



2025 South Dakota Legislature

House Bill 1127

Introduced by: **Representative** Reimer

1 **An Act to require that notice of a county's canvass, post-election audit, and testing**
2 **of automatic tabulating equipment be posted to the secretary of state's**
3 **website.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That § 12-17B-5 be AMENDED:**

6 **12-17B-5.** Not more than ten days prior to an election, the person in charge of
7 the election shall conduct a test of the automatic tabulating equipment to ascertain that
8 the equipment will correctly count the votes cast for all offices and on all measures. The
9 test must be open to the public. The person in charge of the election shall notify the county
10 chair of each political party with a candidate on the ballot, any independent candidate or
11 candidate without party affiliation on the ballot, and the ballot question committees for or
12 against an initiated or referred measure or initiated constitutional amendment, of the
13 testing of the automatic tabulating equipment, one week before the test is conducted. The
14 person in charge of the election shall post notice of the time and place of the test in the
15 same manner as a public meeting agenda, pursuant to § 1-25-1.1. The person in charge
16 of the election shall post the notice of the time and place of the test to the secretary of
17 state's website.

18 If an errorless count by an automatic tabulating machine is achieved by the test,
19 the person in charge of the election shall certify the machine. The State Board of Elections
20 shall promulgate rules, pursuant to chapter 1-26, prescribing the certification of properly
21 functioning automatic tabulating equipment under this section.

22 If an error is detected, the cause of the error shall be determined and corrected.
23 Once the error is corrected, the person in charge of the election shall conduct a new test
24 of the automatic tabulating equipment. The person in charge of the election may not
25 approve the automatic tabulating equipment until an errorless count is made.

Any additional testing required to achieve an errorless count must be open to the public. The person in charge of the election shall post notice of the time and place of an additional test in the same manner as a public meeting agenda, pursuant to § 1-25-1.1. The person in charge of the election shall notify the county chair of each political party with a candidate on the ballot, any independent candidate or candidate without party affiliation on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment of the testing of the automatic tabulating equipment twenty-four hours prior to the test. The person in charge of the election shall post the notice of the time and place of the additional test to the secretary of state's website.

The secretary of state shall provide each county auditor with the contact information for any independent candidate, candidate without party affiliation appearing on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment in the auditor's county.

Section 2. That § 12-17B-21 be AMENDED:

12-17B-21. A post-election audit conducted pursuant to §§ 12-17B-18 to 12-17B-25, inclusive, must be open to the public. Members of the public shall keep a reasonable distance so as to not interfere with the audit process. The county auditor shall post notice of the time and place of the audit in the same manner as a public meeting agenda pursuant to § 1-25-1.1 and provide the notice to the county chair of each political party that has a candidate on the ballot. The person in charge of the election shall post the notice of the time and place of the audit to the secretary of state's website.

Section 3. That § 12-20-36 be AMENDED:

12-20-36. Within six calendar days after the close of any election, the officer in charge of the election, with the assistance of a majority of the governing board as the canvassing board, shall make the canvass of votes. Each member of the governing board may name and have on file with the officer in charge of the election a person to represent the member at the official canvass in the event of the member's absence for cause.

The person in charge of the election shall post the time and place of the canvass to the secretary of state's website.