBY CERTIFY THE  
 ELECTION WAS CONDUCTED  
 IN ACCORDANCE WITH THE  
 LAWS OF THE STATE.

\*\*\*\* SIGNATURES \*\*\*\*  
 [Signatures]



**OVERVOTE  
RATE 1.6%**

BALLOTS CAST BY PRECINCT  
 PRECINCT 43  
 CARD 10042 QUANTITY 2656

BALLOTS CAST SUMMARY  
 BLANK VOTE 1  
 OVERVOTED 42  
 UNDERVOTED 572  
 WRITE-IN 23

WE, THE UNDERSIGNED,  
 DO HEREBY CERTIFY THE  
 ELECTION WAS CONDUCTED  
 IN ACCORDANCE WITH THE  
 LAWS OF THE STATE.

\*\*\*\* SIGNATURES \*\*\*\*



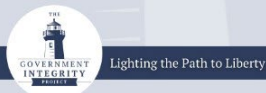
**OVERVOTE  
RATE 2.9%**

BALLOTS CAST BY PRECINCT  
 PRECINCT 43  
 CARD 10042 QUANTITY 1798

BALLOTS CAST SUMMARY  
 BLANK VOTE 1  
 OVERVOTED 43  
 UNDERVOTED 16

WE, THE UNDERSIGNED,  
 DO HEREBY CERTIFY THE  
 ELECTION WAS CONDUCTED  
 IN ACCORDANCE WITH THE  
 LAWS OF THE STATE.

\*\*\*\* SIGNATURES \*\*\*\*  
 [Signatures]





# Manchester Ward 10

Machine #8 had a **14.99%** Overvote rate.

**INSTRUCTIONS TO VOTERS**

1. To Vote. Completely fill in the oval  to the right of your choice. For each office vote for not more than the number of candidates stated in the sentence. "Vote for not more than \_\_\_\_." If you vote for more than the stated number of candidates, your vote for that office will not be counted.

2. To Vote by Write-In. To vote for a person whose name is not printed on the ballot, write in the name of the person in the "write-in" space. Completely fill in the oval  to the right of your choice.

**ABSENTEE BALLOT AND OFFICIAL BALLOT FOR MANCHESTER WARD 10 GENERAL ELECTION NOVEMBER 3, 2020**

Offices	Other Candidates	Republican Candidates	Democratic Candidates	Write-in Candidates
For President and Vice-President of the United States Vote for not more than 1	Libertarian Jo Jorgensen Jeremy Cohen <input type="radio"/>	Donald J. Trump Michael R. Pence <input type="radio"/>	Joseph R. Biden Kamala D. Harris <input type="radio"/>	President and Vice-President <input type="radio"/>
For Governor Vote for not more than 1	Libertarian Darryl W. Perry <input type="radio"/>	Chris Sununu <input type="radio"/>	Dan Feltes <input type="radio"/>	Governor <input type="radio"/>
For United States Senator Vote for not more than 1	Libertarian Justin O'Donnell <input type="radio"/>	Corky Messner <input type="radio"/>	Jeanne Shaheen <input type="radio"/>	United States Senator <input type="radio"/>
For Representative Congress Vote for not more than 1	Libertarian Zachary S. Dumont <input type="radio"/>	Matt Mowers <input type="radio"/>	Chris Pappas <input type="radio"/>	Representative in Congress <input type="radio"/>
For Executive Councilor Vote for not more than 1		Ted Gatsas <input type="radio"/>	Mark S. Mackenzie <input type="radio"/>	Executive Councilor <input type="radio"/>
For State Senator Vote for not more than 1		Carla Gericke <input type="radio"/>	Lou D'Allesandro <input type="radio"/>	State Senator <input type="radio"/>
For State Representatives Hillsborough District 17 Vote for not more than 2		Dan Garthwaite <input type="radio"/> Tammy Simmons <input type="radio"/>	Heidi Hamer <input type="radio"/> Timothy Smith <input type="radio"/>	State Representatives Hillsborough District 17 <input type="radio"/> State Representatives Hillsborough District 17 <input type="radio"/>
For State Representatives Hillsborough District 45 Vote for not more than 2		Carlos Gonzalez <input type="radio"/> Amanda Higgins <input type="radio"/>	Jane Beaulieu <input type="radio"/> Connie Van Houten <input type="radio"/>	State Representatives Hillsborough District 45 <input type="radio"/> State Representatives Hillsborough District 45 <input type="radio"/>

**BALLOT CONTINUES ON BACK - TURN OVER**

# Merrimack

Merrimack						
Ballot Machine #						
	Machine #1	%	Machine #2	%	Machine #3	%
<b>Merrimack: President &amp; VP</b>						
Blank	12	1.0%	9	0.5%	22	1.3%
Other: Jo Jorgensen/Je remy Cohen	23	1.8%	43	2.3%	11	0.6%
Democrat: Biden / Harris	537	42.7%	723	39.0%	1,216	70.0%
Republican: Trump / Pence	677	53.8%	1,071	57.7%	480	27.8%
Write-in	10	0.8%	10	0.5%	9	0.5%
<b>Total</b>	<b>1,259</b>	<b>7.5%</b>	<b>1,856</b>	<b>11.1%</b>	<b>1,738</b>	<b>10.4%</b>

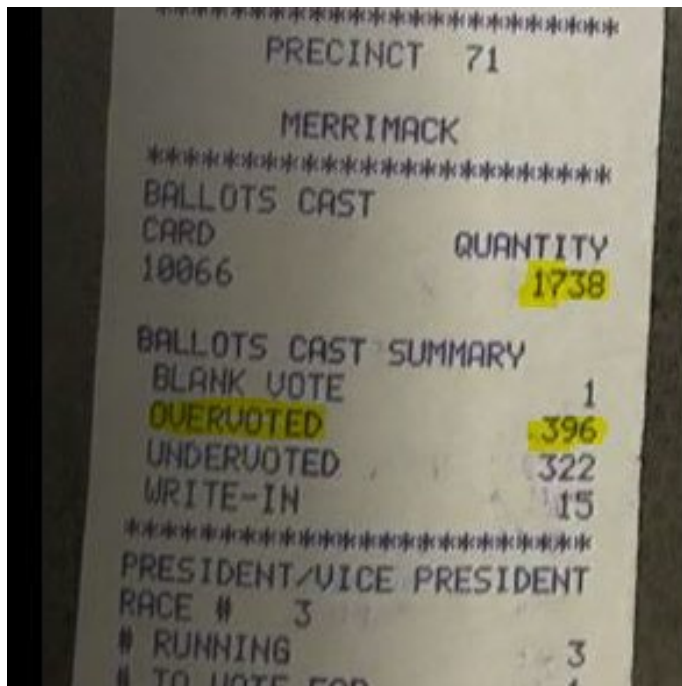
Merrimack						
Ballot Machine #						
	Machine #4	%	Machine #5	%	Machine #6	%
<b>Merrimack: President &amp; VP</b>						
Blank	7	0.8%	3	0.2%	7	0.7%
Other: Jo Jorge nsen/Jeremy Cohen	19	2.1%	19	1.5%	12	1.1%
Democrat: Biden / Harris	391	42.9%	501	40.5%	776	73.8%
Republican: Trump / Pence	492	53.9%	708	57.2%	256	24.3%
Write-in	3	0.3%	7	0.6%	1	0.1%
<b>Total</b>	<b>912</b>	<b>5.5%</b>	<b>1,238</b>	<b>7.4%</b>	<b>1,052</b>	<b>6.3%</b>

Merrimack						
Ballot Machine #						
	Machine #7	%	Machine #8	%	Machine #9	%
<b>Merrimack: President &amp; VP</b>						
Blank	21	0.8%	28	0.9%	18	0.6%
Other: Jo Jorge nsen/Jeremy Cohen	64	2.5%	68	2.1%	40	1.4%
Democrat: Biden / Harris	1,067	41.6%	1,330	41.1%	2,061	72.1%
Republican: Trump / Pence	1,400	54.6%	1,801	55.6%	733	25.6%
Write-in	10	0.4%	10	0.3%	7	0.2%
<b>Total</b>	<b>2,562</b>	<b>15.3%</b>	<b>3,237</b>	<b>19.4%</b>	<b>2,859</b>	<b>17.1%</b>



Lighting the Path to Liberty



Machine #3 had a **22.78%** Over vote rate. 396 voters were disenfranchised on this one machine.

# Nashua

```

SHAT90024068BE267A13F697
B78EB6A2D9A558701402
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
NASHUA, NH
DATE 11/03/20
VOTE CENTER ID 4
Ward 4
MACHINE ID 4
D/L VERSION 6
COPY 4A
ACCU-VOTE 1.96.13
REPORT USMA 2.2.4
TIME: 21:48:4111/03/20

=== OPTIONS SETTINGS ===
RETURN / PRINT OVERRIDE:
OVERVOTED RACES N/N
BLANK VOTED RACES N/N
UNDERVOTED RACES N/N
ALL RACES BLANK N/N
STR PARTY OVERVOTES N/N
MULTI-PARTY VOTES N/N
DUPLICATE VOTES N/N
INVALID PREF. VOTE N/N

=== SORT SETTINGS ===
SORT BALLOTS WITH:
ALL RACES BLANK
WRITE-INS

=== TALLY SETTINGS ===
STR PARTY OPTION:
EXCLUSIVE

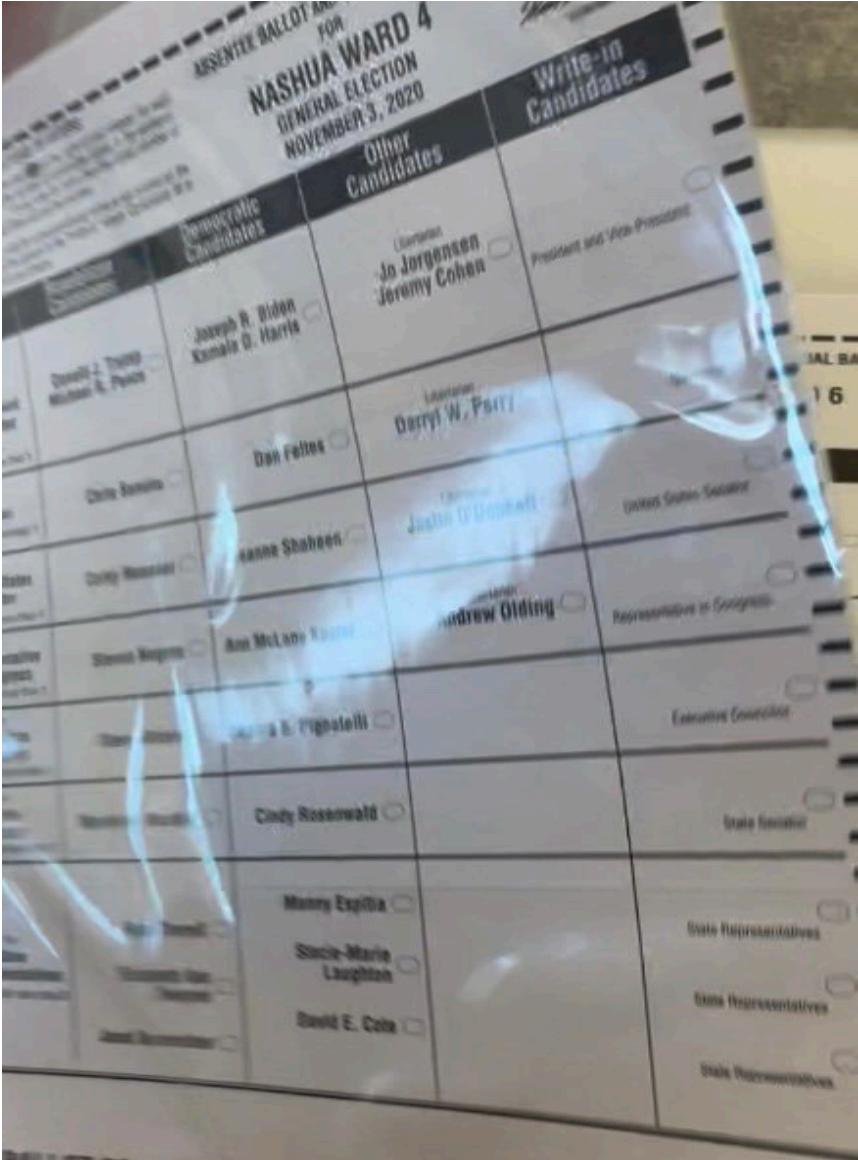
WRITE IN OPTION:
COMBINED

MESSAGE DELAY 10
RESET COUNT 1
PRECINCT CHECK: 69890
COUNTER CHECK: 61628

*****
PRECINCT 304
NASHUA 4
*****
BALLOTS CAST
CARD QUANTITY
10154 2106

BALLOTS CAST SUMMARY
BLANK VOTE 2
OVERVOTED 209
UNDERVOTED 577
WRITE-IN 36
*****

```



**9.92 %** Overvote rate.

## Conclusions

**It has been proven that false overvotes contribute to inaccurate election results. It is possible that the results may have even changed in some races.**

**HB 1163 was put forth by both Democrats and Republicans and signed into law on June 7<sup>th</sup>, 2022. This new law will cause voting machines to reject any ballot that is read by the machine to have an over voted race.**

**It is a good start, but there is much more to do.**

## Recommendations:

**The January 2022 joint letter by the Secretary of State and the Attorney General regarding their investigation of Windham's November 2020 General Election exposed over 130 violations of election law and procedures. Corners were cut, laws and procedures were violated.**

**Therefore, annual training that is provided by the SOS must be required of all elected election officials.**

**In addition, competency of all elected election officials must be demonstrated on an annual basis.**

**The programming of every machine's Memory Cards must be easily validated by any member of the public.**

**Ballots must be made available for public inspection – thereby allowing any member of the public to perform a citizen's audit for any election.**