



ELECTION SECURITY STUDY

**DRAFT FINAL REPORT TO THE 69TH
MONTANA LEGISLATURE**

**State Administration and Veterans'
Affairs Interim Committee**

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August 2024



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This report is a summary of the work of the State Administration and Veterans’ Affairs Interim Committee

, specific to the SAVA Interim Committee’s 2023-24 work plan. Members received additional information and public testimony on the subject, and this report is an effort to highlight key information and the processes followed by the SAVA Interim Committee in reaching its conclusions. To review additional information, including audio minutes, and exhibits, visit the SAVA Interim Committee website: www.leg.mt.gov/interim/sava.

A full report, including links to the documents referenced in this print report, is available at the SAVA Interim Committee website: <https://leg.mt.gov/committees/interim/sava> .



INTRODUCTION

During the September 2023 State Administration and Veterans' Affairs (SAVA) Interim Committee meeting, members voted to allocate 0.25 FTE to member topics in the committee workplan. At the November 2023 meeting, committee members voted to conduct a study on election security in Montana. During the January 2024 SAVA meeting, committee members voted to add the use of AI in elections to the study plan.

STUDY TOPICS & COMMITTEE DECISIONS

ELECTION ADMINISTRATOR TRAINING

Committee members requested information about the training election administrators go through, the regularity of the training, the additional resources available to them, and any gaps in the training that could be addressed through legislation.

The Office of the Secretary of State is tasked with providing formal training and other training resources for election administrators under 13-1-203, MCA:

- (1) The secretary of state shall advise and assist election administrators, including administrators of school elections under Title 20, chapter 20, with regard to:
 - (a) the application, operation, and interpretation of Title 13, except for chapter 35, 36, or 37;
 - (b) the implementation and operation of the National Voter Registration Act of 1993, Public Law 103-31, the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., the Voting Rights Act of 1965, 52 U.S.C. 10101, et seq., the Voting Accessibility for the Elderly and Handicapped Act of 1984, 52 U.S.C. 20101, et seq., and the Help America Vote Act of 2002, Public Law 107-252; and
 - (c) the procedures adopted pursuant to 13-17-211.
- (2) The secretary of state shall prepare and distribute training materials for election judges to be trained pursuant to 13-4-203. Sufficient copies of the materials to supply all election judges in the county and to provide a small extra supply must be sent to each election administrator.
- (3)
 - (a) The secretary of state shall hold at least one training session every 2 years to instruct election administrators and their staffs on how to conduct and administer primary and general elections. The training must also include instruction on the use of the statewide voter registration system. The training may be held in various locations around the state. The training must also be offered online and through teleconferencing.
 - (b) Costs of the biennial training, including the materials, must be paid by the secretary of state.
- (4) In addition to completing the biennial training under subsection (3), each election administrator shall complete 6 hours of election-related continuing education each year that is approved by the secretary of state. Costs for the continuing education must be paid by the counties.
- (5) The secretary of state shall:
 - (a) certify for election administration purposes each election administrator who attends the biennial training and completes the required continuing education; and

- (b) provide a certificate of completion to election staff who attend the biennial election training described in subsection (3).
- (6) An election administrator may require that election staff complete the continuing education described in subsection (4) and provide a certificate of completion to staff who complete it.

This topic was on the January 2024 meeting agenda and included a panel discussion with Stuart Fuller of the Office of the Secretary of State (SOS), Regina Plettenberg, Clerk & Recorder for Ravalli County, and Janel Tucek, Clerk & Recorder for Fergus County. The panelists discussed the formal and informal trainings provided by the SOS. Ms. Plettenberg and Ms. Tucek discussed how responsive the SOS office is to requests and how willing the staff is to help answer questions and provide training resources outside of the mandated trainings. The committee asked questions of the panelists, discussed what they'd heard, and concluded that no legislative changes were needed.

POLL WATCHERS

Committee members requested information about the rules and protections for poll watchers and any gaps that could be addressed through legislation. Provisions relate to poll watchers can be found at 13-13-120, 13-13-121, and 13-19-307 in the MCA. 13-13-120, MCA states:

- (1) The election judges shall permit one poll watcher from each political party to be stationed close to the poll lists in a location that does not interfere with the election procedures. At the time when each elector signs the elector's name, one of the election judges shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name. Poll watchers must also be permitted to observe all of the vote counting procedures of the judges after the closing of the polls and all entries of the results of the elections.
- (2) A candidate may not serve as a poll watcher at a polling place where electors are voting on ballots with the candidate's name on them.
- (3) At least one poll watcher from each political party must be permitted at each place of deposit designated under 13-19-307 for a mail ballot election.

At the January SAVA meeting, committee members heard from Ms. Regina Plettenberg, Clerk & Recorder for Ravalli County, and Janel Tucek, Clerk & Recorder for Fergus County about working with poll watchers during elections. The committee asked questions of the panelists, discussed what they'd heard, and concluded that no legislative changes were needed.

MONTANA ELECTION OBSERVATION INITIATIVE

At the July SAVA meeting, the committee heard from Jeff Mangan and Geraldine Custer, the Co-Chairs of the Montana Election Observation Initiative (Initiative). The Initiative is a non-partisan election observation effort, supported by The Carter Center, that conducted a pilot election observation in Missoula County during the June 2024 primary. The pilot was designed to test observation forms and approaches. The group released a positive report after the primary and announced a new partnership with The Mansfield Center during the meeting that will allow them to observe multiple elections during the November general election.

CAST VOTE RECORDS

The idea of requiring cast vote records in Montana elections was first considered by the Joint Select Committee on Election Security during the 2023 Legislative Session. The committee sponsored a bill – SB 481 – to require the activation of the cast vote record function on all voting systems in Montana during federal elections. The bill went to conference committee but died in the process on the last day of session. SAVA committee members decided to revisit the topic, particularly the costs associated.

Committee staff worked with election policy staff at the National Conference of State Legislatures (NCSL), the Montana Association of Counties (MACo), and Regina Plettenberg, Clerk & Recorder for Ravalli County to gather information about the technical requirements of producing cast vote records and the costs associated. An introduction to the topic was presented by committee staff during the May SAVA meeting. The July meeting included a Q&A session with Ms. Plettenberg, committee staff, and committee members. The committee decided not to take action on the topic.

AI IN ELECTIONS

SAVA committee member Senate Ellis proposed that the committee look at the emerging issue of the use of AI in elections. The committee agreed and directed committee staff to research the major issues of the topic, and laws and regulations in other states and at the federal level.

At the January meeting, committee staff presented an introduction to the topic. At the March meeting, committee staff prepared a spreadsheet summarizing laws passed in other states related to the use of AI in elections and presented information about the enforcement mechanisms and associated penalties in those states. Committee staff updated this spreadsheet for each subsequent meeting.

The May meeting included a panel discussion with Chris Gallus, Commissioner of Political Practices (COPP), Shelley Hendricksen-Scott, Chief Legal Counsel for the Office of the Commissioner of Political Practices, and Darci Humphrey, Crime Analyst with the Department of Justice. The panelists talked about the ways AI could be used in elections, both good and bad, the legal and practical considerations for legislation, and elements of the laws in other states might translate to Montana. The committee directed committee staff to work with Senator Ellis, Commissioner Gallus, and Ms. Hendricksen-Scott to develop a provisional bill draft for the committee's consideration.

Senator Ellis, Commissioner Gallus, Ms. Hendricksen-Scott, and committee staff presented the provisional bill draft to the committee at the July meeting. The draft pulled in provisions from other states, including New Mexico, Florida, and Colorado. Committee members reviewed the draft, suggested some changes, and directed staff to bring a revised version to the September meeting.

ONLINE VOTER REGISTRATION

At the May meeting, committee members were asked by a lobbyist for Secure Democracy to consider drafting a committee bill to implement online voter registration in Montana. Committee members directed staff to provide information on the topic at the July meeting.

At the July meeting, committee members heard from Katie Owens Hubler with the election policy staff at NCSL, and Laurie Bakri and Tyson Miller with the Montana Motor Vehicle Division. The committee asked questions of the panelists, discussed what they'd heard, and directed staff to prepare a provisional bill draft for their consideration at the September meeting.

Election security study presentations, briefing memos, and materials from each SAVA meeting can be found here: <https://leg.mt.gov/committees/interim/sava/sava-elections/>.

COMMITTEE FINDINGS & RECOMMENDATIONS

FINDINGS

RECOMMENDATIONS

DRAFT

APPENDIX A: SAVA INTERIM COMMITTEE MEMBERS

Before the close of each legislative session, House and Senate leadership appoint lawmakers to interim committees. The members of the State Administration and Veterans' Affairs Interim Committee, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

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