

HOUSE BILL NO. 172

INTRODUCED BY D. BEDEY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING BOARDS OF COUNTY COMMISSIONERS TO REQUEST A RANDOM-SAMPLE AUDIT OF VOTE-COUNTING MACHINES AFTER A NONFEDERAL ELECTION; ALLOWING BOARDS OF COUNTY COMMISSIONERS TO REQUEST THE ADDITION OF A COUNTYWIDE RACE TO THE RANDOM-SAMPLE AUDIT OF VOTE-COUNTING MACHINES AFTER A FEDERAL ELECTION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 13-1-101, 13-17-503, AND 13-17-505, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Random-sample audit of vote-counting machines optional after nonfederal elections -- rulemaking authority. (1) After unofficial results are available to the public in a nonfederal election, but before the official canvass by the county board of canvassers, the board of county commissioners may request a random-sample audit of vote-counting machines.

(2) The random-sample audit may not include a ballot that a vote-counting machine was unable to process and that was not resolved pursuant to 13-15-206 because the ballot:

- (a) appeared to have at least one overvote;
- (b) appeared to be blank;
- (c) was in a condition that prevented its processing by a vote-counting machine; or
- (d) contained a mark, error, or omission that prevented its processing by a vote-counting machine.

(3) On or before May 1, 2024, the secretary of state shall adopt rules to implement the provisions of this section, including but not limited to rules for:

- (a) the manner in which the random-sample audit of vote-counting machines will be conducted;
- (b) the process to be used for selecting precincts, races, and ballot issues for the random-sample audit; and
- (c) the process to be used to select the ballots that are to be included in the random-sample audit.

1 (b) received at the election administrator's office; or

2 (c) returned to a place of deposit.

3 (55) "Voter interface device" means a voting system that:

4 (a) is accessible to electors with disabilities;

5 (b) communicates voting instructions and ballot information to a voter;

6 (c) allows the voter to select and vote for candidates and issues and to verify and change

7 selections; and

8 (d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's

9 accuracy and that may be manually counted.

10 (56) "Voting system" or "system" means any machine, device, technology, or equipment used to
11 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

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13 **Section 3.** Section 13-17-503, MCA, is amended to read:

14 **"13-17-503. Random-sample audit of vote-counting machines required after federal election --**
15 **rulemaking authority.** (1) After unofficial results are available to the public in a federal election, but before the
16 official canvass by the county board of canvassers, the county audit committee shall conduct a random-sample
17 audit of vote-counting machines.

18 (2) The random-sample audit may not include a ballot that a vote-counting machine was unable to
19 process and that was not resolved pursuant to 13-15-206 because the ballot:

20 (a) appeared to have at least one overvote;

21 (b) appeared to be blank;

22 (c) was in a condition that prevented its processing by a vote-counting machine; or

23 (d) contained a mark, error, or omission that prevented its processing by a vote-counting machine.

24 (3) Except as provided in subsections (4) and (5), the random-sample audit must include:

25 (a) at least 5% of the precincts in each county or a minimum of one precinct in each county,

26 whichever is greater; and

27 (b) an election for:

28 (i) one statewide office race, if any;

- (ii) one federal office race;
- (iii) one legislative office race; ~~and~~
- (iv) one statewide ballot issue if a statewide ballot issue was on the ballot; and
- (v) one countywide race if requested ~~and approved~~ by the board of county commissioners using the process in [section 1].

(4) The audit may not include:

- (a) a retention election for a judicial candidate; or
- (b) a race in which a candidate was unopposed.

(5) A county is exempt from the postelection random-sample audit requirements if:

- (a) the county does not use a vote-counting machine; or
- (b) the county's unofficial final vote totals for a ballot issue or for any race, except precinct committee representative, show a tie vote or a vote within the margins allowed by Title 13, chapter 16, part 2, for a recount without a court order. A county meeting the requirements of this subsection (5)(b) shall notify the secretary of state as soon as practicable.

(6) The secretary of state shall adopt rules to implement the provisions of this part, including but not limited to rules for:

- (a) the process to be used for selecting precincts, races, and ballot issues for the random-sample audit; and
- (b) the manner in which the random-sample audit of vote-counting machines will be conducted pursuant to the procedures established in this part."

Section 4. Section 13-17-505, MCA, is amended to read:

"13-17-505. Selection process for random-sample audit after federal election. (1) No sooner than 7 days after the federal election and no later than 9 days after the federal election, the state board of canvassers, pursuant to 13-17-503 and as established by rule, shall randomly select:

- (a) the races and ballot issue to be audited;
- (b) the precincts to be audited in each county; and
- (c) three additional precincts in each county that would be audited if a discrepancy in vote tallies