1   _____ BILL NO. _____

2   INTRODUCED BY _____
                                                    (Primary Sponsor)

3

4   A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; PROVIDING FOR

5   THE SECURE TRANSFER OF VOTER REGISTRATION INFORMATION FROM THE DEPARTMENT OF

6   JUSTICE TO THE SECRETARY OF STATE; SPECIFYING DUTIES FOR THE SECRETARY OF STATE AND

7   THE COUNTY ELECTION ADMINISTRATORS; PROVIDING A LIMITATION ON INFORMATION SHARING;

8   PROVIDING FOR ADDITIONAL VOTER REGISTRATION; PROVIDING FOR A PROVISIONAL ELECTOR TO

9   BECOME A REGISTERED ELECTOR; PROVIDING CONDITIONS FOR BALLOT COLLECTION; PROVIDING

10   RULEMAKING AUTHORITY; AMENDING SECTIONS 13-2-110, 13-2-205, 13-2-222, 13-35-702, 13-35-703,

11   AND 61-5-107, MCA; REPEALING SECTION 13-35-704, MCA; AND PROVIDING EFFECTIVE DATES."

12

13   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14

15   NEW SECTION. **Section 1.   Short title.** [Sections 1 through 9] may be cited as the "Montana

16   Automated Voter Verification Act".

17

18   NEW SECTION. **Section 2.   Automatic voter information transfer when applying for new or**

19   **updated driver's license or state identification card.** (1) At the time of processing an application for a

20   driver's license or motorcycle endorsement under 61-5-107 or a state identification card under 61-12-501 or an

21   application to renew, update, correct, or replace a driver's license, motorcycle endorsement, or state

22   identification card, the department of justice shall use information in the statewide voter registration database to

23   determine whether the applicant is already registered to vote and check whether complete information is in the

24   database.

25   (a)   If the check of the statewide voter registration database indicates that the applicant is registered to

26   vote, but the information provided in the application is different or more complete than the applicant's

27   information in the statewide voter registration database or the applicant is an inactive or provisionally registered

28   elector, the department of justice, utilizing an automated system or database that provides for the electronic

1   transfer of information, shall provide for the secure electronic transfer to the secretary of state of the applicant's

2   full name, date of birth, driver's license or state identification number, residence address, mailing address, if

3   different from the residence address, county of residence, and an electronic image of the person's signature.

4   (b)   If the check of the statewide voter registration database indicates that the applicant is not

5   registered to vote and the applicant provides documentation of United States citizenship and is of sufficient age

6   to register to vote, the department of justice, utilizing an automated system or database that provides for the

7   electronic transfer of information, shall provide for the secure electronic transfer to the secretary of state of the

8   applicant's full name, date of birth, driver's license or state identification number, residence address, mailing

9   address, if different from the residence address, county of residence, and an electronic image of the person's

10   signature.

11   (c)   If the check of the statewide voter registration database indicates that the applicant is not

12   registered to vote, but the applicant provides a document proving the applicant is not a United States citizen,

13   the department of justice may not transfer the applicant's information to the secretary of state, and the applicant

14   may not be offered the opportunity to register to vote.

15   (2)   (a) If the check of the statewide voter registration database indicates that the applicant is not

16   registered to vote and the applicant does not meet the requirements of subsections (1)(b) or (1)(c), an applicant

17   who is of sufficient age to register to vote must be provided with the opportunity to register to vote as part of the

18   department of justice's application process.

19   (b)   If the applicant indicates eligibility to register, including United States citizenship by signed

20   affidavit, and does not decline registration in accordance with subsection (2)(c), the department of justice shall

21   provide for the secure electronic transfer to the secretary of state of the applicant's full name, date of birth,

22   driver's license or state identification number, residence address, mailing address, if different from the

23   residence address, county of residence, and an electronic image of the person's signature.

24   (c)   Along with the opportunity to register to vote as part of the department of justice's application

25   process, the department of justice shall provide applicants in accordance with this subsection with:

26   (i)   eligibility requirements for voter registration and a statement that if the person does not meet the

27   eligibility requirements, the person should decline to register to vote;

28   (ii) an option that allows the applicant to decline voter registration;

1   (iii) the penalties for submission of a false voter registration application pursuant to 13-35-209;

2   (iv) a statement that, if the person declines to register to vote, the decision to decline is confidential,

3   and the information will only be used for election administration purposes; and

4   (v)   a statement that, if the person registers to vote, the information and site of registration will remain

5   confidential, and the information will only be used for election administration purposes.

6   (3)   Nothing in this section may be construed to amend the substantive qualifications for voter

7   registration or to require documentary proof of citizenship for voter registration.

8   (4)   The system established in accordance with this section must only be used for transactions at the

9   department of justice. It may not be used for transactions at another government agency, unless otherwise

10   required in law.

11

12   NEW SECTION. **Section 3.   Secretary of state to add or update voter information received from**

13   **department of justice -- notification of county election administrators.** (1) With respect to voter information

14   transferred to the secretary of state under [section 2], the secretary of state shall ensure that:

15   (a)   an applicant's information is securely uploaded to the statewide voter registration database;

16   (b)   if there is not already a voter information file for the applicant's information, a new voter

17   information file is created; and

18   (c)   if there is an existing voter information file for the applicant, the voter information file is updated

19   with the information transferred from the department of justice.

20   (2)   After an applicant's voter information file is created or updated, the secretary of state shall ensure

21   that:

22   (a)   the county election administrator of the county in which the applicant resides is notified of the

23   added or updated voter information; and

24   (b)   if the transferred information indicates a change of address to another county, the county election

25   administrator in the county where the applicant previously resided is notified of the address change.

26   (3)   If the secretary of state determines that an applicant is not eligible to register as a legally

27   registered elector or provisionally registered elector, the secretary of state shall ensure that the information is

28   not used to register the applicant to vote.

1

2   NEW SECTION. **Section 4.   County election administrator to confirm registration status.** (1)

3   After receiving notification from the secretary of state as provided in [section 3] of a new or updated voter

4   information file in the statewide voter registration database for an applicant residing in the county, the county

5   election administrator shall check the information and determine the applicant's voter registration status as

6   provided in this section.

7   (2)   If the applicant's voter information is sufficient pursuant to 13-2-109 to verify the applicant's

8   eligibility for voter registration or to update the applicant's voter registration, the county election administrator

9   shall confirm that the elector is registered as a legally registered elector in the county.

10   (3)   (a) If the applicant's voter information is not sufficient pursuant to 13-2-109 for the applicant to be

11   a legally registered elector or to update the applicant's voter registration, the county election administrator shall

12   confirm that the applicant is registered as a provisionally registered elector pursuant to 13-2-110(5)(b).

13   (b)   An applicant who is registered pursuant to this section as a provisionally registered elector

14   because of residency requirements must be classified as a legally registered voter 30 days after the applicant's

15   application with the department of justice, unless the applicant cancels the applicant's registration pursuant to

16   [section 5].

17   (4)   If the applicant's voter information is not sufficient for either legal or provisional registration, the

18   county election administration shall note the deficiencies in the statewide voter registration database and

19   confirm that the applicant is not registered to vote.

20   (5)   If the applicant was an inactive elector, the county election administrator shall change the elector's

21   status to active.

22

23   NEW SECTION. **Section 5.   Notification to elector.** (1) (a) For each elector residing in the county

24   whose voter information has been added or whose name or address has been updated in the statewide voter

25   registration database under [sections 1 through 9], the county election administrator shall send to the elector's

26   address of record by nonforwardable mail notice of the elector's voter registration status.

27   (b)   The notice must contain:

28   (i)   a postage paid preaddressed return envelope and form by which the elector may decline to register

1   as a voter or provide corrected or more complete voter registration information;

2   (ii) an explanation of the eligibility requirements to register to vote, a statement of the penalties for

3   submission of a false voter registration application under 13-35-209, and a statement that if the person is not

4   eligible, the person should decline voter registration using the preaddressed return form;

5   (iii) a statement that, if the person declines voter registration, the decision to decline registration

6   remains confidential and will be used only for election administration purposes, and a statement that, if a

7   person does not decline registration, the office at which the person was registered remains confidential and will

8   be used only for election administration purposes;

9   (iv) an application pursuant to 13-1-210 for the elector to request an absentee ballot for all elections in

10   which the person is eligible to vote for as long as the elector remains qualified to vote and resides at the

11   address of voter registration; and

12   (v)   information regarding how to request nondisclosure of the elector's residential address under 13-2-

13   115(6) and (7).

14   (2)   (a) If an elector returns the form to decline voter registration, the county election administrator

15   shall cancel the elector's voter registration.

16   (b)   If an elector returns the form to correct or provide additional voter information, the county election

17   administrator shall update the elector's voter information file and registration status accordingly.

18   (c)   If an elector returns the application requesting an absentee ballot for all elections in which the

19   person is eligible for as long as the elector remains qualified to vote and resides at the address of voter

20   registration, the elector must be added to the absentee ballot list maintained pursuant to 13-13-212.

21   (3)   The notice provided under this section may be combined with the notice required under 13-2-207.

22

23   NEW SECTION. **Section 6.   Automated system requirements.** (1) The department of justice shall

24   electronically transmit to the secretary of state the information as required by [section 2] on a schedule

25   established by the secretary of state, in a format agreed on by the department of justice and secretary of state,

26   and in a manner that allows election officials to review, translate, and upload the information to the statewide

27   voter registration database in a secure manner.

28   (2)   The secretary of state shall establish adequate and reasonable technological security

1   requirements for the exchange or transfer of voter information between the department of justice and the

2   secretary of state pursuant to [sections 1 through 9].

3   (3)   Before commencing any information exchange or transfer pursuant to [sections 1 through 9] and

4   no later than the date on which the exchange or transfer is required to begin, the department of justice must be

5   in compliance with the technological security requirements established by the secretary of state under this

6   section.

7   (4)   The automated system for the transfer of voter registration information must be audited for quality

8   of data prior to becoming operational and must be subject to regular audits and random checks after becoming

9   operational to ensure accuracy and reliability. The audits must be performed by experts certified by the

10   secretary of state in consultation with the department of justice.

11

12   NEW SECTION. **Section 7.   Reporting requirements.** (1) Subject to subsection (2), the secretary of

13   state shall produce an annual public report that includes:

14   (a)   the number of records transferred to the secretary of state by the department of justice;

15   (b)   the number of persons newly added to the statewide voter registration database because of

16   records transferred;

17   (c)   the number of electors whose information was updated because of records transferred, by type of

18   information updated;

19   (d)   the number of electors who were moved from inactive to active status because of records

20   transferred; and

21   (e)   the number of persons who declined voter registration.

22   (2)   Reports produced in accordance with this section must exclude any personal identifying

23   information.

24

25   NEW SECTION. **Section 8.   Violation only if action is intentional, voluntary, and knowing.** The

26   transfer of information pursuant to [sections 1 through 9] for an applicant who is not eligible to register to vote is

27   not in or of itself a violation of 13-35-207, 13-35-209, or 13-35-210. An applicant whose information was

28   transferred and who becomes a registered elector pursuant to [sections 1 through 9] but who is not eligible to

1   be a registered elector is not in violation of 13-35-209 prohibiting fraudulent registration unless the applicant

2   took intentional voluntary action to register to vote knowing that the applicant was not eligible to register to vote.

3   If the registration is processed, it is presumed to have been officially authorized by the state, and the person is

4   not subject to any penalty under this code, except as specified in this section.

5

6   NEW SECTION. **Section 9.   Rulemaking and coordination.** (1) The department of justice and the

7   secretary of state shall adopt rules to administer the provisions of [section 2].

8   (2)   The secretary of state shall adopt rules to administer the provisions of [sections 3 through 6].

9   (3)   The department of justice and the secretary of state shall coordinate as necessary to administer

10   the provisions of [sections 1 through 9].

11

12   **Section 10.** Section 13-2-110, MCA, is amended to read:

13   "**13-2-110.   Application for voter registration -- sufficiency and verification of information --**

14   **identifiers assigned for voting purposes.** (1) An individual may apply for voter registration in person or by

15   mail, postage paid, by completing and signing the standard application form for voter registration provided for in

16   13-1-210 and providing the application to the election administrator in the county in which the elector resides.

17   (2)   Each application for voter registration must be accepted and processed as provided in rules

18   adopted under 13-2-109.

19   (3)   Except as provided in subsection (4):

20   (a)   an applicant for voter registration shall provide the applicant's Montana driver's license number; or

21   (b)   if the applicant does not have a Montana driver's license, the applicant shall provide the last four

22   digits of the applicant's social security number.

23   (4)   (a) If an applicant does not have a Montana driver's license or social security number, the

24   applicant shall provide as an alternative form of identification:

25   (i)   a current and valid photo identification, including but not limited to a school district or

26   postsecondary education photo identification or a tribal photo identification, with the individual's name; or

27   (ii)   a current utility bill, bank statement, paycheck, government check, or other government document

28   that shows the individual's name and current address.

1   (b)   The alternative form of identification must be:

2   (i)   an original version presented to the election administrator if the applicant is applying in person; or

3   (ii) a copy of any of the required documents, which must be enclosed with the application, if the

4   applicant is applying by mail.

5   (5)   (a) If information provided on an application for voter registration is sufficient to be accepted and

6   processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the

7   elector as a legally registered elector.

8   (b)   If information provided on an application for voter registration was sufficient to be accepted but the

9   applicant failed to provide the information required in subsection (3) or (4) or if the information provided was

10 incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall

11 register the applicant as a provisionally registered elector.

12   (6)   Each applicant for voter registration must be notified of the elector's registration status pursuant to

13 rules adopted under 13-2-109.

14   (7)   The secretary of state shall assign to each elector whose application was accepted a unique

15 identification number for voting purposes and shall establish a statewide uniform method to allow the secretary

16 of state and local election officials to distinguish legally registered electors from provisionally registered

17 electors.

18   (8)   The provisions of this section may not be interpreted to conflict with voter registration

19 accomplished under 13-2-221, 13-21-221, and ~~61-5-107~~ [sections 1 through 9] and as provided for in federal

20 law."

21

22   **Section 11.** Section 13-2-205, MCA, is amended to read:

23   "**13-2-205.   Procedure when prospective elector not qualified at time of registration.** (1) An

24 individual who is not eligible to register because of residence or age requirements but who will be eligible on or

25 before election day may apply for voter registration pursuant to 13-2-110 and be registered subject to

26 verification procedures established pursuant to 13-2-109.

27   (2)   An individual who is not eligible to register because of age requirements but who will be eligible on

28 or before the next general election may apply for voter registration pursuant to 13-2-110 and be registered

1   subject to verification procedures established pursuant to 13-2-109."

2

3   **Section 12.** Section 13-2-222, MCA, is amended to read:

4   "**13-2-222.   Reactivation of elector.** (1) The name of an elector must be moved by an election

5   administrator from the inactive list to the active list of a county if an elector meets the requirements for

6   registration provided in this chapter and:

7   (a)   appears at a polling place in order to vote, submits an application to vote by absentee ballot in a

8   polling place election or mail ballot election, or votes in a mail ballot election conducted under Title 13, chapter

9   19;

10   (b)   notifies the county election administrator in writing of the elector's current residence, which must

11   be in that county; or

12   (c)   completes a reactivation form provided by the county election administrator that provides current

13   address information in that county; or

14   (d)   the elector's voter information has been updated in accordance with the provisions of [sections 1

15   through 9].

16   (2)   After an elector has complied with subsection (1)(a), (1)(b), or (1)(c), or (1)(d), the county election

17   administrator shall place the elector's name on the active voting list for that county.

18   (3)   An elector reactivated pursuant to subsection (1)(a) is a legally registered elector for purposes of

19   the election in which the elector voted."

20

21   **Section 13.** Section 13-35-702, MCA, is amended to read:

22   "**13-35-702.   Definitions.** As used in this part, the following definitions apply:

23   (1)   "Acquaintance" means an individual known by the voter.

24   (2)   "Caregiver" means an individual who provides medical or health care assistance to the voter in a

25   residence, nursing care institution, hospice facility, assisted living center, assisted living home, residential care

26   institution, adult day health care facility, or adult foster care home.

27   (3)(1)   "Collect" means to gain possession or control of a ballot.

28   (4)(2)   "Family member" means an individual who is related to the voter by blood, marriage, adoption,

1   or legal guardianship.

2   (5)(3)   "Household member" means an individual who resides at the same residence as the voter."

3

4   **Section 14.** Section 13-35-703, MCA, is amended to read:

5   "**13-35-703.   Ballot collection prohibited -- exceptions.** (1) ~~Except as provided in subsection (2), a~~ A

6   person may not ~~knowingly~~ collect a voter's voted ~~or unvoted~~ ballot unless authorized by the voter as provided in

7   subsection (2).

8   (2)   Except as provided in subsection (3), a voter may authorize a person to collect and convey the

9   voter's voted ballot. A signature envelope for a mail or absentee ballot must provide space to enter the name,

10   signature, and address of the person authorized by the voter to collect and convey the voter's ballot.

11   (3)   A candidate or a member of a candidate's paid campaign staff, including volunteers reimbursed

12   for time spent on campaign activity, is prohibited from collecting and conveying a ballot for a voter unless the

13   person is the voter's family member or household member.

14   (4)   Except for election officials and United States postal service workers or other individuals

15   specifically authorized by law to transmit United States mail, a person authorized to collect and convey a ballot

16   may not receive any form of compensation based on the number of ballots the person collects.

17   (5)   Except for election officials and the United States postal service, an individual, group, or

18   organization may not provide any form of compensation based on the number of ballots a person collects.

19   (6)   A person may not knowingly collect a voter's unvoted ballot.

20   ~~(2)   This section does not apply to:~~

21   ~~(a)   an election official;~~

22   ~~(b)   a United States postal service worker or other individual specifically authorized by law to transmit~~

23   ~~United States mail;~~

24   ~~(c)   a caregiver;~~

25   ~~(d)   a family member;~~

26   ~~(e)   a household member; or~~

27   ~~(f)   an acquaintance.~~

28   ~~(3)   An individual authorized to collect a voter's ballot pursuant to subsections (2)(c) through (2)(f) may~~

1   not collect and convey more than six ballots."

2

3   **Section 15.** Section 61-5-107, MCA, is amended to read:

4   "**61-5-107.   Application for license or motorcycle endorsement.** (1) Each application for a learner

5   license, driver's license, commercial driver's license, or motorcycle endorsement must be made on a form

6   furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee

7   entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from

8   the date of application. A voter registration form for mail registration as prescribed by the secretary of state

9   must be attached to each driver's license application. If the applicant wishes to register to vote, the department

10   shall accept the registration and forward the form to the election administrator.

11   (2)   Each application must include the full legal name, date of birth, sex, residence address of the

12   applicant [and the applicant's social security number], must include a brief description of the applicant, and

13   must provide the following additional information:

14   (a)   the name of each jurisdiction in which the applicant has previously been licensed to drive any type

15   of motor vehicle during the 10-year period immediately preceding the date of the application;

16   (b)   a certification from the applicant that the applicant is not currently subject to a suspension,

17   revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving

18   privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

19   (c)   a brief description of any physical or mental disability, limitation, or condition that impairs or may

20   impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle

21   on the highway;

22   (d)   a brief description of any adaptive equipment or operational restrictions that the applicant relies

23   upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe

24   operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; and

25   (e)   if the applicant is a foreign national whose presence in the United States is temporarily authorized

26   under federal law, the expiration date of the official document issued to the applicant by the bureau of

27   citizenship and immigration services of the department of homeland security authorizing the applicant's

28   presence in the United States.

1   [(3)   The department shall keep the applicant's social security number from this source confidential,

2   except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise

3   permitted by state law administered by the department and may be provided to the department of public health

4   and human services for use in administering Title IV-D of the Social Security Act.]

5   (4)   (a)   When an application is received from an applicant who is not ineligible for licensure under 61-

6   5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the

7   applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year

8   period. The driving record may be transmitted manually or by electronic medium.

9   (b)   When received, the driving records must be appended to the driver's record created and

10   maintained in this state. The department may rely on information contained in driving records received under

11   this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a

12   report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law.

13   (5)   An individual who is under 26 years of age but at least 15 years of age and who is required to

14   register in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an

15   opportunity to fulfill those registration requirements in conjunction with an application for a learner license,

16   driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15

17   years of age, an individual must be provided an opportunity to be registered by the selective service system

18   upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by

19   the department to the selective service system. (Bracketed language terminates on occurrence of contingency--

20   sec. 1, Ch. 27, L. 1999.)"

21

22   NEW SECTION. **Section 16. Repealer.** The following section of the Montana Code Annotated is

23   repealed:

24   13-35-704.   Record of delivery.

25

26   NEW SECTION. **Section 17.   Severability.** If a part of [this act] is invalid, all valid parts that are

27   severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

28   the part remains in effect in all valid applications that are severable from the invalid applications.

1

2   NEW SECTION. **Section 18.   Codification instruction.** [Sections 1 through 9] are intended to be

3   codified as an integral part of Title 13, chapter 2, and the provisions of Title 13, chapter 2, apply to [sections 1

4   through 9].

5

6   NEW SECTION. **Section 19.   Effective dates.** (1) [Sections 1 through 5, 7, 8, 10, 12, and 15] are

7   effective the earlier of:

8   (a)   2 years after [the effective date of sections 6 and 9]; or

9   (b)   5 days after the secretary of state notifies the code commissioner that the automated system and

10 information technology infrastructure required to implement the provisions of [sections 1 through 9] are

11 functional.

12   (2)   [Sections 6 and 9] are effective on passage and approval.

13   (3)   [Sections 11, 13, 14, and 16] are effective October 1, 2021.

14   (4)   [Sections 17 through 19] are effective on passage and approval.

15   - END -