

Checks and Balances in Montana: The Post-Election Day Process

American elections serve as a model for the world, thanks to our rigorous system of checks and balances and our neighbors serving as election workers faithfully carrying out those duties.

Working in teams made up of people from both parties, poll workers and election officials count, canvass, and audit votes – whether they are cast in-person or by mail. These election workers verify voters' identities. They inspect ballots. They resolve errors. They confirm that every legal ballot is counted as voters intended them.

When these checks and balances are complete, then the final phase of our election process happens: certification. This is the straightforward step in the process when election officials declare the winners. The multiple layers of checks and balances involved in the casting, counting, canvassing, and audit stages ensure that results are accurate prior to the final stage of certification.

This memo details the safeguards specific to the counting and canvassing processes and describes how county and state certification must occur following the checks and balances earlier in the election process. For greater detail about verifying mail ballot applications and ballots and a detailed timeline, please [visit the rest of our series on checks and balances in Montana elections](#).

Importantly, this is nonpartisan educational research intended for 501(c)(3)-compliant purposes only. It is *not* to be used for any partisan, political, or electioneering activities by any organization.

Counting: Technology and Bipartisan Oversight Work to Double-Check Results for Accuracy

Montana law mandates specific processes for the counting of votes manually or with the use of automatic tabulation equipment. Each of these processes requires participation by a bipartisan team of election officers and includes equipment testing and reconciliation of results.

Quality-Tested Technology Leads to Trustworthy Results

Ballots can be counted using automatic tabulation equipment at each polling location or at a central counting location.¹ Montana law requires that all voting systems be publicly tested and certified as working properly by the election administrator no more than 30 days before an election.² Additionally, the secretary of state will ensure that at least 10% of each type of voting system has been randomly tested and certified at least once every year.³

Voters will typically insert their own ballots into the tabulation equipment at the polling location, and the equipment must be programmed to indicate whether further action is needed before the ballot is tabulated.⁴ Paper ballots are used during this process.⁵

Transparent Processes for Handling Ballots Instill Confidence

Automatic tabulation of absentee ballots at a polling location may begin one day before Election Day and must continue until all available ballots have been tabulated or 5 p.m., whichever is earlier.⁶ On Election Day, automatic tabulation must begin and continue without adjournment until all available ballots have been counted.⁷ Vote counting is open to the public for observation.⁸

Seven counties in Montana hand count paper ballots.⁹ For a manual count of ballots, one election judge on the board (whether it be a counting board or absentee ballot counting board) will read each ballot while two other judges on the board each record on an official tally sheet the number of votes cast for each individual.¹⁰ After the vote count is complete, the tally sheets of the two judges recording the votes must be compared.¹¹ If the two tallies match, the judges record the results in the official records.¹² If the tallies do not match, the count must be conducted again until the two tallies match.¹³

Both Parties Participate Throughout the Process

On Election Day, once polls are closed, the election judges copy the total votes cast for each candidate and ballot measure from the tabulators onto the election return forms. Election judges are selected from lists provided by county committees of the political parties, and each board of election judges must include judges from all parties that submit lists.¹⁴ One

¹ MT Code § 13-17-212

² MT Code § 13-17-212

³ MT Code § 13-17-212

⁴ Montana Election Handbook at 29.

⁵ MT Code § 13-17-103

⁶ MT Code § 13-15-104

⁷ MT Code § 13-15-101(1)(c)(i)

⁸ MT Code § 13-15-101(1)(a)

⁹ <https://sosmt.gov/elections/systems/>

¹⁰ MT Code § 13-15-206

¹¹ MT Code § 13-15-206

¹² MT Code § 13-15-206

¹³ MT Code § 13-15-206

¹⁴ MT Code § 13-4-102

copy of this form is immediately posted for public viewing at the counting location and another is returned to the election administrator; both forms must be signed by the election judges performing the count.¹⁵ The county election administrator must first provide results to the secretary of state's election night reporting system and then provide the initial results to the public.¹⁶ The election administrator continues to provide updated results at least once every three hours until completion.¹⁷

Audits Verify Adherence to State Laws and Accuracy of Results Prior to Canvassing

Montana also requires a manual ballot audit of federal election results for every county that uses automatic tabulation.¹⁸ After unofficial results are available to the public in a federal election but before the official canvass, the county audit committee conducts a random-sample audit of at least 10% of the precincts in each county or a minimum of two precincts in each county, whichever is greater.¹⁹ The races in those precincts are hand counted by three election judges.²⁰ The election judges compare the hand count audit results to the tabulator results, and if those totals are within 0.5% or five ballots, whichever is greater, the election is deemed official.²¹

Montana law also requires a manual ballot audit of manual tabulation election results.²² However, the law is silent on how the audit must proceed, only specifying that the secretary of state must implement rules for the process.²³

Canvassing: Limited Discretion for Review

Canvassing is the process of compiling vote totals reported in returns from throughout a jurisdiction. In Montana, canvassing occurs at the county and state level. Under Montana law, canvassers can petition for a recount of votes or an inspection of ballots if they find an error in a specific precinct's tabulation when counting.²⁴

Once polls close, the tabulation equipment will total the results. The election judges count the number of ballots to ensure the number of ballots corresponds with the number of names in the poll book with the number on the ballot reconciliation report.²⁵ After all valid

¹⁵ MT Code § 13-15-101(2)-(3)

¹⁶ MT Code § 13-15-101

¹⁷ MT Code § 13-15-101

¹⁸ MT Code § 13-17-503

¹⁹ MT Code § 13-17-503

²⁰ MT Code § 13-17-506

²¹ MT Code § 13-17-507

²² MT Code § 13-17-503(6)(c)

²³ MT Code § 13-17-503(6)(c)

²⁴ MT Code § 13-15-403(4)

²⁵ MT Code § 13-15-201 and Montana Election Handbook at 72.

votes have been counted and totaled, the judges record the totals in the official results records.²⁶

Certain counties also have an appointed absentee ballot counting board. In those counties, absentee ballots are counted separately from other ballots. Absentee ballots are delivered to the absentee ballot counting board, where they may be opened and prepared for tabulation up to three business days before the election.²⁷ In counties where there is no absentee ballot counting board, absentee ballots are counted along with other ballots.

After results are finalized, the election results return form must be signed by all election judges and displayed at the place of counting and provided to the election administrator.²⁸

County Canvass: County Board Publicly Reviews Results and Resolves Any Errors

For elections in Montana, the governing body of a county is considered to be the board of county canvassers and has the duty to conduct the county canvass.²⁹

The board meets within 14 days after each election to complete the canvass of returns, which must be public.³⁰ At the meeting, the board must open the returns, audit the tally books or other records of votes cast, determine the vote for each individual, compile totals, and declare or certify the results.³¹ Montana law provides the board with some discretion. If during a canvass, the board "finds an error in a precinct or precincts affecting the accuracy of vote totals," the board may petition for a recount.³²

After the board has signed off on the results, the secretary of the board prepares a canvass that lists the total number of electors voting in each precinct or district and the total in the county, the name of each individual receiving votes, the office for which the votes were received, and the votes by precinct or district for each individual.³³

The board then declares elected the individuals having the highest number of votes cast for each county and precinct office.³⁴ The county canvass must be sent by certified mail to the secretary of state.³⁵

²⁶ MT Code § 13-15-206

²⁷ MT Code § 13-15-104

²⁸ MT Code § 13-15-207

²⁹ MT Code § 13-15-401

³⁰ MT Code § 13-15-401

³¹ MT Code § 13-15-403

³² MT Code § 13-15-403(4)

³³ MT Code § 13-15-404

³⁴ MT Code § 13-15-405

³⁵ MT Code § 13-15-501

State Canvass: State Officers Publicly Review and Compile County Results

Within 27 days after the election, the state auditor, superintendent of public instruction, and attorney general will meet as a board of state canvassers in the office of the secretary of state and determine the vote.³⁶

The state canvass must also be public. The board must open the returns from each county, audit the records from each county for errors, determine the vote for each individual, compile the totals, and declare and certify the results.³⁷ The secretary of the board prepares a report of the canvass that lists the total number of electors voting in each county and in each legislative house district and the total in the state, the name of the individual receiving votes, and the office for which votes were received.³⁸ Then the board declares elected the individual with the highest number of votes and delivers certified copies of the report to the governor.³⁹

Certification: The Voters Have Spoken

Once the state canvass is complete, winning candidates receive a certificate of election. For races that are determined by the county canvass, the board of county canvassers issues the certificate of election to winning candidates.⁴⁰

The board of county canvassers certifies the vote for the offices of president and vice president of the United States, congressional offices, state or district offices voted for in more than one county, and members of the legislature to the board of state canvassers via certified mail.⁴¹ These statements are sent to the governor who will issue commissions to the individuals elected.⁴²

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³⁶ MT Code § 13-15-502

³⁷ MT Code § 13-15-505

³⁸ MT Code § 13-15-506

³⁹ MT Code § 13-15-507

⁴⁰ MT Code § 13-15-405 and 406

⁴¹ MT Code § 13-15-501

⁴² MT Code § 13-15-504