



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.

(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."

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

- END -

I hereby certify that the within bill,
SB 254, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 254

INTRODUCED BY K. BOGNER

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