

20A-4-104 Counting ballots electronically.

- (1)
 - (a) Before beginning to count ballot sheets using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.
 - (b) The election officer shall publish public notice of the time and place of the test at least 48 hours before the test in one or more daily or weekly newspapers of general circulation published in the county, municipality, or jurisdiction where the equipment is used.
 - (c) The election officer shall conduct the test by processing a preaudited group of ballot sheets.
 - (d) The election officer shall ensure that:
 - (i) a predetermined number of valid votes for each candidate and measure are recorded on the ballot sheets;
 - (ii) for each office, one or more ballot sheets have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and
 - (iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.
 - (e) If any error is detected, the election officer shall determine the cause of the error and correct it.
 - (f) The election officer shall ensure that:
 - (i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and
 - (ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.
- (2)
 - (a) The election officer or his designee shall supervise and direct all proceedings at the counting center.
 - (b)
 - (i) Proceedings at the counting center are public and may be observed by interested persons.
 - (ii) Only those persons authorized to participate in the count may touch any ballot, ballot sheet, or return.
 - (c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.
 - (d)
 - (i) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the testing of equipment and actual counting of the ballot sheets.
 - (ii) Those counting poll watchers may make independent tests of the equipment before or after the vote count as long as the testing does not interfere in any way with the official tabulation of the ballot sheets.
- (3) If any ballot sheet is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall:
 - (a) cause a true duplicate copy of the ballot sheet to be made with an identifying serial number;
 - (b) substitute the duplicate for the damaged ballot sheet;
 - (c) label the duplicate ballot card "duplicate"; and
 - (d) record the duplicate ballot sheet's serial number on the damaged or defective ballot sheet.
- (4) The election officer may:
 - (a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

- (b) release unofficial returns from time to time after the polls close; and
 - (c) report the progress of the count for each candidate during the actual counting of ballots.
- (5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.
- (6)
- (a) The election officer or his designee shall:
 - (i) separate, count, and tabulate any ballots containing valid write-in votes; and
 - (ii) complete the standard form provided by the clerk for recording valid write-in votes.
 - (b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.
- (7)
- (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.
 - (b) Upon completion of the count, the election officer shall make official returns open to the public.
- (8) If for any reason it becomes impracticable to count all or a part of the ballot sheets with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.
- (9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Amended by Chapter 326, 2006 General Session