

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 44.3.1713 pertaining to testing) PROPOSED AMENDMENT
of vote tabulation machines)

TO: All Concerned Persons

1. On October 14, 2021, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m., October 7, 2021, to advise us of the nature of the accommodation that you need. Please contact Ray Dagnall, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-9009; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or email RDagnall@mt.gov.

3. The rule proposed to be amended is as follows, new matter underlined, deleted matter interlined:

44.3.1713 UNIFORM PROCEDURES FOR USING VOTING SYSTEMS

(1) For each voting system approved under 13-17-101, MCA, the system must comply, as applicable, with the following procedures specified in the instruction manuals, user guides, and technical manuals provided by the manufacturer and distributor of the system, as well as the election judge handbook provided by the Office of the Secretary of State (except in cases in which those materials conflict with state laws or rules, in which case the laws or rules shall apply):

(a) through (d) remain the same.

(e) the security measures necessary to secure the voting system before, during, and after an election, including security following a recount under 13-16-417, MCA; ~~and~~

(f) except as required under (g), testing and certification of voting systems pursuant to 13-17-212, MCA, including a random test conducted by a county election administrator or designee of ~~5~~ 10% of each type of voting systems, a minimum of one per county, on election day, to validate the accuracy of voted paper ballots with the voting system results; ~~and~~

(g) if automatic tabulation begins the day before the election pursuant to 13-13-241(7)(a), MCA, an election administrator shall publicly test all central count vote tabulation machines no more than 30 days prior to the election.

AUTH: 13-17-211, 13-17-212, MCA
IMP: 13-17-211, 13-17-212, MCA

REASONABLE NECESSITY: On April 29, 2021, the Governor of Montana signed into law Senate Bill (SB) 351. SB 351 allows county election administrators to test vote tabulation machines before automatic tabulation begins. The Office of the Secretary of State is proposing changes to ARM 44.3.1713 to reflect the changes in statute. In addition, the office proposes a change from testing 5% of each type of voting system to 10%, consistent with 13-17-212, MCA.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by emailing angela.nunn@mt.gov, and must be received no later than 5:00 p.m., October 22, 2021.

5. Austin James, Secretary of State's Office, has been designated to preside over and conduct the hearing.

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to the office at sosarm@mt.gov.

7. With regard to the bill sponsor contact requirements of 2-4-302, MCA, the primary bill sponsor, Senator Bennett, was contacted by mail, email, and phone on September 8, 2021.

8. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ CHRISTI JACOBSEN
Christi Jacobsen
Secretary of State

Dated this 14th day of September, 2021.