



## 2025 South Dakota Legislature

# Senate Bill 217

Introduced by: **Senator** Carley

1 **An Act to prohibit the use of automatic tabulating equipment.**

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

3 **Section 1. That a NEW SECTION be added to chapter 12-1:**

4 The State Board of Elections may not authorize the use of any automatic tabulating  
5 or electronic ballot marking system.

6 The governing body of a political subdivision having supervision of an election may  
7 not adopt, implement, or use any automatic tabulating or electronic ballot marking system  
8 in an election.

9 **Section 2. That § 12-16-2 be AMENDED:**

10 **12-16-2.** All official ballots ~~shall~~ must be printed on good quality bond paper, in  
11 black ink, and in the English language. The names of candidates for each office ~~shall~~ must  
12 be printed in large type under the designation of the party for which the nomination is  
13 made, so that all the names of candidates for each party are in separate columns, the  
14 names of candidates for each office are directly opposite each other, and the names of all  
15 independent candidates occupy a separate column under the heading, independent  
16 candidates. ~~In precincts using automatic tabulating systems, the ballot information,~~  
17 ~~whether placed on the ballot or on the marking device, shall, as far as practicable, be in~~  
18 ~~the order or arrangement provided for paper ballots except that such information may be~~  
19 ~~in vertical or horizontal rows, or on a number of separate pages. No~~ An individual race or  
20 ballot question may not be divided between pages. One ballot card may be used for  
21 recording a voter's vote on all races and measures.

22 **Section 3. That § 12-18-1 be AMENDED:**

23 **12-18-1.** The superintendent of the election precinct is responsible for having the  
24 polling place ready to accommodate the voters in the precinct by the time the polls open.

1     The booths, ~~electronic ballot marking system,~~ and supplies ~~which~~ that enable the voter to  
2     complete the voter's ballot ~~shall~~ must be provided by the person in charge of the election.  
3     ~~If a voter chooses to use a sip and puff device or an A/B switch device with the electronic~~  
4     ~~ballot marking system, the voter shall provide such device.~~ All voting at the polling place  
5     ~~shall~~ must be in private voting booths or compartments and, except as provided in § 12-  
6     18-25, ~~shall~~ must be screened from observation.

7     **Section 4. That § 12-19-43 be AMENDED:**

8             **12-19-43.** The county auditor shall direct the board to meet on election day prior  
9     to the closing of the polls for the sole purpose of reviewing the absentee voters' affidavits  
10    appearing on the sealed ballot envelopes, if in the auditor's judgment this procedure ~~shall~~  
11    ~~be~~ is necessary due to the number of absentee ballots received. The absentee ballots ~~shall~~  
12    must be opened, stamped, and placed in the ballot box ~~or processed by an automatic~~  
13    ~~tabulating machine, but under no circumstances shall the ballots~~ but may not be manually  
14    counted ~~nor any vote totals printed or displayed by any tabulating machine~~ prior to the  
15    closing of the polls. ~~If ballots are processed by an automatic tabulating machine prior to~~  
16    ~~the closing of the polls, the resolution board shall be present and notification of such~~  
17    ~~processing shall be provided to each county party chairperson at least ten days before the~~  
18    ~~election.~~

19    **Section 5. That § 12-20-1 be AMENDED:**

20            **12-20-1.** As soon as the polls are closed, the precinct superintendent and precinct  
21    deputies ~~shall~~ must audit the ballot count, as prescribed in §§ 12-20-2 and 12-20-3. The  
22    precinct superintendent and precinct deputies shall ~~then~~ immediately deliver the ballot  
23    boxes, registration book, pollbook, and other election supplies, including voided and  
24    unused ballots, to the counting board, if appointed, and sign a certificate of transmittal  
25    and receipt, as prescribed by the State Board of Elections.

26            ~~The~~ Upon receipt of the ballot boxes, registration book, pollbook, and other election  
27    supplies, the members of the precinct election board or the counting board, if appointed,  
28    ~~shall then~~ must immediately proceed to count by hand, publicly, and in the presence of  
29    all persons desiring to attend the count, the votes received at the polls, and continue  
30    without leaving the site of the count until the count is completed. A person charged with  
31    implementing this section may not delay the counting of ballots, other than to authorize  
32    short recesses for the health and wellbeing of those employed to implement this section.

1 In counting the votes, the members of the precinct election board or counting board shall  
2 use the tally sheets provided.

3 **Section 6. That § 12-20-13 be AMENDED:**

4 **12-20-13.** Except as provided in § 12-20-17, the county auditor shall ~~tabulate~~  
5 count election returns as rapidly as received and make the result available for the  
6 information of the public, ~~but such returns are not. Any results made available pursuant~~  
7 to this section may not be considered the official returns.

8 The county auditor shall enter the information into the central election reporting  
9 system, by using any computer located in a county office which is properly configured and  
10 linked to the central state computer, immediately following the ~~tabulation~~ counting of  
11 election returns from each precinct.

12 **Section 7. That § 12-20-13.1 be AMENDED:**

13 **12-20-13.1.** The person in charge of the election shall ~~decide if the~~ count any  
14 ~~provisional ballots are to be counted by hand or by automated tabulating equipment. If a~~  
15 ~~decision is made to count the ballots by hand, a.~~ A provisional ballot counting board shall  
16 must be appointed as provided in § 12-15-1. ~~If the provisional ballots are to be counted~~  
17 ~~by automated tabulating equipment, a resolution board and tabulation machine operators~~  
18 ~~shall be appointed as provided in chapter 12-17B.~~

19 **Section 8. That § 12-20-13.2 be AMENDED:**

20 **12-20-13.2.** The provisional ballot counting board ~~or resolution board and~~  
21 ~~tabulation machine operators~~ shall convene one hour prior to the convening of the  
22 canvassing board. ~~The provisional ballots, which~~ Any provisional ballot that the person in  
23 charge of the election has determined ~~are not to be~~ invalid according to § 12-20-5.1, ~~shall~~  
24 must be counted.

25 Upon completion of the count, the provisional ballot counting board ~~or resolution~~  
26 ~~board shall~~ must complete a certification of the provisional ballot count and give the  
27 certification to the canvassing board. ~~The certification form shall be prescribed by the~~  
28 State Board of Elections shall prescribe the form of the certification.

29 **Section 9. That § 12-21-24 be AMENDED:**

1           **12-21-24.** The county auditor shall provide the pollbooks, ~~automatic tabulating~~  
 2       ~~system election night print outs~~, sealed ballot boxes, any provisional ballots ~~which that~~  
 3       were determined countable pursuant to § 12-20-13.2, any uncounted provisional ballots,  
 4       and any unopened absentee ballot envelopes to the recount board. The recount board is  
 5       authorized to make a determination whether any provisional ballots or absentee ballots  
 6       ~~which that~~ were determined not to be countable, ~~shall be~~ are counted, and those votes  
 7       ~~shall~~ must be added to the recount tally.

8       **Section 10. That § 61-1-36 be AMENDED:**

9           **61-1-36.** For the purposes of §§ 61-1-13 and 61-1-15 the term, employment,  
 10       does not apply to service performed:

11       (1) In the employ of:

12           (a) A church or convention or association of churches, or

13           (b) An organization ~~which that~~ is operated primarily for religious purposes and  
 14               ~~which~~ is operated, supervised, controlled, or principally supported by a  
 15               church or convention or association of churches; or

16       (2) By a duly ordained, commissioned, or licensed minister of a church in the exercise  
 17       of duties required by the church or by a member of a religious order in the exercise  
 18       of duties required by the order; or

19       (3) In the employ of a school ~~which that~~ is not an institution of higher education prior  
 20       to January 1, 1978; or in the employ of a governmental entity referred to in § 61-  
 21       1-13 after December 31, 1977, if the service is performed by an individual in the  
 22       exercise of duties:

23           (a) As an elected official;

24           (b) As a member of a legislative body, or a member of the judiciary, of a state  
 25               or political subdivision;

26           (c) As a member of the state national guard or air national guard;

27           (d) As an employee serving on a temporary basis in case of fire, storm, snow,  
 28               earthquake, flood, or similar emergency;

29           (e) In a position ~~which that~~, under or pursuant to the laws of this state, is  
 30               designated as a major nontenured policymaking or advisory position, or a  
 31               policymaking position the performance of the duties of which ordinarily does  
 32               not require more than eight hours per week; or

33           (f) As a precinct election official ~~or automatic tabulating system worker,~~ if the  
 34               amount of remuneration received by the individual during the calendar year

- 1                   for services as a precinct election official ~~or automatic tabulating system~~  
2                   ~~worker~~ is less than one thousand dollars; or
- 3       (4)       In a facility conducted for the purpose of carrying out a program of rehabilitation  
4               for any individual whose earning capacity is impaired by age or physical or mental  
5               deficiency or injury, or providing remunerative work for any individual who because  
6               of impaired physical or mental capacity cannot be readily absorbed in the  
7               competitive labor market, by an individual receiving such the rehabilitation or  
8               remunerative work; or
- 9       (5)       As part of an unemployment work-relief or work-training program assisted or  
10              financed in whole or in part by any federal agency or an agency of a state or  
11              political subdivision, by an individual receiving such the work relief or work  
12              training; or
- 13      (6)       By an inmate of a custodial or penal institution.

14   **Section 11. That § 12-17B-1 be REPEALED.**

15               ~~Terms used in this chapter mean:~~

- 16      (1) ~~"Automatic tabulating equipment," the apparatus necessary to automatically~~  
17           ~~examine and count votes as designated on ballots or entered directly into a~~  
18           ~~computer by means of a touch screen or other data entry device and data~~  
19           ~~processing machines which can be used for counting these votes and tabulating~~  
20           ~~results;~~
- 21      (2) ~~"Ballot," paper ballots containing the names of candidates and statements of~~  
22           ~~measures to be voted on;~~
- 23      (3) ~~"Counting location," any location selected by the person in charge of the election~~  
24           ~~for the counting of votes cast in an election. A counting location shall be within the~~  
25           ~~territorial jurisdiction of such person unless there is no suitable tabulating~~  
26           ~~equipment available within the jurisdiction. However, in any event, all counting~~  
27           ~~locations shall be within this state;~~
- 28      (4) ~~"Electronic ballot marking system," any electronic device which marks votes on a~~  
29           ~~ballot;~~
- 30      (5) ~~"Optical scan," a procedure in which votes are tabulated by means of examining~~  
31           ~~marks made in voting response locations on the ballots with an optical mark reader~~  
32           ~~(OMR);~~
- 33      (6) ~~"Resolution board," a board at an automatic tabulating location comprised of a~~  
34           ~~representative from each political party having a candidate on the ballot and whose~~

~~candidate on the county-wide ballot at the last general election received at least fifteen percent of the votes. The county auditor may request additional board members balanced evenly by party. If the resolution board consists of more than one member from each party, the party shall designate which member of the party shall serve as co-leader of the resolution board. The co-leaders shall ensure that each board member is conducting resolution board duties uniformly and in accordance with applicable statutes and administrative rules. The board shall determine the disposition of those ballots which cannot be properly counted by the tabulating equipment and observe the activities at the counting location on behalf of the board member's respective party affiliation. In strictly nonpartisan elections, the resolution board shall be comprised of two persons who are not employees of the jurisdiction conducting the election and shall be appointed by the person in charge of the election.~~

**Section 12. That § 12-17B-2 be REPEALED.**

~~Any automatic tabulating or electronic ballot marking system used in an election shall enable the voter to cast a vote for all offices and on all measures on which the voter is entitled to vote. No automatic tabulating, electronic ballot marking, or election voting equipment system may be connected to the internet. No ballot marking device may save or tabulate votes marked on any system. Each system shall fulfill the requirements for election assistance commission standards certification and be approved by the State Board of Elections prior to distribution and use in this state. No system may be approved unless the system fulfills the requirements as established by the State Board of Elections. Any changes or modifications to an approved system shall be approved by the State Board of Elections prior to distribution and use.~~

**Section 13. That § 12-17B-3 be REPEALED.**

~~Any governing body having supervision of elections within any political subdivision may adopt, experiment with, or abandon any automatic tabulating or electronic ballot marking system approved for use by the State Board of Elections. Any governing body may use the system in all or some of the precincts within its jurisdiction or in combination with any other type of voting system approved for use by the State Board of Elections.~~

**Section 14. That § 12-17B-4 be REPEALED.**

1           ~~The governing body of a political subdivision may contract with any county for the~~  
2           ~~use of an automatic tabulating or electronic ballot marking system for elections within the~~  
3           ~~political subdivision.~~

4           **Section 15. That § 12-17B-5 be REPEALED.**

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

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

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

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

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

1     **Section 16. That § 12-17B-5.1 be REPEALED.**

2             ~~The person in charge of the election shall test the automatic tabulating equipment~~  
3     ~~by processing a predetermined number of ballots on which are recorded a predetermined~~  
4     ~~number of valid votes for each candidate and measure. The test of the automatic~~  
5     ~~tabulating equipment must also include at least one ballot for each office that has votes~~  
6     ~~exceeding the number allowed by law in order to test the ability of the automatic tabulating~~  
7     ~~equipment to reject invalid votes. During the test, a different number of valid votes must~~  
8     ~~be assigned to each candidate for an office and for and against each measure. A ballot~~  
9     ~~used to test the automatic tabulating equipment must be clearly marked as a test ballot.~~  
10    ~~After each test, the testing materials and the predetermined number of ballots used during~~  
11    ~~the test must be sealed and retained in the same manner as election materials after an~~  
12    ~~election.~~

13    **Section 17. That § 12-17B-5.2 be REPEALED.**

14            ~~After the conclusion of the testing of the automatic tabulating equipment, no~~  
15    ~~software or firmware updates may be made to the automatic tabulating equipment until~~  
16    ~~after the certification of the election results. Each automatic tabulating device must be~~  
17    ~~sealed with a unique numbered seal. The person in charge of the election shall verify~~  
18    ~~immediately prior to the official counting of the ballots that the seal has not been tampered~~  
19    ~~with since the testing period and certification process pursuant to § 12-17B-5. The State~~  
20    ~~Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the~~  
21    ~~method of sealing automatic tabulating equipment pursuant to this section.~~

22    **Section 18. That § 12-17B-6 be REPEALED.**

23            ~~The person in charge of the election shall provide a sufficient number of voting~~  
24    ~~equipment and supplies to accommodate the voters and avoid unreasonable waiting times~~  
25    ~~for casting ballots.~~  
26

27    **Section 19. That § 12-17B-6.1 be REPEALED.**

28            ~~If a candidate for federal office appears on the ballot at a polling place, such polling~~  
29    ~~place is required to have an electronic ballot marking system present.~~

30    **Section 20. That § 12-17B-7 be REPEALED.**



1           ~~Before entering the voting booth, any voter may request instruction in the proper~~  
2           ~~procedure for marking the ballot to ensure that the tabulating equipment is able to read~~  
3           ~~the vote cast. No instructions may be given to the voter while in the voting booth.~~  
4           ~~However, any voter using an electronic ballot marking system may request instruction in~~  
5           ~~the proper operation of the system at any time. No precinct official or person assisting a~~  
6           ~~voter may in any manner request, suggest, or seek to persuade or induce any voter to~~  
7           ~~cast a vote for any particular ticket, candidate, or measure to be voted on. All instructions~~  
8           ~~shall be given in such a manner that it may be observed by other persons in the polling~~  
9           ~~place.~~

10   **Section 21. That § 12-17B-9 be REPEALED.**

11           ~~Upon completion of the voting and after sealing the ballot box, two of the members~~  
12           ~~of the precinct election board, of different major political parties, shall, by the most direct~~  
13           ~~route, transport the box to the central counting location designated by the person in~~  
14           ~~charge of the election or the ballots may be transported to the counting location by a~~  
15           ~~sheriff's deputy and two deputy county auditors, one of each major political party, or by~~  
16           ~~two deputy county auditors, one of each major political party.~~

17   **Section 22. That § 12-17B-10 be REPEALED.**

18           ~~All proceedings at the counting location shall be under the direction of the person~~  
19           ~~in charge of the election and shall conform to the requirements of the voting system. The~~  
20           ~~proceedings shall be open to the public. No person, who is not employed or authorized for~~  
21           ~~the purpose, may touch any ballot, ballot box, or equipment used in the return of the~~  
22           ~~ballots to the counting location or the tabulation process.~~

23   **Section 23. That § 12-17B-11 be REPEALED.**

24           ~~Except for any specially trained technicians representing the equipment vendor and~~  
25           ~~required for the operation of the automatic tabulating equipment, there shall be equal~~  
26           ~~representation from each political party having a candidate on the ballot and whose~~  
27           ~~candidate on the county wide ballot at the last general election received at least fifteen~~  
28           ~~percent of the votes amongst those employed or authorized to receive, process, or~~  
29           ~~tabulate the ballots. The proposed list of employees shall be submitted to each county~~  
30           ~~party chairperson at least thirty days prior to the election. Each person shall, prior to~~

1       ~~discharging any duties, take and subscribe to an oath as prescribed by the State Board of~~  
2       ~~Elections.~~

3       **Section 24. That § 12-17B-12 be REPEALED.**

4               ~~The test required by § 12-17B-5 shall be repeated immediately before the start of~~  
5       ~~the official count of the ballots.~~

6       **Section 25. That § 12-17B-13 be REPEALED.**

7               ~~The procedure for tabulating the votes by the automatic tabulating equipment shall~~  
8       ~~be under the direction of the person in charge of the election, and shall conform to the~~  
9       ~~specifications and requirements of the automatic tabulating equipment. The results~~  
10       ~~printed by the automatic tabulating equipment shall constitute the immediate unofficial~~  
11       ~~returns. These returns shall be open to the public. The final returns printed by the~~  
12       ~~automatic tabulating equipment shall be presented to the canvassing board for review and~~  
13       ~~certification as the official returns.~~

14       **Section 26. That § 12-17B-13.1 be REPEALED.**

15               ~~If automatic tabulating equipment is located at a polling place for processing ballots~~  
16       ~~while the polls are open, the equipment may not be operated in a manner which returns~~  
17       ~~an over-voted or partially under-voted ballot to the voter. The equipment shall be operated~~  
18       ~~in a manner which returns any ballot that appears to the tabulating equipment to be blank~~  
19       ~~or has any possible mark which the tabulating equipment cannot determine. If the ballot~~  
20       ~~is returned to the voter, the voter may choose to remark the ballot, obtain a new ballot,~~  
21       ~~or resubmit the ballot.~~

22               ~~Any central count automatic tabulating equipment shall contain the capability to~~  
23       ~~out-stack ballots and shall be operated in a manner to out-stack any ballot which appears~~  
24       ~~to the tabulating equipment to be blank or has any possible mark which the tabulating~~  
25       ~~equipment cannot determine. If the ballot contains any such mark, the resolution board~~  
26       ~~shall examine the mark and make a determination of any individual vote according to the~~  
27       ~~rules promulgated pursuant to chapter 1-26 by the state board of elections. The resolution~~  
28       ~~board shall make a duplicate ballot as prescribed in § 12-17B-14 which shall be counted~~  
29       ~~by the automatic tabulating equipment.~~

30       **Section 27. That § 12-17B-14 be REPEALED.**

1           The resolution board shall determine the disposition of those ballots which cannot  
2       be properly counted by the tabulating equipment. A true duplicate copy shall be made of  
3       any ballot in question and substituted for the rejected ballot. All duplicate ballots shall be  
4       clearly labeled "duplicate," shall bear a serial number which shall be registered on the  
5       rejected ballot, and shall be counted in lieu of the rejected ballot. The resolution board  
6       may observe the activities at the counting location on behalf of their respective political  
7       party.

8       **Section 28. That § 12-17B-15 be REPEALED.**

9           After the tabulating procedure is completed, the ballots shall be placed in boxes  
10      and resealed. Any program board which may be used in the automatic tabulating  
11      equipment shall be removed and stored similarly to the ballots.

12      **Section 29. That § 12-17B-16 be REPEALED.**

13           Automatic tabulating equipment must be tested prior to a recount or election  
14      contest as provided in §§ 12-17B-5 to 12-17B-5.2, inclusive, and then the official ballots  
15      must be recounted. The recount board shall certify the new returns printed by the  
16      automatic tabulating equipment as the official returns for the election. The person in  
17      charge of the election shall sign and seal the new returns printed by the automatic  
18      tabulating equipment and make the new returns public.

19      **Section 30. That § 12-17B-17 be REPEALED.**

20           The State Board of Elections may promulgate rules pursuant to chapter 1-26  
21      concerning:

- 22      (1) — The criteria and procedure for approving voting systems pursuant to this chapter;  
23      (2) — Notices and forms;  
24      (3) — Test procedures; and  
25      (4) — The arrangement and conduct of voting, absentee voting, tabulating, preparing  
26      returns, and recounts.

27      **Section 31. That § 12-17B-18 be REPEALED.**

28           Within fifteen days following the completion of the state canvassing of a primary  
29      or general election, the auditor of each county shall conduct a post election audit of the  
30      ballots cast in the election following the procedures listed in this section and §§ 12-17B-

~~19 to 12-17B-25, inclusive. The county auditor shall appoint a county auditing board of sufficient size to promptly complete the audit.~~

~~The members of the county auditing board may not all be members of the same political party. A member of the county auditing board must be a registered voter in the county in which the audit takes place. An individual may not serve on the county auditing board if the individual is a candidate for the office that is on the ballot being audited.~~

~~The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the oath that each member of a county auditing board must take prior to discharging any duties.~~

**Section 32. That § 12-17B-19 be REPEALED.**

~~The office of the secretary of state shall reimburse each county for the cost of any post-election audit required by §§ 12-17B-18 to 12-17B-25, inclusive. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, administering the reimbursement process and defining reimbursable expenses and reimbursement rates for post-election audits.~~

**Section 33. That § 12-17B-20 be REPEALED.**

~~The post-election audit must be conducted in five percent of the precincts in the county by manually counting all votes cast in two contests and comparing the results of the manual count to the results for those precincts at the county canvass. The county auditor shall select the precincts for the audit at random without the use of a computer in public during the meeting of the county canvassing board. If the combined total of all ballots cast in the precincts selected does not exceed one hundred ballots, then additional precincts must be randomly selected until the total of all ballots exceeds one hundred ballots. For the purposes of this section, the term precinct includes vote centers, but does not include any precinct designated as an absentee precinct.~~

~~The county auditor shall select the contests for the audit at random without the use of a computer in public during the meeting of the county canvassing board. One contest randomly selected for the audit must be a statewide contest. If there are no statewide contests on the ballot, the auditor randomly shall select another contest on the ballot. If there is only one contest on the ballot, that contest must be audited.~~

**Section 34. That § 12-17B-21 be REPEALED.**

~~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.~~

**Section 35. That § 12-17B-22 be REPEALED.**

~~The county auditor shall send the results of the post election audit to the secretary of state and present the results of the audit to the county commission at its next meeting. The results of the audit shall be included in the minutes of the county commission meeting. The secretary of state shall publish the results of the post election audit on the secretary of state's website.~~

**Section 36. That § 12-17B-23 be REPEALED.**

~~If the results of the post election audit show a discrepancy in the results greater than the margin by which any contest for elected office on the ballot in the county was decided, the auditor shall notify the candidates for that office. Any candidate who receives a notification from the county auditor shall have an additional seven days from the date from when the auditor sends the notification to file a verified petition requesting a recount of the official returns pursuant to §§ 12-21-10 or 12-21-11. The petition may be filed regardless of the margin by which the contest was decided.~~

**Section 37. That § 12-17B-24 be REPEALED.**

~~If a recount of any contest is conducted in a county, the county auditor is not required to conduct a post election audit pursuant to § 12-17B-18.~~

**Section 38. That § 12-17B-25 be REPEALED.**

~~The county auditor shall reseal and retain the ballots upon the completion of a post election audit pursuant to § 12-20-31.~~