

VOTING EQUIPMENT AND SYSTEMS

Q: What processes are in place in Montana to ensure tabulating machines and voting systems are sound and prevent fraud and that machines work properly, do not mishandle ballots, and cannot be hacked or manipulated?

A: Montana has multiple systems in place to ensure that all elections are sound and to prevent fraud.

1. **Every vote in Montana is cast on a paper ballot.** The ballots are secured and retained for a minimum period of time as prescribed in [Montana Code Annotated \(MCA\) 13-1-303](#) (22 months for federal elections and 12 months for local elections, and ballots can only be accessed via a court order).
 - Montana's disabled electors may vote via a voter interface device, which enables them to vote independently and privately ([learn more here](#)). These ballots are still printed for tabulating purposes.
2. [Administrative Rules of Montana \(ARM\) 44.3.2905](#) prohibits any type of component used within a voting system from being connected to a computer network at any time.
3. Pursuant to [MCA 13-17-212](#) and [ARM 44.3.1713](#), within 30 days of an election in which a voting system is used, election administrators must conduct public testing of the voting systems and certify on a [form](#) provided by the Secretary of State (SOS) that they are performing properly.
 - **Fun Fact:** For the 2022 General Election, October 11th marks the beginning of the period during which the public tests must occur. If automatic tabulation begins the day before the election, election administrators must publicly test all central count vote machines.
 - The SOS's [2022 Election Calendar](#) provides details on testing deadlines and numerous other election-related deadlines that apply to voters, candidates, election administrators, and the SOS.
4. Voting system requirements, tabulator requirements, and post-election audits are provided for in state law and administrative rule. These are described at length below.

Voting System Requirements

Montana's tabulators and other voting systems are built to Montana's specifications pursuant to Montana law. [MCA Title 13, chapter 17](#) and [ARM Title 44, chapter 3, subchapter 17](#) prescribe voting machine and voting system requirements, including acquisition and use of systems, engagement of qualified technicians, required specifications and approval criteria, training, and post-election audits.

A voting system may not be used unless it is approved by the SOS, who is required to oversee the examination of the systems by qualified technicians. The SOS may not approve a voting system unless it meets specific criteria pursuant to [MCA 13-17-103](#), including allowing voting in secrecy, preventing an elector from voting more than once, and preventing an elector from voting on a candidate or ballot issue for which the elector is not entitled to vote. A system may not be approved if it is not protected from tampering for a fraudulent purpose.

A voter interface device utilized by disabled electors must meet specific security standards, and the SOS has adopted rules for performance standards that must be met in tests prior to approval.

The SOS must also adopt rules that specify the security measures necessary to secure the voting system before, during, and after an election. Election administrators must perform public, random testing and certification of voting systems.

Postelection audits

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 postelection, 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):

1. 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.
2. 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.
3. 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.
4. 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:
 - i. 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 SOS.
 - ii. 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.
 - iii. 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 SOS.
 - iv. 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 post-election audit, click here to review an [information sheet prepared by Montana's SOS](#).

SOS Election Security and Voting Machine Examination Rules

House Bill 530, enacted by the 2021 Legislature and codified as [MCA 13-1-205](#), requires the SOS to adopt rules regarding election security. The rules, adopted at the end of June 2022 and located in [ARM 44.3.29](#), are summarized below.

1. The rules require annual assessments of county election office security practices. Every three years, the assessment must be conducted by an independent, third-party, qualified assessor.
2. The rules require county election staff to complete annual security awareness training administered by the SOS. Election office staff must keep records of the training and provide them to the SOS.
3. The rules require that voting system components be physically secured “using tamperproof seals and access control” and require election administrators to maintain a chain of custody for voting system components and for other security devices. The rules require that ballot reconciliations be conducted before the official county canvass and recommend surveillance of rooms where ballots are being handled and processed.
4. The rules prohibit components of a voting system from being connected to a computer network at any time and require additional security measures for computers used by county election staff.