# ELECTION SECURITY LEGISLATION
## 2023 LEGISLATIVE SESSION

## INTRODUCTION

The following is a list of bills both passed and introduced (but failed) from the 2023 Legislative Session. Legislation included in the list were presented as election security measures during their bill hearings and are organized into two categories: bills that build upon existing processes and bills that create new processes and/or prohibitions.

## PASSED AND ENACTED LEGISLATION

### INCREASES SECURITY OF EXISTING PROCESSES

**HB 172**     **Revise laws related to post-election audits**
- Allows boards of county commissioners to request a random-sample audit of voting systems after a non-federal election
- Allows boards of county commissioners to add a countywide race to the post-election audit after a federal election

**HB 173**     **Revise laws related to security of vote tabulating machines**
- Requires voting system manufacturer to certify that all systems are free of any modems or other unauthorized external communication devices and requires a third-party tester to validate the manufacturer's certification
- Requires counties to cover the cost of the third-party test and allows counties to conduct additional tests throughout the life of the voting systems

**HB 335**     **Generally revise election laws related to absentee ballot list procedures**
- Clarifies the application process for absentee ballot
- Prohibits voters on the inactive list from being mailed an absentee ballot
- Establishes process for notifying voters before they are placed on the inactive list after the voter's ballot is returned as undeliverable

**HB 754**     **Allowing county election officials access to certain information**
- Allows the department of motor vehicles to release certain personal information to local government officials to verify voter registration information

**SB 197**     **Revise and extend post-election audit process**
- Increases the number of races included in post-election audits

**SB 254**     **Generally revise election laws**
- Removes the exemption from the post-election audit for counties that only hand count their ballots

**SB 498**     **Revise laws related to absentee ballots**
- Joint Select Committee on Election Security bill
- Requires absentee ballot lists to be included in annual voter registration list maintenance
- Establishes process for verifying an elector's address if any notices are returned as undeliverable

## IMPLEMENTS NEW PROCESSES OR PROHIBITIONS

**HB 712**     **Prohibit illegal aliens from voting in Montana elections**
- Prohibits non-citizens from voting in the state of Montana

**HB 892**     **Prohibit double voting**
- Prohibits voting in more than one election
- Provides definitions and a penalty

**SB 117**     **Prohibiting use of certain funds for conducting an election**
- Requires that all costs and expenses related to conducting elections must be paid for with public funds and prohibits government entities from accepting, using, or disposing of a donation in the form of money, grants, property, or personal services from an individual or corporation, whether non-profit or for-profit, for the purpose of funding the functions or responsibilities of the county or municipality to conduct an election; provides exceptions

## FAILED LEGISLATION

### INCREASES SECURITY OF EXISTING PROCESSES

**HB 599**     **Revise election laws related to active and inactive voter lists**
- Creates process for removing inactive voters from voter rolls
- Defines inactive voters as those who have not voted in the previous two federal elections

**HB 716**     **Revise laws related to deceptive election practices**
- Clarifies the definitions and punishments of deceptive election practices

**HB 812**     **Revise election laws related to transcribed ballots**
- Requires an audit of all transcribed ballots

**SB 248**     **Revise laws related to retention of election records**
- Adds a definition for "election record"
- Requires retention of digital cast vote records for 7 years
- Provides a penalty for anyone who does not retain the records for 7 years

**SB 441**     **Revise absentee and mail-in ballot laws**
- Revises the Montana Ballot Interference Protection Act to adjust the definition of "family member" and the process for returning ballots

### IMPLEMENTS NEW PROCESSES OR PROHIBITIONS

**HB 402**     **Revise elector registration laws**
- Provides a process for verifying the U.S. citizenship of new voter applicants

**HB 565**     **Creating the offense of dissemination of false election information**
- Creates the offense of dissemination of false information "if the person purposely or knowingly, as defined in 45-2-101, disseminates false information about the date, time, or place of voting with the intent to induce a person not to vote" and would provide a penalty.

**HB 807**      **Generally revise election laws**
- Prohibits the use of pre-filled information for any election materials
- Adds a definition for an "absentee voter"
- Requires that the election administrator be an elected position

**HB 905**      **Generally revise election laws creating an election integrity team**
- Creates an election integrity team and define their powers and duties

**HB 953**      **Create election security and integrity complaint and enforcement process**
- Requested by the Joint Select Committee on Election Security
- Creates an election security complaint, enforcement, and referral process involving DOJ, COPP, and county attorneys
- Creates a case management system for the complaint process
- Requires an annual report to SAVA from COPP
- Requires at least one district court in the state to stay open and appropriately staffed on election day to review emergency petitions as needed

**SB 472**      **Generally revise election laws**
- Extends the retention period for election materials from 12 months to 2 years and would require an annual inspection by the DOJ
- Requires the retention of electronic ballot records on an air-gapped network or storage device
- Requires a DOJ representative to work with the SOS to review and approve all voting systems no more than 30 days prior to an election
- Requires voting system contracts to include software accuracy verification which must be filed with the state auditor
- Requires continuous counting of results on election night and would add a penalty for any violations of this

**SB 481**      **Require cast vote records**
- Requested by the Joint Select Committee on Election Security
- Requires that the cast vote record function be activated in all voting systems during all federal elections
- Provides a grant program to help counties update their voting systems to meet the requirements of the bill; included appropriation

**SB 482**      **Revise laws related to voting system testing and certification**
- Requested by the Joint Select Committee on Election Security
- Requires a hash validation test for all voting systems
- Requires that a trusted hash be filed with the SOS when the voting system is approved
- Requires that a hash validation test be part of the testing and certification process prior to each election
- Adds a requirement to the post-election audit that a hash validation test must be done for every machine in every county and be compared to the trusted hash; would require that the results be filed with the SOS