

**ELECTRONIC VOTING - VOTE COUNT**

**AUDIT COMMITTEE**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. McCoy**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Election Code to provide for auditing of vote counts of certain elections.

**Highlighted Provisions:**

This bill:

- ▶ creates the Vote Count Audit Committee to design, publish, and supervise implementation of vote count audit plans to verify the accuracy of certain elections;
- ▶ provides certain rulemaking authority to the Vote Count Audit Committee;
- ▶ requires county election officers to conduct certain vote count audits;
- ▶ requires each vote count audit conducted by county election officers to be audited by certain independent auditors; and
- ▶ provides a sunset date for the Vote Count Audit Committee and vote count audits.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63-55-220**, as last amended by Chapter 37, Laws of Utah 2004



ENACTS:

**20A-5-801**, Utah Code Annotated 1953

**20A-5-802**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **20A-5-801** is enacted to read:

**Part 8. Vote Count Audit Committee**

**20A-5-801. Vote Count Audit Committee.**

(1) There is created, within the lieutenant governor's office, the Vote Count Audit Committee.

(2) The committee consists of nine members appointed by the lieutenant governor as follows:

(a) no member may be appointed who is or was:

(i) a member of Utah's Voting Equipment Section Committee or State Plan Committee on Election Reform; or

(ii) an owner, employee, or subcontractor of a voting system company or company that provides supplies or services related to the conduct of an election;

(b) no more of than four of the voting members may be from the same political party;

(c) two members with a Ph.D. in mathematics and expertise in statistics;

(d) two members with at least a Master's degree and expertise in random selection methods;

(e) two members with a Ph.D. in computer science and expertise in electronic voting systems;

(f) one member of the public; and

(g) two nonvoting members who are county election officers.

(3) (a) Except as may be required by Subsection (3)(c), members shall serve for a four-year term.

(b) Members may be reappointed for a maximum of two terms in any 12-year period.

(c) The lieutenant governor shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

59           (4) (a) The committee shall annually elect a chairperson from its membership.

60           (b) (i) The committee shall hold meetings as needed to carry out its duties.

61           (ii) A meeting may be held on the call of the chair or a majority of the committee  
62 members.

63           (c) Five committee members are necessary to constitute a quorum at any meeting and,  
64 if a quorum exists, the action of a majority of the voting members present shall be the action of  
65 the committee.

66           (5) (a) Committee members who are not government employees may not receive  
67 compensation or benefits for their services, but may receive per diem and expenses incurred in  
68 the performance of their official duties at rates established by the Division of Finance under  
69 Sections 63A-3-106 and 63A-3-107.

70           (b) A committee member may decline to receive per diem and expenses for service to  
71 the committee.

72           (6) The lieutenant governor's office shall provide staff support to the committee.

73           (7) The funding of the committee shall be a separate line item to the lieutenant  
74 governor's office in the annual appropriations act.

75           (8) The committee shall, for each year in which a regular primary election, regular  
76 general election, or Western States Presidential Primary election is scheduled:

77           (a) develop a vote count audit plan and methods to audit randomly selected vote counts  
78 after each regular primary election, regular general election, or Western States Presidential  
79 Primary election;

80           (b) publish each proposed plan and provide for a period of public review and comment  
81 and a public hearing on the plan before it is approved;

82           (c) determine the total number of vote counts that must be audited to assure a  
83 statistically reliable sample for each regular primary election, regular general election, or  
84 Western States Presidential Primary election;

85           (d) supervise and implement an approved vote count audit plan with the assistance of  
86 the State Elections Office and county election officers;

87           (e) determine whether on not an expanded audit or full recount is needed based on the  
88 results of the randomly selected vote count samples;

89           (f) publish in detail the results of each vote count audit no later than 72 hours after

polls close on election day;

(g) publish a report describing, evaluating, and assessing the results of the audit and its effectiveness, including identifying and explaining any discrepancies and recommending changes as needed; and

(h) monitor, advise, and make recommendations to the lieutenant governor to promote and ensure the efficient and effective implementation of vote count audits.

(9) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the committee shall make rules as necessary to implement this part.

Section 2. Section **20A-5-802** is enacted to read:

**20A-5-802. Vote count audits.**

(1) In accordance with this part, the county election officer of each county shall conduct vote count audits as specified by the Vote Count Audit Committee under the plan approved under Section 20A-5-801.

(2) Each vote count audit shall be audited by independent auditors who may not include:

(a) a person who is or was a member of Utah's Voting Equipment Section Committee or State Plan Committee on Election Reform; or

(b) an owner, employee, or subcontractor of a voting system company or voting supply company.

Section 3. Section **63-55-220** is amended to read:

**63-55-220. Repeal dates, Title 20A.**

Title 20A, Chapter 5, Part 8, Vote Count Audit Committee, regarding the Vote Count Audit Committee and vote count audits is repealed on July 1, 2011.

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**Legislative Review Note**

**as of 2-16-06 3:51 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0259**

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**Electronic Voting - Vote Count Audit Committee***28-Feb-06**12:25 PM*

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**State Impact**

The Governor will require \$12,000 ongoing General Funds beginning FY 2007 to implement provisions of the bill.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$12,000	\$12,000	\$0	\$0
<b>TOTAL</b>	<b>\$12,000</b>	<b>\$12,000</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Counties may also incur costs in implementing provisions of this bill.

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**Office of the Legislative Fiscal Analyst**