

## **The Election Division of the Office of the Secretary of State ES&S EVS 6500 Firmware State Certification of Election Equipment**

Pursuant to South Dakota Codified Law (SDCL) § 12-17B-2, please accept this report of the certification of Election Systems and Software (ES&S) EVS 6.5.0.0. The testing of all equipment was conducted on January 20-23, 2026, in Ft. Pierre, SD.

### **12-17B-2. Requirements for automatic tabulating, electronic ballot marking, and election voting equipment systems--Approval of changes or modifications.**

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.

**Source:** [SL 1994, ch 110](#), § 6; [SL 2005, ch 92](#), § 3; [SL 2018, ch 81](#), § 2, eff. Feb. 5, 2018.

### **5:02:09:02. Approval of automatic tabulating systems required before distribution.**

Prior to distribution in South Dakota, a company or corporation dealing in automatic tabulating or electronic ballot marking systems shall give written notice to the state board of elections and demonstrate that its system complies with SDCL 12-17B-2 and § 5:02:09:02.01 or 5:02:09:02.03 and is certified as fulfilling the requirements of the Election Assistance Commission 2015 voting system standards by an independent test authority accredited by the Election Assistance Commission. If the State Board of Elections approves the system, it shall issue a certificate of approval.

Any changes or modifications in an approved automatic tabulating or electronic ballot marking system may be certified by the State Board of Elections with or without the demonstration described in this section for initial approval. The modification for the already approved system must have been certified as fulfilling the requirements of the Election Assistance Commission voting system 2015 standards by an independent test authority accredited by the Election Assistance Commission or been certified to meet the national standard by another state. Any change or modification determined to be de minimis by the independent test authority does not need state board of elections certification.

**Source:** 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979; 16 SDR 203, effective May 28, 1990; 21 SDR 77, effective October 24, 1994; 22 SDR 95, effective January 18, 1996; 29 SDR 113, effective January 30, 2003; 32 SDR 109, effective December 26, 2005; 33 SDR 230, effective July 1, 2007; 35 SDR 306, effective July 1, 2009; 46 SDR 42, effective September 30, 2019; 47 SDR 37, effective October 6, 2020.

**General Authority:** SDCL 12-17B-17(1).

**Law Implemented:** SDCL 12-17B-2.

**Ballots cast and tabulated.**

Certification requires that at least 750 ballots be tabulated through a precinct count tabulator (DS200 and DS300) and at least 3,000 ballots be tabulated through a central count tabulator (DS450, DS850 and DS950). SOS staff marked ballots by hand and used pre-marked test ballots from ES&S.

**Primary – 8,946 total ballots cast**

DS200 1,368

DS300 1,368

DS450 2,070

DS850 2,070

DS950 2,070

**General – 6,330 total ballots cast**

DS200 996

DS300 996

DS450 1,446

DS850 1,446

DS950 1,446

**Total ballots ran through each tabulator**

DS200 2,364

DS300 2,364

DS450 3,516

DS850 3,516

DS950 3,516

**5:02:09:02.01. Criteria for approving automatic tabulating systems.** Before the State Board of Elections grants a certificate of approval, the following automatic tabulating equipment capabilities of an electronic voting system must be demonstrated to the board or its designee. The board shall deny a certificate of approval for automatic tabulating equipment which as demonstrated does not fulfill the following requirements:

- (1) It enables the voter to vote in absolute secrecy;  
*Not relevant when updating firmware on a tabulator.*
- (2) It enables the voter to vote a ticket selected from all the candidates;  
*Yes*
- (3) It rejects all of a voter's votes for any office or on any measure if the voter has cast more votes for the office or the measure than the voter is entitled to;  
*Yes*
- (4) It accommodates all measures to be submitted to the voters in the form provided by law;  
*Yes*
- (5) It processes 3,000 ballots at a rate of 15 ballots a minute for a central counting unit;  
*Yes. The DS 450, 850 and 950 processed well over 15 ballots per minute when processing over 3,000 ballots.*
- (6) It processes 750 ballots at a rate of 10 ballots a minute for a precinct counting unit;  
*Yes. The DS 200 and 300 processed 10 ballots per minute.*
- (7) It allows no more than one percent of ballots to be rejected by the machine because of ballot feeding errors during a demonstration;  
*Yes.*
- (8) It accurately counts every ballot for each position voted.  
*Yes.*

The ballots for testing must contain at least ten contests. The ballots for processing must be at least 90 percent fully voted with the remainder containing overvoted and undervoted ballots. At least 2 percent of the ballots to be tested must be folded in the same manner as absentee ballots.

*Ballots contained 10 contests including ballot question contests. Ballots were voted first or second position to be 90% full voted. Ballots did have overvotes and undervotes on them. And at least 2% of the ballots were folded to mirror how absentee ballots could be folded.*

**Source:** 16 SDR 20, effective August 10, 1989; 21 SDR 77, effective October 24, 1994; 23 SDR 236, effective July 17, 1997.

**General Authority:** SDCL 12-17B-17.

**Law Implemented:** SDCL 12-17B-2.

**5:02:09:02.03. Criteria for approving electronic ballot marking systems.** Before the State Board of Elections grants a certificate of approval, the following capabilities of the electronic ballot marking system must be demonstrated to the board or its designee. The board may grant a certificate of approval for a system, if the system fulfills the following requirements:

- (1) Accurately mark 250 ballots with at least 10 races on each ballot with no ballot jams;  
**Yes**
- (2) If the system has the capability of marking a ballot on the back side, the races must be split between the front and back of the ballot;  
**N/A**
- (3) Enables the voter to vote in absolute secrecy;  
**Yes**
- (4) Presents the entire ballot to the voter in a series of sequential screens that include methods to ensure the voter sees all ballot options on all screens before completing the vote and allows the voter to review all ballot choices before casting a ballot;  
**Yes**
- (5) Prevents any voter from selecting more than the allowable number of candidates for any office to prevent overvoting, alerts the voter on the screen if the voter attempts to overvote, and provides information on how to correct the overvote;  
**Yes**
- (6) Alerts the voter to any undervote prior to marking the ballot;  
**Yes**
- (7) Accurately marks a paper ballot for each vote for each position voted;  
**Yes**
- (8) Is an electronic computer-controlled voting system that provides for marking of votes cast;  
**Yes**
- (9) Has a battery back-up system that, at a minimum, allows voting to continue uninterrupted for two hours without external power;  
**Yes**
- (10) Is designed to accommodate multiple ballot styles in each election precinct and have an option to handle multiple precincts;  
**Yes**
- (11) Has a real-time clock capable of recording and documenting the total time polls are open in a precinct and capable of documenting the opening and closing of polls;  
**Yes**

February 12, 2026

(12) Complies with the disability voting requirements of the Help America Vote Act of 2002 as of January 1, 2005;

**Yes. Accessibility and usability are part of the federal testing process.**

(13) Has a color touch-screen that is at least fifteen inches in diagonal measure;

**Yes**

(14) Has an option to accommodate a voter who uses a mobility device without intervention of the poll worker other than a minor adjustment such as the angle of the display, and the voter must be able to vote in a face-first position so that privacy is maintained with the ballot surface adjusted to a vertical position;

**Yes. Accessibility and usability are part of the federal testing process.**

(15) Has wheels so that the system may be easily rolled by one person on rough pavement and rolled through a standard thirty-inch door frame if the net weight of the system, or aggregate of voting device parts, is over twenty pounds;

**The ExpressVote hardware 1.0 & 2.1 weigh in at 20 pounds and the 3.0 weighs in at 23. For the 3.0 a customer can purchase a bag with wheels.**

(16) Has a method to activate the system for each individual voter and which shall prevent any voter from voting more than once;

**VVSG requirement that ES&S complies as documented in the EAC test report and scope of certification.**

(17) Has internal operating system software or firmware, that:

(a) Is specifically designed and engineered for the election application;

(b) Is contained within each voting device;

(c) Is stored in a nonvolatile memory within each terminal;

(d) Includes internal quality checks such as purity or error detection and correction codes;

and

(e) Include comprehensive diagnostics to ensure that failures do not go undetected; and

**17(a-e) appears to be a VVSG requirement that ES&S complies with as documented in the EAC test report and scope of certification.**

(18) Marks ballots that can be accurately counted as provided in § 5:02:09:02.01 for each automatic tabulating system which will be counting ballots.

**Yes**

**Source:** 31 SDR 214, effective July 4, 2005; 42 SDR 15, effective August 11, 2015.

**General Authority:** SDCL 12-17B-17(1) (3).

**Law Implemented:** SDCL 12-17B-2.

February 12, 2026

Firmware and Equipment as of 2.10.26						
	EVS 6.1.1.0 firmware	Certified for use in SD	VVSG 1.0	EVS 6500 firmware (certified by the EAC)	EVS 6500 Certified for use in SD**	VVSG 2.0 COMPATIBLE
DS200	yes	yes	yes	yes	waiting for BOE approval	no
450	yes	yes	yes	yes	waiting for BOE approval	no
850	yes	yes	yes	yes	waiting for BOE approval	no
EV2	yes	yes	yes	yes	waiting for BOE approval	no
DS300				yes	waiting for BOE approval	compatible
950				yes	waiting for BOE approval	compatible
EV3				yes	waiting for BOE approval	compatible

\*\*state certification conducted January 20-22, 2026

**COMPATIBLE** means the hardware will meet the 2.0 standards when the new firmware is installed

VVSG - EAC **Voluntary** Voting System Guidelines