



2024 South Dakota Test Deck Project

Validating the 2024 Primary Election in South Dakota

Vote Flips & Programming Issues

The Philadelphia Inquirer

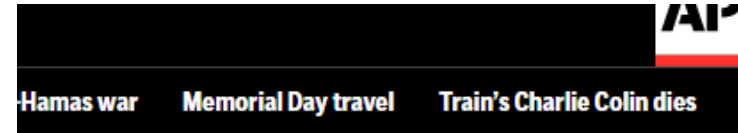
by Jonathan Lai
Published Dec. 12, 2019, 5:54 p.m. ET

When votes were tallied last month using [new voting machines](#) in Northampton County, it was quickly obvious that something had gone wrong.

The numbers were so clearly inaccurate that a judge ordered the machines impounded. Scanners were brought in to help count ballots, and voters questioned the integrity of the machines and the security of the election. [The fiasco](#) heightened concerns about the 2020 presidential election in Pennsylvania as the state looks to implement new voting machines in all 67 counties before the April primary.

It turns out the machines had been set up improperly, county officials and the voting machine vendor said Thursday, a week after they began an investigation. The machines weren't prepared to read the results of the specific ballot design used in Northampton County, and dozens of machines had touchscreens that weren't properly calibrated.

<https://www.inquirer.com/politics/pennsylvania/northampton-county-pennsylvania-voting-machines-20191212.html>



BY **MELISSA GOLDIN**

Published 7:41 PM CDT, November 8, 2023

Voters in Northampton County were asked to decide whether two sitting judges, Pennsylvania Superior Court Judges Jack Panella, a Democrat, and Victor Stabile, a Republican, should each be retained for additional 10-year terms by marking “yes” or “no” for each candidate. Panella and Stabile were not running against each other, just vying for another term.

However, officials found that the “yes” or “no” votes for each judge [appeared to have been switched](#) on a printed summary shown to voters before they cast their ballot, Charles Dertinger, the Northampton County director of administration, said at a press conference on Tuesday. For example, if a voter marked “yes” to retain Panella and “no” on Stabile, it was reflected on the summary as “no” on Panella and “yes” on Stabile.

<https://apnews.com/article/fact-check-pennsylvania-election-vote-flip-545307248102>



Watch the
11/7/2023
Press
Conference

<https://www.youtube.com/live/H4zAV9Rpbs0?t=364s>



Programming Issues

A candidate in Georgia who appeared to get few Election Day votes was actually in first place.

The discrepancy in a race for a county-level board of commissioners seat was blamed on a series of technical errors.

Share full article



“I hope that this never happens to another candidate, in another race ever again,” Ms. Spears said. “It has been a nightmare.”



By Neil Vigdor

June 6, 2022

A candidate for a county office near Atlanta was vaulted into first place after a series of technical errors made it appear that she had not mustered a single Election Day vote in a vast majority of precincts in last month’s Democratic primary, election officials determined.

The candidate, Michelle Long Spears, was shortchanged by 3,792 votes in the District 2 primary for the Board of Commissioners in DeKalb County, Ga., that was held on May 24, according to newly-certified results released on Friday.

In all but four of the district’s nearly 40 precincts, no Election Day votes were recorded for Ms. Spears, who had received more than 2,000 early votes. She said that she immediately alerted state and county election authorities.

<https://www.nytimes.com/2022/06/06/us/politics/michelle-long-spears-georgia.html>



No Votes Counted for a Candidate

https://www.youtube.com/watch?v=MECS_OXfoH0



Let's Review - Dodge County WI, 2024

- Actual worksheets by the City Clerk
- No Guidance by the US Election Assistance Commission (EAC)
- No Guidance by the Board of Elections (WI)
- No Guidance by vendor (ES&S)
- No Guidance by the County Auditor



WI – 2024 Logic & Accuracy Totals Sheet - Dems

Wards Districts	20 ballots 17, 18 9 & 5	20 ballots 21, 22, 24 13, 9	10 ballots 25 13	
PRESIDENTIAL PEF				
DEMOCRAT	✓		✓	16 + 4
REPUBLICAN	✓	✓		19 + 4
OVER VOTE				0
UNDER VOTE	✓	✓	✓	6 + 2
DEMOCRATIC PARTY				
BIDEN			✓	8 + 3
PHILLIPS			✓	3 + 1
UNINSTRUCTED			✓	2
WRITE IN			✓	4
OVER VOTE				
UNDER VOTE		✓		2 + 1

Here are items to review:

- 1) Does each option have a vote selected for them?
- 2) Does each option have a unique number assigned from any other option in the contest?
- 3) Are Over Votes tested?
- 4) Are Under Votes tested?

With unique numbers we can determine if votes are flipped.

*** Red numbers are pointing to deficiencies present in the test**



WI – 2024 Logic & Accuracy Totals Sheet - Reps

REPUBLICAN PARTY						
CHRISTIE		✓ 2		✓ 2		1 2 2
RAMASWAMY		✓ 2		✓ 2		1 2 3
DESANTIS		✓ 2		✓ 2		1 2 2
HALEY		✓ 2		✓ 2		✓ 3+1
TRUMP		✓		✓		✓ 7+3
UNINSTRUCTED		✓ 2		✓ 2		1 2 2
WRITE IN		✓ 2		1		1 2 1
OVER VOTE		3		3		3
UNDER VOTE		✓		✓		✓ 2+1

Here are items to review:

- 1) Does each option have a vote selected for them?
- 2) Does each option have a unique number assigned from any other option in the contest?
- 3) Are Over Votes tested?
- 4) Are Under Votes tested?

With unique numbers we can determine if votes are flipped.

*** Red numbers are pointing to deficiencies present in the test**



WI – 2024 Logic & Accuracy Totals Sheet – 2 Races

DEMOCRATIC PARTY						
BIDEN		5			✓ 5	8+3
PHILLIPS		5		✓ 5	✓ 5	3+1
UNINSTRUCTED		5		✓ 5	5	2
WRITE IN		5		✓ 5	5	4
OVER VOTE						
UNDER VOTE		✓			✓	2+1
REPUBLICAN PARTY						
CHRISTIE		5		✓ 5	5	2
RAMASWAMY		5		✓ 5	5	3
DESANTIS		5		✓ 5	5	2
HALEY		5		✓ 5	✓ 5	3+1
TRUMP		5		✓ 5	5	7+3
UNINSTRUCTED		5		✓ 5	5	2
WRITE IN		5			5	1
OVER VOTE						
UNDER VOTE		✓		✓	✓	2+1

Here are items to review:

5) Does each option have a unique number assigned from any other option on the ballot

With unique numbers we can determine if votes are flipped.

*** Red numbers are pointing to deficiencies present in the test**



Question - Over Vote & Under Vote

- **Over Vote** – is when a voter votes for more options than is allowed for that race. Most races you can only select one option. Some races like SD Legislative House, Commissioners, City Council and School Boards, you can select two, three or more candidates in that race, an over vote occurs, when the voter exceeds the number of choices allowed. All of those votes for that race are discarded and not counted in the candidate buckets for final tabulation, the rest of the ballot is counted.
- **Under Vote** – is when a voter decided to either vote for no options in a two option race. In multi-option races, if the voter decided to only vote for one option, event though they could vote for more, the vote for the one option is still counted, and is typically not flagged as an under vote in the reporting software.



Test Decks – SD Current Laws

The front line in catching programming issues and establishing confidence.

12-17B-5. Testing system before election--Certification of errorless machine--Promulgation of rules--Public notice--Independent candidate and ballot committee contact information.

Not more than ten days prior to an election, the person in charge of the election shall conduct a test of the automatic tabulating equipment to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. The test must be open to the public. The person in charge of the election shall notify the county chair of each political party with a candidate on the ballot, any independent candidate or candidate without party affiliation on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment of the testing of the automatic tabulating equipment one week before the test is conducted. The person in charge of the election shall post notice of the time and place of the test in the same manner as a public meeting agenda, pursuant to § [1-25-1.1](#).

If an errorless count by an automatic tabulating machine is achieved by the test, the person in charge of the election shall certify the machine. The State Board of Elections shall promulgate rules, pursuant to chapter [1-26](#), prescribing the certification of properly functioning automatic tabulating equipment under this section.

If an error is detected, the cause of the error shall be determined and corrected. Once the error is corrected, the person in charge of the election shall conduct a new test of the automatic tabulating equipment. The person in charge of the election may not approve the automatic tabulating equipment until an errorless count is made.

Any additional testing required to achieve an errorless count must be open to the public. The person in charge of the election shall post notice of the time and place of an additional test in the same manner as a public meeting agenda, pursuant to § [1-25-1.1](#). The person in charge of the election shall notify the county chair of each political party with a candidate on the ballot, any independent candidate or candidate without party affiliation on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment of the testing of the automatic tabulating equipment twenty-four hours prior to the test.

The secretary of state shall provide each county auditor with the contact information for any independent candidate, candidate without party affiliation appearing on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment in the auditor's county.

12-17B-12. Test of system repeated prior to counting ballots.

The test required by § 12-17B-5 shall be repeated immediately before the start of the official count of the ballots.



SD SOS Administrative Rules

The front line in catching programming issues and establishing confidence.

- **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. Any test deck, tally sheet, and signed printout must be secured and retained with the official ballots.
- 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.



SD - 2022 Minnehaha County L&A Test Reports

ExpressVote Machines

Detail Results		Minnehaha County, SD State General 11/08/2022	
Machine ID: B	Machine #: 8513090103		
11/28/2022 10:09:47		Total Sheets Processed:	95
First Ballot Date Time:	11/28/2022 10:08:50	Total Ballots Cast:	95
Last Ballot Date Time:	11/28/2022 10:09:29	Blank Sheets Cast:	0 5
Contest		Votes	
		0	
	Over Votes	12	
	Under Votes	24	
	Total	36	
For State Representative, D25		16	
(Vote For 2)		0	
DEM Dan Ahlers		0	
DEM David Kills A Hundred		0	
REP Jon Hansen		0	
REP Randy Gross		0 3	
	Over Votes	16	
	Under Votes	32	
	Total	48	

Here are items to review:

- 1) Does each option have a vote selected for them?
- 2) Does each option have a unique number assigned from any other option in the contest?
- 3) Are Over Votes tested?
- 4) Are Under Votes tested?
- 5) Were blank sheets cast?

With unique numbers we can determine if votes are flipped.

*** Red numbers are pointing to deficiencies present in the test**



SD - 2022 Minnehaha County L&A Test Reports

ExpressVote Machines

Detail Results			Minnehaha County, SD State General 11/08/2022	
Machine ID: B	Machine #: 8513090103			
11/28/2022 10:09:47		Total Sheets Processed:	95	
First Ballot Date Time:	11/28/2022 10:08:50	Total Ballots Cast:	95	
Last Ballot Date Time:	11/28/2022 10:09:29	Blank Sheets Cast:	0	⑤
Contest			Votes	
			0	
Over Votes			12	
Under Votes			24	
Total				
For County Commissioner At Large				
(Vote For 3)			94	
DEM Nichole Cauwels			0	
DEM Tom Holmes			0	
REP Joe Kippley			0	
REP Jen Bleyenber			1	
REP Gerald Beninga			0	
Over Votes			190	
Under Votes			285	
Total				

Here are items to review:

- 1) Does each option have a vote selected for them?
- 2) Does each option have a unique number assigned from any other option in the contest?
- 3) Are Over Votes tested?
- 4) Are Under Votes tested?
- 5) Were blank sheets cast?
- 6) Does each option have a unique number assigned from any other option on the ballot

With unique numbers we can determine if votes are flipped.

*** Red numbers are pointing to deficiencies present in the test**



SD - 2022 Minnehaha County L&A Test Reports

ExpressVote Machines

Detail Results		3 of 9	
Machine ID: B	Machine #: 8513090103	Minnehaha County, SD	
11/28/2022 09:47:13		State General	
First Ballot Date Time:	11/28/2022 09:15:47	Total Sheets Processed:	2325
Last Ballot Date Time:	11/28/2022 09:46:28	Total Ballots Cast:	2325
		Blank Sheets Cast:	93
Contest	Votes		

For State Senator, D11			
(Vote For 1)			
DEM Sheryl L. Johnson	(26)		115
REP Jim Stalzer	(26)		115
Over Votes			10
Under Votes			10
Total			250
For State Senator, D12			
(Vote For 1)			
DEM Jessica Meyers	(26)		115
REP Arch Beal	(26)		115
Over Votes			10
Under Votes			10
Total			250

Here are items to review:

- 1) Does each option have a vote selected for them?
- 2) Does each option have a unique number assigned from any other option in the contest?
- 3) Are Over Votes tested?
- 4) Are Under Votes tested?
- 5) Were blank sheets cast?
- 6) Does each option have a unique number assigned from any other option on the ballot

With unique numbers we can determine if votes are flipped.

*** Red numbers are pointing to deficiencies present in the test**



What next?

- This is crucial evidence for voters and candidates.
- If we find any issues:
 - Could require retesting
 - Could compel a hand count of the elections for those races where the test decks did not properly test the equipment
 - Could require a 100% Post Election Audit
 - Could require discovery of the cast vote records and ballot images
 - Could point to incompetence and termination of election officials
 - Could result in lawsuits
 - Could result in Civil Rights Investigations
- Take good notes, consider writing an affidavit if you believe the issues you witness may impact the election.



Questions to Ask & Building the Evidence

- 1) Get the sample ballots from every precinct for each unique ballot design.
- 2) Ask if they fold the absentee ballots when mailing them out?
- 3) Ask if they tested the ExpressVote machines separately, ask for copies of reports?
- 4) Ask how many ExpressVote ballots they used for each precinct.
- 5) Evaluate if they tested enough ballots with folds, 10% is required (SD Rule - [5:02:09:01.02](#))
- 6) Ensure all tabulators are tested, get Test Deck Report(s) for each tabulator.
- 7) Ask for the Cast Vote Records (Minnehaha, Lincoln, Pennington and Davison only) *
- 8) Get the Ballot Images (Minnehaha, Lincoln, Pennington and Davison only) *

If they can not provide this, they have not proven they know how to use the election equipment, nor have they proven the systems are secure and ready for the election.

***NOTE: During Public Accuracy Tests, ask for Ballot Images and CVRs, since there is no identifying information of a voter issue here...so privacy is not an issue at all. (Voters do not fill out ballots for the test decks)**



Questions for the Auditors

- Do you have the EAC Certificate?
- When was the last time you scanned the equipment for viruses?
- When was the battery replaced? Is it older than 3 years?
- When was the last time ES&S did maintenance?
- Did you backup the tabulator before maintenance was done?
- Do you have a logbook for the storage of tabulators, that notes who had access to the systems?

