

SENATE BILL NO. 254

INTRODUCED BY K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING AN EXEMPTION FROM A POSTELECTION AUDIT FOR COUNTIES THAT TABULATE THEIR VOTES BY HAND; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 13-17-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 13-17-503, MCA, is amended to read:

"13-17-503. Random-sample audit ~~of vote-counting machines~~ required -- rulemaking authority.

(1) After unofficial results are available to the public in a federal election, but before the official canvass by the county board of canvassers, the county audit committee shall conduct 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) Except as provided in subsections (4) and (5), the random-sample audit must include:

(a) at least 5% of the precincts in each county or a minimum of one precinct in each county, whichever is greater; and

(b) an election for:

- (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.

Amendment - Reference-white - Requested by: Governor - (S) Committee of Whole

- 2023

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Drafter: Todd Everts, 406-444-4023

SB0254.002.001

(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; and

(c) the process to be used for counties that do not use vote-counting machines."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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