1   SENATE BILL NO. 254

2   INTRODUCED BY K. BOGNER

3

4   A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING AN EXEMPTION FROM A POSTELECTION AUDIT

5   FOR COUNTIES THAT TABULATE THEIR VOTES BY HAND; PROVIDING RULEMAKING AUTHORITY;

6   AMENDING SECTION 13-17-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

11   "**13-17-503.   Random-sample audit of vote-counting machines required -- rulemaking authority.**

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

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

14   machines.

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

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

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

18   (b)   appeared to be blank;

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

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

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

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

23   whichever is greater; and

24   (b)   an election for:

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

26   (ii)   one federal office race;

27   (iii)   one legislative office race; and

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

1   (4)   The audit may not include:

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

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

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

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

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

7   representative, show a tie vote or a vote within the margins allowed by Title 13, chapter 16, part 2, for a recount

8   without a court order. A county meeting the requirements of this subsection (5)(b) shall notify the secretary of

9   state as soon as practicable.

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

11   not limited to rules for:

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

13   audit; ~~and~~

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

15   pursuant to the procedures established in this part~~.~~; and

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

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

19   - END -