Information Sheet on 2022 Primary Post-Election Audit
Montana Secretary of State
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1) Of the **56** counties in the state, **45** are potentially subject to the post-election audit. At total of **11** count their ballots only by hand, so by law they are exempt from the post-election audit.

2) Additionally, 5 other counties, **Lewis and Clark, Lake, Teton, Roosevelt, Flathead**, are exempt from this election's audits due to potential recounts. The names of all exempt counties are posted on the wall.

3) There are therefore **40** counties subject to the post-election audit. In each county, 5% of the precincts are audited, with a minimum of 1 precinct per county. Petroleum County and Wibaux County have the least number with only 1 precinct in the county; Missoula County has the most, with 52 precincts.

4) After the initial 1-3 precincts are randomly chosen, 3 additional precincts are randomly chosen in each county in case the results of the post-election audit conducted by a county exceed the allowable discrepancy. (In counties that do not have 3 additional precincts, the precincts they do have will be automatically part of this additional audit, if one becomes necessary.)

5) One **federal office**, one **statewide office**, one statewide **ballot issue**, and one **legislative district** are normally potentially subject to the audit. However, only contested races can be chosen in the audit.

   There is **1** federal office on the ballot, which has contested party races. There are **2** statewide offices on the ballot, and both have contested races. There are no statewide ballot issues on the ballot. In certain counties that are subject to the audit there are no contested legislative primary election races on either party's ballot. In that case, those counties will not audit any legislative races.

6) Once the initial precinct(s) are chosen, **only legislative districts that contain the initial precinct(s) may be chosen**. (Otherwise, the selection of initial precincts to audit would need to expand and would exceed the requirements of state law.) If the county's precinct(s) randomly chosen for the initial audit are not in any legislative district that is subject to the audit, then there will not be any legislative districts audited in that county.

7) As provided by rule, members of the board of state canvassers will **roll dice** to determine the selections. As applicable, **intervals** are assigned to dice rolls in order to reduce the number of rolls necessary, while still maintaining an equally random chance of choosing a number. For example, if there are 20 precincts, rolling two ten-sided dice to find a number between 1 and 20 could take a long time because there are 100 possible outcomes of rolling two ten-sided dice.

   Therefore, in this example 20 intervals of 5 have been assigned as applicable – a roll of 00-04 would be associated with the 1ˢᵗ precinct, 05-09 would be associated with the 2ⁿᵈ precinct, 10-14 would be associated with the 3ʳᵈ precinct, etc., through the 20ᵗʰ precinct.

Please see the chart below for choices between 2 and 10.

Dice Roll Scenarios: 1-10 Choices

Scenarios	Dice Rolls	Re-Rolls
2 Choices: 1st choice	0-4	[None]
2 Choices: 2nd choice	5-9	[None]
3 choices: 1st choice	0-2	9
3 choices: 2nd choice	3-5	
3 choices: 3rd choice	6-8	
4 choices: 1st choice	0-1	8-9
4 choices: 2nd choice	2-3	
4 choices: 3rd choice	4-5	
4 choices: 4th choice	6-7	
5 choices: 1st choice	0-1	[None]
5 choices: 2nd choice	2-3	
5 choices: 3rd choice	4-5	
5 choices: 4th choice	6-7	
5 choices: 5th choice	8-9	
6-9 choices	Number Rolled Equals Number Chosen	Re-Roll if 0 or Higher Than Number of Choices
10 choices	1-9 = 1-9, 0=10	[None]

2022 Federal Primary Post Election Audit:
Counties Subject to Audit
Montana Secretary of State
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No.	All Montana Counties (56)	Exempt Hand-Count Counties (11)	Counties Exempt Due to Potential Recounts (5)	Counties Subject to Post Election Audit (40)
1	Beaverhead	Daniels	Flathead***	Beaverhead
2	Big Horn	Fallon	Lake*	Big Horn
3	Blaine	Garfield	Lewis and Clark*	Blaine
4	Broadwater	Golden Valley	Teton*	Broadwater
5	Carbon	McCone	Roosevelt**	Carbon
6	Carter	Lincoln		Carter
7	Cascade	Meagher	*PSC 5	Cascade
8	Chouteau	Powder River	**County Comm.	Chouteau
9	Custer	Prairie	*** PSC 5 & County Comm.	Custer
10	Daniels	Treasure		Dawson
11	Dawson	Wheatland		Deer Lodge
12	Deer Lodge			Fergus
13	Fallon			Gallatin
14	Fergus			Glacier
15	Flathead			Granite
16	Gallatin			Hill
17	Garfield			Jefferson
18	Glacier			Judith Basin
19	Golden Valley			Liberty
20	Granite			Madison
21	Hill			Mineral
22	Jefferson			Missoula
23	Judith Basin			Musselshell
24	Lake			Park
25	Lewis & Clark			Petroleum
26	Liberty			Phillips
27	Lincoln			Pondera
28	Madison			Powell
29	McCone			Ravalli
30	Meagher			Richland
31	Mineral			Rosebud
32	Missoula			Sanders
33	Musselshell			Sheridan
34	Park			Silver Bow
35	Petroleum			Stillwater
36	Phillips			Sweet Grass
37	Pondera			Toole
38	Powder River			Valley
39	Powell			Wibaux
40	Prairie			Yellowstone
41	Ravalli			
42	Richland			
43	Roosevelt			
44	Rosebud			
45	Sanders			
46	Sheridan			
47	Silver Bow			
48	Stillwater			
49	Sweet Grass			
50	Teton			
51	Toole			
52	Treasure			
53	Valley			
54	Wheatland			
55	Wibaux			
56	Yellowstone			

44.3.1718   DEFINITIONS

(1) "Blind count" means that the members of the county audit board do not know the vote totals in the precinct(s) being audited prior to conducting the postelection audit.

(2) "Board" is defined as the state board of canvassers consisting of the attorney general, the state auditor, and the superintendent of public instruction.

History: 13-17-503, MCA; IMP, 13-17-503, MCA; NEW, 2010 MAR p. 918, Eff. 4/16/10.

44.3.1719   SELECTION PROCESS FOR RANDOM-SAMPLE AUDIT
(1) Within seven to nine days after a federal election, the Secretary of State shall call a public meeting of the board to randomly select the races, ballot issues, and precincts to be audited pursuant to the Postelection Audit Act. Such public meeting will be posted no later than five days prior to the meeting date on the Secretary of State's web site.

(2) A county exempt from the postelection audit requirements because it does not use a vote-counting machine or has a race that is within the margins of a recount pursuant to Title 13, chapter 16, part 2, MCA, shall notify the Secretary of State of its exemption no later than seven days after the election by submitting a notice for exemption on the form approved by the Secretary of State.

(3) Pursuant to 13-17-503, MCA, at least 5% of the precincts in each county, or a minimum of one precinct in a county, shall be audited, whichever is greater. The board shall utilize current official precinct information provided by the counties to the Secretary of State to determine the number of precincts to be audited per county. Three additional precincts in each county will be selected pursuant to 13-17-505, MCA, in case a discrepancy in vote tallies occurs that necessitates further auditing.

(4) To select the specific races and precincts to be audited, the board shall use ten-sided dice with numerals from 0 to 9 as the method of random selection. One, two, or three dice shall be used as specified below. The dice shall be red, white, and blue in color where red is the first number, white is the second number, and blue is the third number, if necessary.

(a) The precincts shall be numbered with consecutive numbers from 00 up to the actual number of precincts for counties having from 11 to 100 precincts, i.e., precinct 1 is numbered 01, precinct 2 is numbered 02 and so on until all the precincts in a county have been numbered. Precinct 100 will be numbered 00. For counties with 101 or more precincts, the precincts shall be numbered with consecutive numbers from 101 up to the actual number of precincts.

(b) One or two ten-sided dice shall be used to select one statewide office race, if any, one federal office race, one legislative office race, and one statewide ballot issue, if any, by assigning a number to each district or race based on its order of placement on the ballot.

(c) One ten-sided die shall be used to select the precinct to be audited for counties consisting of ten or less precincts, with 0 representing precinct 10.

(d) Two ten-sided dice shall be utilized to select the precinct or precincts to be audited for those counties consisting of 11 to 100 precincts.

(e) Three ten-sided dice shall be utilized to select the precincts to be audited for any counties consisting of more than 100 precincts.

(f) The board may decide to assign a number range of equal intervals to each precinct to reduce the number of dice throws needed, e.g., 0 – 2 = precinct 1, 3 – 5 = precinct 2, 6 – 8 = precinct 3, etc.

(5) The board shall determine the order in which board members will throw the dice. Board members will rotate dice throwing after each 30-minute interval. A ribbed tumbler and dice tray shall be utilized to accomplish the dice throw. The Secretary of State shall record the results on the prescribed form.

(6) Once the races and the precincts to be audited have been selected, the Secretary of State shall notify each county election administrator of the race and precinct selections and post the selections on the Secretary of State's web site.

(7) The Secretary of State in collaboration with the counties will provide guidance to the counties as to the method the counties will use to ensure all individual precinct ballots, including but not limited to each precinct's absentee ballots, are accounted for in a manner that will correlate to a specific vote-counting machine. The method will ensure that the postelection audit is a blind count.

History: 13-17-503, MCA; IMP, 13-17-503, 13-17-504, 13-17-505, 13-17-506, 13-17-507, MCA; NEW, 2010 MAR p. 1548, Eff. 4/16/10.

44.3.1720 REPORTING PROCESS FOR RANDOM-SAMPLE AUDIT

(1) Once the county audit committee has performed the random-sample audit pursuant to the procedures specified in 13-17-503 and 13-17-504, MCA, the county election administrator shall notify the secretary of state of the results by submitting the information on a form approved by the secretary of state.

(2) The secretary of state shall post the results of the state board of canvassers' random-sample audit selections on its web site.

History: 13-1-202, 13-17-503, MCA; IMP, 13-17-505, 13-17-506, 13-17-507, MCA; NEW, 2010 MAR p. 918, Eff. 4/16/10; AMD, 2012 MAR p. 760, Eff. 4/13/12.

Part 5
Postelection Audit

Part Compiler's Comments
Effective Date: This part is effective October 1, 2009.

13-17-501. Short title. This part may be cited as the "Postelection Audit Act".
History: En. Sec. 1, Ch. 89, L. 2009.

13-17-502. Definitions. As used in this part, the following definitions apply:
(1) "Computer software expert" means a person who has obtained a bachelor of science degree in computer science with expertise in software engineering and who is not affiliated with an election software vendor.
(2) "County audit committee" means the committee that conducts a random-sample audit in a county.
(3) "Vote-counting machine" means an individual piece of equipment used to automatically tabulate votes.
History: En. Sec. 2, Ch. 89, L. 2009.

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.

History: En. Sec. 3, Ch. 89, L. 2009; amd. Sec. 62, Ch. 242, L. 2011.

Compiler's Comments

2011 Amendment: Chapter 242 in (5)(b) after "final vote totals for" substituted "a ballot issue or for any race, except precinct committee representative, show a tie vote" for "any race or ballot issue involving more than one precinct show a tie vote". Amendment effective January 1, 2012.

Administrative Rules

ARM 44.3.1718 Definitions.
ARM 44.3.1719 Selection process for random-sample audit.

13-17-504. County audit committee — membership — oath required. (1) Prior to each federal election, the county governing body shall appoint at least three individuals to serve on the county audit committee from a list of county employees and county residents who have offered to serve on the committee.

(2) The county audit committee may not include:

(a) a person who served as an election judge in the election;

(b) a person employed by the vendor who supplied the vote-counting machines subject to the audit; or

(c) a person who has performed maintenance on the vote-counting machines subject to the audit.

(3) Before beginning service, the audit committee members shall take and subscribe the official oath prescribed by the Montana constitution. The audit committee members may administer the oath to each other.

(4) The county election administrator shall serve as the secretary to the county audit committee.

History: En. Sec. 4, Ch. 89, L. 2009.

Administrative Rules

ARM 44.3.1719 Selection process for random-sample audit.

13-17-505. Selection process for random-sample audit. (1) No sooner than 7 days after the election and no later than 9 days after the election, the state board of canvassers, pursuant to 13-17-503 and as established by rule, shall randomly select:

(a) the races and ballot issue to be audited;

(b) the precincts to be audited in each county; and

(c) three additional precincts in each county that would be audited if a discrepancy in vote tallies occurs and results in the need to audit additional precincts pursuant to 13-17-507.

(2) The selection process must be open to the public.

(3) After selecting the precincts, races, and ballot issue for the random-sample audit, the state board of canvassers shall direct the secretary of state to:

(a) notify each county election administrator of the selections; and

(b) make a list of the selections available electronically.

History: En. Sec. 5, Ch. 89, L. 2009.

Administrative Rules

ARM 44.3.1719 Selection process for random-sample audit.
ARM 44.3.1720 Reporting process for random-sample audit.

13-17-506. Conduct of random-sample audit. (1) The random-sample audit must be completed at least 1 day before the official canvass by the county board of canvassers.

(2) The county audit committee shall manually count the votes for the random-sample audit as follows:

(a) One member shall read the ballot while the remaining members shall each record on an official tally sheet the number of valid votes cast for each of the selected offices and the ballot issue.

(b) (i) After the vote is complete, the tally sheets of the members recording the votes must be compared.

(ii) If the tallies match, the county audit committee shall compare the manual count for the selected offices and the ballot issue to the vote-counting machine count for the selected offices and the ballot issue.

(iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2) until the tallies match.

(c) (i) If the manual count and the vote-counting machine totals match, the county audit committee shall certify the results to the county election administrator and the secretary of state.

(ii) If the manual count and the vote-counting machine totals do not match, the county audit committee shall follow the procedures established in 13-17-507.

(3) The audit process must be public.

History: En. Sec. 6, Ch. 89, L. 2009.

Administrative Rules

ARM 44.3.1719 Selection process for random-sample audit.
ARM 44.3.1720 Reporting process for random-sample audit.

13-17-507. Discrepancies — substitution of results — examination of machines. (1) If a discrepancy exists between the vote-counting machine totals and the manual count totals, the random-sample audit results must serve as the definitive record for purposes of the canvass.

(2) If the random-sample audit results in a discrepancy of more than 0.5% of total ballots cast or five ballots, whichever is greater, and if the discrepancy is determined to be due to the vote-counting machine and not to administrative or user error:

(a) the vote-counting machine involved in the discrepancy in that county may not be used in another election until it has been examined and tested by a computer software expert in consultation with a voting system vendor and approved by the secretary of state; and

(b) at least three additional precincts within the county must be audited for the office or ballot issue in question. If the county has fewer than three additional precincts, all remaining precincts must be audited.

(3) If the audit of the additional precincts results in a discrepancy for those precincts of more than 0.5% of total ballots cast or five ballots, whichever is greater, and if the discrepancy is determined to be due to the vote-counting machine and not to administrative or user error, the vote-counting machine involved in the discrepancy in that county may not be used in another election until it has been examined and tested by a computer software expert in consultation with a voting system vendor and approved by the secretary of state.

(4) The results of the random-sample audit must be public.

History: En. Sec. 7, Ch. 89, L. 2009.

Administrative Rules

ARM 44.3.1719 Selection process for random-sample audit.
ARM 44.3.1720 Reporting process for random-sample audit.

13-17-508. Reimbursement of county costs. (1) Except as provided in subsection (2), the secretary of state shall reimburse each county for any costs incurred in implementing the provisions of this part.

(2) A vendor who supplies a vote-counting machine that was purchased after October 1, 2009, and that fails an audit due to software or machine defects or vendor employee error shall pay the costs incurred for the audit of vote-counting machines in the affected county. The provisions of this subsection must be reflected in the contract for the purchase of vote-counting machines.

History: En. Sec. 8, Ch. 89, L. 2009.

13-17-509. Vote-counting machine maintenance — examination. (1) Upgrades, patches, fixes, or alterations may not be applied to any vote-counting machine during the 30 days following a federal election.

(2) If a vote-counting machine fails an audit pursuant to 13-17-507, the vote-counting machine is subject to examination by a computer software expert in consultation with a voting system vendor.

History: En. Sec. 9, Ch. 89, L. 2009.