



CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE

September 11, 2026

VIA HAND DELIVERY

Senator Theresa Manzella, Presiding Officer
State Administration and Veterans' Affairs Interim Committee
c/o Legislative Services Division
Capitol Building, Room 112
P.O. Box 201706
Helena, MT 59620-1706

Jerry Howe, Director
Legislative Services Division
Capitol Building, Room 112
Helena, MT 59620-1706

Re: Subpoena to Secretary of State Christi Jacobsen dated September 2, 2026 — Objections and Response

"I have to respect our Secretary of State is wanting to stand and protect states' rights. I know the [Trump] administration has sued states that have not complied with their requests and we have not been sued.. ...Our Secretary of State is doing her best to protect states' rights and our citizen[s] thereof, and walking a fine line and honoring the federal laws..."

Senator Manzella
Presiding Officer of the Committee

Dear Senator Manzella and Mr. Howe:

This Office received the Committee's subpoena on September 3, 2026. It directs the Secretary to produce, by noon on September 11, the column headings of the voter list referenced in her December 29, 2025 letter to the U.S. Department of Justice.

This letter does two things. It states the Secretary's objections to the subpoena, which she does not waive, and it answers the subpoena.

I. Objections

The subpoena is without precedent. This Office is aware of no instance in which a committee of the Montana Legislature has issued a subpoena to a statewide elected constitutional officer. The Secretary of State is one of the officers in whom the Constitution vests the executive power of the state. Mont. Const. art. VI, §§ 1, 4. The Constitution divides that power from the legislative power and forbids either branch from exercising a power belonging to the other. Mont. Const. art. III, § 1. A subpoena from one branch to a constitutional officer of another is, in the Supreme Court's words, a "significant step" that courts "carefully assess" because "occasion[s] for constitutional confrontation between the two branches should be avoided whenever possible." *McLaughlin v. Mont. State Legislature*, 2021 MT 178, 405 Mont. 1, 493 P.3d 980, ¶ 10 (quoting *Trump v. Mazars USA, LLP*, 591 U.S. 848, 140 S. Ct. 2019, 2035-36 (2020)). Such subpoenas are "carefully scrutinize[d]" because "they stem from a rival political branch" with "incentives to use subpoenas for institutional advantage." *Id.* ¶ 13. The subpoena was an unnecessary encroachment on the Separation of Powers that wasted taxpayer dollars, could have been avoided, and lacked warranted scrutiny.

The subpoena does not meet the standard the Supreme Court has set.

The Legislature "may not compel information from a coequal branch of government 'if other sources could reasonably provide' the information necessary for 'its particular legislative objective.'" *McLaughlin*, ¶ 10. This Office has described what it provided to the Department [in its May 28, 2026, letter / in public statements on February 4, 2026 / to the Legislative Audit Committee on April 9, 2026. The Chair of the Committee repeatedly described the Office's compliance with the federal demand on March 9, May 4, and September 2, 2026]. The Department's August 14, 2025, letter, the Secretary's December 9 and December 29, 2025, correspondence, and the statewide voter registration list fields prescribed under § 13-2-108, MCA, are all public. The Committee did not need a subpoena to learn what this letter says; the Chair of the Committee provided it multiple times. *See, McLaughlin*, ¶ 51 (faulting the Legislature for doing exactly that).

Under Montana law, a legislative subpoena must serve a "valid legislative purpose." Identifying and articulating rationales after-the-fact to justify an overbroad inquiry cannot cure an initial lack of proper purpose. *McLaughlin v. Mont. State Legislature, In re Knudsen*. The record shows the Committee attempting to invent a purpose. [See, State Administration & Veterans' Affairs May 4,

2026, interim committee meeting at 10:25.11.] The subpoena, impermissible and unnecessary on its face, is pure political theater. It is not grounded in law.

The Legislature must also "adequately identif[y] its aims and explai[n] why the [requested] information will advance its consideration of the possible legislation." *Id.* ¶ 12. The subpoena recites the general monitoring duty in § 5-5-215(1)(c), MCA, and adds that the Committee "will also consider" legislation on the definition and disclosure of confidential information. It does not say how the structure of one file bears on that question, because it does not.

And the Committee's own statements make clear that the subpoena's object is to determine whether this Office violated existing law. "Addressing alleged violations of existing law is an enforcement matter entrusted to the executive, not to the legislative, branch of government; it is therefore not a valid legislative purpose." *Id.* ¶ 24.

Finally, the subpoena allowed eight calendar days — less than the ten days Rule 45(c)(1), M. R. Civ. P., guarantees for a subpoena issued by a court, a comparison the Supreme Court found telling. *Id.* ¶ 48.

Reservation. The Secretary answers the subpoena with reservations because the Committee lacks authority to issue it, its stated purpose is invalid as a legislative purpose, and the response cannot set any precedent. She will treat any further legislative subpoena for voter registration records, voter data, the contents of any file transmitted to the Department, or this Office's internal legal analysis as a matter for the courts under *McLaughlin*, ¶¶ 2, 52, 54, and § 5-5-107(3)(c), MCA, and will not produce such records absent a court order.

II. Response

What this Office did not provide. The misinformation that has been shared across Montana is unfortunate.

Montana law requires that all elections shall be by ***secret ballot***. See, § 13-1-102, MCA. No individual or entity knows how a Montanan voted, other than the individual casting his or her vote by secret ballot. Furthermore, Montana's voter registration ***does not*** include political party affiliation. Therefore, no information was provided to the Department regarding ***how*** Montanans voted, nor was information provided regarding ***voter history***, nor was information provided regarding ***political party affiliation***.

While demanded by the Department as empowered by Congress, the list provided ***did not*** contain any Montana driver's license number or state identification card number. It ***did not*** contain the

residential address of any elector whose address is protected from disclosure under § 13-2-115(6) or (7), MCA.

What this Office provided in August 2025. In response to the Department's initial request in 2025, this Office provided the Department with examination of the public statewide voter registration list available to any member of the public under § 13-2-122, MCA and ARM 44.3.1101.

As this body, who made the following information public, is aware, the "Voter File" is a list of voters with a current status of "active," "inactive," and "provisional." The list contains the following data for each voter entered into the statewide voter registration system by the county election administrators: Assigned Voter ID; First Name; Middle Name; Last Name; Name Suffix; Voter Status; Residential Address house number; Residential Address street name; Residential Address street type; Residential Address street pre-directional code; Residential Address street post-directional code; Residential Address unit type code; Residential Address unit number; Residential Address City; Residential Address State; Residential 5-digit zip code; Residential Address complete address; Mailing Address line 1; Mailing Address line 2; Mailing Address City; Mailing Address State; Mailing Address 5-digit zip code; Mailing Address plus 4 zip code; Mailing Address complete; Phone Number; Birth Year; Current County; Precinct; Congressional District; State House District; State Senate District; Absentee indicator; City; and Ward.

What this Office provided in December 2025. In response to the Department's follow up request in December 2025, this Office again provided the Department with a public statewide voter registration list, available to any member of the public under § 13-2-122, MCA and ARM 44.3.1101, this time with the addition of a federal identifier for a portion of voters where that information was provided as part of their voter registration application.

For additional clarification, a fraction of electors lacking a driver's license registered using their federal identifier (last four digits of their social security number) in lieu of a Montana driver's license number, as § 13-2-110(4)(c), MCA, and 52 U.S.C. § 21083(a)(5)(A) permit. The December 29, 2025, list included that four-digit federal identifier. That identifier is the registration identifier federal law requires, and federal law provides that it "shall not be considered a social security number" for purposes of the Privacy Act. 52 U.S.C. § 21083(c).

The federal government routinely receives the federal identifiers that the federal government itself issued. For example, citizen transactions by the Department of Justice Motor Vehicle Division share that four-digit identifier with the federal government. Additionally, another Montana state agency complied with providing data of the same nature, including identifier, in response to the demand by USDA Secretary Rollins during the same time period to analyze SNAP. [See, Food

and Nutrition Administration FNA Data Sharing Guidance requiring States to submit identifiable information “in the form of names, dates of birth, personal addresses used, and Social Security numbers.”] Such exchanges also occur within Montana between a county and state government, i.e., Montana Department of Revenue, Realty Transfer Certificate (requiring exchange of social security numbers between county and state governments as demanded by the legislature).

This Office's rules under § 13-2-108(2)(e), MCA, keep partial social security numbers from *general public distribution*. Transmission to a federal law-enforcement agency, on its written demand under 52 U.S.C. § 20703, subject to the nondisclosure requirements of 52 U.S.C. § 20704 and the Privacy Act, is not general public distribution.

The report by legislative staff analyzing the voter information of two voters correctly identified all categories. The two categories they were unable to ascertain are the vote eligibility date and the absentee status. The staff was correct regarding what was not included. The Committee has asked what the letter meant by "additional information pertinent to 52 U.S.C. § 20703." It meant the identifier described in the preceding paragraphs, which the Department had demanded under that section, and only that information. The letter's reference to 52 U.S.C. § 20704 reflects this Office's insistence, stated in writing, that the Department hold anything it received from Montana under that section's nondisclosure requirements. Again, the Office did not provide Montana driver's license numbers or state identification card number. The Secretary declined to sign the Department's proposed memorandum of understanding, as the letter states, and no agreement was ever executed.

However, the Committee already knew that, evidencing the subpoena itself was issued improperly as it seeks information already in possession of the committee, including the Chair, who executed the subpoena.

“Our Secretary of State, standing on the state’s rights, *has expressed to us* that they didn’t include driver’s license numbers because they feel the [sic] state has ownership of those. They did include [federal identifiers] for *obvious reasons*. The [full] Social Security numbers are issued by the federal government.”

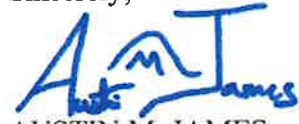
Status of the file. As seen in the Committee’s own record, this Office did not retain a separate copy of the transmitted export which is why this response describes the file's contents. We are unaware of any instance of Montana voter's information having been used, disclosed, or acted upon by the Department as a result of the transmission, or that the Department has identified even a single voter for removal.

Senator Theresa Manzella
Director Jerry Howe
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This response satisfies the subpoena. Even though the criteria to authorize a subpoena is not met, the Secretary provided the information in good faith and regards the subpoena as answered.

Montana's Secretary of State, working with the President of the United States to improve America's election integrity while protecting privacy, should be commended.

Sincerely,



AUSTIN M. JAMES
Chief Legal Counsel
Montana Secretary of State