

HB0155S02 compared with HB0155

~~{deleted text}~~ shows text that was in HB0155 but was deleted in HB0155S02.

inserted text shows text that was not in HB0155 but was inserted into HB0155S02.

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Representative Phil Lyman proposes the following substitute bill:

INDEPENDENT ELECTION ~~{AUDITS}~~EVALUATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Phil Lyman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires an independent ~~{audits relating}~~ attestation engagement in relation to ~~{elections}~~ certain election matters.

Highlighted Provisions:

This bill:

▶ defines terms;

▶ requires the lieutenant governor to contract with an independent ~~{auditor to conduct a voter registration audit, a post-election audit, and an election statistics audit;~~

▶ describes audit procedures and accounting firm to conduct an attestation engagement to evaluate the accuracy, validity, and completeness of certain election audits, statistics, and results;

▶ describes contract requirements;

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- ▶ provides for access by the independent ~~{auditor}~~accounting firm to, and for the protection of, records needed for the ~~{independent audits}~~attestation engagement; and
- ▶ requires public ~~{audit reports}~~reporting in relation to the attestation engagement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

20A-4-407, Utah Code Annotated 1953

~~{~~ ~~20A-4-408~~, Utah Code Annotated 1953

~~—~~ ~~20A-4-409~~, Utah Code Annotated 1953

~~—~~ ~~20A-4-410~~, Utah Code Annotated 1953

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

Section 1. Section 20A-4-407 is enacted to read:

20A-4-407. Independent ~~{election auditor}~~attestation engagement -- Requirements
-- ~~{Publication of audit results.~~

~~—~~ (1) The Reporting.

(1) As used in this section:

(a) "Attestation engagement" means an evaluation by an independent accounting firm of a specified subject matter, and the results generated or conclusions reached in relation to that subject matter, to determine, to a limited degree of assurance, the accuracy, validity, and completeness of the results or conclusions.

(b) "Committee" means the Government Operations Interim Committee.

(c) "Firm" means the qualified independent accounting firm that the lieutenant governor contracts with under Subsection (2).

(2) Each even-numbered year, before the regular primary election, the lieutenant governor shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and Subsection (5), contract with ~~{an}~~a qualified independent ~~{auditor to conduct the following~~

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election audits:

~~_____ (a) the independent~~ accounting firm to conduct an attestation engagement focused on providing limited assurance of the accuracy, validity, and completeness of:

~~_____ (a) the results of the~~ voter registration audit described in Section ~~{20A-4-408;~~

~~_____ (b) the independent post-election audit described in Section 20A-4-409; and~~

~~_____ (c) the independent election statistics audit described in Section 20A-4-410;~~

~~_____ (2) The~~ ~~{20A-5-901;~~

~~_____ (b) the lieutenant~~ ~~{governor}~~ governor's summary of election results of both the regular primary election and the ~~{county clerks shall give the independent auditor full access to the list of registered voters and all other information necessary to conduct the audits}~~ regular general election; and

~~_____ (c) the statistics posted under Subsection 20A-3a-405(3)(c).~~

~~_____ (3) To ensure that the firm has access to the election records needed to complete the attestation engagement~~ described in Subsection ~~(~~{1}~~{2})~~:

~~_____ (3) The~~, the lieutenant governor shall, before executing a contract under Subsection (2), negotiate with the firm and incorporate into the contract:

~~_____ (a) establish protocols and requirements to ensure the protection and integrity of information and records provided to the independent auditor by the~~ the access that the firm will have to election records; and

~~_____ (b) requirements that the firm must comply with to ensure the security and chain of custody of the election records.~~

~~_____ (4) The lieutenant governor~~ ~~{for a county clerk; and~~

~~_____ (b) ensure, via the contract with the independent auditor, that the independent auditor complies with the protocols and requirements described in Subsection (3)(a).~~

~~_____ (4) The independent auditor~~ shall, within ~~{30}~~60 days after the ~~{day on which}~~ date of the ~~{independent auditor completes an audit}~~ regular general election:

~~_____ (a) complete a post-election report describing the results of the attestation engagement~~ described in Subsection ~~(~~{1}~~)~~:

~~_____ (a) complete an audit report identifying the results of the audit in a manner that does not disclose identifying information of a voter; and~~

~~_____ (b) provide a copy of the audit report to the lieutenant governor and the Government~~

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Operations Interim Committee:

~~— (5) Upon receipt of an audit report described in Subsection (4), the lieutenant governor shall post the audit report on the lieutenant governor's website for at least one year:~~

~~— (6) The independent auditor shall make an oral report on the audit to the Government Operations Interim Committee}2);~~

(b) send a copy of the post-election report to the committee; and

(c) upon request by the committee or the committee chairs};

~~— Section 2. Section 20A-4-408 is enacted to read:~~

~~— 20A-4-408. Independent voter registration audit:~~

~~— (1) The independent auditor described in Section 20A-4-407 shall, on an annual basis, conduct an independent voter registration audit in accordance with the procedures described in Section 20A-5-901:~~

~~— (2) The independent audit described in this section is in addition to, and separate from, the audit conducted by the},~~ present, or assign the director of elections to present, the post-election report, in-person, to the committee.

(5) The lieutenant governor {under Section 20A-5-901:

~~— Section 3. Section 20A-4-409 is enacted to read:~~

~~— 20A-4-409. Independent post-election audit:~~

~~— (1) The independent auditor described in Section 20A-4-407 shall, following the regular general election, conduct a post-election audit of the accuracy of electronic vote tabulators in the state:~~

~~— (2) Except as provided in Subsection (3), the independent auditor shall, conduct the audit for races conducted for:~~

~~— (a) each federal office;~~

~~— (b) governor; and~~

~~— (c) of the following offices, the race where the winning candidate won by the smallest percentage margin:~~

~~— (i) attorney general;~~

~~— (ii) state auditor; or~~

~~— (iii) state treasurer.~~

~~— (3) The independent auditor shall exclude from the audit a race for which:~~

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~~—— (a) a recount is conducted for a reason other than as a result of the audit described in this section; or~~

~~—— (b) the margin between the top two candidates is greater than 15%;~~

~~—— (4) No later than 10 days after the day of the regular general election, the independent auditor shall:~~

~~—— (a) for each race audited, publicly select a random sample of precincts, from among all precincts in the race, sufficient in number to ensure by at least a 90% probability that faulty tabulators would be detected if they would change the outcome of the race;~~

~~—— (b) select precincts for the audits in the following manner:~~

~~—— (i) select precincts for audits of statewide races starting with the statewide race with the largest winning margin and ending with the statewide race with the smallest winning margin;~~

~~—— (ii) if any precincts previously selected for the audit of a race can be used for the audit of a race for which precincts are subsequently selected, use the previously selected precincts for the subsequent race before randomly selecting the necessary number of additional precincts for that subsequent race; and~~

~~—— (iii) to the extent possible, use the precincts selected under Subsections (4)(b)(i) and (ii) for audits of United States House of Representatives races before randomly selecting the necessary number of additional precincts for those races; and~~

~~—— (c) notify the clerks for the precincts selected under Subsection (4)(b);~~

~~—— (5) The clerks described in Subsection (4)(c) shall:~~

~~—— (a) conduct a hand recount of the votes cast for the race in each precinct selected under Subsection (4)(b);~~

~~—— (b) compare the tally of the hand recount of each precinct with the electronic tabulation for the precinct; and~~

~~—— (c) report to the independent auditor the results of the recount described in Subsection (5)(a) and the comparison described in Subsection (5)(b);~~

~~—— (6) The independent auditor shall determine the error rate in the sample for each race;~~

~~—— (7) If, based on the hand recounts described in Subsection (5), the winning margin decreases and the error rate, based on the difference between the vote totals for the hand recounts and the original electronic vote totals, exceeds 90% of the winning margin for the race;~~

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~~— (a) the independent auditor shall randomly select a sample of precincts equal in size to the previously selected sample; and~~

~~— (b) the county clerks for those precincts shall:~~

~~— (i) conduct a hand recount of the votes cast for the race in each precinct selected under Subsection (7)(a);~~

~~— (ii) compare the tally of the hand recount of each precinct with the electronic tabulation for the precinct; and~~

~~— (iii) report to the independent auditor the results of the recount described in Subsection (7)(b)(i) and the comparison described in Subsection (7)(b)(ii);~~

~~— (8) If, based on the hand recounts described in Subsection (7), the winning margin of the original electronic tabulation decreases and the error rate, based on the difference between the vote totals for the hand recounts and the original electronic vote totals, exceeds 90% of the winning margin for the race, the county clerks for the precincts that participated in the race shall conduct a hand recount of all votes in that race.~~

~~— (9) Poll watchers may observe an audit or hand recount described in this section.~~

~~— Section 4. Section 20A-4-410 is enacted to read:~~

~~— **20A-4-410. Independent election statistics audit.**~~

~~— The independent auditor described in Section 20A-4-407 shall, for each regular general election:~~

~~— (1) following the state canvass, conduct an audit to determine the accuracy of the statistics posted by the lieutenant governor under Subsection 20A-3a-405(3)(c); and~~

~~— (2) randomly select three counties and, following the canvass by each of those counties, conduct an audit to determine the accuracy of the statistics posted by those counties' election officers under Subsection 20A-3a-405(3)(c).~~

~~† shall ensure, via the procurement process and the resulting contract, that the firm:~~

~~(a) will not have access to the personal privacy information of a voter;~~

~~(b) will only have access to data that is aggregated and deidentified;~~

~~(c) provides a process plan that includes the methodology to be used during the attestation engagement;~~

~~(d) ensures that all materials are handled securely, transparently, and consistently;~~

~~(e) is not affiliated with a foreign government;~~

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(f) does not harvest data for the purpose of reproducing or distributing the data to others; and

(g) meets industry standards for cybersecurity and data privacy.