

1 SENATE BILL NO. 254

2 INTRODUCED BY K. BOGNER

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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."

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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.

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