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68th Legislature 2023

Drafter: Rebecca Power, LC

PD 0007

1	**** BILL NO. ****
2	INTRODUCED BY ****
3	BY REQUEST OF THE ****
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO VOTING SYSTEM TESTING AND
6	CERTIFICATION; REQUIRING HASH VALIDATION TESTS; PROVIDING DEFINITIONS; AMENDING
7	SECTIONS 13-17-103, 13-17-212, AND 13-17-503, MCA; AND PROVIDING AN EFFECTIVE DATE."
8	
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10	
11	<u>NEW SECTION.</u> **Section 1. Hash validation test required.** (1) A hash validation test is required for
12	all voting systems used in the state in accordance with 13-17-103, 13-17-212, and 13-17-503.
13	(2) As used in this chapter, the following definitions apply:
14	(a) "Hash" means a mathematical function that creates a unique string of letters and numbers that
15	identifies a voting system and its programming. A specific hashing algorithm will always create the same string,
16	allowing election officials to compare hash values and confirm that the voting system and its source code has
17	not been altered.
18	(b) "Hash validation test" means the process of verifying the integrity of the files and the source code of
19	a specific voting system. During a hash validation test, a hash will be generated from the voting system and
20	compared to the trusted hash for the voting system. The two hash values are compared to verify that the
21	firmware and software used on the voting system is the same as the firmware and software that was initially
22	tested and certified by the U.S. election assistance commission and the Montana secretary of state.
23	(c) "Trusted hash" means the hash that was generated by the U.S. election assistance commission
24	when the system was initially certified and tested at the federal level.
25	
26	**Section 2.** 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
28	under 13-17-101 unless the voting system:

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

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

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

4   vote;

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

6   election;

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

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

9   adopted pursuant to subsection (3);

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

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

12   on any ballot issue during the progress of voting;

13   (i)   allows write-in voting;

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

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

16   system;

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

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

19   determine whether the software is running properly; and

20   (m) has a trusted hash as defined in [section 1].

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

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

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

24   ambulatory impairments;

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

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

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

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

1   meets accessibility standards.

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

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

4   17-101. The standard must be based on commonly accepted industry standards for readily available

5   technologies.

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

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

8   state."

9

10   **Section 3.** Section 13-17-212, MCA, is amended to read:

11   "**13-17-212.   Performance testing and certification of voting systems prior to election.** (1) (a) No

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

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

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

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

16   state shall adopt rules to meet the requirements of this subsection.

17   (b) The testing and certification process in subsection (1)(a) must include a hash validation test that

18   compares the results with the results of the trusted hash as defined in [section 1]. If the test results do not

19   match, the voting system shall not be certified for use in the upcoming election. The results of the hash

20   validation test must be filed with the secretary of state and be kept with the other hash test results for the voting

21   system.

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

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

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

25   state pursuant to 13-17-211."

26

27   **Section 4.** Section 13-17-503, MCA, is amended to read:

28   "**13-17-503.   Random-sample audit of vote-counting machines required -- rulemaking authority.**

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

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

3   machines.

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

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

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

7   (b)   appeared to be blank;

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

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

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

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

12   whichever is greater; and

13   (b)   an election for:

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

15   (ii) one federal office race;

16   (iii) one legislative office race; and

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

18   (4) (a) The random-sample audit must also include a hash validation test for at least one voting system

19   from each county. The results of the hash validation test must be compared with the results of the trusted hash

20   as defined in [section 1].

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

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

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

24   other hash test results for the voting system.

25   (4)(5)   The audit may not include:

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

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

28   (5)(6)   A county is exempt from the postelection random-sample audit requirements if:

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

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

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

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

5 state as soon as practicable.

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

7 not limited to rules for:

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

9 audit; and

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

11 pursuant to the procedures established in this part."

12

13   NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an

14 integral part of Title 13, chapter 17, part 1, and the provisions of Title 13, chapter 17, part 1, apply to [section 1].

15

16   NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2023.

17   - END -