BALLOT SECURITY

Q: Does my vote remain secret?

A: Yes. Article IV, Section 1 of the Montana Constitution provides that "All elections by the people shall be by secret ballot." MCA 13-1-102 echoes that requirement.

Montana has mandatory procedures for the handling of ballots by election administrators, election judges, and other election workers.

Additionally, under Montana's state laws and rules, no voting system may be approved unless it allows an elector to vote in secrecy.

(See also: "**What is absentee voting and how does it work in Montana?**" and "**What is in person voting and how does it work in Montana?**")

Q: How do I know if my absentee ballot has been received by the county election office?

A: The SOS maintains a website called "My Voter Page", where you can check the status of your absentee ballot in a federal election. The website will provide you with personalized information as to the date your absentee ballot was mailed to you and to what address it was sent. Once you vote and return your ballot, either in person or by mail, the system will be updated, and you can check your status. Updates occur daily. (If you vote via absentee ballot, allow the usual mail delivery time prior to checking and keep in mind election offices may be processing large volumes of ballots.)

Upon receipt of a ballot, the local election office scans the unique barcode on the affirmation envelope, verifies the signature, and marks the ballot as "received." Once your ballot has been processed, you will most likely see the status of your ballot is "accepted;" however, if you see a status of "rejected" or "undeliverable," please contact your local election office immediately to resolve the issue so that your vote will be counted.

Fun Fact: The SOS is developing an improved election management system called ElectMT, which is scheduled to go live in January 2023. Don't worry though! It will contain the same functionality of "My Voter Page."

Q: How do we ensure election results in Montana are valid?

A: Local elections offices have numerous protocols in place to ensure the validity of Montana's elections, some of which are listed below:

1. **No ballots are removed or added at any time in Montana.**
   MCA 13-13-115 requires the election administrator in each precinct to use a precinct register, pollbook, or some other method to record the number of individuals voting and the number of ballots cast that conforms to the method prescribed by the SOS in accordance with rules adopted pursuant to MCA 13-12-202. (See also: "**Does my vote remain secret?**" and "**What is absentee voting and how does it work in Montana?**" and "**What is in person voting and how**

does it work in Montana?")

→ A local counting board, provided for by law, must count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook. If the numbers do not match, the board must submit to the election administrator a written report stating how many ballots were missing or in excess and any reason for the discrepancy of which members are aware.

2. **Chain of custody is immensely important and adhered to in Montana.**
County election offices adhere to chain of custody protocols to ensure that every ballot submitted is accounted for at every stage in the collection and tabulation process and that numbers of ballots distributed can be reconciled with the numbers of ballots returned or submitted.

→ Ballots for in-person voters include a stub that is removed when the voter presents a completed ballot. The county retains the stub separately from the ballot to ensure that the number of stubs matches the number of ballots submitted.

→ Not all absentee ballots include stubs, but election officials meticulously track the number of ballots sent with the number of ballots returned. In addition, returned absentee ballots include a bar code that is scanned and directs the election worker to the elector's voter ID and signature which must be verified for the ballot to be counted.

3. **Public postelection audits are required in Montana.**
The "Postelection Audit Act" (MCA Title 13, chapter 17, part 5) and rules adopted by the SOS require public post-election, random-sample audits of vote-counting machines after unofficial results are made available to the public and before the official canvass. The purpose of the postelection audit is to perform a quality assurance check to verify that tabulators used to count ballots functioned appropriately during the election.

→ The ten counties that hand count ballots—as well as those counties that have a race with a potential recount—are exempt from the postelection audit for the election.

The postelection audit has three basic steps (includes a fourth step, if necessary):

i. **Counties appoint members of the "county audit committee."**
Prior to the election, the governing board of each county that may be required to perform the Postelection Audit (those utilizing tabulators) appoints at least three individuals to serve on the "county audit committee." The committee **may not** include a person who served as an election judge in the election, a person employed by the vendor who supplied the tabulator, or a person who has performed maintenance on the tabulator.

ii. **Races and precincts are randomly selected.**
The State Board of Canvassers (State Auditor, Attorney General, and Superintendent of Public Instruction) meets within seven to nine days after the election to randomly pick the races and precincts in each county to be audited. To ensure randomness, the selection is done by board members rolling dice. After the races and precincts are selected, the information is posted online and sent to each county.

iii. **County audit committee conducts the audit.**

The county audit committee then meets at least one day before the county canvass to conduct the audit. The audit committee proceeds to manually count the votes for the randomly selected races and precincts in the county. If the manual count and the tabulator totals match, then the county audit committee shall certify the results to the

election administrator. If the totals don't match, then the audit committee proceeds to the next step.

iv. **The "Only if Necessary" Step…**
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 (tabulator) and not to administrative or user error, then the following ensues:

1. The tabulator involved in the discrepancy 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.

2. Also, **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 tabulator and not to administrative or user error, the tabulator 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. Per MCA 13-15-403 (4), if during a canvass the board finds an error in a precinct or precincts affecting the accuracy of vote totals, the board may immediately petition for a recount of the votes cast in the precinct or precincts, as provided in MCA 13-16-201, or for an inspection of ballots, as provided in MCA 13-16-420.

To learn more about the 2022 primary postelection audit, click here to review an information sheet prepared by Montana's SOS.

See also "**Does my vote remain secret?**" and "**What is absentee voting and how does it work in Montana?**" and "**What is in-person voting and how does it work in Montana?**"

Refer to the below resources for additional details regarding ballot security and requirements for chain of custody and ballot reconciliation:

1. SOS ARM 44.3.2904;

2. Example from Yellowstone County of election judge invitation letter stating training is required and SOS Election Judge Training Document; and

3. Example from Yellowstone County of flow of ballots from collection through tabulation to secure endpoint, including links to SOS-required recordkeeping.

Q: Can election workers in Montana tamper with the election by altering the markings on a ballot?

A: No. Ballot processing and vote counting must occur in a public area under the care of trained election officials who have sworn an oath. MCA 13-35-207 provides for penalties for falsely swearing an oath.

In addition, poll watchers are provided for by state law.

The requirements, enacted by the legislature and further detailed in rules adopted by the SOS, for processing ballots are all intended to safeguard the integrity of an elector's ballot and prevent tampering. (See also "**Does my vote remain secret?**" and "**What is absentee voting and how does it work in Montana?**" and "**What is in person voting and how does it work in Montana?**")

MCA 13-35-205 prohibits tampering with election records and information, including causing a vote to be incorrectly recorded or changing any ballot after it has been completed by an elector. The offense is punishable as provided in MCA 45-7-208, and includes a fine, imprisonment, or both.