1   SENATE BILL NO. 482

2   INTRODUCED BY C. GLIMM

3   BY REQUEST OF THE (S) JOINT SELECT COMMITTEE ON ELECTION SECURITY

4

5   A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO VOTING SYSTEM TESTING AND

6   CERTIFICATION; CREATING A GRANT PROGRAM; ESTABLISHING REPORTING REQUIREMENTS;

7   REQUIRING HASH VALIDATION TESTS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING

8   AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 13-17-103, 13-17-212, AND 13-17-

9   503, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

10

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

12

13   NEW SECTION. **Section 1.   Hash validation test required -- exemption-- definitions.** (1) (a) A

14   hash validation test is required for all voting systems used in the state in accordance with 13-17-103, 13-17-

15   212, and 13-17-503.

16   (b)   If a voting system has been certified by the secretary of state to not have the ability to run a

17   hash validation test, it is exempt from the requirement in subsection (1)(a).

18   (c)   This provision does not apply to counties that exclusively hand count all ballots.

19   (2)   As used in this chapter, the following definitions apply:

20   (a)   "Hash" means a mathematical function that creates a unique string of letters and numbers that

21   identifies a voting system and its programming. A specific hashing algorithm will always create the same string,

22   allowing election officials to compare hash values and confirm that the voting system and its source code has

23   not been altered.

24   (b)   "Hash validation test" means the process of verifying the integrity of the files and the source

25   code of a specific voting system. During a hash validation test, a hash will be generated from the voting system

26   and compared to the trusted hash for the voting system. The two hash values are compared to verify that the

27   firmware and software used on the voting system is the same as the firmware and software that was initially

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1   tested and certified by the federal election assistance commission and the secretary of state.

2   (c)   "Trusted hash" means the hash that was generated by the federal election assistance

3   commission when the system was initially certified and tested at the federal level.

4

5   <u>NEW SECTION.</u> **Section 2.   Grant program -- rulemaking -- reporting requirement.** (1) (a) There is

6   a grant program administered by the secretary of state for the purpose of providing supplemental funds to the

7   counties that need to purchase a computer and software in order to comply with the requirements of [section 1].

8   (b)   The grant program is only available to the counties that need to purchase the required

9   computer and software needed to comply with the requirements of [section 1].

10   (2)   (a) Counties shall apply first for a Help America Vote Act subgrant through the secretary of

11   state's office, if available and allowable, before applying for supplemental funds from the grant program

12   established in subsection (1).

13   (b)   Counties that have received a Help America Vote Act subgrant to purchase the required

14   computer and software may apply to the secretary of state for supplemental funds from the grant program

15   established in subsection (1) to cover any match requirements of the subgrant.

16   (c)   If a county applies for a Help America Vote Act subgrant through the secretary of state's office

17   but does not receive the subgrant because the expense is not allowable or because money is no longer

18   available, the county may apply to the grant program established in subsection (1) for the full amount needed to

19   purchase the required computer and software.

20   (d)   The secretary of state shall adopt rules to implement the provisions of this section.

21   (3)   In accordance with 5-11-210, the secretary of state shall report annually to the state

22   administration and veterans' affairs interim committee on the status of the grant program, including which

23   counties have received funds, how much has been distributed to those counties, and how much money remains

24   in the grant program fund.

25

26   **Section 3.** Section 13-17-103, MCA, is amended to read:

27   "**13-17-103.   Required specifications for voting systems.** (1) A voting system may not be approved

1   under 13-17-101 unless the voting system:

2   (a)   allows an elector to vote in secrecy;

3   (b)   prevents an elector from voting for any candidate or on any ballot issue more than once;

4   (c)   prevents an elector from voting on any office or ballot issue for which the elector is not entitled

5   to vote;

6   (d)   allows an elector to vote only for the candidates of the party selected by the elector in the

7   primary election;

8   (e)   allows an elector to vote a split ticket in a general election if the elector desires;

9   (f)   allows each valid vote cast to be registered and recorded within the performance standards

10   adopted pursuant to subsection (3);

11   (g)   is protected from tampering for a fraudulent purpose;

12   (h)   prevents an individual from seeing or knowing the number of votes registered for any candidate

13   or on any ballot issue during the progress of voting;

14   (i)   allows write-in voting;

15   (j)   will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training

16   and technical assistance will be provided to election officials under the contract for purchase of the voting

17   system;

18   (k)   uses a paper ballot that allows votes to be manually counted; ~~and~~

19   (l)   allows auditors to access and monitor any software program while it is running on the system to

20   determine whether the software is running properly; and

21   (m)   has a trusted hash or is exempt from the requirement under [section 1].

22   (2)   A voter interface device may not be approved for use in this state unless:

23   (a)   the device meets the electronic security standards adopted by the secretary of state;

24   (b)   the device provides accessible voting technology for electors with hearing, vision, speech, or

25   ambulatory impairments;

26   (c)   the device meets all requirements specified in subsection (1);

27   (d)   the device has been made available for demonstration and use by electors with disabilities in at

1   least one public event held by the secretary of state; and

2   (e)   disabled electors have been able to participate in the process of determining whether the

3   system meets accessibility standards.

4   (3)   To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting

5   a benchmark performance standard that must be met in tests by each voting system prior to approval under 13-

6   17-101. The standard must be based on commonly accepted industry standards for readily available

7   technologies.

8   (4)   The trusted hash described in subsection (1)(m) must be filed with the secretary of state when

9   the voting system is approved and must be retained for as long as the voting system is owned and used in the

10   state. If the secretary of state certifies that the voting machine does not have the ability to run a hash validation

11   test, the certification must be stored in the same manner as the trusted hash."

12

13   **Section 4.** Section 13-17-212, MCA, is amended to read:

14   "**13-17-212.   Performance testing and certification of voting systems prior to election.** (1) (a) No

15   more than 30 days prior to an election in which a voting system is used, the election administrator shall publicly

16   test and certify that the system is performing properly in accordance with subsection (1)(b). An election

17   administrator shall test all central count vote tabulation machines to be used if automatic tabulation begins

18   pursuant to 13-13-241(7)(a) the day before the election. In accordance with subsection (3), the secretary of

19   state shall adopt rules to meet the requirements of this subsection (1).

20   (b)   Except for a voting system that is exempt under [section 1], the testing and certification process

21   in subsection (1)(a) must include a hash validation test that compares the results with the results of the trusted

22   hash. If the test results do not match, the voting system may not be certified for use in the upcoming election.

23   The results of the hash validation test must be filed with the secretary of state and must be kept with the other

24   hash test results for the voting system.

25   (2)   The secretary of state shall ensure that at least 10% of each type of voting system in the state

26   has been randomly tested and certified at least once every calendar year.

27   (3)   The provisions of this section must be implemented according to rules adopted by the secretary

1   of state pursuant to 13-17-211."

2

3   **Section 5.** Section 13-17-503, MCA, is amended to read:

4   **"13-17-503.   Random-sample audit of vote-counting machines required -- rulemaking authority.**

5   (1) After unofficial results are available to the public in a federal election, but before the official canvass by the

6   county board of canvassers, the county audit committee shall conduct a random-sample audit of vote-counting

7   machines.

8   (2)   The random-sample audit may not include a ballot that a vote-counting machine was unable to

9   process and that was not resolved pursuant to 13-15-206 because the ballot:

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

11   (b)   appeared to be blank;

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

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

14   (3)   Except as provided in subsections ~~(4) and (5)~~ (5) and (6), the random-sample audit must

15   include:

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

17   whichever is greater; and

18   (b)   an election for:

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

20   (ii)   one federal office race;

21   (iii)   one legislative office race; and

22   (iv)   one statewide ballot issue if a statewide ballot issue was on the ballot.

23   (4)   (a) The random-sample audit must also include a hash validation test for every voting system

24   from each county, except for voting systems exempted under [section 1]. The results of the hash validation test

25   must be compared with the results of the trusted hash.

26   (b)   If there is any deviation in the results, all ballots processed through the voting system must be

27   recounted by hand or through a different voting system that has passed the hash verification test.

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1   (c)   The results of the hash validation test must be filed with the secretary of state and must be kept

2   with the other hash test results for the voting system.

3   (4)(5)   The audit may not include:

4   (a)   a retention election for a judicial candidate; or

5   (b)   a race in which a candidate was unopposed.

6   (5)(6)   A county is exempt from the postelection random-sample audit requirements if:

7   (a)   the county does not use a vote-counting machine; or

8   (b)   the county's unofficial final vote totals for a ballot issue or for any race, except precinct

9   committee representative, show a tie vote or a vote within the margins allowed by Title 13, chapter 16, part 2,

10   for a recount without a court order. A county meeting the requirements of this subsection (5)(b) (6)(b) shall

11   notify the secretary of state as soon as practicable.

12   (6)(7)   The secretary of state shall adopt rules to implement the provisions of this part, including but

13   not limited to rules for:

14   (a)   the process to be used for selecting precincts, races, and ballot issues for the random-sample

15   audit; and

16   (b)   the manner in which the random-sample audit of vote-counting machines will be conducted

17   pursuant to the procedures established in this part."

18

19   NEW SECTION. **Section 6.   Appropriation**. There is appropriated $119,002 from the general fund to

20   the secretary of state for the biennium beginning July 1, 2023, for the purpose of funding the grant program

21   established in [section 2]. Any funds not used for the grant program at the end of the biennium revert to the

22   general fund.

23

24   NEW SECTION. **Section 7.   Codification instruction.** [Section 1 Sections 1 and 2] is are intended to

25   be codified as an integral part of Title 13, chapter 17, part 1, and the provisions of Title 13, chapter 17, part 1,

26   apply to [section 1 sections 1 and 2].

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1   <u>NEW SECTION.</u> **Section 8.**   **Effective date.** [This act] is effective July 1, 2023.

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3   <u>NEW SECTION.</u> **Section 9.**   **Termination**. [Section 2] terminates June 30, 2025.

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