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SENATE BILL NO. 57

INTRODUCED BY M. CUFFE

BY REQUEST OF THE SENATE SELECT COMMITTEE ON ELECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY CANVASSING PROCESSES; REQUIRING A BOARD OF COUNTY CANVASSERS TO COMPARE THE NUMBER OF VOTES CAST TO THE NUMBER OF ELECTORS AND THE NUMBER OF PERSONS WHO VOTED DURING CANVASS; REQUIRING A BOARD OF COUNTY CANVASSERS TO INVESTIGATE DISCREPANCIES OR ERRORS IN VOTE COUNTS; PROVIDING THAT A BOARD OF COUNTY CANVASSERS MAY REQUIRE A RECOUNT OF VOTES IN AN INVESTIGATION OF DISCREPANCIES OR ERRORS; AMENDING SECTIONS 13-15-403 AND 13-16-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 13-15-403, MCA, is amended to read:

**"13-15-403. Canvass to be public -- nonessentials to be disregarded -- ~~petition for recount~~ investigation of discrepancies in vote counts.** (1) The canvass must be public. It must proceed by opening the returns, auditing the tally books or other records of votes cast, determining the vote for each individual and for and against each ballot issue from each precinct, compiling totals, comparing the number of votes cast to the number of electors and number of persons who voted, and declaring or certifying the results.

(2) The board shall record all write-in votes shown in the returns from each precinct.

(3) The returns may not be rejected because of failure to show who administered the oath to the election judges, failure to complete all the certificates in a pollbook, or failure of any other act making up the returns that is not essential to determine for whom the votes were cast.

(4) If during a canvass the board finds that the votes returned for any candidate or ballot issue exceeds the number of electors or the total number of persons who voted in a precinct or an finds any error in a precinct or precincts affecting the accuracy of vote totals, the board shall immediately investigate the discrepancy or error until the discrepancy or error is reconciled and documented or is determined to have no

1 impact on the outcome of the election. However, the investigation must be concluded within 2 days. The board  
2 may ~~petition for~~ require the election administrator to conduct a recount of the votes cast in a race or races, a  
3 ballot issue or ballot issues, or the precinct or precincts, as provided in 13-16-201, or ~~for an inspection of to~~  
4 inspect the ballots, as provided in 13-16-420, as part of its investigation."

5

6 **Section 2.** Section 13-16-201, MCA, is amended to read:

7 **"13-16-201. Conditions under which recount to be conducted.** (1) A recount must be conducted if:

8 (a) a candidate for a precinct office or for a county, municipal, or district office voted for in only one  
9 county, other than a legislator or a judge of the district court, is defeated by a margin not exceeding 1/4 of 1% of  
10 the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate,  
11 within 5 days after the official canvass, files with the election administrator a verified petition stating that the  
12 candidate believes that a recount will change the result and that a recount of the votes for the office or  
13 nomination should be conducted;

14 (b) a candidate for a congressional office, a state or district office voted on in more than one  
15 county, the legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total  
16 votes cast for all candidates for the same position and the defeated candidate, within 5 days after the official  
17 canvass, files a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall  
18 immediately notify each election administrator whose county includes any precincts that voted for the office,  
19 and a recount must be conducted in those precincts.

20 (c) a question submitted to the vote of the people of a county, municipality, or district within a  
21 county is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a  
22 petition as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by  
23 not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

24 (d) a question submitted to the vote of the people of the state is decided by a margin not  
25 exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection  
26 (1)(a) is filed with the secretary of state. This petition must be signed by not less than 100 electors of the state,  
27 representing at least five counties of the state, and must be filed within 5 days after the official canvass.

28 (e) a question submitted to the vote of the people of a multicounty district is decided by a margin

1 not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in  
2 subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of  
3 the district, representing at least two counties, and must be filed within 5 days after the official canvass.

4 (f) a canvassing board ~~petitions for~~ requires the election administrator to conduct a recount, as  
5 provided in 13-15-403. The recount must follow the procedure established in part 4 of this chapter.

6 (2) If the election is a school election, the petition is filed with the school election filing officer.

7 (3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall  
8 immediately notify each election administrator of the filing of the petition, and a recount must be conducted in all  
9 precincts in each affected county."

10

11 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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