

H0#Z

SB 217

Rick Weible

Codified Law [12-17B-5.1](#). Procedure for testing system before election--Test ballots retained.

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

Source: SL 2023, ch 49, § 2.

<https://sdlegislature.gov/api/Statutes/12-17B-5.1.html?all=true>

Administrative Rule - [5:02:09:01.02](#). Test of tabulating equipment.

The person in charge of the election shall conduct tests of the automatic tabulating equipment as required in SDCL [12-17B-5](#) and [12-17B-12](#). The test must be conducted by processing a preaudited group of ballots in a test deck marked to record a predetermined number of valid votes for each candidate and each measure. A tally sheet must be created prior to the machine count to show how the sample of ballots is marked and what the machine vote totals must be to prove an errorless count. If more than one ballot is used in the election, a test deck must be made for each ballot that is unique in any way. For each office and ballot question, the test deck must include:

- (1) One or more ballots with a vote for each candidate and each side of a ballot question;
- (2) One or more ballots with votes in excess of the number allowed by law for each office and question; and
- (3) One or more ballots with an undervote;
- (4) One or more ballots completely blank to verify that the machine is correctly configured pursuant to SDCL [12-17B-13.1](#); and
- (5) One or more ballots that do not have a ballot stamp.

At least twenty-five test ballots must be included in the total of all test decks. Individual test decks for individual ballots must be of sufficient size to prove the accuracy of the system. If absentee ballots are to be received folded, at least ten percent of the test ballots in any individual test deck must be similarly folded. The person conducting the test of the tabulating equipment shall date and sign the printout, verifying that the results of the machine's printed paper vote totals exactly match the tally sheet from which the sample of ballots was marked.

If more than one tabulating machine is to be used in the election, each machine must be fully tested on any ballot which each machine will be used to count in the election.

In addition to these tests, any test deck may be processed any time before or after completion of the official count.

Source: 8 SDR 81, effective January 10, 1982; 21 SDR 77, effective October 24, 1994; 23 SDR 236, effective July 17, 1997; 29 SDR 113, effective January 30, 2003; 33 SDR 230, effective July 1, 2007; 50 SDR 12, effective August 8, 2023.

General Authority: SDCL [12-17B-17\(3\)](#).

Law Implemented: SDCL [12-17B-5](#), [12-17B-12](#).

<https://sdlegislature.gov/Rules/Administrative/05:02:09:01.02>

Detail Results By Precinct

1 of 1

Machine ID: A Machine #: 4519083350

Hamlin County, South Dakota

Precinct-02

State Primary

05/09/2024 11:09:35

06/04/2024

First Ballot Date Time: 05/08/2024 16:07:56

Total Sheets Processed: 41

Last Ballot Date Time: 05/09/2024 11:09:17

Total Ballots Cast: 41

Blank Sheets Cast: 0

AR4

Party	Ballots Cast
Republican Party	22
Democratic Party	19
NONPARTISAN	0

CL1 - A valid vote no 0
CL2 - Overvote each contest
CL3 - Different valid votes
AR1 - A valid vote no 0
AR2 - Overvote each contest
AR3 - Undervote Ballot
AR4 - At least 1 Blank ballot

Ballot Style	Sheets Processed
Seq:00001 Typ:01 Spl:01	22
Seq:00001 Typ:02 Spl:01	19

Contest	Votes
REP State Senator, District 04 (Vote For 1)	
Fred Deutsch	11 ✓
Stephanie Sauder	9 ✓
Over Votes	1
Under Votes	1
Total	22

REP State Representative, District 04

(Vote For 2)	
Dylan C. Jordan	9 ✓
Vanessa Namken	9 ✓
Barbara Guenette	9 ✓
Kent Roe	10 ✓
Over Votes	4
Under Votes	3
Total	44

CL3

REP County Commissioner, Hamlin-2

(Vote For 1)	
Randall L. Taschner	10 ✓
Scott C. Popham	11 ✓
Over Votes	0
Under Votes	1
Total	22

CL2/AR2

DEM Presidential Candidate

(Vote For 1)	
Marianne Williamson	3 ✓
Joseph R. Biden Jr.	5 ✓
Dean Phillips	5 ✓
Armando Perez-Serrato	2 ✓
Over Votes	4
Under Votes	0
Total	19

CL3

Oxford test OK.

Detail Results By Precinct

1 of 2

Machine ID: A Machine #: 4519093362
Precinct-02
06/04/2024 19:45:34

Lawrence County, South Dakota
State Primary
06/04/2024

First Ballot Date Time: 06/04/2024 19:18:14 Total Sheets Processed: 48
Last Ballot Date Time: 06/04/2024 19:44:12 Total Ballots Cast: 48
Blank Sheets Cast: 3

Party	Ballots Cast
Republican Party	24
Democratic Party	24
NONPARTISAN	0

Ballot Style	Sheets Processed
Seq:00002 Typ:01 Spl:01	23
Seq:00002 Typ:02 Spl:01	23
DEM Precinct-02	1
REP Precinct-02	1

Contest	Votes
REP State Senator, District 31	
(Vote For 1)	
Randy Deibert	8
Kate Crowley-Johnson	8
Over Votes	1
Under Votes	7
Total	24



REP State Representative, District 31	
(Vote For 2)	
Mark Mowry	6
Mary J Fitzgerald	11
Scott Odenbach	11
Over Votes	2
Under Votes	18
Total	48



REP County Commissioner At Large	
(Vote For 2)	
Bob Ewing	6
Rick Tysdal	11
Erica Douglas	11
Over Votes	2
Under Votes	18
Total	48



REP Delegates to State Convention	
(Vote For 3)	
Naomi Merchant	6
David L. Gross	10
Ellen L. Gross	13
Meta Halverson	12
Over Votes	3
Under Votes	28
Total	72

REP Precinct Committeeman Precinct-02	
(Vote For 1)	
Ayden Q. Wrisley	4
Nathan Hoogshagen	7

2024 General Election Expected Results – McPhearson County – ExpressVote Testing Non-Compliance

This screen shot focuses on the Precinct 1 page one of the Expected Results worksheet...overvotes are not possible with ExpressVote ballots styles, since the machines are programmed to prevent it from happening. In the Presidential and the PUC races, the Auditor did not protect against vote flips, nor test for it, this is an invalid test that violates state statutes.

		BL										
VOTE		BL	NS	EV	EV	EV	EV	EV	EV	EV		
FOR	Office	T1	T2	T31	T32	T33	T34	T35	TOTAL			
1	Pres.							1	1			
	Harris & Walz								1			
	Oliver & ter Maat						1		1			
	Trump & Vance		X			1			1			
	Kennedy, Jr. & Shanahan				1				1			
	Over votes								0			
	Under votes	1		1					1			
	TOTAL VOTES								3			
1	US				1	1		1	3			
	Sheryl Johnson								3			
REP	Dusty Johnson		X					1	1			
	Over votes								0			
	Under votes	1		1					1			
	TOTAL VOTES								5			
1	PUC				1				1			
	Forrest Wilson								1			
Comm	A. Gideon Oakes							1	1			
	Kristie Fliegen		X			1			1			
	Over votes								0			
	Under votes	1		1					1			
	TOTAL VOTES								5			
1	Senator		X		1	1	1		3			
	Mark Lapka								3			
Dist. 23	Over votes								0			
	Under votes	1		1				1	2			
	TOTAL VOTES								5			
2	State		X		1		1	1	3			
	Scott Moore								3			
Rep	Spencer Gosch		X		1	1	1	1	4			
	Over votes								0			
	Under votes	2		2		1			3			
	TOTAL VOTES								10			
1	Sup.		X		1		1	1	3			
	YES								3			
Court	NO					1			1			
Justice	Over votes								0			
Retent.	Under votes	1		1					1			
	TOTAL VOTES								5			
1	Const.		X		1		1	1	3			
	YES								3			
Amend	NO					1			1			
E	Over votes								0			
	Under votes	1		1					1			
	TOTAL VOTES								5			

The auditor knows better, is aware of the new law and the rules, and sits on the State Board of Elections that approved the rules of the testing and is fully aware of the requirements, as approved on Wednesday, June 28th, 2023, where she voted in favor of the changes to the rules. Her immediate removal from that board is also recommended, and a written apology to the County Commissioners, Disability Rights of South Dakota and to the voters of South Dakota is also recommended. When the ExpressVote machine is mainly for the disability voters and her negligent actions to protect their votes equally is an affront to the entire elective franchise.