

1 _____ BILL NO. _____
2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; REQUIRING A TEST
5 OF THE ELECTION MANAGEMENT SYSTEM TO VERIFY SYSTEM FUNCTIONALITY; REQUIRING
6 ELECTION ADMINISTRATORS TO PRINT, EXAMINE, AND RETAIN VOTING SYSTEM AUDIT LOGS AND
7 RECORDS OF VOTES CAST; AND AMENDING SECTIONS 13-1-303 AND 13-15-206, MCA."

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

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11 NEW SECTION. Section 1. Test of election management system required. The election
12 administrator shall conduct a test of the election management system when a new voting system is acquired
13 and after an event that could alter the voting system, including system upgrades or in a situation in which the
14 election management system hardware leaves the custody and control of the election administrator. This end-
15 to-end functionality analysis must verify that the complete voting system is functioning correctly.

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17 **Section 2.** Section 13-1-303, MCA, is amended to read:

18 **"13-1-303. Disposition of ballots and other election materials.** (1) (a) Except for a federal election
19 and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an
20 election must be kept in the unopened packages received from the election judges for a period of 12 months.
21 The packages may be opened only when an order for opening is given by the proper official either for a recount
22 procedure or to process provisional ballots.

23 (b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election
24 must be retained in the unopened packages received from the election judges for a period of 22 months. The
25 packages may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of
26 vote-counting machines.

27 (c) The audit logs and records of votes cast of a voting system provided under 13-15-206 must be
28 retained by the election administrator for a period of 22 months.

1 (e) (d) An election administrator may dispose of the ballots as provided in subsection (2) if after the
2 time periods provided for in this subsection (1), there is no:

3 (i) contest begun;

4 (ii) recount pending; or

5 (iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

6 (2) Each election administrator shall prepare a plan for retention and destruction of election
7 records in the county according to the retention schedules established by the local government records
8 committee provided for in 2-6-1201."

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10 **Section 3.** Section 13-15-206, MCA, is amended to read:

11 "**13-15-206. Counting votes -- uniformity -- rulemaking -- definitions.** (1) When conducting vote
12 counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and
13 determine the validity of each vote in a uniform manner as provided in this section.

14 (2) A manual count or recount of votes must be conducted as follows:

15 (a) One election judge on the board shall read the ballot while the two other judges on the board
16 shall each record on an official tally sheet the number of valid votes cast for each individual or ballot issue.
17 Write-in votes must be counted in accordance with subsection (5) and rules adopted pursuant to subsection (7).
18 If a vote has not been cast according to instructions, the vote must be considered questionable and the entire
19 ballot must be set aside and votes on the ballot must be handled as provided in subsection (4).

20 (b) (i) After the vote count is complete, the tally sheets of the two judges recording the votes must
21 be compared.

22 (ii) If the two tallies match, the judges shall record in the official results records:

23 (A) the names of all individuals who received votes;

24 (B) the offices for which individuals received votes;

25 (C) the total votes received by each individual as shown by the tally sheets; and

26 (D) the total votes received for or against each ballot issue, if any.

27 (iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2)
28 until the two tallies match.

- 1 (3) (a) When a voting system is counting votes:
2 (i) if a vote is recognized and counted by the system, it is a valid vote;
3 (ii) if a vote is not recognized and counted by the system, it is not a valid vote; and
4 (iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).
5 (b) If the voting system cannot process the ballot because of the ballot's condition or if the voting
6 system registers an unmarked ballot or an overvote, which must be considered a questionable vote, the entire
7 ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4).

8 (c) The election administrator shall print and examine the voting system audit logs and records of
9 votes cast prior to beginning and after completing the vote count to confirm the data and identify any potential
10 inconsistencies or anomalies. The audit logs and records of votes cast must be retained by the election
11 administrator for at least 22 months.

12 (d) ~~(c)~~ If an election administrator or counting board has reason to believe that a voting system is not
13 functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.

14 (d) After all valid votes have been counted and totaled, the judges shall record in the official results
15 records the information specified in subsection (2)(b)(ii).

16 (4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection
17 (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable
18 vote according to rules adopted by the secretary of state.

19 (ii) If a majority of the counting board members agree that under the rules the voter's intent can be
20 clearly determined, the vote is valid and must be counted according to the voter's intent.

21 (iii) If a majority of the counting board members do not agree that the voter's intent can be clearly
22 determined under the rules, the vote is not valid and may not be counted.

23 (b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the
24 voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that
25 can be processed by the voting system.

26 (5) A write-in vote may be counted only if:

27 (a) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); and

28 (b) the oval, box, or other designated voting area on the ballot is marked.

