



2026 South Dakota Legislature

Senate Bill 29

Introduced by: The Chair of the Committee on State Affairs at the request of the Secretary of State

1 **An Act to amend provisions pertaining to the tabulation of ballots and permit the**
 2 **release of any cast vote record and collection of ballot images produced by**
 3 **automatic tabulating equipment and to declare an emergency.**

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

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

6 **12-17B-1.** Terms used in this chapter mean:

- 7 (1) "Automatic tabulating equipment," the apparatus ~~necessary~~ used to automatically
 8 examine and count votes as designated on ballots or entered directly into a
 9 computer by means of a touch screen or other data entry device, and data
 10 processing machines ~~which~~ that can be used for counting these votes and
 11 tabulating results;
- 12 (2) "Ballot," paper ballots containing the names of candidates and statements of
 13 measures to be voted on;
- 14 (3) "Ballot image," the digital facsimile of a paper ballot cast in an election produced
 15 by the automatic tabulating equipment;
- 16 (4) "Cast vote record," the electronic record of how each mark on a ballot was
 17 tabulated as a vote by the automatic tabulating equipment;
- 18 (5) "Counting location," any location selected by the person in charge of the election
 19 for the counting of votes cast in an election. ~~A counting location shall be within the~~
 20 ~~territorial jurisdiction of such person unless there is no suitable tabulating~~
 21 ~~equipment available within the jurisdiction. However, in any event, all counting~~
 22 ~~locations shall be within this state;~~
- 23 ~~(4)~~(6) "Electronic ballot marking system," any electronic device which marks votes on a
 24 ballot;

1 ~~(5)(7)~~ "Optical scan," a procedure in which votes are tabulated by means of examining
 2 marks made in voting response locations on the ballots with an optical mark reader
 3 (OMR);

4 ~~(6)(8)~~ "Resolution board," ~~a board at an automatic tabulating location comprised of a~~
 5 representative from each political party having a candidate on the ballot and whose
 6 candidate on the county wide ballot at the last general election received at least
 7 fifteen percent of the votes. ~~The county auditor may request additional board~~
 8 members balanced evenly by party. ~~If the resolution board consists of more than~~
 9 one member from each party, the party shall designate which member of the party
 10 shall serve as co leader of the resolution board. ~~The co leaders shall ensure that~~
 11 each board member is conducting resolution board duties uniformly and in
 12 accordance with applicable statutes and administrative rules. ~~The board shall~~
 13 determine the disposition of those ballots which cannot be properly counted by the
 14 tabulating equipment and observe the activities at the counting location on behalf
 15 of the board member's respective party affiliation. ~~In strictly nonpartisan elections,~~
 16 the resolution board shall be comprised of two persons who are not employees of
 17 the jurisdiction conducting the election and shall be appointed by the person in
 18 charge of the election the group of individuals appointed to examine any mark
 19 made on a ballot, which the automatic tabulating equipment is not able to count,
 20 and to make a determination as to the intent of the voter who cast the ballot.

21 **Section 2. That a NEW SECTION be added to chapter 12-17B:**

22 Provided that an election jurisdiction has sufficient automatic tabulating equipment
 23 to tabulate the ballots cast in an election held within the jurisdiction, each counting
 24 location for the election must be at a location within the jurisdiction of the person in charge
 25 of the election. If the jurisdiction does not possess automatic tabulating equipment
 26 sufficient to tabulate the ballots cast at an election, the person in charge of the election
 27 may designate a location outside of the person's jurisdiction as a counting location for the
 28 election, provided that the location is within the boundaries of this state.

29 **Section 3. That a NEW SECTION be added to chapter 12-17B:**

30 The county auditor shall appoint a resolution board comprised of a representative
 31 from each political party that:

- 32 (1) Has a candidate on the ballot; and
- 33 (2) Had a candidate on the ballot of the previous general election, who:

1 (a) Was running for an office that could be voted on by all of the eligible voters
 2 in the county; and

3 (b) Received at least fifteen percent of the votes cast in the county.

4 The county auditor may appoint additional individuals to serve as members of the
 5 resolution board from each political party that qualifies to have members on the resolution
 6 board, pursuant to this section, provided that any additional individuals appointed to the
 7 board are balanced evenly by political party. If the resolution board consists of more than
 8 one member from each political party, the party must designate one member to serve as
 9 co-leader of the resolution board. The members of the resolution board may observe the
 10 process of tabulating the votes at the counting location on behalf of the party that the
 11 member represents.

12 In a nonpartisan election, the person in charge of the election shall appoint a
 13 resolution board comprised of two individuals who are not employees of the jurisdiction
 14 conducting the election.

15 **Section 4. That a NEW SECTION be added to chapter 12-17B:**

16 Following the completion of the official canvass of an election, the governing body
 17 of the jurisdiction conducting the election may, by resolution, authorize the release of any
 18 cast vote record or ballot image produced by the automatic tabulating equipment.

19 The governing body may not authorize the release of a cast vote record or
 20 collection of ballot images if the cast vote record or any ballot image:

21 (1) Indicates the date, time, or order in which a ballot was cast;

22 (2) Contains any unredacted personal information that may be used to identify the
 23 voter who cast the ballot;

24 (3) Provides the tabulating equipment's data in the order in which the data was
 25 generated;

26 (4) Does not include all the ballots that were cast at the precinct polling place or vote
 27 center;

28 (5) Is from a precinct polling place or vote center in which fewer than one hundred
 29 ballots were cast and the cast vote record or ballot images have not been:

30 (a) Redacted to exclude the ballot style name, ballot style number, and any
 31 contest that is unique to the precinct; and

32 (b) Combined with the cast vote record or ballot images from at least one other
 33 precinct or vote center to be released as a collection that contains more
 34 than one hundred ballots; or

1 (6) Is related to a ballot style of which fewer than one hundred ballots were cast and
2 the cast vote record or ballot images have not been:

3 (a) Redacted to exclude the ballot style name, ballot style number and any
4 contest that is unique to the ballot style; and

5 (b) Combined with the cast vote record or ballot images related to another
6 ballot style to be released as a collection that contains more than one
7 hundred ballots.

8 The jurisdiction conducting the election is responsible for all expenses associated
9 with producing, storing, archiving, and releasing a cast vote record or collection of ballot
10 images.

11 **Section 5.** Whereas, this Act is necessary for the immediate preservation of the public peace,
12 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
13 and effect from and after its passage and approval.