

ENROLLED ACT NO. 86, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2023 GENERAL SESSION

AN ACT relating to elections; requiring post-election ballot audits; changing the time absentee ballots may be distributed to applicants before the election; requiring that electronic voting systems have an air gap; providing that election records and returns be transported in a sealed and locked container as specified; providing definitions; providing an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 22-6-130 is created to read:

22-6-130. Post-election ballot audit.

(a) Each county clerk shall complete an audit of the county's unofficial election results by identifying and reviewing the smallest observable percentage between the statewide candidates who received the most votes and the statewide candidates who received the second highest votes for each contest within the county not later than the first Thursday following a primary, special or general election. Additional contests may be added to the audit at the discretion of the county clerk. Using a formula developed by the University of Wyoming, each county clerk shall use the smallest observable percentage to determine a statistically significant sample size of the ballots to be audited under this section. To ensure the timely completion of this procedure under this subsection, the number of ballots audited shall not exceed five percent (5%) of the total number of ballots cast.

(b) Each county clerk shall conduct an audit of the election using the statistically significant ballot sample size and the corresponding ballots for the contests

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selected for audit determined under subsection (a) of this section. Each county clerk shall provide the audit results to the secretary of state not later than one (1) day before the meeting of the state canvassing board as provided in W.S. 22-16-118.

Section 2. W.S. 22-1-102(a) by creating a new paragraph (liv), 22-9-107, 22-11-103(a) by creating a new paragraph (xi), 22-11-104(b) by creating a new paragraph (vii), 22-14-111(a)(intro) and by creating a new subsection (b) and 22-14-114(b) are amended to read:

22-1-102. Definitions.

(a) The definitions contained in this chapter apply to words and phrases used in this Election Code and govern the construction of those words and phrases unless they are specifically modified by the context in which they appear. As used in this Election Code:

(liv) "Air gap" means a security measure where electronic voting systems and computers used within those systems are physically isolated from any network and are not directly or indirectly connected to the internet nor connected to any other system, network or device that is connected to the internet.

22-9-107. Delivering ballots to qualified applicants.

If the clerk determines that the applicant is entitled to vote, he shall mark the application "Accepted" and shall, not more than forty-five (45) days prior to the election for applicants with rights under the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301 et seq., and not more than twenty-eight (28) days prior to the

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election for all other applicants or the individual designated by the applicant, distribute to the applicant, or the individual designated by the applicant, the absentee ballot or ballots requested, instructions for marking the ballot and the required envelopes for use in returning the ballot.

22-11-103. Capabilities required.

(a) Every electronic voting system adopted for use in Wyoming shall:

(xi) Have and use an air gap.

22-11-104. Conduct of elections in which systems utilized.

(b) The county clerk of each county using an electronic voting system shall:

(vii) Ensure that every electronic voting system used in the county has and uses an air gap.

22-14-111. Returning records and returns to clerk.

(a) Unless the votes are being counted at a central counting center as authorized by W.S. 22-14-114(b), an election judges—judge or peace officer as defined under W.S. 7-2-101(a)(iv)(A) or (B) and acting under the authority of the county clerk shall, as soon as possible after the tabulation of votes is complete, return by messenger—to the clerk who prepared the ballots for the election the following records and returns in a sealed packet—and locked container with a numbered seal that

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includes a number or other identifier that is unique to that seal:

(b) The number or unique identifier on the numbered seal on the sealed and locked container required under subsection (a) of this section shall be documented by an election judge before departing the polling place and documented by the county clerk upon arriving at the county clerk's office.

22-14-114. Counting of ballots.

(b) At the request of a county clerk, an election judge shall place the ballots ~~may be received~~ from a polling place in a sealed and locked container with a numbered seal and an election judge or a peace officer as defined under W.S. 7-2-101(a)(iv)(A) or (B) shall transport the ballots to be counted at a central counting center in accordance with rules promulgated by the secretary of state pursuant to W.S. 22-2-121(g).

Section 3. There is appropriated one hundred thousand dollars (\$100,000.00) from the general fund to the state treasurer's office to be distributed to each county clerk in accordance with this section for purposes of obtaining an election consultant or attending training, including professional development training on election administration and security. Distributions shall be made on the effective date of this act in equal amounts with each county clerk receiving three thousand dollars (\$3,000.00). From the remainder of the appropriation available for distribution under this section, each county clerk shall receive an amount in the proportion which the population of the county bears to the total state population. For purposes of this distribution, population shall be

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determined using the 2020 decennial federal census as reported by the economic analysis division within the department of administration and information and as defined in W.S. 8-1-102(a)(xv). This appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation on December 31, 2024 shall revert as provided by law.

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Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk