

AN ACT

ENTITLED, An Act to permit certain direct recording electronic voting systems and to regulate the use of automatic tabulating equipment.

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

Section 1. That § 12-17B-1 be amended to read as follows:

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

- (1) "Automatic tabulating equipment," the apparatus necessary to automatically examine and count votes as designated on ballots, punch cards, or entered directly into a computer by means of a touch screen or other data entry device and data processing machines which can be used for counting these votes and tabulating results;
- (2) "Ballot," paper ballots containing the names of candidates and statements of measures to be voted on;
- (3) "Ballot labels," the cards, booklet, or pages containing the names of officers and candidates and statements of measures to be voted on;
- (4) "Counting location," any location selected by the person in charge of the election for the counting of votes cast in an election. A counting location shall be within the territorial jurisdiction of such person unless there is no suitable tabulating equipment available within the jurisdiction. However, in any event, all counting locations shall be within this state;
- (5) "Marking device," an apparatus in which punch cards are inserted and used in connection with a punch apparatus for the piercing of punch cards by the voter;
- (6) "Optical scan," a procedure in which votes are tabulated by means of examining marks made in voting response locations on the ballots with an optical mark reader (OMR);
- (7) "Punch card," a ballot which is voted by the process of punching;
- (8) "Resolution board," a board at an automatic tabulating location comprised of a

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 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 their 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;

- (9) "Direct recording electronic," a voting system which records votes by means of a ballot display provided by electro-optical devices that can be actuated by the voter, that process the data by means of a computer program, and that records voting data in internal memory devices.

Section 2. That chapter 12-17B be amended by adding thereto a NEW SECTION to read as follows:

No direct recording electronic voting system may be certified or used unless it is capable of producing in random order a paper copy of each ballot cast on the system. No direct recording electronic voting system may be certified which transmits uncounted votes or ballots through the internet.

Section 3. That chapter 12-17B be amended by adding thereto a NEW SECTION to read as follows:

If automatic tabulating equipment is located at a polling place for processing ballots while the polls are open, the equipment may not be operated in a manner which returns an over-voted or partially under-voted ballot to the voter. The equipment shall be operated in a manner which returns any ballot that appears to be blank. If a blank ballot is returned to the voter, the voter may choose to

remark that ballot, obtain a new ballot, or have the ballot resubmitted as a blank ballot.

Any central count automatic tabulating equipment containing the capability to out-stack ballots shall be operated in a manner to out-stack any ballot which appears to be blank. If the ballot contains votes from which the voter's intent may be legally determined, the resolution board shall make a duplicate ballot as prescribed in § 12-17B-14 which shall be counted by the automatic tabulating equipment.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1010

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1010
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State