



MONTANA SECRETARY OF STATE'S OFFICE

November 13, 2024

Legislative Finance Committee
State Capitol Building
Helena MT 59620

RE: PUBLIC INFORMATION REQUEST QUARTERLY REPORT (July 2024 – September 2024)

Dear Legislative Finance Committee Members,

Under 5-12-209, MCA (as shown below), quarterly, agencies shall submit information required by the section, "to document the impacts and process associated with compliance with information requests made pursuant to Article II, section 9, of the Montana constitution and Title 2, chapter 6..."

As required, the Office of the Secretary of State submits the information outlined in the statute; however, it is worth noting that the "impacts" of records requests on an agency of our size are significant and inadequately represented in the required reporting structure. For example, please note that it is our understanding that the "hours to fulfill the request" mean only those directly incidental to a request that were charged to the requestor, not staff time tracking, reviewing, communicating, meeting, general research, etc.

Montana Code Annotated 2023

TITLE 5. LEGISLATIVE BRANCH
CHAPTER 12. LEGISLATIVE FINANCE AND DATA ANALYTICS ACT
Part 2. Legislative Finance Committee

Reporting

5-12-209. Reporting. (1) To document the impacts and process associated with compliance with information requests made pursuant to Article II, section 9, of the Montana constitution and Title 2, chapter 6, each quarter, each executive branch agency, the legislative branch, and the judicial branch shall submit the information required by this section for the prior quarter to the legislative finance committee. The executive branch agencies subject to this section include the agencies headed by officers listed in Article VI, section 1, of the Montana constitution and the departments created pursuant to Article VI, section 7, of the Montana constitution.

(2) The report must contain the following information:

- (a) the number of requests for information submitted to each entity in the preceding quarter;
- (b) the identity of each requester;
- (c) what information was requested;
- (d) the date of the request; and
- (e) the status of the request, whether completed or in progress.

(3) If the entity has completed the request, the report must also provide the following information:

- (a) the date on which compliance with the request occurred;
- (b) the number of hours to fulfill the request; and
- (c) costs imposed on the requester to fulfill the request.

(4) For any request not completed in a quarter and reported pursuant to this section, the request must be reported on subsequent reports until the request has been completed.

(5) This section does not apply to requests that:

- (a) were not submitted according to a public information request process or protocol established by an agency;
- (b) pertain only to a specific person or property for applications, vital records, licenses, permits, registrations, and related supporting documents; or
- (c) were for information accessible on a state website or other publication available at the time the request was made.

History: En. Sec. 1, Ch. 514, L. 2023.

During the reporting period, the Secretary of State's Office received 17 requests as detailed below. (The status of the requests is as of 9/30/24).

7/5/24 – Dhruv Mehrotra, Wired Magazine

- "I am writing to submit a formal request for access to specific server logs or related information from the agency. The purpose of this request is to obtain records reflecting the number of times any of the specific IP addresses (Listed Below) have accessed your servers." *(135 IP addresses listed)*
 - Completed on 7/19/24 – informed records are confidential
 - Number of Hours/Cost – n/a

7/9/24 – Derek Oestreicher, Montana Family Foundation

- "1. Any and all communications, particularly email or other correspondence, between Raph Graybill, the Graybill Law Firm, and the Office of the Montana Secretary of State concerning CI-128 between June 1, 2024 and the present date. 2. Any and all Petition Signature Sheets and Signature Gatherer Affidavits/Unsworn Declarations processed by County Election Departments and submitted to the Office of the Montana Secretary of State for CI-128 between June 21, 2024 and the present date." Amended 8/2: "At this point, we would like to only request the petition signature sheets from Yellowstone and Flathead counties."
 - Request was canceled on 8/24/24 (after initial work was completed)
 - Number of Hours/Cost – n/a

7/11/24 – Victoria Eavis, Lee Newspapers

- "Written correspondence (whether it's emails, memos, letters etc.) from June 20, 2024 until July 11, 2024 relating to constitutional initiatives CI-128, CI-127 and/or CI-126 and the electronic systems used to approve signatures for these ballot initiatives whether it was received or sent by the following parties: Secretary of State Christi Jacobsen, Chief Legal Counsel Austin James, Elections Manager Stuart Fuller, Chief Deputy Angela Nunn and Staff Attorney Clay Leland. I also request the documents produced by any other requests made by others involving the emails of one or all of these parties within the last month, and to receive this information at the time it is made public."
 - Completed on 8/15/24
 - Number of Hours/Cost
 - ½ hour; \$16.50 for photocopies only (included in additional request of 8/1/24)

7/12/24 – Abby Moscatel, Blacktail Law Group

- "1. Text of the ballot initiatives CI-126 and CI-127 (petition(s)). 2. Completed petition sheets submitted by each county for CI-126. 3. Completed petition sheets submitted by each county for CI-127. 4. Date for Secretary of State to Certify CI-126. 5. Date for Secretary of State to Certify CI-127. 6. Documents related to Secretary of State's efforts to ensure compliance that petitions are signed only by qualified electors of the State of Montana pursuant to Mont. Code Ann. § 13-27-102 (1). 7. Documents related to Secretary of State's efforts to ensure compliance that those gathering signatures for the petitions are not paid per signature pursuant to Mont. Code Ann. § 13-27-102(2). 8. Documents related to Secretary of State's efforts to ensure that the signatures are of original signature in ink, and

in substantially the same manner as on the voter registration form, pursuant to Mont. Code Ann. §13-27-103 (1)-(2). 9. Documents related to Secretary of State's efforts to ensure Counties checked the names of all signers to verify that they were registered electors of the county and that randomly selected signatures on each sheet or section match the registration records, and that if the randomly selected signature does not match, that all of the signatures were checked, in compliance with with Mont. Code Ann. § 13-27-303(1). 10. Documents related to how, or if, the Secretary of State is allocating signatures among legislative districts of the state as required to certify a petition under Mont. Code Ann. §13-27-303(2). 11. Documents related to how Secretary of State is handling fraudulent or duplicative signatures of an elector on either of the petitions under Mont. Code Ann. §13-27-303(3). 13. Documents related to Secretary of State's efforts to determine whether all paid signature gatherers are registered with the secretary of state prior to collecting signatures as required by Mont. Code Ann. § 13-27-112 (1)(a). 14. Documents related to Secretary of State's efforts to ensure employers of paid signature gatherers filed proper reports with the commission. 15. Documents related to Secretary of State's efforts to ensure that signatures on petitions were properly certified by the proper county official, and that the Secretary of State is properly rejecting petitions that do not meet statutory requirements, and that the Secretary of State is requiring Counties to correct errors as required by Mont. Code Ann. § 13-27-307. 16. Documents related to Secretary of State's efforts to ensure that CI-126 and CI-127 meet the statutory requirements under Mont. Code Ann. § 13-27-241 including obtaining 10% of the registered voters in 40 legislative districts and that those signatures that do not match the voter registration form are not counted. 17. Documents related to Secretary of State's efforts to ensure inactive electors are not counted on petitions as required by Mont. Code Ann. § 13-2-222. 18. Documents related to Secretary of State's efforts to each sheet or petition has an affidavit attached as required by Mont. Code Ann. §7-2-2802."

- Request was canceled on 8/24/24 (after initial work completed)
- Number of Hours/Cost – n/a

7/21/24 – Colton Little

- "1. All emails and correspondence between the Montana Secretary of State's Office and county elections officials regarding policies and procedures for counting petition signatures and handling inactive voters. 2. Official policies or guidelines issued by the Secretary of State's Office regarding the verification and counting of petition signatures, including any changes or updates to policies on inactive voters. 3. Training documents or materials provided to county election officials on handling petition signatures and inactive voter status. 4. Lists or databases of voters classified as inactive, including the criteria or protocols used to designate voters as inactive. 5. Any legal opinions, memos, or advisories issued by the Secretary of State's Office or received from legal counsel regarding the counting of signatures and handling of inactive voters."
- In Progress
- Number of Hours/Cost – n/a

7/31/24 – Owen Wang

- "A list of state employees and their salaries as of 12/31/2023, with the following data points if available. Employee Name, Employee Gender, Employee Age, Employee Date of Birth,

Employer Name, Employee Title, Employee Hire Date, Employee Compensation Amount, Employee Compensation Type, Employment Type-(Part Time or Full Time)."

- Completed on 8/20/24
- Number of Hours/Cost
 - .25 hr; no cost

8/1/24 – Victoria Eavis, Lee Newspapers

- "Any written correspondence (whether it's emails, memos, letters etc.) from June 10, 2024 until Aug 1, 2024 relating to the Lake County court case regarding constitutional initiatives CI-127 and CI-126 whether it was received or sent by the following parties: Christi Jacobsen, Austin James, Stuart Fuller, Angela Nunn and Clay Leland. I also request the documents produced by any other records requests made by others involving the correspondence of one or all of these parties within the last month, and to receive this information at the time it is made public."
- Completed on 8/15/24
- Number of Hours/Cost
 - .5 hrs; \$16.50 (*included with 7/11/24 request*)

8/1/24 – Raph Graybill and Martha Sheehy, on behalf of Montanans Securing Reproductive Rights and Montanans for Election Reform Action Fund

- "Please provide a copy of the policies, procedures, and guidance, if any, governing the consideration and tabulation of verified signatures by the Secretary."
- Closed on 9/27/24
- Number of Hours/Cost – n/a

8/12/24 - Christopher Arnold, US Dept of Defense

- "An aggregated count of the number of military absentee ballot applications received, from 2004 to 2014; An aggregated count of the number of military absentee ballots returned, from 2004 to 2014; An aggregated count of the number of military absentee ballots which were returned in time to be opened, from 2004 to 2014; An aggregated count of the number of military absentee ballots which were not returned in time to be opened, from 2004 to 2014; An aggregated count of the number of military absentee ballot applications received, from 2014 to 2024; An aggregated count of the number of military absentee ballots returned, from 2014 to 2024; An aggregated count of the number of military absentee ballots which were returned in time to be opened, from 2014 to 2024; An aggregated count of the number of military absentee ballots which were not returned in time to be opened, from 2014 to 2024. We are requesting this data only for the annual November general election and do not need information on primary or local elections."
- Completed on 9/11/24
- Number of Hours/Cost
 - .25 hrs; No cost

8/19/24 – Hugh Esco, Green Party

- "They certify that the Green Party and its candidates for President and Vice-President of the United States or its candidates for Presidential Electors will appear on the General Election ballot; they provide an election calendar of deadlines and dates for filings or other mechanisms used in your state for the qualification of candidates for President of the United

States, Vice-President of the United States and Presidential Elector to appear on the ballot; they provide citations to state statute, or agency rules which provide guidance related to each date or deadline identified by the election calendar described in the previous paragraph.”

- In Progress
- Number of Hours/Cost – n/a

8/21/24 – Peggy Miller

- “I am requesting today that any and all information and other material from the Election Administration office pertaining to the 2024 primary election for: 1. I request a copy of the 2024 primary election precincts report that you received from the Yellowstone County election administration office with the results of the election. “ (*Note: there is not a 2.*)
- In Progress
- Number of Hours/Cost – n/a

8/26/24 – Nancy Silverman

- “I would like copies of the calendars for Christi Jacobsen and Angela Nunn, her Chief Deputy, from 1/1/23 to the present.”
- In Progress
- Number of Hours/Cost – n/a

8/29/24 – Chris Kortlander

- “2024 primary election precinct report for Big Horn County.”
- In Progress
- Number of Hours/Cost – n/a

9/10/24 – Matthew Monforton

- “I am requesting copies of the arguments and rebuttal arguments submitted required under Mont. Code Ann. sec. 13-27-406 and 13-27-407 concerning CI-126 & CI-127.”
- Completed on 9/16/24
- Number of Hours/Cost
 - .25 hrs; No cost

9/16/24 – Mikaela Koski, Upper Seven Law Firm, on behalf of MontPIRG and Forward Montana Foundation

- “We request that the Secretary of State’s Office produce all invoices and billing statements received or sent by the Secretary of State’s Office from Consovoy McCarthy PLLC and all contracts with or referencing Consovoy McCarthy PLLC. Attorneys’ billing statements are not privileged. *See Tacke v. Energy West, Inc.*, 2010 MT 39, ¶¶ 36–37, 355 Mont. 243, 227 P.3d 601. If your office identifies any information that it believes is subject to attorney-client privilege, please include redacted documents.”
- In Progress
- Number of Hours/Cost – n/a

9/25/24 – Susan Greenhalgh – Free Speech for People

- “Copies of all communication between the Secretary of State’s office and the vendor(s) providing or servicing the Electronic Absentee System (EAS) from September 18, 2024 to date.”
- In Progress
- Number of Hours/Cost – n/a

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9/26/24 – James Murnion (Attorney)

- “All written policies, procedures, standard operating procedures, workflows, guidance manuals, employee manuals, checklists, or any other document by whatever title that governs the process used to create, manage, and account for the Montana 2024 general election electronic absentee ballots. 2. All Montana state employee and/or Montana elected official, including your own, correspondence, including letters, voicemails, recorded voice calls or meetings, emails, skype messages, teams message, and messages sent on any other platform, whether to an outside vendor/party, internal, or otherwise, regarding the creation and management of the Montana 2024 general election electronic absentee ballots. 3. All draft versions of the Montana 2024 general election electronic absentee ballots. 4. The final version of the Montana 2024 general election electronic absentee ballot in its native file format with all metadata intact.”
- In Progress
- Number of Hours/Cost – n/a

Sincerely,



ANGELA NUNN

Chief Deputy