

2026 South Dakota Legislature

Senate Bill 29**AMENDMENT 29A
FOR THE INTRODUCED BILL**

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 determine the disposition of any ballot that the automatic
20 tabulating equipment is not able to count, and to make a determination as to the
21 intent of the voter who cast the ballot.

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

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

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

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

33 (1) Has a candidate on the ballot; and

1 (2) Had a candidate on the ballot of the previous general election, who:
2 (a) Was running for an office that could be voted on by all of the eligible voters
3 in the county; and
4 (b) Received at least fifteen percent of the votes cast in the county.

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

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

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

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

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

22 (1) Indicates the date, time, or order in which a ballot was cast;
23 (2) Contains any unredacted personal information that may be used to identify the
24 voter who cast the ballot;
25 (3) Provides the tabulating equipment's data in the order in which the data was
26 generated;
27 (4) Does not include all the ballots that were cast at the precinct polling place or vote
28 center;
29 (5) Is from a precinct polling place or vote center in which fewer than one hundred
30 ballots were cast and the cast vote record or ballot images have not been:
31 (a) Redacted to exclude the ballot style name, ballot style number, and any
32 contest that is unique to the precinct; and

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

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

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

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

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

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