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**pro hac vice application pending*

**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana

Defendant.

Civil Action No. DV-16-2023-0001073D

**BRIEF IN SUPPORT OF
PLAINTIFF'S MOTION FOR A
PRELIMINARY INJUNCTION**

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EXHIBIT LIST*

No.	Description
1	Declaration of Nancy Leifer, dated November 13, 2023
2	Declaration of Julia Maxon, dated November 15, 2023
3	Declaration of Kiersten Iwai, dated November 14, 2023
4	Declaration of Joye Kohl, dated November 13, 2023
5	Declaration of Marga Lincoln, dated November 13, 2023
6	Expert Report of Dr. Alexander Street, dated November 14, 2023
7	Montana Voter Registration Application
8	Enrolled Bill Text of HB 892
9	Missoula County records
10	Montana county records
11	“Election Facts,” Montana Secretary of State webpage
12	“Montana’s Election Administration FAQs – Checking Election IQ,” Montana Secretary of State webpage
13	“Guide to Agency-Based Voter Registration: National Voter Registration Act (NVRA),” Montana Secretary of State
14	“Frequently Asked Questions,” Montana Secretary of State webpage
15	“Detailed Bill Information: HB 892,” Montana Legislature webpage
16	“Automatic Voter Registration,” National Conference of State Legislatures webpage
17	“Voter Registration Cancellations,” U.S. Election Assistance Commission webpage
18	“Election Fraud Cases,” Heritage Foundation webpage
19	League of Women Voters of Montana and Montana Women Vote National Voter Registration Act Letter
20	League of Women Voters of Montana National Voter Registration Act email correspondence
21	“Late Registration Procedures – Directive #01-06,” Montana Secretary of State
22	“Election Directive #03-07: Topic: Handling Mail Ballot Inactive Electors and Late Registrants,” Montana Secretary of State
23	Lewis and Clark County records

* The exhibits are attached to the declaration of Alice C.C. Huling, filed concurrently with Plaintiff’s motion.

INTRODUCTION

House Bill 892 (“HB 892”) makes it illegal for a voter to do what almost all voters do when they move: apply to register in their new jurisdiction without worrying about how election administrators are handling their prior registration. After all, the government, not individual voters, has the resources and responsibility to maintain states’ voter registration lists. Given the realities of a mobile voter population and decentralized elections administration in the United States, it is essential that deregistration remain the province of the government, not the voter.

Two of HB 892’s provisions ignore these realities by criminalizing (1) a voter having multiple registrations and (2) a voter omitting any previous registration on a state voter registration form. The provisions do not serve any anti-fraud or election administration purpose, as existing state and federal prohibitions effectively target double voting. Instead, the provisions make routine voter registration conduct a crime and interfere with the work of civic organizations such as Plaintiff League of Women Voters of Montana (“LWVMT”). LWVMT seeks to vindicate and safeguard its constitutional rights through a preliminary injunction against HB 892’s enforcement.

BACKGROUND

I. HB 892’s Legal Framework

During the 2023 session, the Montana Legislature passed HB 892 (“Prohibit Double Voting”), which the Governor signed into effect on May 22. Ex. 8 (Enrolled Bill Text); Ex. 15 (Bill Information). HB 892 re-articulates Montana’s preexisting prohibition on double voting, which also mirrors a longstanding federal ban. § 13-35-210(2), (4), MCA; 52 U.S.C. § 10307(e). But HB 892 goes much further; it creates two additional criminal felony laws that encumber voters with vague and unnecessary registration requirements. § 13-35-210(5)-(6), MCA.

A. HB 892's Deregistration Requirement

HB 892 prohibits any voter from “purposefully remain[ing] registered to vote in more than one place in this state or another state any time, unless related to involvement in special district elections.” § 13-35-210(5), MCA (“Deregistration Requirement”). This Requirement creates a new felony offense prohibiting a voter from registering in a Montana jurisdiction before ensuring any previous registration in another jurisdiction is cancelled. The one-sentence mandate is ambiguous, failing to define key terms including “remain registered,” or “in more than one place.” As one legislator noted during the debate on HB 892, the Deregistration Requirement could be enforced to penalize a range of innocent voter conduct: someone “could interpret this any way you want” to impede voter registration, and “what hangs in the balance is jail time.” Mont. Leg., Senate State Admin. Hearing Video at 07:52 (Apr. 17, 2023), available at <https://tinyurl.com/3y5hua8r> (“Sen. Comm. Hearing”). The bill was not amended to address these concerns.

Additionally, HB 892 neither explains how voters may comply with the Deregistration Requirement nor accounts for how registration systems function. The processes for voters to deregister in prior jurisdictions are unclear and inconsistent, and in many cases a voter cannot be guaranteed that deregistration has been successful. *See* Ex. 17 (EAC List). The Secretary’s website merely states that voters “must notify the county election office” and provides contact information. Ex. 11 (Election Facts); *see also* Ex. 14 (SOS FAQs). And as the Secretary’s witness testified during HB 892 hearings, there is no centralized system or established or consistent process for voters to cancel a registration in a prior state, and Montana has declined to subscribe to the national Electronic Registration Information Center (“ERIC”) system for cross-state registration information sharing. Sen. Comm. Hearing at 18:48 (describing system); Mont. Leg., House State Admin. Hearing Video at 07:32 (Mar. 29, 2023), available at <https://tinyurl.com/yc3rarh8> (“House Comm. Hearing”) (same).

Even if a voter can request cancellation of a prior registration, the success of the request depends on independent acts of third parties. Ex. 23 (Lewis and Clark County Records). And in some jurisdictions, it is difficult for a voter to confirm whether their request has been completed. Ex. 1, Decl. of LWVMT President Nancy Leifer ¶ 71 (“Leifer Decl.”); Ex. 6, Expert Report of Dr. Alexander Street ¶¶ 16, 22 (“Street Rep.”). Some voters may not know that they remain registered elsewhere, including in automatic voter registration states, and, if they do, may be unaware of how to deregister. Leifer Decl. ¶¶ 67, 73-74, 80; Street Rep. ¶ 16; Ex. 16 (AVR List). Voters understandably expect the government to use its substantial resources to handle previous registrations. Leifer Decl. ¶ 67; Street Rep. ¶¶ 16, 19.

B. HB 892’s Omission Provision

HB 892 also requires voter registration applicants using the Montana state registration form (“State Form”) to “provide the[ir] previous registration information.” § 13-35-210(5), MCA (“Omission Provision”). The Omission Provision creates a new felony offense for omitting prior registration information on a voter registration application, and may also criminalize providing inaccurate previous registration information. The provision does not specify the requisite mental state for a violation, nor does it explain how a voter may satisfy the requirement of providing “previous registration information.” *Id.* For example, it is unclear whether the information required is (1) the voter’s last-in-time registration or all previous registrations and (2) the voter’s previous jurisdiction(s) or the exact previous registration address(es).

During debate, one legislator noted the lack of a requisite mental state for a violation of the Omission Provision, but it went unaddressed during the legislative process. House Comm. Hearing at 06:20. When a legislator asked whether the Omission Provision would “increase the burden to vote on the voter” or “increase the burden on the clerk’s office, or both,” a county election official representing the Montana Association of Clerks and Recorders stated that she shared the concerns

and was “not sure what the intent here is.” *Id.* at 08:56. HB 892’s supporters did not clarify.

C. Montana State Voter Registration Form

Ambiguities on the current State Form—which election officials are instructed to use, Mont. Admin. R. 44.3.2004, and which was last revised in April 2021, Ex. 7 (State Form)—exacerbate the problems of the Deregistration Requirement and Omission Provision. For example, the form includes a field for an applicant’s previous registration information, *id.*, Box 9, but it is unclear whether the information is required and, if so, what must be provided. The form instructs that previous registration information is “REQUIRED IF NAME CHANGED OR IF PREVIOUSLY REGISTERED TO VOTE IN ANOTHER MT COUNTY OR IN ANOTHER STATE.” *Id.* But the prompt is not marked by the asterisk that indicates required fields. *Id.* And it is unclear what qualifies as a “New Registration” on the State Form, or how new registrations implicate HB 892’s requirements. *Id.*, Box 1. The Secretary’s guidance about the State Form and these inputs—updated in July— is silent on how to complete a registration form in compliance with HB 892. *See, e.g.*, Ex. 13 (NVRA Guide) at 4, 6.¹

D. HB 892’s Severe Felony Criminal Penalties and Unclear Requirements

HB 892 enforces the Deregistration Requirement and Omission Provision through severe means. Each violation is punishable as a felony, carrying up to \$5,000 in fines, 18 months imprisonment, or both, which exceeds the background misdemeanor applicable to most election law violations. § 13-35-210(6), MCA (HB 892 penalty provision); *see also* §§ 13-35-103 (misdemeanor provision), 45-2-101(23) (defining felony), MCA. Both county and state officials could enforce the provision against voters. *See* §§ 13-37-111 (Commissioner of Political

¹ Plaintiff submitted multiple records requests to Secretary Jacobsen concerning the State Form and the enforcement of HB 892. Leifer Decl. ¶¶ 114-115; Ex. 19 (Records Request); 20 (Email Requests). The Secretary has not provided HB 892 guidance to county elections officials, despite requests to do so. *See* Ex. 9 (Missoula County Records); Ex. 10 (Montana County Records).

Practices); 2-15-501 (Attorney General), MCA. Additionally, enforcement actions may be taken against third party groups that assist a voter found to violate HB 892. *See* §§ 13-35-105, 13-35-205(6), 45-2-302(3), MCA. The risk of HB 892’s enforcement is not idle. HB 892’s sponsor, for example, indicated that “in discussing [HB 892] with the Secretary of State’s office, this will allow them to prosecute; they wanted this bill.” Mont. Leg., House Floor Session Video at 05:02 (Mar. 31, 2023), available at <https://tinyurl.com/2476xmhy> (“House Fl. Session”); *see* House Comm. Hearing at 02:01; Sen. Comm. Hearing at 01:05, 16:52.

Moreover, it is unclear what happens to a registration application that does not comply with HB 892. Neither HB 892 nor any other state provision makes deregistering from a previous jurisdiction or providing prior registration information a requirement for voter registration. *See, e.g.*, Mont. Const., art. IV, § 2; §§ 13-1-111 (voter qualifications), 13-1-112 (residency rules), 13-2-110 (registration application requirements), 13-2-402 (registration cancellations), MCA. And the Secretary’s binding guidance provides that “[u]pon satisfying the voter registration qualifications in 13-1-111, MCA”—which includes nothing about previous registration—“a registered elector may obtain and cast a ballot.” Mont. Admin. R. 44.3.2010(4). Yet HB 892’s ambiguities could lead to arbitrary implementation, including as a reason to reject or hold up a valid voter registration. *See, e.g.*, Mont. Admin. R. 44.3.2010(5). County election officials have expressed concerns about HB 892’s uncertainties, which have not been resolved. Ex. 9 (Missoula County Records); Ex. 10 (Montana County Records); House Comm. Hearing at 08:56. HB 892’s provisions and punishments are extreme outliers, with no true analogue across the country.

E. Stated Purpose of HB 892

HB 892’s ostensible purpose is to prevent double voting by imposing additional felony penalties. Plaintiff does not challenge the portion of HB 892 that makes double voting—already a criminal act under state and federal law—a felony offense. § 13-35-210(2), (4), MCA; 52 U.S.C.

§ 10307(e). But it is unclear how the Deregistration Requirement and Omission Provision may prevent double voting. For example, HB 892’s lead sponsor, Representative Hellegaard, said that the bill is meant to “send[] a strong message” that voting twice “will not be tolerated.” Sen. Comm. Hearing at 02:20. But when pressed about the purpose of the Deregistration Requirement and Omission Provision, legislators and the Secretary’s witness could not provide any rationale; the sponsor demurred that “leadership gave [her] this bill and said we want this done.” *See, e.g.*, Sen. Comm. Hearing at 23:22; House Comm. Hearing at 15:20.

Other legislators emphasized that the challenged provisions merely supplement the existing safeguards that effectively prevent double voting and voter fraud, which is extremely rare in Montana. House Comm. Hearing at 03:28, 13:34; House Fl. Session at 03:06; Sen. Comm. Hearing at 13:30; Mont. Leg. Senate Floor Session Video at 03:35, 12:00 (Apr. 25, 2023), available at <https://tinyurl.com/43dm7rat> (“Sen. Fl. Session”); *see also* Ex. 18 (Heritage Foundation) (recording only two election fraud instances since 2011). HB 892’s sponsor and the Secretary’s witness agreed that preexisting practices and systems—including criminal provisions and cross-jurisdiction collaboration—already prevent double registration and double voting. House Comm. Hearing at 07:06, 07:32; Sen. Comm. Hearing at 11:20, 21:51. The HB 892 provisions were, in the sponsor’s words, merely “another tool in the toolbox.” Sen. Comm. Hearing at 15:04.

II. Plaintiff’s Lawsuit

Plaintiff LWVMT filed suit to enjoin the Deregistration Requirement and Omission Provision and to relieve HB 892’s unconstitutional burdens on civic organizations and voters. *See* Compl., Doc. 1 (Oct. 31, 2023). LWVMT is a nonpartisan membership, service, and advocacy organization that encourages informed and active participation in government for all voters. Leifer Decl. ¶¶ 4-8, 22-23, 31. LWVMT’s approximately 330 active voter-members span its four “local

League” chapters in Montana, with members moving across jurisdictions since the enactment of HB 892. *Id.* ¶¶ 9-15; Ex. 4, Decl. of Joye Kohl ¶¶ 2-3; Ex. 5, Decl. of Marga Lincoln ¶¶ 2-3.

LWVMT believes that increased civic engagement is key to a more representative government, and LWVMT expresses its view by assisting and encouraging members and eligible Montanans to register to vote. Leifer Decl. ¶¶ 5-8, 19-20, 26, 31, 54. LWVMT’s voter registration activities, like the similar work of its partners, is effective. Street Rep. ¶¶ 13, 15. LWVMT assisted over 1,200 eligible Montanans in registering to vote in 2022 and over 470 so far in 2023, including voters who had to register following a cross-jurisdiction move. Leifer Decl. ¶ 22. LWVMT regularly works with Montanans who have moved recently and need to re-register in a new jurisdiction. *Id.* ¶¶ 64-65. LWVMT specifically assists and encourages registration within underserved populations—including low-income, housing insecure, formerly incarcerated, Native, and elderly individuals; students; those with disabilities; and veterans—who are often more transient than other groups. *Id.* ¶¶ 49-50, 64, 108. LWVMT’s successful voter registration programs attract more members, volunteers, partnerships, and resources. *Id.* ¶¶ 29, 32-41. Other nonpartisan civic organizations are similarly impaired by HB 892. Ex. 2, Decl. of Julia Maxon ¶¶ 25-33, 81-85 (“Maxon Decl.”); Ex. 3, Decl. of Kiersten Iwai ¶¶ 15-20, 54-56 (“Iwai Decl.”).

In response to HB 892, LWVMT has altered its programs and diverted resources, and it is developing guidance for members, volunteers, and voters about HB 892’s impact and the risk of criminal penalties. Leifer Decl. ¶¶ 51, 123, 135-51. HB 892 chills LWVMT’s expressive activities because LWVMT fears the threat of criminal liability under HB 892 to itself, its members and volunteers, and the voters it assists. *Id.* ¶¶ 55-57, 61, 68, 87-91, 125, 127, 142-43. LWVMT is also reasonably concerned that HB 892 will be applied as a requirement for registration eligibility that could result in the rejection or delay of valid applications of its members and the voters it assists,

which undermines LWVMT’s activities. *Id.* ¶¶ 58, 79-83. If a voter or a registration volunteer were prosecuted under HB 892, LWVMT and its partners would be severely harmed. *Id.* ¶¶ 56, 135-39, 142-43; *see also* Maxon Decl. ¶¶ 68-80; Iwai Decl. ¶¶ 42-53. LWVMT has several registration programs upcoming in early 2024, and it will continue to conduct others through the 2024 election cycle. Leifer Decl. ¶¶ 42-51. But LWVMT is reluctant in its planning given how HB 892 affects these programs and Plaintiff’s interactions with voters. *Id.* ¶¶ 53-55, 123.

LEGAL STANDARD

District courts have “broad discretion” to grant a preliminary injunction where doing so will “preserve the status quo and minimize the harm to all parties pending final resolution on the merits.” *Driscoll v. Stapleton*, 2020 MT 247, ¶ 14, 401 Mont. 405, 473 P.3d 386 (internal quotation marks and citation omitted). Such relief is warranted where the applicant shows: (1) it “is likely to succeed on the merits”; (2) it “is likely to suffer irreparable harm”; (3) “the balance of equities tips in the applicant’s favor”; and (4) relief “is in the public interest.” § 27-19-201(1), MCA.²

ARGUMENT

HB 892’s Deregistration Requirement and Omission Provision impair LWVMT’s fundamental rights to free speech, association, suffrage, and due process. Both provisions are subject to, and fail, strict scrutiny. The provisions have and imminently will cause LWVMT and others irreparable harm. And the equities and public interest tilt sharply in Plaintiff’s favor.

² The amended statute provides that the standard should “mirror the federal preliminary injunction standard,” and its “interpretation and application” should “closely follow United States supreme court case law.” § 27-19-201(4), MCA. The Court has since reiterated that a party need only establish a “prima facie case . . . to be entitled to a preliminary injunction.” *Benesh v. Hebert*, 2023 MT 123N, ¶ 12, 530 P.3d 1293, 2023 Mont. LEXIS 647, at *11 (Mont. June 20, 2023).

I. Plaintiff LWVMT is likely to succeed on the merits of their constitutional claims.

A. HB 892 violates Plaintiff’s fundamental right of freedom of speech.

The challenged provisions violate Article II, Section 7, which prohibits laws “impairing the freedom of speech or expression” and protects the right to “be free to speak or publish whatever he will on any subject[.]” Mont. Const., art. II, § 7. These rights are “fundamental.” *State v. Dugan*, 2013 MT 38, ¶ 18, 369 Mont. 39, 303 P.3d 755 (citations omitted).³

First, LWVMT’s voter registration activities represent core political speech. Montana’s free speech rights extend to organizations to protect their “opportunity to persuade to action.” *Mont. Auto Ass’n v. Greely*, 193 Mont. 378, 387-88, 632 P.2d 300, 305 (1981). Article II, Section 7 safeguards the right of organizations to the “unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” *Dorn v. Bd. of Trs. of Billings Sch. Dist. No. 2*, 203 Mont. 136, 145, 661 P.2d 426, 431(1983) (internal quotation marks and citation omitted). Such expression “is appropriately described as ‘core political speech,’” which includes voter engagement activity involving “the expression of a desire for political change,” “communication of information,” and “the dissemination and propagation of views and ideas” about the electoral process. *Meyer v. Grant*, 486 U.S. 414, 421-22 & n.5 (1988) (citation omitted).

LWVMT subscribes to the view that “a healthy, participatory democracy depends on ensuring that as many people as possible vote for the people who represent them.” *Mont.*

³ Montana’s state constitutional free speech and associational guarantees are at least as protective as the federal First Amendment. *See City of Billings v. Laedeker*, 247 Mont. 151, 157-58, 805 P.2d 1348, 1351-52 (1991). Indeed, the text of Article II, Sections 6 and 7 exceeds the First Amendment to, for example, broadly bar any “impairing” of free expression, and the Montana Constitution must be interpreted independent of any federal constitutional floor. Mont. Const., art. II, § 7; *see also, Dorwart v. Caraway*, 2002 MT 240, ¶¶ 94-96, 312 Mont. 1, 58 P.3d 128 (Nelson, J., concurring). This brief cites federal cases as persuasive only, not to suggest federal law dictates the outcome here. The Court should “indicate[] clearly and expressly that [its decision is] based on bona fide separate, adequate, and independent grounds” under the Montana Constitution. *See, e.g., Michigan v. Long*, 463 U.S. 1032, 1041 (1983).

Democratic Party v. Jacobsen, 2022 MT 184, ¶ 36, 410 Mont. 114, 518 P.3d 58. LWVMT believes that more Montanans should participate in elections and become civically engaged to achieve a more representative democracy. Leifer Decl. ¶¶ 5-6, 8, 19-20, 31, 40. In the ongoing national debate about whether to engage and trust in the electoral process, LWVMT takes a strong stance in favor of doing so by encouraging and assisting eligible Montanans to become registered. Leifer Decl. ¶ 21. Other groups express similar messages in their registration programs with particular focus on engaging underserved populations. Maxon Decl. ¶¶ 7-10, 45-55; Iwai Decl. ¶¶ 6-14.

Such “advocacy of a politically controversial viewpoint” encouraging engagement in the electoral process “is the essence” of core political speech. *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 346-47 (1995). LWVMT’s speech promotes the “interchange of ideas for the bringing about of political and social changes”—greater participation in elections, particularly by underserved groups, because getting registered is beneficial, easy, and safe. *See Dorn*, 203 Mont. at 145, 661 P.3d at 431. Montana courts have concluded that analogous voter engagement efforts are core political speech. Appendix A, *Mont. Democratic Party v. Jacobsen*, DV 21-0451, at 48-50 (13th Jud. Dist. Ct. Apr. 6, 2022); *W. Native Voice v. Stapleton*, DV 20-0377, 2020 Mont. Dist. LEXIS 3, at *60-63 (13th Jud. Dist. Ct. Sept. 25, 2020). As have numerous federal courts specifically considering voter registration. *See, e.g., League of Women Voters v. Hargett*, 400 F. Supp. 3d 706, 720 (M.D. Tenn. 2019); *Am. Ass’n of People with Disabilities v. Herrera*, 690 F. Supp. 2d 1183, 1217 (D.N.M. 2010).

Second, the Deregistration Requirement and the Omission Provision impair LWVMT’s core political speech in its voter registration activities. Free speech rights are broad, protecting “not just speech itself but the entire process of communication, including the exchange of ideas and information between speaker and listener.” *State ex rel. Missouliau v. Mont. Twenty-First*

Judicial Dist. Court, Ravalli Cnty., 281 Mont. 285, 301-02, 933 P.2d 829, 839 (1997). Likewise, regulations infringe on core political speech when they “reduc[e] the total quantum of speech on a public issue” and impair the speaker’s “right not only to advocate their cause but also to select what they believe to be the most effective means” of doing so. *Meyer*, 486 U.S. at 423-24.

LWVMT’s expression is undermined because HB 892 requires it to speak cautiously in its voter registration encouragement and assistance programs. Leifer Decl. ¶¶ 57, 143-44. Key to LWVMT’s message—and its most effective means of encouraging registration—is its unequivocal expression that prospective voters should engage and that getting registered is easy, convenient, and hassle- and risk-free. *Id.* ¶¶ 27-28, 57. This message is effective at encouraging and assisting voters to overcome the costs of voting. Street Rep. ¶¶ 13, 15.

HB 892 impairs LWVMT’s message and will reduce the quantum of speech advocating for registration because LWVMT is concerned that the voters it assists and its own members and volunteers could be subject to criminal prosecution. Leifer Decl. ¶¶ 56-57, 68, 90-91, 125, 127, 142-43. As HB 892 is implemented, LWVMT will need to inform voters, members, and volunteers about HB 892’s new hurdles and warn them of the criminal risks of a violation. *Id.* ¶¶ 51, 57, 137-39, 142-43. LWVMT will need to dedicate more resources to each voter it assists to encourage them to overcome HB 892’s added hurdles and risks. *Id.* ¶¶ 63, 149-51. This, in turn, chills Plaintiff’s pro-democracy, pro-voting message, forcing LWVMT to alter its expression due to the threat that LWVMT’s voter registration work could create criminal liability. *Id.* ¶¶ 121-22, 144-45. Other civic organizations’ speech rights are similarly encumbered by HB 892. Maxon Decl. ¶¶ 81-85; Iwai Decl. ¶¶ 54-56. HB 892’s impairment of LWVMT’s core political speech “must be strictly scrutinized.” *Mont. Env’t Info. Ctr. v. Dep’t of Env’t Quality*, 1999 MT 248, ¶ 63, 296 Mont. 207, 988 P.2d 1236.

B. HB 892 violates Plaintiff’s fundamental right of freedom of association.

HB 892 violates LWVMT’s “[f]undamental” free association rights. Mont. Const., art. II, §§ 6-7; *In re C.H.*, 210 Mont. 184, 199, 683 P.2d 931, 939 (1984). The Constitution “protects the right of associations to engage in advocacy on behalf of their members” and the organization, including to “provide[] for the opportunity [of associations] to persuade to action.” *Greely*, 193 Mont. at 387-88, 632 P.2d at 305; *accord NAACP v. Button*, 371 U.S. 415, 429-31 (1963). HB 892 impairs these associational rights, both directly and indirectly.

LWVMT’s programs are protected associational activity, and its expressive association is key to its voter registration programs. Leifer Decl. ¶¶ 32-41. When LWVMT conducts a registration drive, it associates with members, volunteers, voters, and partner organizations to increase engagement. *Id.* LWVMT relies on its ability to effectively and freely share its pro-voter message to continue to deepen and expand its associations. *Id.* ¶¶ 26, 31, 33-34, 40. Other Montana organizations engage in similar activity, and all undertake these expressive associations for the same core reason: encouraging and assisting eligible Montanans to engage by registering to vote. *Id.* ¶¶ 38-41; Maxon Decl. ¶¶ 12-13, 25-33; Iwai Decl. ¶¶ 6, 15-20.

Montana recognizes constitutional protection for this type of expressive association. In *Dorn*, for example, the Court held that analogous activities in the initiative petition context are protected under Article II, Sections 6 and 7. 203 Mont. at 144-45, 661 P.2d at 430-31. Like the right to free speech, the right to free association guarantees “the unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” *Dorn*, 203 Mont. at 145, 661 P.2d at 431 (internal quotation marks and citation omitted). Similarly, restrictions on ballot collection assistance implicate the “[f]reedom of association,” which “protects the ability of organizations . . . to associate with members, organizers, volunteers, and [voter] communities in furtherance of a political belief.” *W. Native Voice*, 2020 Mont. Dist. LEXIS 3, at *62-63; *accord*

Appendix B, *W. Native Voice v. Stapleton*, No. DV-2020-377, at 9-11 (13th Jud. Dist. Ct. July 7, 2020) (enjoining provisions based on “right to freedom of association”). Federal courts likewise protect the associational rights involved in voter engagement work. *See, e.g., Hargett*, 400 F. Supp. 3d at 720; *Herrera*, 690 F. Supp. 2d at 1202, 1215-16; *accord VoteAmerica v. Schwab*, No. 21-2253-KHV, 2023 U.S. Dist. LEXIS 78316, at *30 (D. Kan. May 4, 2023).

The Constitution prohibits “*impairing* the freedom of” association, not just fully denying it. Mont. Const., art. II, § 7 (emphasis added). Thus, associational rights guard against laws that “constitute an effective restraint on freedom of association.” *Greely*, 193 Mont. at 397, 632 P.2d at 310 (cleaned up). They are “protected not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental interference[.]” with the group’s “means of communicating” to further their associations. *Healy v. James*, 408 U.S. 169, 181-83 (1972). The “abridgement of such rights” in incidental or “unintended” ways nonetheless “ha[s] a chilling effect on, and therefore infringe[s], the exercise of fundamental rights.” *Perry v. Schwarzenegger*, 591 F.3d 1126, 1139 (9th Cir. 2009) (citation omitted).

HB 892 impairs Plaintiff’s free association. Rather than freely encouraging members, volunteers, and partnership organizations to work with LWVMT to perform voter registration programs, LWVMT will need to warn that doing so could, in some circumstances, expose individuals and organizations to criminal sanction. Leifer Decl. ¶¶ 57, 143. Likewise, HB 892’s hurdles will impede the registration process and diminish the effectiveness of LWVMT’s programs, impairing LWVMT’s ability to deepen and expand its associations through its successful programs. *Id.* ¶¶ 3, 57, 59-61, 127, 145-46, 151. Civic organizations are reasonably concerned that HB 892 will scare off current and potential voters, members, and volunteers, and undermine the effective programs that further their associations. *Id.* ¶¶ 52, 56-61, 76-77, 83, 87,

143; Maxon Decl. ¶¶ 58, 66-80; Iwai Decl. ¶¶ 40-53. These risks undermine each aspect of Plaintiff's associations because "the threat of penalties is likely to have a chilling effect on the entirety of the [registration] drive." *Hargett*, 400 F. Supp. 3d at 720.

Core political speech rights require utmost constitutional protection for both "political association as well as political expression." *Buckley v. Valeo*, 424 U.S. 1, 15 (1976) (per curiam). Whether direct or incidental, HB's impairment of Plaintiff's expressive associations "must survive exacting scrutiny." *Perry*, 591 F.3d at 1139 (quoting *Buckley*, 424 U.S. at 64).

C. HB 892 encumbers the fundamental right of suffrage.

In addition to protecting core political speech and association, the Montana Constitution safeguards the "free exercise of the right of suffrage." Mont. Const., art. II § 13. Together and individually, the Deregistration Requirement and Omission Provision needlessly encumber voting rights and must satisfy strict scrutiny. *Mont. Democratic Party* at ¶ 19.

Requiring Montanans to go through additional unclear and inconsistent steps to deregister will turn people off from the voting process by burdening their ability to register. *See* Leifer Decl. ¶¶ 59-60, 62-91; Street Rep. ¶¶ 22-23; Ex. 17 (EAC List). Some voters do not know whether or where they have a prior registration or if it has already been cancelled. Leifer Decl. ¶¶ 67, 71, 73-74; Maxon Decl. ¶¶ 59-60, 79; Iwai Decl. ¶¶ 35-37, 52. Compliance with the Deregistration Requirement is further conditioned on the actions of third parties beyond the voter's control to cancel a prior registration. Leifer Decl. ¶¶ 67-71, 79; Ex. 23 (Lewis and Clark County Records). The Omission Provision similarly abridges suffrage rights. Voters often will not remember or may misremember previous registration information. Leifer Decl. ¶¶ 72-74. In a best-case scenario, these voters will be delayed in registering as they research their prior registration. *Id.* ¶¶ 75, 81-82. Others will inadvertently submit incomplete or inaccurate applications. *Id.* ¶¶ 81-82. And many

voters simply will not go through HB 892’s added requirements, opting instead not to vote. *Id.* ¶¶ 60, 76-77, 83, 87.

For the voters that do apply, county election officials who receive otherwise acceptable registrations may reject or delay processing them because of perceived noncompliance with HB 892. *Id.* ¶ 81. Voters could then be required to spend additional time and effort resubmitting or correcting their registration form. *Id.* ¶ 82. This is so even though county election officials often already have the necessary information to process the application (at least for inter-county moves). *Id.* ¶¶ 85; Street Rep. ¶¶ 17-18. HB 892’s burdens will fall hardest on the underserved populations that civic organizations encourage to register, Street Rep. ¶¶ 21-23; Leifer Decl. ¶ 64; Maxon Decl. ¶¶ 45-65; Iwai Decl. ¶¶ 31-39, by requiring voters to go through “additional hoops” that “will raise the cost of voting.” *Mont. Democratic Party* at ¶ 28 (quotation marks omitted).

HB 892 encumbers voting rights even though a voter’s failure to cancel a prior registration or provide previous information is irrelevant to voter eligibility under Montana law. *See supra* Background I.D. Moreover, underpinning these burdens is HB 892’s threat of criminal prosecution, which impedes eligible Montanans from registering in the first place. Ex. 23 (Lewis and Clark County Records). If someone is convicted because of HB 892, the result would be the complete loss of the franchise for a time. §§ 13-35-210(6), 45-2-101(23), 13-1-111(2), MCA. Civic organizations will bear the burden of spending more time assisting fewer voters, and will have their own messaging chilled because of HB 892. Leifer Decl. ¶¶ 56, 143-44, 148-51; Maxon Decl. ¶¶ 73-85; Iwai Decl. ¶¶ 46-56.

Thus, the challenged restrictions curtail the fundamental right of suffrage, both for Plaintiff’s members and the individuals they assist. As such, HB 892 must survive strict scrutiny. *See Mont. Democratic Party* at ¶ 18 (describing fundamental nature of the right).

D. HB 892 is impermissibly vague, in violation of due process.

HB 892 is impermissibly vague and violates Plaintiff's due process rights. Mont. Const., art. II, § 17. "It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined." *Dugan* at ¶ 66 (citations omitted). A statute is facially void "if it fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden." *Id.* at ¶ 67 (citation omitted). Where, as here, "a vague statute abuts upon sensitive areas of" free speech and association, any "[u]ncertain meanings inevitably lead citizens to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked." *City of Whitefish v. O'Shaughnessy*, 216 Mont. 433, 440, 704 P.2d 1021, 1025-26 (1985) (citation omitted). Vagueness standards "are strict in the area of free expression." *Button*, 371 U.S. at 432; accord *Butcher v. Knudsen*, 38 F.4th 1163, 1169 (9th Cir. 2022).

The Deregistration Requirement criminalizes "purposefully remain[ing] registered to vote in more than one place," but does not define key terms in critical respects. § 13-35-210(5), MCA. Voters and the civic organizations assisting them, not to mention election administrators, are left to guess what conduct is required to avoid liability, who is covered by the prohibition, and when it will apply. Leifer Decl. ¶¶ 92-115, 122-24; Maxon Decl. ¶¶ 34-44; Iwai Decl. ¶¶ 21-30; Ex. 9 (Missoula County Records); Ex. 10 (Montana County Records). For example, "remain" is defined as "to continue unchanged." *Remain*, MERRIAM-WEBSTER DICTIONARY (2023), <https://www.merriam-webster.com/dictionary/remain>. So, to avoid "continu[ing] unchanged," must an applicant take affirmative steps to deregister elsewhere and confirm election officials cancelled the registration? Must voters do so before applying to register at their current residence? Are current Montana registrants included in the requirement? HB 892 provides no answers.

The inclusion of "purposefully" does little to clarify because "[a] scienter requirement cannot eliminate vagueness . . . if it is satisfied by an 'intent' to do something that is in itself

ambiguous.” *Nova Records, Inc. v. Sendak*, 706 F.2d 782, 789 (7th Cir. 1983); accord *United States v. Loy*, 237 F.3d 251, 265 (3d Cir. 2001). For example, does a person act “purposefully” if they know that they have a registration elsewhere but choose not to cancel that registration? Or is it satisfied only if the person plans to vote in both places, but not if they just remain registered? What if a voter only suspects that they are registered elsewhere—potentially because they moved from one of the many states with automatic voter registration, *see* Ex. 16 (AVR list)—but did not check? Is it enough for a voter to simply be willfully uncertain of the status of preexisting registrations? Again, HB 892 is not instructive.

The Omission Provision, for its part, has no scienter element at all, requiring “previous registration information” on threat of felony prosecution for apparently even inadvertent omissions. HB 892 further fails to describe the extent of the previous registration information applicants must include. This leaves Montanans to guess what conduct is considered a felony. *See* §§ 13-35-210(6), 45-2-101(23), MCA. And it is uncertain how HB 892’s requirements may be imputed to others, like LWVMT, for assisting voters, which may be considered “aiding and abetting” a violation, §§ 13-35-105, 45-2-302(3), MCA, or unintentionally “caus[ing] a name to be placed on the registry lists other than in the manner provided by this title,” § 13-35-205(6), MCA. In short, HB 892 unconstitutionally requires Montanans “to speculate as to whether [their] contemplated course of action may be subject to criminal penalties.” *State v. Brogan*, 272 Mont. 156, 168, 900 P.2d 284, 291 (1995) (internal quotation marks and citation omitted).

E. HB 892 fails strict or any lesser level of scrutiny.

When a statute “implicates . . . a fundamental right,” the “most stringent level of scrutiny” applies. *Mont. Democratic Party* at ¶ 18. The government must prove that the challenged laws are “narrowly tailored to serve a compelling government interest,” *id.*, by establishing “competent evidence” that the laws are “the least onerous path that can be taken to achieve the state objective,”

Wadsworth v. State, 275 Mont. 287, 302, 303, 911 P.2d 1165, 1174 (1996). This high burden “is seldom satisfied.” *State ex rel. Bartmess v. Bd. of Trs. of Sch. Dist. No. 1*, 223 Mont. 269, 275, 726 P.2d 801, 804 (1986). Indeed, the challenged provisions cannot survive constitutional scrutiny because they are not sufficiently related to a legitimate state interest.

First, it is not clear what interest the challenged provisions serve. Even the bill’s sponsor equivocated when questioned, stating only that “leadership gave [her] this bill and said we want this done.” *See supra* Background I.E. But a political desire to move legislation is not a compelling reason to curtail fundamental rights. *See Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 203 (2008) (plurality op.) (partisan objectives for voting restrictions are not legitimate interests).

While HB 892’s ostensible goal was to “clarify what double voting means in Montana law and that voting in Montana and another state” for the same election is prohibited, House Comm. Hearing at 2:23, the challenged provisions do not “clarify” anything; they add ambiguities and focus on multiple *registrations*. But there is nothing inherently unlawful about having two registrations. *See Common Cause Ind. v. Lawson*, 937 F.3d 944, 960 (7th Cir. 2019); Street Rep. ¶¶ 11, 16, 19. And the state has no evidence that addressing “double voting” motivates the challenged provisions, especially as “voter fraud of any sort is vanishingly rare in Montana.” *Mont. Democratic Party* at ¶ 29 (internal quotation marks omitted); Street Rep. ¶¶ 4, 25.

Second, even if the state has a compelling interest in issues related to double voting, the challenged provisions do not improve upon existing prohibitions on double voting; in the sponsor’s words, the provisions are merely “another tool in the toolbox.” Sen. Comm. Hearing at 15:04. Existing federal and state law prohibits it, as do HB 892’s unchallenged parts. § 13-35-210(2), (4), MCA; 52 U.S.C. § 10307(e). And Montana already prevents a voter with two registrations from voting twice through, for example, provisional ballots. Ex. 21 (Directive 1-06); Ex. 22 (Directive

03-07); Ex. 12 (Election Admin. FAQs). A supplemental tool is not the “least onerous path” to achieve the state’s interest. *Wadsworth*, 275 Mont. at 303, 911 P.2d at 1174. And the provisions serve little purpose anyway. Street Rep. ¶¶ 5, 25-27. Montana’s system already prevents duplicative inter-county registrations, whether or not an applicant complies with HB 892. *Id.* ¶ 18. Montana election officials do not check for duplicative interstate registrations because Montana does not subscribe to ERIC, the cross-state registration data sharing platform—which would be a far less intrusive solution to address double registrations. *Id.* ¶ 17.

HB 892’s provisions are both under- and over-inclusive. They provide no means for election officials to check out-of-state information. And they extend risks of criminal sanction to people who have no intention to unlawfully vote twice. Broadly and vaguely criminalizing common voter behavior is far from the narrow tailoring required “[w]hen the government intrudes upon a fundamental right.” *Wadsworth*, 275 Mont. at 302, 911 P.2d at 1174.

II. Plaintiff faces imminent, irreparable injury in the absence of preliminary relief.

HB 892 should be enjoined because LWVMT “is likely to suffer irreparable harm in the absence of preliminary relief.” § 27-19-201(1)(b), MCA. “[T]he loss of a constitutional right constitutes an irreparable injury,” *Driscoll* at ¶ 15, particularly when it involves interference with free speech or the right to vote. *See, e.g., Weems v. State ex rel. Fox*, 2019 MT 98, ¶ 25, 395 Mont. 350, 440 P.3d 4; *Mont. Democratic Party* at ¶¶ 32, 34; *accord Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012).

More specifically, LWVMT and others are planning and implementing voter engagement programs now ahead of events scheduled in early 2024. Leifer Decl. ¶¶ 42-51; Maxon Decl. ¶ 68; Iwai Decl. ¶ 42. Given the law’s recent passage, broad enforcement mandate, and legislators’ representations that HB 892 was enacted to be enforced, LWVMT and others are concerned that their activities could expose themselves and the voters they assist to criminal liability. *See supra*

Background I.D-E. Absent an injunction to maintain the status quo, Plaintiff will be irreparably harmed; they will suffer chilled speech, altered programs, and encumbered right to vote.

III. The balance of equities and public interest weigh in favor of Plaintiff.

The balance of equities and public interest favors Plaintiff. The Court’s task is to “minimize potential damage.” *Four Rivers Seed Co. v. Circle K Farms, Inc.*, 2000 MT 360, ¶ 12, 303 Mont. 342, 16 P.3d 342. The threats and burdens on Plaintiff are high. *See supra* Argument II.A-D. But Defendants’ interests in enforcing HB 892’s provisions are minimal, given that voter fraud is rare in Montana and the challenged provisions have at best a tenuous connection to such an interest. *See supra* Argument II.E; Background I.E. Moreover, “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023) (internal quotation marks and citation omitted).

CONCLUSION

For the above reasons, the challenged HB 892 provisions should be preliminarily enjoined.

Respectfully submitted this 16th day of November, 2023.

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APPENDIX A

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY**

<p>Montana Democratic Party, Mitch Bohn, Plaintiffs,</p> <p>WESTERN NATIVE VOICE, Montana Native Vote, Blackfeet Nation, Confederated Salish and Kootenai Tribes, Fort Belknap Indian Community, and Northern Cheyenne Tribe, Plaintiffs,</p> <p>Montana Youth Action, Forward Montana Foundation, and Montana Public Interest Research Group, Plaintiffs,</p> <p>v.</p> <p>Christi Jacobsen, in her official capacity as Montana Secretary of State, Defendant.</p>	<p>Consolidated Case No.: DV 21-0451</p> <p>Judge Michael G. Moses</p> <p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTIONS</p>
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Consolidated Plaintiffs Montana Democratic Party and Mitch Bohn (“MDP”); Western Native Voice, Montana Native Vote, Blackfeet Nation, Confederated Salish and Kootenai Tribes, Fort Belknap Indian Community, and Northern Cheyenne Tribe (“WNV”); and Montana Youth Action, Forward Montana Foundation, and Montana Public Interest Research Group (“MYA”) (collectively, “Plaintiffs”) submitted motions requesting the Court preliminarily enjoin laws passed during the 2021 Legislative sessions throughout the pendency of this litigation. Specifically, all Plaintiffs seek to enjoin House Bill 176 (“HB 176”), MDP and WNV seek to enjoin House Bill 530 (“HB 530”), MDP and MYA seek to enjoin Senate Bill 169 (“SB 169”), and MYA seeks to enjoin House Bill 506 (“HB 506”). These motions have been fully briefed by all the parties and a hearing on the motions was held on March 10, 2022. These matters are ripe for adjudication.

The Court has considered the briefs, evidence presented, and oral arguments made by counsel. For the reasons discussed below, the Court grants Plaintiffs’ motions and preliminarily enjoins the challenged laws.

FINDINGS OF FACT

I. SB 169

1. Prior to the enactment of SB 169, voters could prove their identity to vote in-person by showing an election judge “a current photo identification showing the elector’s name.” (Decl. of Matthew Gordon (“Gordon Decl.”), Ex. 19, Jan. 13, 2022, No.

DV 21-451)); § 13-13-114(1)(a), MCA (2003). This photo identification was acceptable in forms “including but not limited to a valid driver’s license, a school district or postsecondary education photo identification, or a tribal photo identification.” *Id.* If the voter did not have photo identification, then the voter could “present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.” *Id.* This had been the law in Montana since 2004. § 13-13-114(1)(a), MCA (2003).

2. After the enactment of SB 169 in April 2021, to vote in-person a voter must show an election judge:

(i) a Montana driver’s license, Montana state identification card issued pursuant to 61-12-501, military identification card, tribal photo identification card, United States passport, or Montana concealed carry permit; or

(ii)

(A) a current utility bill, bank statement, paycheck, government check, or other government document that shows the elector’s name and current address; and

(B) photo identification that shows the elector’s name, including but not limited to a school district or postsecondary education photo identification.

§ 13-13-114(1)(i-ii), MCA (2021).

3. Under the new version of the statute, voters who relied on a student ID as their sole form of identification to vote in previous elections will no longer be able to without a secondary form of identification such as: “a current utility bill, bank statement,

paycheck, government check, or other government document that shows the elector's name and current address." § 13-13-114(1)(ii)(A), MCA.

4. While SB 169 was being debated, Montana Speaker of the House, Wylie Galt, stated, as rationale for making student ID only acceptable as a secondary form of identification, that: "[b]asically, it makes that if you're a college student in Montana and you don't have a registration, a bank statement, or a W-2, it makes me kind of wonder why you're voting in this election anyway...So this just clears it up that they have a little stake in the game." (Gordon Decl., Ex. 35 at 15).

5. Regarding the secondary forms of identification voters using their student ID will have to possess, an expert for MDP, Dr. Kenneth Mayer, testified that "[c]ollege-age students, in general, are less likely than the general population to possess a driver's license or ID...In Montana, 71.5% of the population aged 18-24 has a Montana driver's license, well behind the total license possession rate of 94.7% among the 18 or older population in Montana..." (Gordon Decl., Ex. 35 at 15). Additionally, Dr. Mayer opined that out of state students "who do not possess a Montana driver's license or state ID will be at a particular disadvantage if their student ID no longer qualifies as a primary voter ID." *Id.* Dr. Mayer considered that it would cost students, who may already possess an out of state driver's license, \$62.32 to obtain a REAL ID Montana Driver's license. *Id.* Ultimately, Dr. Mayer concluded that "[r]elegating student IDs to secondary status imposes a burden on college students, who fall into an age group less likely to

possess a driver's license than older voters, and on out-of-state students attending a Montana university who likely will not have a Montana license or ID." (Gordon Decl., Ex. 35 at 18). Further that most of the primary forms of ID acceptable under the new statute "do not actually confirm a voter's eligibility or address, as noncitizens can obtain every form of ID other than a Passport or Tribal ID, and primary IDs are not required to have the voter's current registered address." (Gordon Decl., Ex. 35 at 18-19).

6. MDP provided testimony from the Director of Equality and Economic Justice at the Montana Human Rights Network, Shawn Reagor, who described that transgender students often rely on student ID to vote because "[a]cquiring gender confirming student identification is often a much easier process" than attempting to change their gender marker on Montana identification. (Decl. of Shawn Reagor ("Reagor Decl."), ¶¶ 8-13, Jan. 12, 2022). Under present Montana law, a transgender person desiring to change their gender on their Montana identification would have to get "a court order changing the individual's name, an updated birth certificate, an updated social security card, and finally a Montana license." (Reagor Decl. ¶ 6). To take the first step of updating their birth certificate, a transgender person would have to get a court order indicating they have undergone surgery. *Id.* at ¶ 8.

7. MYA's expert, Yael Bromberg, a law professor at Rutgers School of Law, testified that in 2018, the youth vote in Montana more than doubled (42%) when compared to the youth voting turnout in 2014 (18%). (Decl. of Yael Bromberg, ESQ. ("Bromberg

Decl.”), 19, Jan. 14, 2022, No. DV. 21-451). Ms. Bromberg cited to statistics showing that the Montana youth voting rate has been increasing every year and rose to 56% in 2020, whereas the national youth voting rate in 2020 was only 50%. (Bromberg Decl. at 19).

Ultimately, Ms. Bromberg concluded that going into 2021, “Montana youth were among the most electorally significant in the country, with voting rates consistently above national averages and considerably on the rise.” (Bromberg Decl. at 20).

8. Ms. Bromberg additionally opined that the Montana Legislature, when it enacted SB 169, “implemented a measure known to disproportionately impact youth voters.” *Id.* at 24. She further described that youth voters are a class that “is uniquely vulnerable due to its predominance of first-time voters and highly mobile voters.” *Id.* Ms.

Bromberg cited to statistics showing that “[i]n the 2016 election, 21% of registered young voters (ages 18-29) did not vote due to problems with voter ID.” *Id.* at 24-25. Ms. Bromberg also described that, in North Carolina, “the elimination of the availability of student ID and out-of-state government-issued identification at the polls was found to impact 14% of young voters who could not meet the new requirements.” *Id.* at 25.

Further regarding SB 169, Ms. Bromberg opined that “young people and students are disproportionately less likely to have a driver’s license” and are “also unlikely to have and/or carry with them many of the other standalone forms of identification prescribed by SB 169, such as Montana state ID, military ID, tribal photo ID, U.S. passport, or concealed carry permit.” (Bromberg Decl. at 25). Moreover, student voters, “[b]ecause

they live in dormitories and/or are highly mobile...often do not own the secondary proof of identification with current residence listed therein which SB 169 requires to accompany a Student Photo ID – i.e., a current utility bill, bank statement, paycheck, government check, or other government document.” (Bromberg Decl. at 25).

9. Defendant, Secretary of State Christi Jacobsen (“the Secretary”), provided testimony from the Chief Legal Counsel for the Montana Secretary of State, who described that the changes to the voter identification were to eliminate ambiguity and confusion. (Decl. of Austin Markus James (“James Decl.”), ¶¶ 17-21, Feb. 17, 2022, No. DV 21-451). Additionally, Mr. James testified that since the adoption of SB 169 “[a]t least 337,581 total votes have been cast and recorded in Montana elections...” *Id.* at ¶ 36. Further that “[a]ll newly registered voters since the implementation of SB 169 have received a confirmation of voter registration in the form of a government document containing their name and address[]” and that a voter registration “card paired with a photo ID containing [the voter’s] name may be used as identification when you vote.” *Id.* at ¶¶ 33-39.

10. The Secretary also provided expert testimony from a Senior Elections Analyst at RealClearPolitics, Sean Trende, who described that “the linkage between photographic identification laws and [voter] turnout is fairly weak.” (Def.’s Expert Rpt. of Sean P. Trende (“Trende Rpt.”), 12, Feb. 17, 2022, No. DV 21-451).

II. HB 176

11. Election Day Registration (“EDR”) was implemented in Montana in 2005. (*See* Gordon Decl., Ex. 3). EDR enabled Montana voters to register to vote and submit their ballot both on election day. *Id.* EDR was used in general elections by 7,547 voters in 2008; 12,055 voters in 2016; and over 8,000 voters in 2018 and 2020. (Gordon Decl., Ex. 35 at 10-11). MDP’s expert, Dr. Mayer, testified that EDR has “an effect greater than any other change to voting procedures.” (Gordon Decl., Ex. 35 at 9). Specifically, because “it reduces the cost of voting by combining both registration and voting into a single administrative step” and “it allows voters who are not activated early in the election period the opportunity to register and vote when attention to the election has peaked on election day.” *Id.*

12. In 2021, the Montana Legislature passed HB 176, which eliminates EDR by moving the deadline to register to vote during late registration to noon the day before the election. (*See* Gordon Decl., Ex. 6). When speaking in support of HB 176, Representative Shannon Greef “claimed that HB 176 would ‘mitigate [sic] against voter fraud,’ ‘ensure voter integrity,’ and ‘reduce the opportunity for mistakes.’” (Aff. of Daniel Craig McCool, Ph.D., in Supp. of Pls.’ Mot. for a Prelim. Injunction (“McCool Aff.”), Ex. 1, ¶ 118, Jan. 12, 2022, No. DV 21-451 (quoting HB 176. 2021. Senate Hearings, Feb. 15, at 16:49)). Additionally, Representative Greef described that when she was talking about voter fraud as a reason for supporting HB 176, that she “wasn’t talking

about Montana specifically.” (Aff. of Alex Rate in Supp. of Pls.’ Mot. for Prelim. Inj. (“Rate Aff.”), Ex. J, 40:4-13, Jan 12, 2022, No. DV 21-451; McCool Aff., Ex. 1, ¶ 118 (quoting Senate Hearing, Feb. 15, at 17:35)).

13. Plaintiffs WNV and MDP provided testimony from Montanans affected by the passage of HB 176. MDP presented a declaration by Malia Bertelsen describing how moving the voting registration deadline to the afternoon before election day prevented her from voting in the November 2021 local Bozeman election. (Decl. of Malia Bertelsen, ¶¶ 6-10, Jan. 12, 2022, No. DV 21-541). MDP presented testimony from the Missoula County Elections Administrator, Bradley Seaman, who testified that due to the law change made by HB 176 and that “[d]espite extensive public outreach about the lack of Election Day Registration, Missoula County had to turn away eight otherwise eligible voters who arrived on November 2nd.” (Decl. of Bradley Seaman (“Seaman Decl.”), ¶ 8, Jan. 12, 2021, No. DV 21-451). Mr. Seaman further confirmed that, under the previous version of the law, “[t]hese voters would have been able to vote...” *Id.* Additionally, MDP presented testimony from the Gallatin County Clerk and Recorder, Eric Semerad, who testified that HB 176 “led to 17 qualified voters being unable to cast ballots in Gallatin County because they arrived after noon on November 1, the day before election day. While these individuals were able to update their registration at that time, they were not permitted to cast a ballot for the 2021 contests.” (Decl. of Eric Semerad (“Semerad Decl.”), ¶ 7, Jan. 12, 2022, No. DV 21-451). Additionally, Mr. Semerad

testified that during the thirty years he has worked in the Gallatin County Clerk's office, he is "not aware of any instance of voter fraud associated with election day registration. Election day registration is, if anything, more secure than other forms of registration..." (Semerad Decl. ¶ 8).

14. WNV presented expert testimony describing that "the percentage of voters using election day registration ("EDR") is consistently higher for people living on-reservation in Montana." (Aff. of Alexander Street, Ph.D., in Supp. of Pls.' Mot. for a Prelim. Inj. ("Street Aff.") ¶ 4, Jan. 12, 2022, No. DV 21-451). WNV's expert further described that tribal members are "more reliant on EDR" and "by removing the option of EDR, HB 176 is likely to have a disparate, negative impact on registration and voting for Native Americans living on reservations in Montana." (Street Aff. ¶¶ 21-23). WNV presented evidence that voting on Indian Reservations in Montana is difficult due to the locations of election offices, the distance Native Americans must travel to vote in person or even by mail, and the socioeconomic factors including that Native Americans are less likely to have a working vehicle, money for gasoline, or car insurance. (See Aff. of Councilman Lane Spotted Elk in Supp. of Pls.' Mot. for Prelim. Inj. ("Spotted Elk Aff."), ¶¶ 5-16, Jan. 12, 2022, No. DV 21-451; Aff. of Robert McDonald in Supp. of Pls.' Mot. for Prelim. Inj. ("McDonald Aff."), ¶¶ 4-9, Jan. 12, 2022, No. DV 21-451; Aff. of Dawn Gray in Supp. of Pls.' Mot. for Prelim. Inj. ("Gray Aff."), ¶ 16, Jan. 12, 2022, No. DV 21-451).

15. On the other hand, the Secretary provided testimony from Montana legislators describing they voted in support of HB 176 due to statements from election administrators describing the challenges that EDR adds to running elections and their belief that moving the deadline back one day will reduce lines at the polls and stop delays in reporting results. (Decl. of Steve Fitzpatrick (“Fitzpatrick Decl.”), ¶¶ 6-7, Feb. 17, 2022, No. DV 21-451; Decl. of Greg Hertz (“Hertz Decl.”), ¶¶ 6-7, Feb. 17, 2022, No. DV. 21-451). The Secretary also provided testimony from the Clerk, Recorder, and Election Administrator for Fergus County who described that “[h]aving to register individuals to vote on election day takes away time from all of the other work, both election-related and non-election related...” (Decl. of Janel Tucek (“Tucek Decl.”), ¶ 11, Feb. 17, 2022, No. DV 21-451; *see also* Decl. of Doug Ellis (“Ellis Decl.”), ¶¶ 15-23, Feb. 17, 2022, No. DV 21-451).

16. The Secretary further provided expert testimony describing that “Montana’s close of voter register at 12:00 noon on the day preceding election day provides substantial benefits, particularly for rural counties. By contrast it imposes a minimal burden on those seeking to register to vote.” (Expert Decl. of Scott Gessler (“Gessler Decl.”), ¶¶ 2, 15-29, Feb. 17, 2022, No. DV 21-451). Additionally, the Secretary’s expert opined that “political science literature finds a relationship between election-day registration and turnout, yet struggles to find a causal linkage between the two” and that “Montana retains same-day registration during voting, which should soften

whatever impact there is to the elimination of election-day registration[.]” (Trende Rpt. at 7).

III. HB 530

17. In 2021, House Bill 406 (“HB 406”) was introduced and was effectually a new attempt at passing a restriction on ballot collection in Montana similar to the Montana Ballot Interference Prevention Act (“BIPA”), which has already been litigated and determined to be unconstitutional in Montana District Courts. *See Courts Findings of Fact, Conclusions of Law, and Order, Western Native Voice v. Stapleton*, Sept. 25, 2020, No. DV 20-0377; *Findings of Fact, Conclusions of Law, and Order, Driscoll v. Stapleton*, Sept. 25, 2020, No. DV 20-0408. HB 406 ultimately failed to pass the Montana Senate; however, HB 530 was amended to include language from HB 406. (Gordon Decl., Ex. 34).

18. HB 530 specifically provides:

(1) On or before July 1, 2022, the secretary of state shall adopt an administrative rule in substantially the following form:

(a) For the purposes of enhancing election security, a person may not provide or offer to provide, and a person may not accept, a pecuniary benefit in exchange for distributing, ordering, requesting, collecting, or delivering ballots.

(b) "Person" does not include a government entity, a state agency as defined in 1-2-116, a local government as defined in 2-6-1002, an election administrator, an election judge, a person authorized by an election administrator to prepare or distribute ballots, or a public or private mail service or its employees acting in the course and scope of the mail service's duties to carry and deliver mail.

(2) A person violating the rule adopted by the secretary of state pursuant to subsection (1) is subject to a civil penalty. The civil penalty is a fine of \$100 for

each ballot distributed, ordered, requested, collected, or delivered in violation of the rule.

(Gordon Decl., Ex. 11).

19. WNV and MDP presented testimony from experts describing the effects HB 530 will have on young people, Native Americans, disabled voters, and elderly voters.

WNV and MDP also presented testimony from eligible voters who will be negatively affected by HB 530.

20. WNV presented testimony, as described above, concerning the difficulties faced by Native Americans voting on reservations. Specifically, the mail system on reservations poses significant problems for absentee voting because most Native Americans do not have home mail delivery and some have non-traditional mailing addresses. (McCool Aff., Ex. 1, ¶¶ 74-96; Aff. of Ronnie Jo Horse (“Jo Horse Aff.”) ¶ 16, Jan. 12, 2022, No. DV 21-451). WNV also presented testimony that there is a higher poverty and unemployment rate on reservations than for the State and that Native Americans “have less money in their pocket—less money to spend on a vehicle, gas, car insurance, and maintenance—all of which are necessary to travel to a post office or a ballot box.” (McCool Aff., Ex. 1, ¶ 19). WNV’s expert further testified that “tribal voters are dispersed over a large area, requiring significant driving distances to get to a post office, tribal offices, and election offices.” (McCool Aff., Ex. 1, ¶ 65). Given these difficulties—among others presented through testimony by WNV—WNV’s expert described HB 530 (and HB 176) will have a “disproportionately negative impact and

impose significant voter costs on Native voters, making it more difficult for them to vote, with no discernable public benefit.” (McCool Aff. ¶ 6; *see also* McCool Aff., Ex. 1, ¶¶ 22-52).

21. MDP presented evidence showing that absentee voting in Montana has increased each year. (Gordon Decl., Ex. 27). Plaintiff Mitch Bohn described he prefers voting by absentee ballot given the busyness of Metra Arena on election day, which makes it difficult for a person in a wheelchair to navigate, the November weather in Montana, which can make it more difficult to get to a polling location, and the extra time he gets to have with his ballot. (Decl. of Mitch Bohn (“Bohn Decl.”), ¶ 4, Jan. 12, 2022, No. DV 21-451). Mr. Bohn further described that he has relied on third parties, specifically, his parents, to return his ballot for him. *Id.* at ¶ 5. MDP presented testimony describing how ballot assistance programs have helped Montanans who cannot take time off to cast their ballot due to a variety of issues to include: work commitments, school schedules, family care responsibilities, mobility impairments, lack of access to postal mail service, or lack of access to transportation. (Bohn Decl. ¶ 6; Bolger Decl. ¶ 20; Decl. of Bernadette Franks-Ongoy, ¶ 19, Jan. 12, 2022, No. DV 21-451). Additionally, MDP’s expert estimated, in his 2020 expert report for a case involving BIPA, that between 2016 and 2018 at least 2,500 ballots were collected and conveyed by third parties and concluded “that eliminating third party ballot collection will increase the number of

rejected absentee ballots that arrive late and will do nothing to enhance election security.” (Gordon Decl., Ex. 35 at 17).

22. The Secretary provided testimony from an expert who opined that “[b]y prohibiting individuals from receiving compensation for collecting voted ballots, Montana’s law imposes little burden on voters, reduces opportunity for fraud, and fosters confidence in elections.” (Gessler Decl. ¶ 4). The Secretary also provided testimony from legislators who voted in support of HB 530 describing their motivation for their support was the events in North Carolina during the 2018 congressional race “when a paid political operative was alleged to have illegally gathered up and fraudulently voted absentee ballots.” (Decl. Fitzpatrick at ¶ 17; Decl. of Greg Hertz (“Hertz Decl.”), ¶ 20, Feb. 17, 2022). Additionally, legislators who voted in support of HB 530 testified they had “no intent to harm any particular class or group of voters” when they voted in support of HB 530. (Fitzpatrick Decl. ¶ 21; Hertz Decl. ¶ 24)

IV. HB 506

23. HB 506 amends § 13-2-205(2), MCA, to provide that “[u]ntil the individual meets residence and age requirements, a ballot may not be issued to the individual and the individual may not cast a ballot.” (Expert Report of Dr. Michael Herron, Ph.D. (“Herron Rpt.”) ¶ 33, Jan. 12, 2022, No. DV 21-451).

24. MYA presented testimony from experts describing the impact HB 506 will have on young eligible voters and young people who are about to become eligible to vote.

Additionally, MYA presented testimony from young voters. Specifically, Ali Caudle testified that she turned eighteen on October 3, 2021, and upon turning eighteen, filled out a voter registration form online but realized that she would not meet the deadline to mail her form in at least thirty days prior to the election. (Youth Pls.' Br. in Supp. of Appl. for Prelim. Inj.¹ ("MYA Br."), Ex. B ¶¶ 3-5, Jan. 13, 2022, No. DV 21-451). Ms. Caudle testified that she had difficulties registering in person due to the hours she is in school and commitments she has occupying her until after regular business hours on weekdays and had to "miss an event for the National Honor Society" to register in person and submit her vote. (MYA Br., Ex. B ¶ 12); (*see also* MYA Br., Ex. C ¶¶ 5-14 (describing the difficulties registering to vote and casting a ballot during business hours alongside school commitments and extracurricular activities)).

25. MYA's expert testified that the restriction on when absentee ballots can be mailed to voters in HB 506 burdens four classes of Montana voters and specifically, "[i]n decreasing order of burdens, these classes are as follows: (I) residents who turn 18 on election day itself; (II) residents who turn 18 between one and seven days of election day; (III) residents who turn 18 between eight and 14 days of election day; and (IV) residents who turn 18 between 15 and 25 days of election day." (Herron Rpt. ¶ 2).

MYA's expert describes that each of these groups will have differing access to absentee

¹ MYA Plaintiffs also submitted, on January 14, 2022, a corrected brief in support of their application for a preliminary injunction (Dkt. 73), however, their exhibits were not attached to that filing, so the Court referenced the January 13, 2022, filing (Dkt. 70) to see the attached exhibits.

voting. *See id.* Specifically, residents turning eighteen on election day will be unable to vote absentee due to HB 506. (Herron Rpt. ¶ 3). Similarly, residents turning eighteen between one and seven days before election day will effectually be unable to vote absentee due to the estimated mailing travel time. *Id.* Residents turning eighteen between eight and fourteen days prior to election day will also be unlikely to be able to absentee vote given the time it takes for an absentee ballot to be mailed and for them to return it. *Id.* at ¶ 3. The last class of effected voters, residents turning eighteen between fifteen and twenty-five days of election day, “will receive their absentee ballots later than those who turn 18 more than 25 days before an election.” *Id.*

26. The Secretary presented testimony from Melissa McLarnon, an employee in the Election and Government Services division of the Montana Secretary of State’s Office, who primarily works on the State’s election management systems. (Decl. of Melissa McLarnon (“McLarnon Decl.”), ¶ 3, Feb. 17, 2022, No. DV 21-451). Ms. McLarnon testified that there was “a lack of uniformity in how various Election Administrators” across Montana issued ballots to individuals turning eighteen before election day which raised issues for the development of election and use of election software. (McLarnon Decl. ¶¶ 6-7). The Secretary presented testimony from legislators describing they supported HB 506 because of the “inconsistent practices with respect to mailing absentee ballots to voters before they met age and residency requirements” and HB 506

“ensure[s] that only qualified electors are voting in Montana elections.” (Fitzpatrick Decl. at ¶¶ 23-24; Hertz Decl. at ¶¶ 26-28).

V. Voter Fraud

27. MDP’s expert testified that “voter fraud of any sort is vanishingly rare in Montana, with only a handful of cases over the last 20 years.” (Gordon Decl., Ex. 35 at 6). Further MDP’s expert described there was a case in 2011 where a man submitted his ex-wife’s absentee ballot and in 2021 there was a case where a man pled “guilty to registering to vote” under a false name. (*Id.* at 6-7; *see also* Decl. of Dale Schowengerdt, Ex. 1-16, Feb. 17, 2021, No. DV 21-451). MDP’s expert ultimately concluded that “8,472,202 votes have been cast in Montana elections since 2002, either in person or by a mail or absentee ballot that was accepted. Voter fraud...does not remotely present a problem for or threat to election security in Montana.” *Id.* at 7.

28. In *Driscoll v. Stapleton*, the Secretary at that time “did not present evidence in the preliminary injunction proceedings of voter fraud or ballot coercion, generally or as related to ballot-collection efforts, occurring in Montana.” 2020 MT 247, ¶ 22, 401 Mont. 405, ¶ 22, 473 P.3d 386, ¶ 22. For the purposes of this preliminary injunction, the Court finds the same is true in this matter.

29. Election administrators in Montana are not aware of voter fraud relating to the use of student IDs. (Semerad Decl. ¶ 11; Seaman Decl. ¶ 10).

30. One of the Secretary's experts testified "...although I am not convinced that voter fraud is a substantial problem in Montana, there is some evidence the photographic identification laws bolster confidence in elections." (Trende Rpt. at 12).

31. Another expert for the Secretary opined in regard to HB 530 that "[b]y prohibiting individuals from receiving compensation for collecting voted ballots, Montana's law imposes little burden on voters, reduces opportunity for fraud, and fosters confidence in elections." (Gessler Decl. ¶ 4). However, no instances of fraud relating to ballot collection in Montana were cited to by this expert.

Based on the foregoing Findings of Fact, the Court now makes the following:

CONCLUSIONS OF LAW

1. To the extent that the foregoing Findings of Fact are more properly considered Conclusions of Law, they are incorporated by reference herein as such. To the extent that these Conclusions of Law are more appropriately considered Findings of Fact they are incorporated as such.

I. LEGAL STANDARD

2. Under the Montana Code Annotated (MCA), a preliminary injunction may be granted on five enumerated grounds. § 27-19-201 (1-5). Only two are relevant for the purposes of this matter. Specifically, an injunction may be granted:

(1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the relief consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;

(2) when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant;

§ 27-19-201(1-2), MCA. Only one of the enumerated grounds needs to be met for an injunction to issue because the subsections are disjunctive. *Four Rivers Seed Co. v. Circle K Farms*, 2000 MT 360, ¶ 13, 303 Mont. 342, ¶ 13, 16 P.3d 342, ¶ 13; *Weems v. State*, 2019 MT 98, ¶ 17, 395 Mont. 350, ¶ 17, 440 P.3d 4, ¶ 17. Importantly, “[t]he purpose of a preliminary injunction is to prevent ‘further injury or irreparable harm by preserving the status quo of the subject in controversy pending an adjudication on the merits.’” *City of Billings v. Cty. Water Dist.* (1997), 281 Mont. 219, 226, 935 P.2d 246, 250 (quoting *Knudson v. McDunn* (1995), 271 Mont. 61, 894 P.2d 295, 298). The Supreme Court has defined the “status quo” as “... the last actual, peaceable, noncontested condition which preceded the pending controversy...” *Porter v. K & S P’ship* (1981), 192 Mont. 175, 181, 627 P.2d 836, 839 (quoting *State v. Sutton* (1946), 2 Wash.2d 523, 98 P.2d 680, 684); see also *Davis v. Westphal*, 2017 MT 276, ¶ 24, 389 Mont. 251, ¶ 24, 405 P.3d 73, ¶ 24 (quoting *Porter v. K & S P’ship* (1981), 192 Mont. 175, 181, 627 P.2d 836, 839).

3. While “[a] statute enjoys a presumption of constitutionality... a party need establish only a prima facie violation of its rights to be entitled to a preliminary injunction—even if such evidence ultimately may not be sufficient to prevail at trial.” *Driscoll*, 2020 MT 247, ¶ 16, 401 Mont. 405, ¶ 16, 473 P.3d 386, ¶ 16; see also *Weems*, ¶ 18. “‘Prima facie’ means literally ‘at first sight’ or ‘on first appearance but subject to further evidence or information.’” *Id.* (quoting *Prima facie*, *Black’s Law Dictionary* (10th ed.

2014)). Additionally, “all requests for preliminary injunctive relief require some demonstration of threatened harm or injury, whether under the ‘great or irreparable injury’ standard of subsection (2), or the lesser degree of harm implied within the other subsections of § 27-19-201, MCA.” *BAM Ventures, Ltd. Liab. Co. v. Schifferman*, 2019 MT 67, ¶ 16, 395 Mont. 160, ¶ 16, 437 P.3d 142, ¶ 16; *see also Weems* ¶ 17. Lastly, “[f]or the purposes of a preliminary injunction, the loss of a constitutional right constitutes an irreparable injury.” *Driscoll*, ¶ 15; *Mont. Cannabis Indus. Ass’n v. State*, 2012 MT 201, ¶ 15, 366 Mont. 224, 229, 296 P.3d 1161, 1165.

4. The Secretary, in her response brief, discussed that “Montana law also imposes a higher burden of proof” when a party seeks a “mandatory injunction” rather than a prohibitory injunction. (Def.’s Br. in Resp. to Pls.’ Prelim. Inj. Motions and in Supp. of Def.’s Mot. for Summ. J. (“Def.’s Resp.”) at 4 (citing *Paradise Rainbows v. Fish & Game Comm’n* (1966), 148 Mont. 412, 420, 421 P.2d 717, 721)). A mandatory injunction would “require the undoing of injurious acts” whereas a prohibitory injunction “is a remedy to restrain the doing of injurious acts.” *Newman v. Wittmer* (1996), 277 Mont. 1, 11, 917 P.2d 926, 932 (quoting *In re the “A” Family* (1979), 184 Mont. 145, 153, 602 P.2d 157, 162 (internal quotations omitted)). The Secretary asserts that her actions of taking steps to implement these challenged laws in the months since their passage means that she would have to undo that work such that the enjoining of these laws would effectually be a mandatory injunction.

5. However, Plaintiffs have been clear that the remedy they seek is a return to the status quo that existed prior to the Montana legislature passing HB 176, HB 530, SB 169, and HB 506. Plaintiffs are not requesting that the local elections that occurred in between the passage of these laws and the issuing of this order be re-done or overturned. Plaintiffs are not requesting that the Secretary un-adopt new administrative rules, un-broadcast public service announcements across various media describing the changes, un-train Montana election administrators, un-create and un-implement new components of Montana's voting infrastructure, un-ensure compliance with Montana law during elections that took place on May 4, 2021, September 14, 2021, and November 2, 2021, and un-prepare for upcoming elections scheduled to begin in May 2022. Rather the Plaintiffs are requesting that the Secretary be restrained from enforcing HB 176, HB 530, SB 169, and HB 506 before they have governed a state-wide election.

6. In sum, given that Plaintiffs are requesting the Secretary be restrained from enforcing these contested laws in upcoming elections, rather than undo the local elections that have already occurred, the Court finds a preliminary injunction and the applicable standard is appropriate.²

² In any event, even if a mandatory injunction is proper, the Court finds that based on the evidence presented, Plaintiffs would meet the "higher standard" necessary for a mandatory injunction to issue. Especially considering "the principles upon which mandatory and prohibitory injunctions are granted do not materially differ." *City of Whitefish v. Troy Town Pump*, 2001 MT 58, ¶ 21, 304 Mont. 346, ¶ 21, 21 P.3d 1026, ¶ 21 (quoting *Grosfield v. Johnson* (1935), 98 Mont. 412, 421, 39 P.2d 660, 664 (internal quotations omitted)).

II. DISCUSSION

a. Standing

7. The Secretary argues all Plaintiffs lack standing. The Secretary incorporates her arguments made in her motion to dismiss MDP's Complaint, which the Court has previously ruled on.

8. The law of the case doctrine "expresses generally the courts' reluctance to reopen issues that have been settled during the course of litigation." *Jacobsen v. Allstate Ins. Co.*, 2009 MT 248, ¶ 29, 351 Mont. 464, ¶ 29, 215 P.3d 649, ¶ 29. Under this doctrine, parties are precluded "from re-litigating issues that this Court has already resolved." *Wittich Law Firm, P.C. v. O'Connell*, 2014 MT 23N, ¶ 8, 374 Mont. 540, ¶ 8; *see also State v. Carden* (1976), 170 Mont. 437, 439, 555 P.2d 738, 740 (holding the law of the case doctrine applies to prior rulings of a trial court in the same case).

9. Thus, based on the law of the case doctrine and the fact that the Secretary has raised no new genuine arguments that were not previously addressed by the Court in its order on her motion to dismiss MDP's Complaint, the Court easily dispenses with the Secretary's standing arguments as to MDP. (*See* Dkt. 32). For the second time and incorporating by reference its analysis and holding in its previous Order Re Defendant's Motion to Dismiss, the Court finds MDP has standing to challenge HB 176, HB 530, and SB 169 under organizational and associational standing. *See id.*

10. As to the remaining Plaintiffs, the Secretary has raised the issue of standing for the first time. The Secretary argues Plaintiffs are organizations, not voters, and therefore they cannot challenge “laws that only apply to voters.” (Def.’s Resp. at 6). Rather the Secretary contends Plaintiffs must identify an individual who has suffered or will suffer concrete harm. (Def.’s Resp. at 7). Additionally, the Secretary argues, by incorporating her brief in support of her motion to dismiss MDP’s Complaint and her reply, that WNV and MYA do not have organizational and associational standing. The Court will engage in a similar analysis as to that in its Order RE Defendant’s Motion to Dismiss. (See Dkt. 32 at 3-10).

i. Organizational Standing

11. Under organizational standing, an organization “may file suit on its own behalf to seek judicial relief from injury to itself and to vindicate whatever rights and immunities the association itself may enjoy...” *Heffernan v. Missoula City Council*, 2011 MT 91, ¶ 42, 360 Mont. 207, ¶ 42, 255 P.3d 80, ¶ 42. Thus, an organization has standing if injury has been clearly alleged, the injury is distinguishable from the public generally, and the injury would be alleviated by successfully maintaining the action. *Heffernan*, ¶ 33.

WNV Plaintiffs – Western Native Voice & Montana Native Vote

12. WNV Plaintiffs, Western Native Voice and Montana Native Vote (“Nonprofit Plaintiffs”) are “Native American-led organizations that organize and advocate in order

to build up Native leadership with Montana.” (Compl. for Declaratory and Injunctive Relief (“WNV Compl.”), ¶ 19, May 17, 2021, No. DV 21-560). Nonprofit Plaintiffs point to the fact that HB 176 will require them to “spend additional resources to hire organizers earlier in the election cycle to mobilize turnout.” (WNV Compl. ¶ 30). They further describe that their operations have already been impacted by HB 176. *Id.* Additionally, like MDP, Nonprofit Plaintiffs also engage in Get Out the Vote (“GOTV”) efforts that are (or will be) essentially outlawed by HB 530 due to its ban on gaining pecuniary benefits for ballot collecting. (WNV Compl. ¶ 33).

13. As evidenced by the effect HB 176 and HB 530 will have on their operations, Nonprofit plaintiffs have clearly alleged injury that is distinguishable from the public generally that would be alleviated if they were successful in this matter. The Secretary’s argument that WNV must identify individual voters who will suffer harm because of the challenged laws to have standing is unavailing and disregards Montana law concerning organizational standing. Organizational standing clearly confers standing to an organization that can show it will suffer injury to the organization itself. *Heffernan*, ¶¶ 42-45. Thus, the Court finds that Western Native Voice and Montana Native Vote have standing under organizational standing to challenge HB 530 and HB 176.

MYA Plaintiffs – Montana Youth Action, Forward Montana Foundation, and Montana Public Interest Group

14. The MYA Plaintiffs consist of Montana Youth Action, Forward Montana Foundation, and the Montana Public Interest Group. All three groups are organizations in Montana. (Compl. (“MYA Compl.”), ¶10; ¶ 15; ¶ 18, Sept. 9, 2021, No. DV 21-1097).

15. In MYA’s Complaint, it describes Forward Montana Foundation and Montana Public Interest Research Group “have made it their mission to bring young people’s political values and concerns to the fore and to facilitate greater and greater youth voter turnout.” (MYA Compl. ¶ 2).

16. Additionally, MYA describes in its Complaint that Montana Youth Action is run by students and has the mission to “empower youth in Big Sky Country to make a difference through politics, civics, and service to communities in Montana.” (MYA Compl. ¶ 10). The members of Montana Youth Action “are middle and high school students...preparing to become active voters when they become eligible.” *Id.*

17. Forward Montana Foundation “dedicates itself...to voter registration and ‘get out the vote’ efforts” and will be harmed by SB 169, HB 506, and HB 176 because it will have to “expend significant resources in developing new voter education materials, engaging in campaigns to reeducate youth voters....and conducting expanded get out the vote efforts.” (MYA Compl. ¶ 15).

18. The Montana Public Interest Research Group (“MontPIRG”), “is a student directed and funded nonpartisan organization” that “has been registering young voters,

giving them the tools to have their voices heard, and working to eliminate the barriers between young people and their constitutional right to vote.” (MYA Compl. ¶ 18).

MontPIRG alleges that it will be harmed by SB 169, HB 506, and HB 176 “because all three laws will require MontPIRG to expend significant resources in developing new voter education materials, engaging in campaigns to reeducate young voters with whom they’ve engaged previously, and conducting expanded get out the vote efforts.” (MYA Compl. ¶ 19).

19. Montana Youth Action has alleged in MYA’s Complaint that its members will be harmed by these laws. The Court finds that Montana Youth Action did not sufficiently allege injury to the organization but rather, in its Complaint, alleged injuries to its members, which is more appropriately considered under the doctrine of associational standing. Thus, the Court finds that Montana Youth Action does not have organizational standing.

20. As to Forward Montana Foundation and MontPIRG the Court finds that, as evidenced by the effects of SB 169, HB 506, and HB 176 to their operations that injury to the organizations has sufficiently been alleged and these Plaintiffs have clearly alleged injury that is distinguishable from the public generally that would be alleviated if they were successful in this matter. As described above, the Court disagrees with the Secretary’s argument that MYA must identify individual voters who will suffer harm because of the challenged laws to have standing given that organizational standing

clearly confers standing to an organization that can show it will suffer injury to the organization itself. *Heffernan*, ¶¶ 42-45. Thus, the Court finds that Forward Montana Foundation and MontPIRG have standing under organizational standing to challenge HB 530 and HB 176.

ii. Associational Standing

21. Under associational standing, an organization “may assert the rights of its members.” *Heffernan*, ¶ 42. “The doctrine of associational standing ‘recognizes that the primary reason people join an organization is often to create an effective vehicle for vindicating interests that they share with others.’” *Heffernan*, ¶ 44 (quoting *United Automobile Workers v. Brock*, 477 U.S. 274, 290, 106 S. Ct. 2523, 2533 (1986)). An organization has standing to “bring suit on behalf of its members, even without a showing of injury to the association itself, when (a) at least one of its members would have standing to sue in his or her own right, (b) the interests the association seeks to protect are germane to its purpose, and (c) neither the claim asserted nor the relief requested requires the individual participation of each allegedly injured party in the lawsuit.” *Heffernan*, ¶ 43.

22. Preliminarily, WNV did not argue that it has associational standing. Given that the Court has found it has organizational standing, as discussed above, and standing under *parents patriae*, as discussed below, it is immaterial as to whether WNV also has

associational standing. Thus, the Court does not address associational standing as it relates to WNV.

23. Forward Montana Foundation is not a membership organization and thus, does not have standing under associational standing. The remaining MYA Plaintiffs, Montana Youth Action and MontPIRG have demonstrated that their members would have standing to sue in their own right, the interests sought to be protected are germane to the purposes of Montana Youth Action and MontPIRG, and individual participation of these organization's members is not required based on the claims asserted and the relief requested.

24. Specifically, Montana Youth Action and MontPIRG, as described above, have missions germane to protecting the youth voting and youth civic engagement. (MYA Compl. ¶¶ 2, 10, 18). Members of these organizations would have standing to sue in their own right as evidenced in MYA's Complaint and the declarations submitted by MYA. (MYA Br., Ex. B, ¶¶ 14-15; ¶¶ 5, 8; MYA Br., Ex. D, ¶¶ 3-12; MYA Br., Ex. I, ¶¶ 4-25). Lastly, given that the relief sought is declaratory, the individual participation of these members is not required.

25. In sum, the Court finds Montana Youth Action and MontPIRG have associational standing to challenge HB 176, SB 169, and HB 506.

iii. *Parens Patriae*

26. WNV asserts that WNV Plaintiffs including Blackfeet Nation, Confederated Salish and Kootenai Tribes, Fort Belknap Indian Community, and Northern Cheyenne Tribe (“Tribal Plaintiffs”), as sovereign nations, can bring actions as *parens patriae*. (Pl. Western Native Voice et al.’s Reply in Supp. of Mot. for Prelim. Inj. (“WNV Reply”), p. 6-7, Mar. 2, 2022, No DV. 21-451).

27. To have standing under *parens patriae*, the sovereign, first, “must assert an injury to what has been characterized as a ‘quasi-sovereign’ interest...” *Alfred L. Snapp & Son v. Puerto Rico* (1982), 458 U.S. 592, 601, 102 S. Ct. 3260, 3265. Quasi-sovereign interests include “the health and well-being—both physical and economic—of its residents...” and there is “a quasi-sovereign interest in not being discriminatorily denied its rightful status within the federal system.” *Id.*, 458 U.S. at 607, 102 S. Ct. at 3269.

28. The second requirement for *parens patriae* standing is that, while there has been no definitive limit imposed “more must be alleged than injury to an identifiable group of individual residents, the indirect effects of the injury must be considered as well in determining whether the [sovereign] has alleged injury to a sufficiently substantial segment of its population.” *Alfred L. Snapp & Son*, 458 U.S. at 607, 102 S. Ct. at 3269.³

³ See NOTE: PROTECTING NATIVE AMERICANS: THE TRIBE AS PARENS PATRIAE, 5 MICH. J. RACE & L. 665.

29. Here, WNV asserts that Tribal Plaintiffs quasi-sovereign interest is in protecting “their members’ constitutional right to vote from HB 530 and HB 176’s disenfranchising effects...” (WNV Reply at 7). Tribal Council Member Lane Spotted Elk describes that “HB 530 and HB 176 make participation in elections by Northern Cheyenne members substantially more difficult.” (Spotted Elk Aff. ¶ 18; *see also* Gray Aff. ¶ 22 (stating “HB 530 and HB 176 makes participation in elections by Blackfeet Nation members substantially more difficult.”); McDonald Aff., Ex. A). Additionally, WNV describes these laws may diminish tribal members’ political power “through the disenfranchisement of their members through the laws’ discriminating effects.” (WNV Reply at 7).

30. The Secretary did not provide any argument as to why *parens patriae* would not confer standing upon WNV’s Tribal Plaintiffs.

31. The Court finds that WNV’s Tribal Plaintiffs have alleged injury to a sufficient quasi-sovereign interest, specifically that of protecting the constitutional rights of their members which relates to their health and well-being, to substantial segments of their populations such that they have standing under *parens patriae* to challenge HB 176 and HB 530.

32. In conclusion, the Court finds that MYA Plaintiffs have standing to challenge HB 176, SB 169, and HB 506 under the concepts of organizational or associational standing.

WNV Plaintiffs have standing to challenge HB 176 and HB 530 under the concepts of organizational standing or *parens patriae*.

b. Preliminary Injunctions

33. MDP and MYA request that SB 169 be preliminarily enjoined under § 27-19-201(1-2), MCA because they allege SB 169 is unconstitutional under the Montana Constitution's Equal Protection Clause and the right to vote enshrined in the Montana Constitution's Declaration of Rights. MDP, WNV, and MYA request that HB 176 be preliminarily enjoined because they allege it infringes Plaintiffs and their members' fundamental right to vote and Plaintiffs and their members' rights under Montana's equal protection clause. MDP and WNV request that HB 530 be preliminarily enjoined because they allege it infringes the right to vote, equal protection, free speech, and due process. Lastly, MYA requests that HB 506 be preliminarily enjoined because MYA alleges HB 506 infringes MYA Plaintiffs and their members' right to suffrage (right to vote), right to equal protection, and the rights of persons not adults.

A. Right to Vote

34. The right to vote (also called the right of suffrage) is enshrined under the Montana Constitution's Declaration of Rights and provides that "no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." Mont. Const., Art. II § 13. Since the right to vote is found within the Declaration of

Rights, it is a fundamental right. *State v. Riggs*, 2005 MT 124, ¶ 47, 327 Mont. 196, ¶ 47, 113 P.3d 281, ¶ 47; *see also Willems v. State*, 2014 MT 82, ¶ 32, 374 Mont. 343, ¶ 32, 325 P.3d 1204, ¶ 32.

35. When the exercise of a fundamental right is interfered with, “[t]he most stringent standard, strict scrutiny, is imposed...” *Wadsworth v. State* (1996), 275 Mont. 287, 911 P.2d 1165, 1174. Strict scrutiny review of a statute “requires the government to show a compelling state interest for its action.” *Mont. Env’tl. Info. Ctr. v. Dep’t of Env’tl. Quality*, 1999 MT 248, ¶ 61, 296 Mont. 207, ¶ 61, 988 P.2d 1236, ¶ 61 (quoting *Wadsworth*, 275 Mont. at 302, 911 P.2d at 1174 (internal quotations omitted)). “In addition to the necessity that the State show a compelling state interest for invasion of a fundamental right, the State, to sustain the validity of such invasion, must also show that the choice of legislative action is the least onerous path that can be taken to achieve the state objective.” *Mont. Env’tl. Info. Ctr.*, at ¶ 61 (quoting *Wadsworth*, 275 Mont. at 302, 911 P.2d at 1174 (internal quotations omitted)).

36. Similar to the arguments made in *Driscoll v. Stapleton*, the Secretary again asks the Court to apply a “flexible standard” adopted by federal courts referred to as the “*Anderson-Burdick* standard” from *Anderson v. Celebrezze*, 460 U.S. 780, 103 S. Ct. 1564 (1983), and *Burdick v. Takushi*, 504 U.S. 428, 112 S. Ct. 2059 (1992). (Def.’s Resp. at 15). Under this standard, “severe” restrictions on voting rights are subject to strict scrutiny whereas “reasonable, nondiscriminatory restrictions” on voting rights need only be

justified by the “State’s important regulatory interests.” *Burdick*, 504 U.S. 428, 434, 112 S. Ct. 2059, 2063 (quoting *Anderson*, 460 U.S. at 788, 103 S. Ct. at 1569 (internal quotations omitted)).

37. The Court finds that Plaintiffs have made a prima facie case that SB 169, HB 530, HB 176, and HB 506 unconstitutionally burden the right to vote as discussed below.

i. SB 169

38. In making their prima facie case of a constitutional violation, MDP and MYA allege SB 169 unconstitutionally burdens the right to vote of young voters because it denies them the right to vote in the manner that other similarly situated voters enjoy. In support of this, both MDP and MYA’s experts testified that young voters are less likely to have the standalone primary forms of ID acceptable under SB 169. Additionally, both experts testified that students are less likely to have the secondary form of ID now required to be used in conjunction with a student ID. MDP also presented evidence that no voter fraud in Montana has occurred from the use of student IDs to vote. (Gordon Decl., Ex. 35 at 6-8; Semerad Decl. ¶ 11; Seaman Decl. ¶ 10).

39. The Secretary argues that the minor changes SB 169 makes to voter identification requirements do not violate or overly burden the right to vote. The Secretary describes that requiring some other form of identification in conjunction with a student ID is a modest change that the Legislature has authority to implement through the explicit delegation of authority to the Legislature to regulate elections in the Montana

Constitution. Further, the Secretary offers that even if the right to vote is implicated, that the Court should apply the flexible *Anderson-Burdick* standard and that SB 169 would easily pass because SB 169 imposes a minimal burden.

40. The Court finds the expert testimony submitted by MDP and MYA concerning SB 169 to be reliable and informative. In particular, the testimony concerning how the cost of voting determines whether a voter will exercise their right to vote. Here, the cost of voting for students has become more expensive with the passage of SB 169. MDP provided testimony from an expert and from others describing how the additional hoops out-of-state students, transgender students, and young people will have to go through in order to meet the requirements for a secondary form of ID will raise the cost of voting. These additional costs to voting are unique to young voters given their mobility and the fact that they are less likely to possess the primary forms of ID and the forms that must be presented in addition to the student ID. Based on the additional difficulties young voters who rely on using their student ID as a primary form of ID will face, the Court finds that MDP and MYA have established that SB 169 implicates the fundamental right to vote and would thereby be subject to strict scrutiny review.

41. The Secretary essentially describes that SB 169 was passed to clear up confusion among election workers, to increase voter confidence in elections, to ensure compliance with residency requirements, and to prevent voter fraud.

42. Regarding voter fraud, there have been no instances of student ID-related election fraud since the allowance of student IDs as voter identification. (Gordon Decl., Ex. 35 at 6-8; Semerad Decl. ¶ 11; Seaman Decl. ¶ 10; MDP Ex. 20 at 22:5-21). Voter fraud in general is rare in Montana. (Gordon Decl., Ex. 35 at 6-8). Regarding ensuring compliance with residency requirements, there are already laws in place that address this. There are likely less burdensome means than removing student IDs as a primary form of ID to clear up confusion amongst election staff. Lastly, as testified to by experts on both sides, requiring voter identification itself increases voter confidence in elections.

43. Thus, given that MDP and MYA have shown the burden that SB 169 has on the right to vote of young voters, the Court finds that Plaintiffs have made a prima facie showing that SB 169 is unconstitutional and should be preliminarily enjoined to preserve the status quo until a trial on the merits can be had.

44. As discussed above, the status quo is that which existed prior to the passage of these laws, given that was “the last actual, peaceable, noncontested condition which preceded the pending controversy.” *Porter*, 192 Mont. At 181, 627 P.2d at 839.

ii. HB 176

45. Plaintiffs have established a prima facie case that HB 176 unconstitutionally burdens the right to vote because HB 176 eliminates an important voting option for Native Americans and will make it harder, if not impossible, for some Montanans to vote as discussed below.

46. The Secretary argues, for the second time during this litigation, that the Legislature is granted explicit discretion to enact EDR in Article IV, § 3 of the Montana Constitution and therefore the Legislature has the sole discretion to decide whether to allow or disallow EDR. The Court stands by its previous decision in its Order RE Defendant's Motion to Dismiss which is the law of the case. (*See* Dkt. 32 at 16-17). Thus, as stated previously, while the Court recognizes that the Legislature has authority to provide for a system of poll booth registration, the laws passed by the Legislature in order to provide that system are still subject to judicial review and:

Since *Marbury*, it has been accepted that determining the constitutionality of a statute is the exclusive province of the judicial branch. **It is circular logic to suggest that a court cannot consider whether a statute complies with a particular constitutional provision because the same constitutional provision forecloses such consideration.**

Brown v. Gianforte, 2021 MT 149, ¶ 24, 404 Mont. 269, ¶ 24, 488 P.3d 548, ¶ 24 (emphasis added).

44. Having again determined that laws passed by the Legislature are subject to judicial review, the Secretary next argues the right to vote is not burdened by HB 176 because of the concerns with delays, burdens on staff, and long lines stemming from EDR. The Secretary did provide testimony from some election staff describing the extra work that is required on election day when registration is also permitted. However, Plaintiffs submitted testimony from election staff in support of permitting EDR and

describing the steps they take to handle the extra work imposed by having registration in addition to voting on election day.

45. Based on the evidence the Court was presented with concerning Montanan's use of EDR and reliance on it, the Court finds that Plaintiffs have made a prima facie case that HB 176 unconstitutionally burdens the right to vote by eliminating EDR.

iii. HB 530

46. WNV and MDP have established a prima facie case that HB 530 unconstitutionally burdens the right to vote because it burdens the voters who rely on organized absentee ballot assistance as discussed below.

47. The Secretary argues that HB 530 is not ripe given that the Secretary has not adopted the administrative rule as directed in HB 530 § 2(1). Specifically, "[o]n or before July 1, 2022, the secretary of state shall adopt an administrative rule in substantially" the form provided in HB 530 § 2(1)(a-b). However, "[t]he basic purpose of the ripeness requirement is to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements." *Reichert v. State*, 2012 MT 111, ¶ 54, 365 Mont. 92, ¶ 54, 278 P.3d 455, ¶ 54. A case is considered "unripe" when "the parties point only to hypothetical, speculative, or illusory disputes as opposed to actual, concrete conflicts." *Id.* Moreover, "[r]ipeness asks whether an injury that has not yet happened is sufficiently likely to happen or, instead, is too contingent or remote to support present adjudication...." *Id.* at ¶ 55.

48. Here, MDP and WNV point to HB 530 § 2(2), which is not subject to administrative rule making by the Secretary and provides that “[a] person violating the rule adopted by the secretary of state pursuant to subsection (1) is subject to a civil penalty. The civil penalty is a fine of \$100 for each ballot distributed, ordered, requested, collected, or delivered in violation of the rule.” Moreover, the portion of HB 530 left to the Secretary to adopt an administrative rule requires that it be in “substantially the same form” as that drafted by the legislature. Thus, at issue in HB 530 is not an abstract disagreement, especially given that it is clear from the statute there will be a civil penalty when engaging in many types of ballot assisting activities. Significantly, Plaintiffs have provided evidence as to how they have already been injured by HB 530 given they have already been attempting to determine whether the activities their organizations have previously engaged in will be subject to civil penalties under HB 530 and spending resources to educate voters about the change in the law.

49. Next, the Secretary argues HB 530 does not unconstitutionally burden the right to vote because, the Secretary alleges, there is no right to vote by absentee ballot or to have that ballot collected in a particular manner. Additionally, the Secretary argues that ballot collection is not banned under HB 530, but rather organizations and people collecting ballots cannot accept “a pecuniary benefit” from, *inter alia*, collecting ballots.

50. While there is no explicit fundamental right to vote by absentee ballot or to have a ballot collected, it is still possible that the fundamental right to vote can be infringed by legislation affecting that right through limiting the voting options available to Montanans. WNV provided expert testimony as described above illustrating the reliance many Native voters have on organizations that engage in paid ballot collection due to many factors discussed above but to restate a few: the distance Native voters have to travel in order to vote in person and the difficulties with the mailing system on reservations. MDP provided testimony describing how paid ballot collection reduces the burdens on voters who many not have the means, ability, or time to get to the polls in-person.

51. In sum, given that banning paid ballot collection will reduce the avenues to vote of many Montanans that rely on ballot collection due to a multitude of reasons as described above and as evidenced by testimony submitted by MDP and WNV, the Court finds that MDP and WNV have made a prima facie showing that HB 530 unconstitutionally burdens the right to vote.

iv. HB 506

52. MYA contends that HB 506 unconstitutionally burdens the right to vote for several reasons. First, MYA alleges that newly eligible voters turning eighteen in the two weeks prior to an election will be unable to absentee vote and thus if they have to rely on that form of voting due to travel, going to school out-of-state, illness, disability,

or for other reasons, they will not be able to vote at all. Second, MYA alleges that requiring newly eligible voters (specifically voters turning eighteen during the late registration period) to vote in person whereas all other eligible voters have other voting options available violates newly eligible voters' right to vote. Lastly, MYA contends that HB 506 needlessly complicates the voting process for voters becoming eligible during the late registration period.

53. The Secretary counters that absentee voting is not included in the constitutional right to vote. The Secretary also argues that the Legislature is specifically authorized to set requirements for absentee voting pursuant to Article IV § 3 of the Montana Constitution. The Secretary provided evidence from Melissa McLarnon describing lack of uniformity regarding election administrators' distribution and counting of ballots from voters turning eighteen during the late registration period. Further the Secretary argues that HB 506 is constitutional due to it providing uniformity and clarity among election administrators as well as ensuring only qualified voters are casting their ballots.

54. The Court finds that MYA has made a prima facie case that HB 506 unconstitutionally burdens the right to vote. While the Secretary claims "only absentee voting options of a small sliver of potential voters" will be affected, these voters previously had a voting avenue open to them that has now been closed by HB 506 and

the Court finds it is proper to enjoin this law until its constitutionality can be determined after a full review on the merits. (*See* Def.'s Resp. at 40).

B. Equal Protection

55. The Equal Protection Clause of the Montana Constitution aims to “ensure that Montana's citizens are not subject to arbitrary and discriminatory state action.” *Mont. Cannabis Indus. Ass’n v. State*, 2016 MT 44, ¶ 15, 382 Mont. 256, ¶ 15, 368 P.3d 1131, ¶ 15. The clause specifically declares: “[n]either the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.” Mont. Const., Art. II § 4. Additionally, while the Legislature must be given deference when it enacts a law, “it is the express function and duty of this Court to ensure that all Montanans are afforded equal protection under the law.” *Davis v. Union Pac. R.R.*, (1997), 282 Mont. 233, 240, 937 P.2d 27, 31.

56. “When presented with an equal protection challenge, we first identify the classes involved and determine whether they are similarly situated.” *Mont. Cannabis Indus. Ass’n*, ¶ 15 (quoting *Rohlfs v. Klemenhausen, LLC*, 2009 MT 440, ¶ 23, 354 Mont. 133, ¶ 23, 227 P.3d 42, ¶ 23)(internal quotations omitted). Similarly situated classes are identified by “isolating the factor allegedly subject to impermissible discrimination; if two groups are identical in all other respects, they are similarly situated.” *Hensley v. Mont. State Fund*, 2020 MT 317, ¶ 19, 402 Mont. 277, ¶ 19, 477 P.3d 1065, ¶ 19. If it is determined that

“the challenged statute creates classes of similarly situated persons, we next decide whether the law treats the classes in an unequal manner.” *Mont. Cannabis Indus. Ass’n*, ¶ 15.

57. First, regarding defining the classes, MDP and MYA allege that under HB 176, HB 530, and SB 169 that young voters are treated differently from similarly situated voters. WNV alleges that under HB 176 and HB 530 Native American voters are treated differently than similarly situated voters. The Secretary contends that “young voters” is not an adequately defined class. However, the Court finds that MDP and MYA, for the purposes of making a prima facie case, have defined the class “in a way which will effectively test the statute without truncating the analysis.” *Goble v. Mont. State Fund*, 2014 MT 99, ¶ 34, 374 Mont. 453, ¶ 34, 325 P.3d 1211, ¶ 34.

58. Having determined the classes for the purposes of a preliminary injunction, the Court next considers “if the two classes are similarly situated by isolating the factor subject to the allegedly impermissible discrimination []. If the two groups are equivalent in all respects other than the isolated factor, then they are similarly situated.” *Hensley*, at ¶ 21. Additionally, “[a] law or policy that contains an apparently neutral classification may violate equal protection if ‘in reality [it] constitutes a device designed to impose different burdens on different classes of persons.’” *Snetsinger v. Mont. Univ. Sys.*, 2004 MT 390, ¶ 16, 325 Mont. 148, ¶ 16, 104 P.3d 445, ¶ 16 (quoting *State v. Spina*, 1999 MT 113, ¶ 85, 294 Mont. 367, ¶ 85, 982 P.2d 421, ¶ 85).

59. WNV contends that HB 176 disproportionately burdens the right to vote of Native Americans living on rural reservations in Montana and that HB 530 disproportionately affects Native Americans on the basis of race. Specifically, regarding HB 176, WNV cites to testimony and expert reports showing that Native Americans have to travel further to register to vote, have less access to vehicles, have less access to money for gas and car insurance, and use EDR at higher rates than non-Native voters.

60. The Secretary argues that claims such as those described by WNV were rejected in *Brnovich v. Democratic Nat'l Committee* however, that case is irrelevant given it held that two laws passed in Arizona did not violate a federal statute under a federal legal standard that has not been applied in Montana. *See Brnovich v. Democratic Nat'l Comm.* (2021), 141 S. Ct. 2321, 2338.

61. Regarding HB 530, WNV describes that Native American voters rely on ballot collection more than non-Native voters due to the structural barriers to casting a ballot through mail that they disproportionately face. WNV presented significant evidence describing these barriers, which, to name a few, include lack of residential mail, longer distances to Post Offices, less access to vehicles, and less access to internet.

62. MDP and MYA contend that under HB 176, HB 530, and SB 169 young voters are treated differently because identification and voting methods disproportionately used by them are constrained by these laws. MDP presented evidence, as discussed above, concerning young voters' reliance on EDR—specifically young voters account for 31.2%

of voters who have registered on election day. (Gordon Decl., Ex. 35 at 13). MDP presented evidence concerning the significance of having the option to use a student ID as a primary form of voter identification for young voters due to the likelihood that young voters will not have access to the other forms of primary or secondary identification as now required by SB 169. Moreover, MDP presented evidence that young voters, Native voters, seniors, and voters with disabilities are disproportionately burdened by HB 530 because they already face greater hurdles to participation than other voters.

63. Once the relevant classifications have been defined, “we next determine the appropriate level of scrutiny.” *Snetsinger*, at ¶ 17. As previously described, “[s]trict scrutiny applies if a suspect class or fundamental right is affected.” *Id.* To survive strict scrutiny review, “the State has the burden of showing that the law, or in this case the policy, is narrowly tailored to serve a compelling government interest.” *Id.*

64. The Secretary maintains that Plaintiffs have not stated viable equal protection claims because HB 176 and SB 169 are facially neutral and discriminatory intent has not been established towards any of the classes. Additionally, the Secretary contends that Plaintiffs have not satisfied their prima facie burden to establish a disparate impact claim as to HB 530. The Secretary further asserts that the State’s interest in these three laws which include raising voter confidence in the security and administration of Montana’s elections, reducing the amount of work for election workers on election day,

reducing lines at polling places, reducing delays in reporting election results, and preventing election fraud in Montana would be enough to pass constitutional scrutiny under the *Anderson-Burdick* standard.

65. The Court disagrees with the Secretary that Plaintiffs must establish a disparate impact theory as to the challenged laws. *See Snetsinger*, at ¶ 16. Plaintiffs have rebutted the State's interests in testimony from experts and election staff describing there has been no voter fraud in Montana pertaining to EDR, ballot assistance, or the use of student IDs as voter identification. Additionally, Plaintiffs provided testimony from election staff describing that EDR is not a significant burden and that even if the deadline is moved back, it just moves the burden to that day. Plaintiffs provided evidence showing the significant reliance on ballot assistance and the confusion surrounding the implementation of HB 530.

66. In sum, the Court finds that Plaintiffs have made a prima facie showing that HB 176, HB 530, and SB 169 unconstitutionally burden Plaintiffs' right to equal protection of the laws by treating similarly situated groups unequally.

i. HB 506

67. MYA argues HB 506 violates Montanans' right to equal protection because it disproportionately and disparately abridges the right to vote of young Montana voters. Specifically, MYA describes HB 506 treats those who will be eligible to vote on election day in a different manner based only on the point at which they turn eighteen during

the election cycle. Thus, as described by MYA, the class of voters is those who turn eighteen the month prior to election day.

68. MYA also argues that HB 506 in conjunction with HB 176 and SB 169 creates an interactive effect making the impact of these laws on young voters exponentially worse.

MYA provided testimony, as described above, from young voters and the difficulties they face by the implementation of these laws. MYA provided expert testimony describing that “[c]ombined with their lack of justification, the independent and cumulative effects of the burdens placed on youth and student voters as a result of these laws, along with the timing of their passage on the heels of unprecedented youth electoral engagement nationally and statewide, can only be understood as a collective effort to deny or abridge the right to vote of youth voters.” (Bromberg Decl. at 1).

Further MYA described that “a common thread” among HB 506, HB 176, and SB 169 is that they all “target youth and student voters directly and/or single out characteristics that are unique to or disproportionately held by youth and student voters.” (Bromberg Decl. at 21).

69. The Secretary’s primary argument for HB 506 is simply that minors do not have the right to vote and that there is no equal protection claim because the distinguishing factor between the two classes—age—plainly relates to the underlying justification of the statute.

70. MYA counters that these voters turning eighteen in the month prior to election day will have one of the avenues of voting—absentee voting—closed to them simply because of when they turn eighteen during the election cycle and that it treats them differently from everyone else who is eighteen prior to the month before election day. Further MYA describes that in addition to infringing the right to vote of these newly eligible voters, the Rights of Persons Not Adults provision in Montana’s Constitution is similarly infringed by HB 506.

71. In sum, the Court finds that MYA has established a prima facie case that HB 506 violates the right to equal protection because it treats voter turning age eighteen in the thirty days before an election in an unequal manner than other eligible voters.

C. Right to Free Speech

72. The right to freedom of speech is a fundamental right given its enshrining in the Montana Constitution’s Declaration of Rights. *Riggs*, ¶ 47; *see also State v. Dugan*, 2013 MT 38, ¶ 18, 369 Mont. 39, ¶ 18, 303 P.3d 755, ¶ 18 (“The right to free speech is a fundamental personal right...”). Freedom of speech “applies to associations, as well as individuals, and protects the right of associations to engage in advocacy on behalf of their members.” *Mont. Auto. Ass’n v. Greely* (1981), 193 Mont. 378, 388, 632 P.2d 300, 305. Political speech is afforded “the broadest protection.” *See McIntyre v. Ohio Elections Comm’n* (1995), 514 U.S. 334, 346, 115 S. Ct. 1511, 1518. In DV 20-0377, Judge Fehr described that “ballot collection activity” falls within “the type of interactive

communication concerning political change that is appropriately described as ‘core political speech.’” Courts Findings of Fact, Conclusions of Law, and Order, *Western Native Voice v. Corey Stapleton*, ¶ 27, Sept. 25, 2020, No. DV 20-0377 (quoting *Meyer v. Grant* (1988), 486 U.S. 414, 421-22, 108 S. Ct. 1886, 1892 (internal quotations omitted)).

i. HB 530

73. WNV and MDP have established a prima facie case that HB 530 unconstitutionally burdens the right to free speech because it restricts the Montana Democratic Party’s, Western Native Voice’s, Montana Native Vote’s, Blackfeet Nation’s, and the Confederated Salish and Kootenai Tribe’s (“CSKT”) ability to engage with voters to encourage and assist them to vote as discussed below.

74. The Secretary contends that no message is communicated by ballot collecting and thereby the right to free speech is not implicated by HB 530. The Secretary cites to a string of federal authorities supporting this proposition.

75. MDP and WNV contend that HB 530 restricts their speech because through ballot collecting activities, they are expressing their belief in civic engagement and voter participation.

76. This Court finds, for the purposes of a preliminary injunction, that Montana Democratic Party, Western Native Voice and Montana Native Vote, “[b]y collecting and conveying ballots, ... are engaged in the ‘unfettered interchange of ideas for the bringing about of political and social changes desired by the people,’ which is at the

heart of freedom of expression protections.” Courts Findings of Fact, Conclusions of Law, and Order, *Western Native Voice*, ¶ 30, No. DV 20-0377 (quoting *Dorn v. Bd. Of Trustees of Billings Sch. Dist. No. 2* (1983), 203 Mont. 136, 145, 661 P.2d 426, 431).

Additionally, as described by WNV, Plaintiffs Blackfeet Nation and CSKT engage in political speech by promoting and facilitating the work of Western Native Voice and Montana Native Vote’s paid organizers or by hiring their own ballot collectors.

77. Thus, WNV and MDP have established a prima facie case that HB 530 unconstitutionally burdens the right to free speech.

D. Right to Due Process of Law

78. The due process clause is contained in Montana’s Declaration of Rights and therefore is a fundamental right. *Riggs*, at ¶ 47. A statute can be challenged for vagueness under two theories: “(1) because the statute is so vague that it is rendered void on its face; or (2) because it is vague as applied in a particular situation.” *State v. Dugan*, 2013 MT 38, ¶ 66, 369 Mont. 39, ¶ 66, 303 P.3d 755, ¶ 66 (citing *State v. Watters*, 2009 MT 163, ¶ 24, 350 Mont. 465, 208 P.3d 408). “It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined.” *Whitefish v. O’Shaughnessy* (1985), 216 Mont. 433, 440, 704 P.2d 1021, 1025.

i. HB 530

79. WNV has established a prima facie case that HB 530 is unconstitutionally vague because it is unclear as to when and to whom it applies. Apart from the Secretary’s

ripeness argument addressed above, the Secretary only offers that a lack of definitions in HB 530 does not render it vague on its face as long as the meaning of the statute is clear, and the defendant has adequate notice of what is proscribed. Further the Secretary argues that she will have the opportunity to define terms during the administrative rule making process.

80. The Court has previously addressed the Secretary's ripeness argument regarding HB 530. WNV provided evidence concerning the ambiguities concerning the governmental exception as it relates to tribal governmental entities. Additionally, WNV describes that the ambiguities concerning what type of conduct relating to ballot collection activity that will trigger the penalties in HB 530 are such that WNV has already had to change their processes in a way that steers far wider than what HB 530 may make unlawful.

81. In sum, the Court finds that WNV has made a prima facie case that HB 530 is unconstitutionally vague.

E. Rights of Persons Not Adults

82. The Montana Constitution provides: "[t]he rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this Article unless specifically precluded by laws which enhance the protection of such persons."

Mont. Const., Art. II § 15.

83. MYA alleges that because HB 506 effectively limits the ability of minors turning eighteen to participate in voting procedures that adults get to use that it burdens a minor's right to exercise the same rights as adults. MYA's expert testified that a reasonable reading of Art. II § 15 is that "17-year-olds who will be 18 on or before Election Day cannot face unequal access to the ballot compared to adults; if they do, then it must be for some enhanced protection of the 17-year-old." (Bromberg Decl. at 15).

84. The Secretary argues minors do not have the right to vote and therefore Art. II, § 15 is not applicable. The Secretary additionally argues that HB 506 was proposed because "(i) some county election administrators were providing absentee ballots to individuals who did not yet meet Montana's age or residency requirements; and (ii) county election administrators who sent ballots to voters before the voter met age or residency requirements were in some cases 'holding' returned ballots of underage voters until election day or the day the voter turned 18." (Def.'s Resp. at 35; McLarnon Decl. ¶ 6). Thus, the Secretary argues, HB 506 assists in providing uniformity throughout the state.

85. The Court finds that MYA has made a prima facie case that the right to vote is burdened unconstitutionally given that minors have previously enjoyed being able to receive their absentee ballot prior to turning eighteen and under HB 506, will no longer be able to.

F. Great or Irreparable Injury

86. Under § 27-19-201(2), MCA, an injunction may be granted “when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant...” For the purposes of issuing a preliminary injunction, “the loss of a constitutional right constitutes irreparable harm...” *Mont. Cannabis Indus. Ass’n*, ¶ 15.

87. The Court finds that Plaintiffs have established they will suffer a great or irreparable injury if these laws are not preliminarily enjoined until a case on the merits can be had as discussed below.

88. MDP and MYA have shown that their members and the organizations they represent will suffer constitutional harm if SB 169 remains in effect during the pendency of this litigation. Specifically, MDP and MYA have provided testimony from eligible voters describing they will have difficulty locating a secondary form of ID to be presented in addition to their student ID to exercise their right to vote. MDP provided testimony and evidence concerning the significant unlikelihood of out-of-state students to possess a Montana drivers’ license and the similar unlikelihood of even in-state students possessing a driver’s license or state ID. (Gordon Decl., Ex. 35 at 15). The Court found the testimony from Plaintiffs’ experts concerning how raising the “costs” of voting will make it more difficult for voters to submit their ballots and that one of these “costs” is by having the proper identification to be able to vote to be persuasive. Thus,

the Court finds that MDP and MYA have shown that SB 169, by burdening constitutional rights, will cause irreparable harm if SB 169 remains in effect during the pendency of this litigation.

89. MDP and WNV have shown they and the members of the organizations they represent will suffer irreparable harm if HB 530 and HB 176 remain in effect.

Specifically, both Plaintiffs made prima facie cases that HB 530 and HB 176 unduly burden the right to vote by making it more difficult for specific groups to exercise their right to vote. Additionally, MDP, WNV, and MYA will be harmed given their participation in ballot collecting and get out the vote activities will be curtailed by HB 176 if it were to remain in effect. Thus, Plaintiffs have shown that HB 530 and HB 176 will cause irreparable injury if these laws are not enjoined during the pendency of this litigation.

90. MYA has shown that HB 506 will cause an estimated 763 new voters to experience an increase in confusion and difficulty when voting. (Herron Rpt. ¶ 60). MYA provided testimony from a minor who will be turning eighteen four days before the 2022 primary election who will only have the option to vote in person because of HB 506. (MYA Brf., Ex. I, ¶¶ 4-8). This minor, unlike his peers who turn 18 before him, will not have the option to vote by mail nor will he have the opportunity to receive and examine his ballot until four days before the election. *Id.* at ¶ 9. Further he described that HB 506 makes it more difficult for him to exercise his right to vote. *Id.* at ¶ 25. Thus,

MYA has shown that it and the members it represents will suffer harm if HB 506 were to remain in effect during the pendency of this litigation.

G. Delay

91. The Secretary argues Plaintiffs motions should be denied because Plaintiffs have impermissibly delayed in requesting that these laws be preliminarily enjoined given that election officials have already worked to implement the changes these laws made to elections, voters would be confused, and the public's confidence in the electoral process would be "further undermine[d]." (Def.'s Brf. at 9-10). In support of her argument, the Secretary cites to a string of federal cases in which delay as short as thirty-six days after learning of alleged irreparable harm resulted in denial of a preliminary injunction. The Secretary also cites to *Boyer v. Karagacin* for the proposition that a preliminary injunction is typically "granted at the commencement of an action before there can be a determination of the rights of the parties to preserve the subject in controversy in its existing condition pending a determination." 178 Mont. 26, 34, 582 P.2d 1173, 1178.

92. This Court does not interpret § 27-19-201, MCA as requiring that a preliminary injunction be filed at the "commencement" of an action or even right after a law has come into effect. Nonetheless, at this point in time, this consolidated matter is at its commencement and Plaintiffs have not impermissibly delayed in their applications for

preliminary injunctions. Moreover, the Court does not find it persuasive that the Secretary has been taking steps to enact these laws given that is a duty of her job and she has had notice that these laws were contested since before they were signed into law as evidenced in the testimony that occurred in hearings at the legislature and notice soon after they were enacted as evidenced by the Plaintiffs' filing of their complaints. Additionally, Plaintiffs have made this request prior to the holding of the first state-wide election since the enactment of these laws.

93. Thus, the Court finds that Plaintiffs did not impermissibly delay in requesting these laws be preliminarily enjoined.

III. CONCLUSION

84. Plaintiffs have established a prima facie case that they will suffer some degree of harm and are entitled to preliminary relief pursuant to § 27-19-201(1), MCA.

Additionally, Plaintiffs have made a prima facie case that they will suffer an “irreparable injury” through the loss of constitutional rights pursuant to § 27-19-201(2), MCA, if these laws were to remain in effect during the pendency of this litigation.

85. In sum, laws promulgated by the legislature enjoy the presumption of constitutionality. However, in the case of the four laws at issue here, HB 506, SB 169, HB 176, and HB 530, Plaintiffs have demonstrated they are entitled to have these laws temporarily enjoined to preserve the status quo—the last non-contested condition preceding this pending controversy—and prevent potential constitutional injury to the

parties and the voters they represent until the constitutionality of these laws can be thoroughly investigated and a determination of their constitutionality on the merits can be made.

The Court, being fully informed, having considered all briefs on file and in-court arguments, makes the following decision:

IT IS HEREBY ORDERED:

1. Plaintiffs' motions for a Preliminary Injunction are **GRANTED**;
2. The Secretary and her agents, officers, employees, successors, and all persons acting in concert with each or any of them are **IMMEDIATELY** restrained and prohibited from enforcing any aspect of HB 176, HB 530, SB 169, and HB 506 pending resolution of the Plaintiffs' request that the Secretary be permanently enjoined from enforcing the statutes cited above;
3. The Court waives the requirement that the Plaintiffs post a security bond for the payment of costs and damages as permitted by § 27-19-306(1), MCA.

DATED April 6, 2022

/s/ Michael G. Moses
District Court Judge

cc: Dale Schowengerdt
David M.S. Dewhirst
Austin James
Peter M. Meloy
Matthew Gordon
John Heenan
Alex Rate
Ryan Ward Aikin

Rylee Sommers-Flanagan
David Knobel
Jonathan Topaz
Kathleen Smithgall
Ian McIntosh
Clayton Gregersen
Alora Thomas-Lundborg
Akilah Lane
Jacqueline De León
Matthew Campbell
Samantha Kelty
Theresa J. Lee
Jonathan Hawley
William Morris
E. Lars Phillips
Leonard H. Smith
John M. Semmens
Henry Brewster

APPENDIX B

CLERK OF THE
DISTRICT COURT
TERRY HALPIN

2020 JUL -7 P 2:52

FILED

BY ELF/JTT (5)

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY**

**WESTERN NATIVE VOICE, Montana Native
Vote, Assiniboine and Sioux Tribes of Fort
Peck, Blackfeet Nation, Confederated Salish
and Kootenai Tribes, Crow Tribe, Fort
Belknap Indian Community,**

Plaintiffs,

vs.

**COREY STAPLETON, in his official capacity
as Montana Secretary of State, TIM FOX, in
his official capacity as Montana Attorney
General, JEFF MANGAN, in his official
capacity as Montana Commissioner of Political
Practices,**

Defendants.

Cause No: DV-2020-377

Judge: Jessica T. Fehr

**ORDER GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTIVE RELIEF**

Plaintiffs Western Native Voice, Montana Native Vote, Assiniboine and Sioux Tribes of Fort Peck, Blackfeet Nation, Confederated Salish and Kootenai Tribes, Crow Tribe and Fort Belknap Indian Community have sued Corey Stapleton, in his official capacity as Montana Secretary of State, Tim Fox, in his official capacity as Montana Attorney General, and Jeff Mangan, in his official capacity as Montana Commissioner of Political Practices, to enjoin enforcement of the Ballot Interference Prevention Act (hereinafter "BIPA"), Mont. Code Ann. § 13-35-701 *et seq.* On March 25, 2020, Plaintiffs applied,

1 pursuant to Mont. Code Ann. § 27-19-301 for a preliminary injunction to enjoin the enforcement of the
2 BIPA, which Plaintiffs allege prevents the organized collection of ballots in violation of their
3 constitutional rights. On April 13, 2020, the Defendants filed their Response in Objection to Plaintiffs'
4 Motion for Preliminary Injunction. On April 27, 2020, Plaintiffs filed their Reply Brief in Support of
5 Motion for a Preliminary Injunction. Before the Court conducted a hearing on the matter, Plaintiffs filed
6 a Motion for Temporary Restraining Order on May 1, 2020. Defendants filed their Response in Objection
7 on May 4, 2020. Plaintiffs filed their Reply Brief in Support on May 5, 2020. On May 20, 2020, the Court
8 granted the Plaintiffs' Motion for Temporary Restraining Order.

9 On May 27, 2020, a Joint Stipulation to Waive Preliminary Injunction Hearing was filed by the
10 parties. On May 27, 2020, the Court granted the parties request to waive the hearing on the Motion for
11 Preliminary Injunction and set a Status Conference for May 29, 2020. On the same date, May 27, 2020,
12 the Defendants filed a Motion to Dismiss Plaintiffs' Motion for Preliminary Injunction, claiming the
13 motion was moot due to a Preliminary Injunction being issued in *Driscoll v. Stapleton*, Cause No. DV-
14 20-408 (13th Jud. Dist. May 22, 2020). Plaintiffs filed a Brief in Opposition to the Motion to Dismiss on
15 May 28, 2020 and Plaintiffs filed a Reply in Support of the Motion to Dismiss on May 28, 2020, as well.

16 On May 29, 2020, the Court held a Status Conference with the parties. The Court denied the
17 Defendants' Motion to Dismiss, ruling that the Plaintiffs in the present matter are separate and distinct
18 from those of the *Driscoll* case. On May 29, 2020, following the Status Conference, the Court issued a
19 written Order Denying the Defendants' Motion to Dismiss. At the conclusion of the May 29, 2020, Status
20 Conference, the Court took the parties' briefing on the Preliminary Injunction under advisement. This
21 written order follows.

22
23 **THEREFORE, BASED ON THE COURT'S REVIEW, IT IS HEREBY ORDERED** that the
24 Plaintiffs' Motion for Preliminary Injunction is **GRANTED**.
25

BACKGROUND

1
2 The Ballot Interference Protection ACT (hereinafter referred to as "BIPA") was passed by the
3 House during the 2017 Montana legislative session. BIPA was placed on the ballot as ballot referendum
4 LR 129 for the 2018 November general election. BIPA was approved by the voters during the 2018 general
5 election. BIPA restricts who can collect registered voters voted or unvoted ballots and creates exceptions
6 only for election officials and employees of the United States Postal Office. Mont. Code Ann. § 13-35-
7 703. BIPA allows caregivers, family members, household members and acquaintances to collect ballots,
8 but limits the same categories of individuals from collecting and conveying more than six ballots per
9 election. Mont. Code Ann § 13-35-703 (2) and (3). BIPA compels every caregiver, family member,
10 household member or acquaintance who delivers another individuals ballot to sign a registry and provide
11 their name, address, and phone number; the voter's name and address; and the individual's relationship to
12 the voter. See Mont. Code. Ann. § 13-35-703(2)(c)-(2)(f). BIPA authorizes a \$500 fine for each ballot
13 unlawfully collected. Mont. Code. Ann § 13-35-703.

14
15 Plaintiffs argue that BIPA infringes on their fundamental right to vote; Plaintiffs claim that BIPA
16 places a significant burden on Native Americans living on reservations, many of whom rely ballot
17 collection organizations to vote. Plaintiffs argue that, while many Montanans may drop their ballots in the
18 U.S. mail postal drop boxes or drive to their local elections offices, Native Americans living on
19 reservations lack equal access to these opportunities due to scarcity of post offices, non-traditional mailing
20 addresses, coupled with geographical isolation and higher levels of poverty, which make it harder for
21 Native Americans to drop off their ballots at polling places. Plaintiffs stress that Native Americans living
22 on reservations often deliver their ballots by pooling them with family and community ballots. Plaintiffs
23 further contend that BIPA violates Organizational Plaintiffs', Plaintiff CSKT's and Plaintiff Fort
24 Belknap's fundamental right to freedom of speech, fundamental right to freedom of association, and
25

1 fundamental right to due process. Plaintiffs posit that BIPA does not meet strict scrutiny and that the law
2 must be enjoined; that Plaintiffs will suffer irreparable injury absent a preliminary injunction and that the
3 balance of equities weighs in favor of Plaintiffs and that the injunction would not be adverse to the public
4 interest.

5 The State contends that the Plaintiffs' motion for a preliminary injunction should be denied
6 because Plaintiffs have not demonstrated a *prima facie* constitutional violation and, therefore, have not
7 made a *prima facie* showing that they will suffer irreparable injury before this case can be fully litigated.
8 The State argues that any urgency was self-created by the Plaintiffs and that their assertions of irreparable
9 harm are insufficient to establish a *prima facie* case that BIPA will violate their constitutional rights or
10 the constitutional rights of their members if it remains in effect for the upcoming elections. The State
11 posits that Plaintiffs' have no constitutional right to have their absentee ballots collected by a person other
12 than an election official or United States Postal Service worker, and that Organizational Plaintiffs have no
13 constitutional right to collect ballots.
14

15 DISCUSSION

16 Pursuant to M.C.A. §27-19-201, a preliminary injunction may be granted:

- 17 (1) when it appears that the applicant is entitled to the relief demanded and the relief or any part
18 of the relief consists in restraining the commission or continuance of the act complained of,
either for a limited period or perpetually;
- 19 (2) when it appears that the commission or continuance of some act during the litigation would
produce a great or irreparable injury to the applicant;
- 20 (3) when it appears during the litigation that the adverse party is doing or threatens or is about to
do or is procuring or suffering to be done some act in violation of the applicant's rights,
21 respecting the subject of the action, and tending to render the judgement ineffectual;
- 22 (4) when it appears that the adverse party, during the pendency of the action, threatens or is about
to remove or to dispose of the adverse party's property with intent to defraud the applicant, an
injunction order may be granted to restrain the removal or disposition;
- 23 (5) when it appears that the applicant has applied for an order under the provision of 40-4-121 or
24 an order of protection under Title 40, chapter 15.
25

1 The subsections outlined above are disjunctive, “meaning that findings that satisfy one subsection
2 are sufficient.” *Sweet Grass Farms, Ltd. v. Bd. Of Cty. Comm’rs of Sweet Grass County.*, 2000 MT 147,
3 ¶ 27, NEED FULL CITE (quoting *Stark v. Borner*, 266 Mont. 256, 259, 375 P. 2d 314, 317 (1987)). Only
4 one subsection of M.C.A. §27-19-201 needs to be met to support the issuance of a preliminary injunction.
5 *Stark*, 266 Mont. at 259, 375 P.2d at 317. The “grant or denial of injunctive relief is a matter within the
6 broad discretion of the district court based on applicable findings of fact and conclusions of law.” *Weems*
7 *v. State by & through Fox*, 2019 MT 98, ¶ 7 (quoting *Davis v. Westphal*, 2017 MT 276, ¶ 10). The district
8 court “does not determine the underlying merits of the case in resolving a request for preliminary
9 injunction. *Weems*, ¶ 18. In the context of a constitutional challenge, an applicant for preliminary
10 injunction need not demonstrate that the statute is unconstitutional beyond a reasonable doubt but must
11 establish a *prima facie* case of a violation of its rights under the Constitution. *Id.* (quoting *City of Billings*
12 *v. Cty. Water Dist. Of Billings Heights*, 281 Mont. 219, 228, 935 P.2d 246, 251 (1997)). Thus, in the
13 present matter, because Plaintiffs have moved for a preliminary injunction based on constitutional
14 challenges, they must establish a *prima facie* case of a constitutional violation.
15

16 Section 13 of Montana’s Constitution states: “All elections shall be free and open, and no power,
17 civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Mont.
18 Const. Art. II, § 13. The right of suffrage is a fundamental right. *State v. Riggs*, 2005 MT 124, ¶ 47
19 (citations omitted). Because voting rights are fundamental, BIPA, which Plaintiffs contend infringes upon
20 the right to vote, “must be strictly scrutinized and can only survive scrutiny if the State establishes a
21 compelling state interest and that its action is closely tailored to effectuate that interest and is the least
22 onerous path that can be taken to achieve the State’s objective.” *Montana Env’tl. Info Ctr. V. Dept’t. of*
23 *Env’tl. Quality*, 1999 MT 248, ¶ 63 FULL CITE; *Finke v. State ex Rel. McGrath*, 2003 MT 48, ¶ 15 FULL
24 CITE. It is the State’s burden to prove the compelling interest by competent evidence. *Wadsworth v. State*,
25

1 275 Mont. 287, 911 P.2d 1165, 1174 (1996). Merely alleging that there is a compelling state interest is
2 insufficient to justify interference with the exercise of a fundamental right. *Id.*

3 FINDINGS OF FACT

4 1. In support of the Motion for Preliminary Injunction, the Plaintiffs have submitted the following
5 Affidavits:

- 6 a. Floyd G. Azure
7 - Tribal Chairman of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation
8 ("Fort Peck Tribes")
- 9 b. Shelly R. Fyant
- Chairwoman of the Confederated Salish and Kootenai Tribes ("CSKT")
- 10 c. Dawn Gray
- Managing Attorney of the Blackfeet Nation
- 11 d. Daniel Craig McCool, Ph.D.
12 - Professor Emeritus of Political Science at the University of Utah
- 13 e. Marci McLean
14 - Executive Director of Montana Native Vote and Western Native Voice
- 15 f. Ryan D. Weichelt, Ph.D.
- Associate Professor of Geography at the University of Wisconsin-Eau Claire
- 16 g. Andrew Werk, Jr.
17 - President of the Fort Belknap Indian Community
- 18 h. Alex Rate
19 - Legal Director of the American Civil Liberties Union of Montana

20 2. The Court finds that, without exception, all Affidavits were verified and that the material
21 allegations in each Affidavit were made positively and not upon information and belief.

22 3. The Court finds that, for the purposes of determining whether the Plaintiffs have presented a *prima*
23 *facie* case for a preliminary injunction, the statements made by the Affiants are credible and based
24 upon extensive personal experience. The Court further finds the expert opinions expressed by Dr.
25 Craig McCool are credible and persuasive. Dr. McCool has extensive education, training and

1 experience in the political relationship between American Indians and Anglos and Indian voting
2 issues.¹ The methodology used by Dr. McCool has been accepted in numerous federal cases.² His
3 research has been published in many peer reviewed journals.³ The Court finds that the State has
4 not challenged Dr. McCool's opinions.

5 4. Based upon Plaintiffs' Affidavits, the Court finds that BIPA will significantly suppress voter
6 turnout by disproportionately harming rural communities, especially individual Native Americans
7 in rural tribal communities across the seven Indian reservations located in Montana by limiting
8 their access to the vote by mail process.⁴

9 5. The State argues that the Plaintiffs' Motion for a Preliminary Injunction should be denied because
10 Plaintiffs delayed filing their Motion until March 25, 2020, more than sixteen months after BIPA
11 took effect on November 6, 2018; that Plaintiffs did not file their Complaint until March 12, 2020,
12 didn't serve the Attorney General until March 24, 2020 (six weeks before absentee ballots were
13 made available for the primary election), and therefore, should be estopped from complaining
14 about purported irreparable harm that would result from proceeding with the normal course of
15 litigation.
16

17 6. In Montana, the right to vote is a fundamental right guaranteed by the Montana Constitution. *State*
18 *v. Riggs*, 2005 MT 124, ¶ 47. The loss of a constitutional right "constitutes irreparable harm" for
19 the purpose of determining whether a preliminary injunction should be issued." *Mont Cannabis*
20 *Indus. Ass'n v. State*, 2012 MT 201, ¶ 15 (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).
21 Plaintiffs have shown that BIPA impedes on Montanans' constitutional right to vote; they have
22

23
24

¹ Affidavit of Dr. Craig McCool at 1-2

25 ² *Id.*

³ *Id.*

⁴ Affidavits of Floyd Azure, Shelly Flynt, Dawn Gray, Andrew Werk, Dr. Ryan Weeichlet and Alex Rate

1 demonstrated irreparable harm for the purposes of determining whether a preliminary injunction
2 should be issued.

- 3 7. The Defendants cite to *Rep Nat'l Comm v. Dem. Nat'l Comm.*, 206 L.Ed. 2d 452, 453-54
4 (2020)(*per curiam*) (citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006); *Frank v. Walker*, 574 U.S. 929
5 (2014); *Veasy v. Perry*, 574 U.S. 951 (2014)) to argue that the U.S. Supreme Court has “reputedly
6 emphasized” its disfavor of altering election rules by judicial altercation on the eve of an election.
7 The Court finds this argument misplaced. The preliminary injunction does not “fundamentally
8 alter the nature of the election”. *Rep. Nat'l Com.* 206 L.Ed.2d 452 at 1006-7. The Court’s
9 preliminary injunction will mitigate the voter suppression effects of BIPA. Because the
10 preliminary injunction granted by this court does not “fundamentally alter the nature of the
11 election”, the State’s reliance on *Rep. Nat'l Comm* is not persuasive.
- 12 8. The State argues that because BIPA was passed by Montana’s voters by a wide margin, the
13 referendum itself demonstrates a compelling state interest. *Def’s Resp.* at 6 (citing *Montana*
14 *Auto. Ass’n v. Greeley*, 193 Mont. 378, 384, 632 P.2d 300, 303 (1981)). In *Montana Auto. Ass’n*,
15 the Montana Supreme Court held that “the statewide vote on I-85 is a demonstration of a
16 compelling state interest in the enactment of I-85.” *Id.* However, that did not deter the Montana
17 Supreme Court from declaring portions of the initiative unconstitutional. *Id.* While the Montana
18 Supreme Court has held that a statewide initiative passed by Montana voters can indicate a
19 compelling state interest, initiatives must still pass constitutional muster; statutes, whether passed
20 by the legislature or by the voters, cannot violate the Constitution. The Court is not persuaded by
21 the State’s argument that BIPA’s enactment by referendum shields BIPA from constitutional
22 scrutiny.
23
24
25

1 9. The Court finds that, in their opposition to the Plaintiffs' Motion for Preliminary Injunction, the
2 State has failed to present any evidence to dispute the Plaintiffs' evidence that BIPA
3 disproportionately burdens the voters identified by Plaintiffs or that the statute significantly
4 suppresses voter turnout by making voting more burdensome and costly for voters who rely on
5 ballot collection services.

6 10. Based upon the Plaintiffs' Affidavits, the Court finds that the Plaintiffs have established a *prima*
7 *facie* violation of their right to free speech, right to freedom of association and right to due process.⁵

8 11. The Court finds that, in their opposition to Plaintiffs' Motion for Preliminary Injunction, the State
9 has failed to present any evidence to dispute Plaintiffs' evidence that BIPA infringes on plaintiffs'
10 right to free speech, right to freedom of association and right to due process.

11 12. Although the State alleges that BIPA promotes the State's compelling interest in maintaining the
12 integrity of elections, the Court finds that the State has failed to present any evidence of Montana
13 voters being subjected to harassment and insecurity in the voting process or even a general lack of
14 integrity in Montana's elections.

15 13. The Court finds that BIPA serves no legitimate purpose; it fails to enhance the security of absentee
16 voting; it does not make absentee voting easier or more efficient; it does not reduce the costs of
17 conducting elections; and it does not increase voter turnout.

18 CONCLUSIONS OF LAW

- 19
- 20 1. The Plaintiffs have successfully demonstrated irreparable harm per se by presenting a *prima*
21 *facie* case that BIPA violates the right to vote guaranteed by the Montana constitution.
 - 22 2. The Court finds the cases cited by the Defendant to support their positions to be unpersuasive as
23 these cases dealt with irreparable injury for copyright, trademark, and anti-trust and trade
24

25

⁵ Affidavit of Marci McLean

1 violations, not constitutional violations. Def's Resp. 4. (citing *Oakland Tribune, Inc v.*
2 *Chorinicle Publ'g Co.*, 762 F.2d 1374, 1377 (9th Cir. 1985); *accord Wreal, Ltd. Liab. Co. v.*
3 *Amazon.com*, 840 F.3d 1244, 1248 (11th Cir. 2016); *Garcia v. Google, Inc.*, 786 F.3d 733, 746
4 (9th Cir. 2015) (en banc); *Citibank, N.A.*, 756 F.2d at 276-77).

- 5 3. The State has failed to demonstrate through any evidence the existence of any compelling state
6 interest that would warrant the interference of the right to vote created by BIPA.
- 7 4. If a preliminary injunction were not granted, BIPA would cause irreparable harm to Montana
8 voters by preventing absentee ballot voters from voting with the assistance of ballot collection
9 organizations.
- 10 5. The Court holds that BIPA is subject to strict scrutiny and that the State must demonstrate through
11 competent evidence that the statute furthers a compelling state interest.
- 12 6. Based on the evidence submitted to the Court thus far, the Court concludes that the Plaintiffs are
13 likely to prevail on the merits and would be entitled to a permanent injunction to enjoin the
14 enforcement of BIPA.
- 15 7. The Court concludes, pursuant to M.C.A. § 27-19-201(1) and (2), that a preliminary injunction
16 should be issued, enjoining the enforcement of BIPA.

17
18 Based upon the above Findings of Fact, Conclusions of Law, and Memorandum:


19 **IT IS HEREBY ORDERED:**

- 20 1. The Plaintiffs' Motion for Preliminary Injunction is **GRANTED**.
- 21 2. The Defendants and their agents, officers, employees, successors, and all persons acting in
22 concert with each or any of them are **IMMEDIATELY** restrained and prohibited from enforcing
23 the provisions of the Ballot Interference Prevention Act, M.C.A. § 13-35-701 *et seq.* pending
24
25

1 resolution of the Plaintiffs' request that the State be permanently enjoined from enforcing the
2 statutes cited above.

- 3 3. The Court waives the requirement that the Plaintiffs post a security bond for the payment of costs
4 and damages as permitted by M.C.A. § 27-19-306(1)(b)(ii).

5 **DATED** this 7th day of July, 2020.

6
7
8 
9 HON. JESSICA T. FEHR, DISTRICT JUDGE

10 cc: Lillian Alvernaz, ACLU of Montana
11 Alex Rate, ACLU of Montana
12 Alora Thomas-Lundborg, ACLU
13 Dale Ho, ACLU
14 Ihaab Syed, ACLU
15 Natalie Landreth, Native American Rights Fund
16 Jacqueline De Leon, Native American Rights Fund
17 Timothy C. Fox, Montana Attorney General
18 J. Stuart Segrest, Chief Civil Bureau
19 Aislinn W. Brown, Assistant Attorney General
20 Hannah Tokerud, Assistant Attorney General

21
22
23 CERTIFICATE OF SERVICE

24 This is to certify that the foregoing was duly served by mail
25 or by hand upon the parties or their attorneys of record
at their last known address on this 7th day of July, 2020.

By: 
Judicial Asst. to Hon. Jessica T. Fehr

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above was duly served upon the following on the 16th day of November, 2023, by U.S. certified mail in a sealed, postage paid envelope.

Attorney General Austin Knudsen
Office of the Attorney General
215 N Sanders, Third Floor
P.O. Box 201401
Helena, MT 59620-1401

Secretary of State Christi Jacobsen
Office of the Secretary of State
P.O. Box 202801
Helena, MT 59620-2801

Commissioner of Political Practices Chris Gallus
1209 8th Ave
P.O. Box 202401
Helena, MT 59620-2401

By: /s/ Constance Van Kley
Constance Van Kley
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I, Constance Van Kley, hereby certify that I have served true and accurate copies of the foregoing Answer/Brief - Brief In Support of Motion to the following on 11-16-2023:

Rylee Sommers-Flanagan (Attorney)
P.O. Box 31
Helena MT 59624
Representing: League of Women Voters of Montana
Service Method: eService

Christi Jacobsen (Defendant)
Office of the Secretary of State
P.O. Box 202801
Helena 59620
Service Method: Certified Mail

Austin Knudsen (Defendant)
Office of the Attorney General
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**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana,

Defendants.

Civil Action No. DV-16-2023-0001073D

**DECLARATION OF ALICE C.C.
HULING IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

I, Alice C.C. Huling, hereby declare under penalty of perjury under the laws of the United States as follows:

1. I am over the age of 18 and competent to make this declaration. I am an attorney at Campaign Legal Center and admitted to practice law in the District of Columbia and the State of New York, and before multiple federal courts of appeals and district courts. I serve as counsel for Plaintiff in the above-captioned matter.
2. I submit this declaration to provide the Court true and correct copies of certain documents submitted in support of Plaintiff's motion for preliminary injunction.

Exhibit 1 is a true and correct copy of the declaration of Nancy Leifer, dated November 13, 2023.

Exhibit 2 is a true and correct copy of the declaration of Julia Maxon, dated November 15, 2023.

Exhibit 3 is a true and correct copy of the declaration of Kiersten Iwai, dated November 14, 2023.

Exhibit 4 is a true and correct copy of the declaration of Joye Kohl, dated November 13, 2023.

Exhibit 5 is a true and correct copy of the declaration of Marga Lincoln, dated November 13, 2023.

Exhibit 6 is a true and correct copy of the expert report from Dr. Alexander Street, dated November 14, 2023.

Exhibit 7 is a true and correct copy of the Montana Voter Registration Application, published on the website of the Montana Secretary of State, and publicly available at https://sosmt.gov/wp-admin/admin-ajax.php?juwpfisadmin=false&action=wpfd&task=file.download&wpfd_category_id=766&wpfd_file_id=47309&token=&preview=1 (last visited Nov. 13, 2023).

Exhibit 8 is a true and correct copy of the enrolled bill text of HB 892, which is publicly available at <https://leg.mt.gov/bills/2023/billpdf/HB0892.pdf>.

Exhibit 9 is a true and correct copy of email correspondence between the Missoula County Elections Administrator and the Secretary of State's Chief Legal Counsel regarding HB 892, and was obtained from Missoula County pursuant to a public records request.

Exhibit 10 is a true and correct copy of an email correspondence sent by the Ravalli County Election Administrator to other Montana county election officials regarding HB 892, including ensuing correspondence, and was obtained from Lewis and Clark County, Gallatin County, and Missoula County pursuant to public records requests to each.

Exhibit 11 is a true and correct copy of a Montana Secretary of State webpage titled "Election Facts," which is publicly available at <https://sosmt.gov/elections/election-facts/> (last visited on Nov. 13, 2023).

Exhibit 12 is a true and correct copy of a document published in August 2016, on the Montana Secretary of State website titled "Montana's Election Administration FAQs – Checking Election IQ," which is publicly available at <https://sosmt.gov/Portals/142/Elections/Documents/Election-Administrator-FAQs.pdf> (last visited on Nov. 15, 2023).

Exhibit 13 is a true and correct copy of a document published by the Montana Secretary of State titled "Guide to Agency-Based Voter Registration: National Voter Registration Act (NVRA)." It was last revised on July 31, 2023, and is publicly available at https://sosmt.gov/wp-admin/admin-ajax.php?juwpfisadmin=false&action=wpfd&task=file.download&wpfd_category_id=732&wpfd_file_id=50604&token=530f2a6e9bfb892c2a327cdaafebea69&preview=1.

Exhibit 14 is a true and correct copy of a Montana Secretary of State webpage titled “Frequently Asked Questions,” which is publicly available at <https://sosmt.gov/elections/faq/> (last visited on Nov. 13, 2023).

Exhibit 15 is a true and correct copy of a Montana Legislature webpage titled “Detailed Bill Information: HB 892,” which is publicly available at [http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20231&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=892&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20231&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=892&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=) (last visited on Nov. 13, 2023).

Exhibit 16 is a true and correct copy of a National Conference of State Legislatures webpage titled “Automatic Voter Registration,” which is publicly available at <https://www.ncsl.org/elections-and-campaigns/automatic-voter-registration> (last visited Nov. 14, 2023).

Exhibit 17 is a true and correct copy of a U.S. Election Assistance Commission webpage titled “Voter Registration Cancellations,” which is publicly available at <https://www.eac.gov/voters/voter-registration-cancellations> (last vided Nov. 14, 2023).

Exhibit 18 is a true and correct copy of a Heritage Foundation webpage titled “Election Fraud Cases,” which is publicly available at <https://www.heritage.org/voterfraud/search?state=MT> (last visited on Nov. 13, 2023).

Exhibit 19 is a true and correct copy of an August 17, 2023, letter sent on behalf of the League of Women Voters of Montana and Montana Women Vote to the Montana Secretary of State requesting documents pursuant to the National Voter Registration Act.

Exhibit 20 is a true and correct copy of email communications sent by counsel on behalf of the League of Women Voters of Montana to the Montana Secretary of State concerning the National Voter Registration Act documents request.

Exhibit 21 is a true and correct copy of a document published by the Montana Secretary of State titled "Late Registration Procedures – Directive #01-06," which was last updated in May 2010, and is publicly available at <https://sosmt.gov/Portals/142/Elections/Documents/Officials/DIR-1-06.pdf>.

Exhibit 22 is a true and correct copy of the Montana Secretary of State's Election Directive #03-07, titled "Topic: Handling Mail Ballot Inactive Electors and Late Registrants," which was last updated on April 8, 2016, and is publicly available at <https://sosmt.gov/Portals/142/Elections/Documents/Officials/DIR-3-07.pdf>.

Exhibit 23 is a true and correct copy of an email correspondence sent by the Ravalli County Election Administrator to the Lewis and Clark County Elections Division Supervisor and other Montana county election officials regarding HB 892, and was obtained from Lewis and Clark County pursuant to a public records request.

I declare under penalty of perjury and under the laws of the state of Montana and the United States of America that the foregoing is true and correct.

Executed in Washington, D.C. on November 16, 2023.


ALICE C.C. HULING

EXHIBIT 1

**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana,

Defendants.

Civil Action No. DV-16-2023-0001073-CR

DECLARATION OF NANCY LEIFER

I, Nancy Leifer, based on my personal knowledge, declare that:

1. I am a member and currently serve as president of the League of Women Voters of Montana, which I will refer to as LWVMT or the League in this declaration.
2. I am over eighteen years old and a resident of Missoula County, Montana.
3. I am deeply concerned on behalf of LWVMT about how certain parts of HB 892 (2023), and its many uncertainties, could be applied to impede our voter registration work and the work of our partners, burden the ability to register and vote for our members and the eligible Montana voters we assist, and overall dampen our encouragement and assistance messages about voter registration.

4. LWVMT is a nonprofit, nonpartisan membership and advocacy organization that has operated in Montana since 1920.

5. As an organization, LWVMT is true to our roots in the movement that secured the right to vote for women and assisted women to become active members of the electorate. LWVMT's mission is to empower and inform voters, defend democracy, and encourage active participation in the political process to achieve a more representative government.

6. The centerpiece of the League's efforts is to expand participation in our electoral process and give a voice to Montanans advocating for voting rights. We do this at all three levels of government, engaging in both broad educational efforts as well as individualized advocacy to encourage and assist eligible Montanans to increase their civic involvement.

7. LWVMT is an adamantly nonpartisan organization. We support all Montanans to register, have the tools to vote, and ensure their vote is counted; we do so without regard to political identity. Consistent with our nonpartisan commitments, we never endorse or oppose political parties or candidates.

8. Our organization is fully committed to diversity, equity, and inclusion for all Montanans, both in principle and in practice. These commitments are central to our success in engaging all individuals, households, communities, and policy makers in creating a more perfect democracy in our state.

LWVMT Membership

9. LWVMT has approximately 330 active members in Montana.

10. Our membership is divided across our four chapters—what we call our local Leagues—located in Billings, Bozeman, Helena, and Missoula. These local Leagues serve various regions of the state.

11. Based on past experience, LWVMT anticipates that some of our members will

move between counties in Montana before the next election.

12. At least one LWVMT member has moved counties since the enactment of HB 892.

13. Based on past experience, LWVMT anticipates that some of our members will move to Montana from another State before the next election.

14. It is not uncommon for people moving from out of state to join LWVMT to become a member when they have moved to Montana. At least one LWVMT member has moved from out of state to Montana since the enactment of HB 892.

15. Our members are active participants in the electoral process. They are frequent voters.

16. LWVMT's members are deeply involved and committed to expressing our pro-voting message and assisting other Montanans to become registered and to vote.

17. We rely on our volunteer membership base to staff our voter registration and other programs, recruit volunteers to assist in our efforts, and support us in building partnerships with other organizations as well as fostering trust with the voters we assist.

LWVMT's Overarching Viewpoints, Partnerships, and Programming

18. To express our pro-democracy, pro-voting, and pro-civic engagement views, I and the League engage in a range of advocacy around voting and other democracy issues.

19. LWVMT has a core political and philosophical view that voting is important to create a more representative democracy.

20. Our organization's belief is that all eligible Montana citizens should have access to safe, reliable, convenient, and effective means of registering to vote and casting a ballot. LWVMT expresses this belief in our work seeking to expand access to voting for our members and members of the broader communities we serve.

21. In the debate on whether people should engage or disengage in the political process, or to trust or distrust in elections, I and LWVMT take a strong stance in favor of voters choosing to engage and to trust. LWVMT seeks to provide effective advocacy and assistance to encourage our members and other Montanans to adopt a similar view.

22. LWVMT's work focuses on voter registration drives. We conduct our voter registration activity through a range of means and forums. During the 2022 election cycle, LWVMT assisted over 1,200 eligible Montanans to register to vote, including voters who were previously registered in other Montana counties or in other states. So far in 2023, we have assisted over 470 eligible Montanans to register, also including voters who were previously registered in other Montana counties or in other states.

23. The League also does other forms of voter engagement after voters are registered. For example, to further our goal to encourage an informed electorate, LWVMT regularly produces voter guides with information on candidates, holds candidate, legislative, and issue forums to provide voters with reliable, nonpartisan perspectives and opportunities to engage on issues.

24. Our work likewise includes assisting members and others in requesting absentee ballots if necessary, providing information to the community about upcoming elections and voting options, and assisting and educating our members and other eligible voters to participate in the next election.

25. LWVMT publishes educational materials and resources, including by maintaining a web resource, Vote411.org, that provides detailed information about the registration and voting processes as well as candidate responses to questions. We seek to ensure that the website has current information on relevant Montana election laws, including those affecting voter registration.

26. We believe our pro-voting and pro-democracy message is best conveyed through our effective and extensive work on voter registration, education, and assistance.

27. A key part of our message when we assist voters to register is conveying that voter registration is easy and the eligible voter can simply sign up on the spot without hassle or risk.

28. In fact, being able to convey to eligible voters that getting registered is simple and hassle- and risk-free is critical to our encouragement of voters to engage in the political process and is our most effective means of doing so.

29. LWVMT uses the success of our voter registration programs and advocacy to further perpetuate and amplify our message to more voters and into the future.

30. In addition, the League is an organization that the public continually sees face-to-face doing voter registration because we do the critical public outreach on what the laws require. Most elections offices at the county and state level in Montana do not do this type of face-to-face voter outreach. Because election offices are understaffed to do outreach, it will fall on the League and other voter registration organizations to ensure the public is well-informed about registration requirements and to assist voters to comply with those requirements. In addition to its voter registration activities, LWVMT is also an importance source for public education about the election process more broadly and upcoming elections. Our work and the work of other civic organizations fill a critical gap in this respect.

31. Overall, we express our pro-voting message and carry out our mission by regularly speaking about the value of voting, holding voter registration events, and assisting as many eligible Montanans as possible to apply to register to vote and to have the application successfully processed and accepted so the person can vote.

32. LWVMT's work is also focused on how we can best maintain and expand our associations with our members, volunteers, partners, and the members of the community that we encourage and assist.

33. Through the success of our programs and by expressing our encouragement to get involved in the political process, LWVMT gains trust in the community. We have worked hard to build this important community trust for over a century.

34. By maintaining this position of trust, our organization will be better able to retain and attract members, recruit volunteers, foster partnerships, and build relationships with the voters we assist.

35. Our partnerships with other organizations are interwoven into LWVMT's voter registration work and expression of our beliefs.

36. For example, we often conduct voter registration drives with partner organizations in Montana, including by sharing trainings and information, volunteer capacity, and collective resources.

37. Sometimes the League takes the lead in voter registration programs conducted with our partners, and sometimes we play a supporting role. But in any event, our partnerships are important for our work.

38. Some of the Montana organizations we most frequently partner with and consider to be peer voter empowerment organizations in the state are, for example, Montana Women Vote, MontPIRG, and Forward Montana.

39. Our associations—with members, volunteers, and partners—are helpful to encourage our audience to trust and engage in the electoral process and to register to vote. That

message is more powerful when it comes from the groups of respected and established members of the community that participate in our voter registration programs.

40. In this way, we utilize our associations to perpetuate our views that Montanans should engage in the political process to create a more representative democracy.

41. Our voter registration programs introduce us to potential new members. For example, we have membership forms sitting on the registration table when we do our registration drives and we welcome community members asking questions about what the League does and how they can get further involved.

LWVMT's Upcoming Registration Programs

42. LWVMT, including through our local Leagues, has many active voter registration programs upcoming in early 2024. This includes programs in January and February 2024.

43. These programs are part of our regular registration drives that we use to help get voters registered and ready to vote for the upcoming primary and general elections.

44. Our programs increase in scale and number during federal election cycles when voter and volunteer interest is heightened for the election.

45. For example, the Helena League is planning at this time to do voter registration at the Naturalization ceremony in January, the first and third Friday of January and February at the Lewis and Clark County Detention Center, and planning to begin regular voter registration at the local senior citizen facilities.

46. Our Missoula-based League is in the early stages of planning to work with Montana Women Vote on voter registration programs in January and February, begin New Voter bags in the High Schools, and start voter registration at the pre-release and parole offices.

47. Our Bozeman-based League is currently planning to do voter registration at the Winter (Farmers) Market, and to begin working with the formerly incarcerated at the Bozeman

Parole and Probation Office, the Livingston Parole and Probation Office, and the Gallatin Re-entry Program. In February, the Bozeman League will prepare New Voter Bags for spring distribution to the 7 high schools it is working with, including two on the Blackfeet Indian Reservation.

48. Our Billings-based League is also planning to do voter registration for the formerly incarcerated at Passages (the Billings pre-release center for women) and to begin working with the men's pre-release program as well in January and February.

49. In addition, LWVMT will conduct numerous large and small voter registration programs throughout the 2024 election cycle. Consistent with LWVMT's years of past practice and our current plans, we will continue to hold events up to and including the 2024 primary election and until the late registration period that starts 29 days before the 2024 general election. In the past two years, we have conducted our voter registration events at a broad range of forums. This includes, for example, at high schools (urban, rural, and on Indian Reservations), Farmers' Markets, a car show, the Newcomers Social Club, food banks, candidate forums, Native American art shows, Pride activities, Sweet Pea and other parades, parole and probation offices, pre-release centers, detention centers, naturalization ceremonies, low-income assistance organizations and shelters, public libraries, grocery stores, concerts, community celebration events, NAMI walks to support those with mental health challenges, college and university campus events, senior living facilities, art events, the YWCA and YMCA, a PowWow, walking malls, Walmart, and even a brewery event for National Voter Registration Day.

50. In 2024, LWVMT will also expand our particular focus on working with voters who were formerly incarcerated and have their voting rights restored. For example, we have a new national grant to conduct this work statewide and are planning numerous voter registration events specifically with individuals who have served a term of incarceration and will be needing to

register to vote once out of prison.

51. The planning for several of these voter registration events is already underway and will continue over the next few months. We are still developing how we will inform our members, volunteers, partners, and voters on how voter registration will be affected by HB 892. And we have sought guidance on how we should inform members, volunteers, partners, and the voters we assist about the new HB 892 requirements and the risks of violations.

HB 892 Curtails LWVMT's Communications

52. Ahead of conducting our upcoming voter registration programs, however, LWVMT and our members, volunteers, and partners are concerned about what will happen under HB 892.

53. As we are planning and preparing to carry out our voter registration events, we are struggling to reconcile how we can freely express our pro-democracy and pro-voter registration messages while also heeding the uncertainties and high risks around how these new legal requirements will be implemented.

54. Core to our message is that voter registration is easy, convenient, and safe. Having voter registration be easy encourages people to register to vote, and this is the first step in the process of voters being part of choosing their elected officials and deepening their civic engagement.

55. But HB 892 makes voter registration harder, less convenient, and less safe because of the risks of criminal sanctions.

56. We are concerned that our registration activities could result in criminal prosecution for our members, our volunteers, and the eligible Montana voters we assist. The risks of a felony and severe punishment if we or the voters we assist were to violate HB 892 is chilling and highly intimidating for us.

57. HB 892 also reduces the effectiveness of our encouraging message to get involved in the political process. The most effective thing we can do to convey our pro-voting views is to assure eligible Montanans that voting is easy and risk-free. As LWVMT is a source of voting information and given the criminal risks of HB 892, we will be put in the position of having to warn assisted voters, members, and volunteers about those risks. Including these types of warning will undermine our core message that getting involved in our work and registering to vote is a good idea and will be easy and risk-free.

58. It would break our hearts to have one of our registrants, members, or volunteers be prosecuted under this law or have their registration delayed or rejected because of some unintentional error or omission on our part. After all, LWVMT is a service-oriented group of volunteers donating our time and efforts, and it would be devastating if part of our work resulted in such serious negative outcomes.

59. We are especially concerned that potential volunteers or eligible voters who agree with and wish to act on our message will instead be hesitant because of concerns about HB 892 and accordingly further withdraw from the electoral process.

60. Based on our experience doing this work for decades, we are alarmed that voters will be reluctant because of the risks of HB 892's penalties or for a variety of reasons cannot successfully complete the additional steps necessary to comply with HB 892. And as a result, we are worried that some of these eligible voters will instead just give up on voting altogether.

61. Overall, we believe that HB 892's vague and burdensome requirements, which are disturbingly backed up by the risk of criminal prosecution and harsh felony penalties, are a threat to LWVMT's effective voter registration work conveying our message and expanding our associations.

HB 892 Burdens the Right to Vote

62. We are equally as apprehensive that HB 892 will make the voter registration process more difficult and riskier for all voters and for no legitimate reason.

63. LWVMT is highly concerned that HB 892 will be likely to reduce the number of eligible Montanans that LWVMT is able to register.

64. Many of the voters we assist and to whom we convey our message are a mobile population. They are students, housing insecure individuals, elderly voters moving into assisted living facilities, formerly incarcerated Montanans, veterans, low-income voters, and other voters who move frequently. We are worried about how these new laws will impact them.

65. We also have members whom we anticipate will move between counties or to Montana from a different state, as has happened historically for LWVMT, and they will have to confront HB 892's new requirements before they can register in the new jurisdiction.

66. In our experience, the voters that move to a new jurisdiction are understandably focused on thinking about all they need to do to register in the new place, not what they need to do about their previous registration.

67. Voters tend to believe that the government will be able to handle their previous registration information and there is no problem with not affirmatively cancelling a previous registration. They have no knowledge of how to do it themselves. Additionally, people may have legitimate reasons to not immediately cancel a previous registration in another state that has nothing to do with double voting.

68. But under HB 892, LWVMT's members and the Montanans that LWVMT assists who have moved must follow burdensome, inconsistent, and unclear steps to cancel their prior voter registration before they can safely register in a new Montana jurisdiction without the fear of criminal sanction.

69. We are not aware of any systematic or consistent process for a voter to deregister in a prior state. From our understanding, each state in general has its own statewide system that may be different from Montana. For a voter in Montana to first deregister in a prior jurisdiction, in most places that would require navigating not just the other state's requirements but even more specifically to figure out what must be done at the county level.

70. Our understanding is that there is also no established or consistent process across different Montana counties for voters to act to cancel their previous registration in that county. From LWVMT's experience, each county handles such inquiries to cancel a registration following its own specific written process.

71. Voters may be also unable to actually have their previous registration cancelled or to feel confident that they have been deregistered and can safely register in a new Montana jurisdiction because of steps and decisions depending on officials out of their control. Voters cannot make election officials in other places take action. From our experience, election officials are already overextended with work on elections and they accordingly may not take timely action or actually follow through with a voter's request to deregister in a prior jurisdiction or in another state.

72. LWVMT's members and the Montanans we assist who have moved must also ensure that they input complete and accurate details concerning their previous registration information on their Montana state voter registration application, or else face criminal sanction even for an apparent inadvertent oversight.

73. In our experience, some voters do not have this information on hand or remember exactly where they may have been previously registered at the time they are filling out an application form.

74. For some voters who have moved from a jurisdiction that has automatic voter registration, they are also likely to have some sense that they could be registered elsewhere but are not exactly sure the details of when or where.

75. Consequently, HB 892 appears to compel voters in these circumstances to have to wait to complete their state application form so they can try to track down their previous registration information.

76. From LWVMT's experience, however, many eligible voters will end up not following through with these additional steps to register to vote with HB 892's requirements.

77. If a voter does not complete the form right there at a voter registration program with the LWVMT volunteer, the chances of the voter completing the form and sending it in on their own will decline. As a result, this decreases the likelihood that a voter who would have otherwise followed through on LWVMT's encouragement to register to vote will then not do so because of HB 892.

78. HB 892's burdens on voting rights are particularly concerning to us when it comes to eligible Montana voters who will seek to register in the critical last days leading up to and including Election Day. This is a time when many voters are motivated to register as the election nears.

79. HB 892 complicates the process for late-registering voters. A Montanan who tries to register in the last days leading up to an election but discovers she must deregister in her prior jurisdiction may be left without good options. The person could be denied the right to register and vote, or could be exposed to risk of felony prosecution, if the prior jurisdiction does not process the deregistration or postpones processing deregistration requests until after the upcoming election.

80. A similar problem could occur for voters having to input their previous registration information if they do not know or have easy access to the information and do not have sufficient time to track down the information before needing to register and vote.

81. We are also troubled that HB 892 could be interpreted to compel county election officials to reject or otherwise delay the processing of registration applications for an eligible voter who has an existing registration in another jurisdiction and/or omits the previous registration information field in box #9 on the state registration form.

82. Voters who have their application held up or rejected because of HB 892 may have to spend additional time and effort by following up with election officials to investigate and resubmit or correct their registration application, such as in person at their county office.

83. Based on LWVMT's experience, we feel confident that some voters may never follow through and have their registration accepted for processing because of these additional steps. These eligible voters would therefore not be able to vote.

84. A significant problem is that voters may have to engage in this type of burdensome follow up to comply with HB 892 for no good reason that is actually based in evidence or with an understanding of how county officials process applications.

85. From LWVMT's understanding, both before and after HB 892, county election official already had an effective statewide database of voter information that effectively enables officials to update existing voter registrations if a voter has an inter-county move and thereby ensure the voter only has a single current profile in the statewide system.

86. Similarly from our understanding, both before and after HB 892, county election officials lack a consistent or accessible means for checking previous registration information from other states, making the requirements to deregister and provide previous information essentially

meaningless when it comes to determining whether a Montana applicant is eligible to vote.

87. Even without these burdens, in our experience, just the risk of HB 892's harsh criminal penalties—a felony record, up to 18 months jailtime, and/or \$5000 fines—are likely to make some prospective voters forego registering altogether just to steer clear of any concerns about criminal prosecution.

88. The criminal penalties that HB 892 threatens and the additional hurdles people must overcome to become registered will, in our view, undermine voters' trust in the electoral process and willingness to become more civically engaged.

89. Even more troublingly, felony punishment for a conviction of violating HB 892 could result in the voter being completely disenfranchised while serving their felony sentence in prison.

90. The burdens and risks that HB 892 imposes on individual voters is compounded by the fact that it also decreases LWVMT's ability to effectively assist them to navigate the challenges the new laws present.

91. Relatedly, we are worried that if a voter we assist has their registration application held or rejected, or is threatened with criminal consequences, this will significantly deteriorate the critical trust LWVMT has with the public. It could make volunteers and voters disinclined to engage with our voter registration drives. This would be very damaging for LWVMT in a range of ways.

Confusion Caused by HB 892

92. A significant concern for LWVMT is that HB 892 is full of uncertainties about how it will be enforced. We do not currently know the full ways in which the law could be enforced against our organization, LWVMT's members, and the voters we assist.

93. Raising the stakes, HB 892's ambiguous requirements are enforced through very

harsh means. Punishment for a single conviction could be over a year of incarceration, \$5,000 in fines, or both, on top of having the stigmatizing (and potentially disenfranchising) felony record.

94. These punishments would be severely damaging for individual voters and for LWVMT.

95. For HB 892's requirement that voters deregister, we do not know what it means to "purposefully remain registered to vote in more than one place" or what steps voters must take to avoid the threat of severe criminal penalties for violating this provision.

96. These terms are undefined in HB 892 or elsewhere in Montana law. We do not know what all could be considered to count as "purposefully" or "remain registered to vote" or "more than one place," which could be taken different and arbitrary ways depending on the government official enforcing them.

97. We are also apprehensive of the uncertainties involved in the HB 892 requirement that state voter registration form applicants must provide "previous registration information" in response to box #9 on the state form.

98. We do not know what exactly is the "previous registration information" required, including, for instance, whether voters need their precise former address or just the county of registration, or whether voters need to provide multiple previous locations and just their most recent prior registration location.

99. We are especially alarmed about this provision because HB 892 does not specify what mental state a person must have to be deemed in violation of this "previous registration information" requirement. We are worried that, without having a mental state requirement for this requirement, voters could be convicted for the entirely innocent conduct of simply omitting box #9 inadvertently, omitting it because they do not have the information but do not intend to vote in

more than one jurisdiction, or failing to accurately provide whatever is the “previous registration information” that HB 892 mandates.

100. Adding to these ambiguity issues in HB 892 is that the standard Montana voter registration form that the Secretary of State has most recently published is very confusing on this point and seems to not account for HB 892 because the form says it was last updated April 2021.

101. The state form from April 2021 states that providing previous registration information in response to box #9 on the form is “required,” but it does not mark that box with the asterisk that the form instructs is used to indicate the required fields for applicants to successfully register.

102. Additionally, in LWVMT’s experience, box #9’s placement near the end of the state form after the optional military service field in box #8 will prime applicants to inadvertently skip that box because they will think they have arrived at optional parts of the form that are not applicable to them.

103. The current state form also has a box at the top for voters to indicate a “new registration,” but it is unclear whether voter applicants should be checking that box if they have been registered before in a different jurisdiction. This selection is even more consequential now after HB 892, which appears to treat new registrations from people who have never before voted in another jurisdiction different from registrants that apply after a cross-jurisdiction move.

104. Finally, while LWVMT agrees that the attestation part of the state registration form is valuable because it makes applicants doublecheck that the information on the form is “true” and they are in fact eligible before they submit the form, we are concerned that a voter’s failure to precisely provide previous registration information or their indication that they are submitting a “new registration” application may or may not be implicated in this attestation portion and

resulting criminal exposure.

105. In LWVMT's voter registration work and the work we are aware that other Montana-based organizations conduct, we always use the state registration form for several reasons.

106. For example, it is important to us that the state registration form does not request party affiliation. In our experience, Montana voters can be very independently minded and will often respond better when they do not feel they are put in partisan boxes. By contrast, the Federal registration form is less fitting on this issue because it has a field for partisan affiliation and LWVMT thinks this can be a deterrent for some voter applicants.

107. Additionally, as a dedicated nonpartisan organization, it is important that LWVMT's civic engagement advocacy is untethered from partisanship. Our members and volunteers can better express our nonpartisan pro-voting message to voters by using a form that does not include partisan labels.

108. The state registration form also explicitly lists Tribal identification as a type of acceptable ID for registering on the face of the state form. By explicitly providing this option, the state registration form is a much better option for LWVMT's registration drives to assist Native American applicants in Montana.

109. In addition, a key part of LWVMT's mission is to maximize the likelihood that its members and assisted voters will have their registration applications successfully processed and accepted.

110. LWVMT also understands from our years of working with numerous county election officials that they are more accustomed to processing state registration form applications. In our experience, election officials are more familiar with the state form and will process it more

readily.

111. To our knowledge, neither the Secretary of State nor any other government official has provided any public guidance about what HB 892 means or how it will be enforced.

112. Along similar lines, to our knowledge the Secretary of State has also not provided any guidance to other county or state officials about what HB 892 means or how it will be enforced.

113. LWVMT has also tried to inquire to county election officials about whether there will be a new voter registration form for LWVMT and our partners to use in our registration activity. But we have not received any new form and we are unsure whether a new state registration form is being developed or not.

114. To try to encourage the Secretary of State to do something about HB 892, LWVMT inquired and submitted a public records request to the Secretary of State through our attorneys. We inquired once via a confirmed-delivered mailing on August 19, 2023, and twice via email on August 17 and October 17. Additionally, on July 18, 2023, a representative from LWVMT had a phone conversation with an election official at the Secretary of State's Elections Office during which the LWVMT representative inquired whether the office had any plans to print an updated version of the voter registration mail-in application. The Secretary of State's office indicated that it was working on an updated voter registration form to replace the application currently available online, but did not know when that updated form would be available and declined to share what changes to the form would be made. To date, the Secretary of State's office has not provided an updated voter registration application through its website or other means.

115. To date, the Secretary of State's office has not provided us with any response to our public records request.

HB 892 Threatens LWVMT Voter Registration Work

116. The uncertainties about HB 892, its seemingly broad and burdensome requirements, and the harsh felony penalties for a violation make LWVMT highly concerned about the threats to our voter registration work and to voters.

117. By passing and enacting this law, it is clear the Legislature did so because they wanted it to be enforced.

118. Indeed, we know from reviewing the legislative record testimony that the Legislature's party leaders specifically asked for the sponsoring legislator to introduce this bill.

119. Moreover, our review of the record indicates that the sponsoring legislator explicitly said that she supported this law and its penalties to send a strong message to voters.

120. The sponsoring legislator also emphasized that the Secretary of State's office wanted HB 892 to be enacted because they wanted to enforce its provisions.

121. LWVMT takes these representations seriously. Our organization is very concerned about the apparent forthcoming enforcement that was repeated during the Legislature's consideration of HB 892. We are hesitant and pausing to rethink how we can still convey our core messages encouraging voters to get registered and that doing so is safe and easy when we have HB 892 looming over our heads.

122. The confusion around what HB 892 means and how it will be enforced is causing us to have to second guess what might happen, which makes us unable to wholeheartedly express our pro-voting views, recruit volunteers, partner with other groups, and reach out to voters.

123. The risks and uncertainties about HB 892 are currently affecting LWVMT's planning for our voter registration programs in early 2024 and beyond because we do not exactly know what will happen as a result of those efforts with HB 892 in place.

124. There is overall a significant shadow of this threat of HB 892 hanging over us. LWVMT simply does not have a lot of confidence in how HB 892 will roll out, and we expect that it will create confusion and hesitation to continue to register voters and for voters to register.

125. Indeed, we are worried that our members or volunteers themselves could engage in conduct that violates Montana election code related to HB 892, and therefore would themselves be exposed to the risk of criminal prosecution.

126. The League also has very healthy relationships with county elections offices. If county officials are involved in policing for HB 892 going forward, this will interfere with our relationship with these offices currently. The threat of prosecution under HB892 could undermine these collaborative relationships.

127. We are worried that HB 892's voting burdens and the threat of harsh criminal penalties will risk making prospective voters simply forego registering altogether. When these eligible voters do not exercise their right to vote, democracy will be lessened.

Tenuous State Interests in HB 892

128. On the other side of the ledger, LWVMT is confused what exactly are the interests that the parts of HB 892 we challenge will purport to serve.

129. LWVMT agrees it is good to prohibit double voting. But from our understanding, that interest was already accomplished through preexisting state and federal laws and in other provisions of HB 892 that we do not contest.

130. We believe these preexisting limits have been effective to deter double voting, as we know of no instance of double voting in Montana.

131. By contrast, the HB 892 requirements that voters deregister and put their previous registration information on their state form seem to have only a tenuous connection to preventing double voting.

132. Additionally, LWVMT's understanding of the new voter registration software program that Montana started implementing in January of 2023 is that it automatically tracks and updates a voter's registration information in a single voter profile. So, if a person moves within Montana to another county and submits a voter registration application to the new county, the new county already has the applicant's previous registration information and does not need the voter to provide it again or to cancel the previous registration before applying.

133. For applicants coming from other states, our understanding is that county election officials do not have a means of checking if the applicant was already registered in another state. Additionally, if the voter answers box #9 and provides previous registration information from another state, it is LWVMT's understanding that county election officials do nothing to verify that information or to use it to otherwise determine whether the applicant is eligible to become registered in Montana.

134. Accordingly, from our view, HB 892 does little to nothing in terms of actually providing information for Montana election officials that would be helpful to determining whether an applicant is eligible to register and to vote in Montana.

LWVMT Must Divert Resources to Address HB 892

135. For LWVMT to attempt to address HB 892's new confusing and burdensome requirements, we will have to expend greater resources in cost, time, and effort. We will also have to divert our limited resources away from our other programs, both in our voting engagement work and in other areas.

136. The drain and diversion of LWVMT's resources would be primarily in terms of time spent trying to deal with HB 892, both in setting up new trainings, safeguards, and procedures and in implementing them.

137. For example, our new procedures since HB 892 was enacted include developing and conducting training for registration volunteers for LWVMT and other partner organizations about collecting previous voter registration information, providing means for volunteers to physically highlight the state registration form in box #9 where registrants are asked to provide previous voter registration information, and verbally drawing voters' attention to answer box #9 because we are afraid of the threat of felony prosecution for not doing so.

138. LWVMT has also created additional trainings and procedures to instruct our members and volunteers to refer prospective registrants to Montana's My Voter Page so that the applicant determine whether they may have been previously registered in any other Montana jurisdictions.

139. We are contemplating how we can do a similar training for members and volunteers encouraging and assisting voters who have moved from other non-Montana voting jurisdictions. But it is difficult to come up with sufficient safeguards and instructions for how volunteers and voters can deal with other states' online voter registration information when we cannot possibly gain the level of familiarity necessary to be versed in the websites of more than fifty other jurisdictions.

140. The resource drain from HB 892 is also in physical costs to LWVMT. For instance, we have had to print and distribute new instructions for our volunteers with specifics about HB 892.

141. HB 892 will also complicate the actual implementation of LWVMT's trainings and procedures by making them more time and resource intensive.

142. Our trainings and programs will now require more oversight of volunteers because we are concerned that they are facing criminal threats to themselves and to the voters they assist.

This will require that the League put additional safeguards in place to avoid concerns about HB 892, including by having to make sure that only experienced volunteers are running our programs and providing enough guidance to newer volunteers. This will discourage less-experienced volunteers from stepping up to participate at all or to take on more responsibility to carry out our efforts.

143. Additionally, we feel that if HB 892 continues to go into effect without official binding guidance or a court order to diminish its threat to our work and as various media draw attention to its provisions, we will need to warn members, volunteers, partners, and the voters we assist about the risks of criminal prosecution and felony conviction. We are very concerned that this will scare away each of these groups from being involved with our work and undermine our message encouraging engagement in the electoral process.

144. As we move forward with our plans under the status quo, we are developing a specific script about HB 892 for our voter registration drive participants to read when working with voters, and we will stress the importance of using this script through training. But again, we are worried about the chilling effects of having to use this script at all and how it will deter volunteers from working with our programs and voters from acting on our encouragement to get registered.

145. To accomplish all of this, LWVMT will need to divert resources from our other programs. For example, rather than focusing our resources and efforts on how we can more efficiently spread our message and register more voters, or how we can better provide our voter education services, we will need to focus on addressing HB 892.

146. The negative effects of HB 892 bleeds into our other types of programs as well. For example, committing membership and volunteer time and resources to working on HB 892 means

we have lessened ability to work on our programs related to other subjects, such as our efforts in youth civics education, outreach to Montanans who were formerly incarcerated, and public outreach on local government review.

147. Overall, LWVMT remains afraid that despite developing materials and making adjustments to account for HB 892, our new practices are still not enough to relieve the concerns that we have about the new HB 892 laws and the burdens these requirements impose on our programs and the rights of LWVMT's members.

148. The reality is that LWVMT, as a nonprofit run by volunteers, is limited in our resources and ability to assist voters in determining and providing their previous registration information.

149. Moreover, HB 892 will slow down and complicate the voter registration process for each voter that our members and volunteers assist.

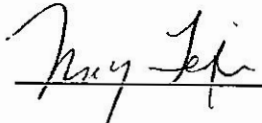
150. The time and resources taken with each individual voter at our voter registration programs will be greater and more burdensome because of the need to assist and encourage voters to overcome HB 892 and to do so while the prospective voter is still at the voter registration drive.

151. Simply put, HB 892 makes it costlier and riskier for LWVMT and the other organizations with which we partner to promote voter registration in Montana and for eligible Montana voters to become registered. It undermines our ability to speak our message and further our associations. It encumbers voting rights in a serious way and undermines democracy. And the law's many ambiguities puts LWVMT and other organizations in fear of how it could be enforced against us and the voters we assist.

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

DATED this 13 day of November, 2023.

LOCATION when signed: Minneapolis, MT



NANCY LEIFER

EXHIBIT 2

**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana,

Defendant.

Civil Action No. DV-16-2023-0001073-CR

**DECLARATION OF JULIA MAXON
IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

I, JULIA MAXON, based on my personal knowledge, declare as follows:

1. I am over 18 years old and a resident of Missoula County, Montana.
2. I currently serve as the Program Director of Montana Women Vote (MWV).
3. MWV is a nonpartisan, not-for-profit organization headquartered in Missoula, Montana.
4. Montana Women Vote is a membership organization. Our members are people who sign up for our member email list and people who attend our events. Our members include those who Montana Women Vote helps to register to vote.

5. Although primarily based in Missoula, MWV has staff in Great Falls and Helena and members throughout the state. Our work is statewide, and we are actively trying to expand the organization's presence throughout more of Montana.
6. In 2000, a coalition of founding organizations—including Women's Opportunity and Resource Development (WORD), the Montana Human Rights Network, Planned Parenthood of Montana, the Montana Coalition Against Sexual and Domestic Violence, Women's Voices for the Earth, NARAL Pro-Choice Montana, and YWCA Missoula—created MWV as a voter registration project targeted toward low-income and single women.
7. MWV was founded in response to the profound lack of voter support for low-income women within Montana, as well as the lack of attention given by elected officials to issues and concerns that are of the utmost importance to women and low-income people.
8. MWV was also created to increase voter registration among low-income and single women who historically had disproportionately low voter turnout, not because of apathy but because of logistical challenges faced by these populations with getting to the polls.
9. Today, MWV has evolved as an organization to register and serve low-income people of all genders.
10. The populations MWV serves includes low-income voters and specifically low-income women and LGBTQ2S+ voters, Native voters, formerly incarcerated Montanans, and housing insecure individuals.

Montana Women Vote's Voter Registration Programs

11. Through its work, MWV has observed that women and low-income voters often do not vote because they do not feel welcome to participate or feel that they lack the information needed to be informed voters and policy advocates.
12. MWV engages in year-round efforts to register, educate, and mobilize historically unlikely Montana voters, specifically women and low-income individuals, to help empower them to make positive change in their communities and the State.
13. Although our programming is tailored toward finding and serving those who are on the lower-income spectrum, MWV will assist any qualified voter who is interested in registering to vote.
14. So far this year, MWV has registered over 500 voters across the state. Since its inception in 2000, MWV has registered over 15,000 voters throughout Montana.
15. We hold recurring voter registration events at places where MWV knows it can reach low-income individuals, such as grocery stores, food banks, housing shelters, and offices of public assistance.
16. At our registration events, in addition to the voter registration and election information that we provide, we set up an information table where we have resources and materials related to issues that may be particularly relevant for low-income individuals. For example, we have provided information about the Medicaid renewal process to interested voters we help register.
17. MWV believes that registering to vote and participating in democratic processes is a way for low-income individuals to express their views on issues that are important to them and to affect meaningful policy change.

18. In addition to registration assistance, we ask voters if they are interested in hearing more about MWV's other programming, including education and engagement around the voting and legislative processes.
19. By pairing our voter registration activities with our other program initiatives, we can most effectively share our point of view with those we assist to register, that low-income and women voters have a role to play and should have a voice in our democracy.
20. We also often recruit members through our voter registration work. MWV's voter registration forms include an option for voters to sign up to be added to MWV's mailing list so that these individuals can continue to receive voter education outreach from MWV, including information on how to participate in upcoming elections and provide public comment or other forms of constituent feedback on important legislative issues.
21. Our staff and volunteers are trained to inform the public that we are registering voters and to ask whether the individual is registered to vote. If an individual is not registered and never has been, then our staff and volunteers will assist that individual to register for the first time.
22. If the individual is registered or was previously registered, our staff and volunteers are trained to ask the individual if they are or were registered to vote at their current address, and if not, to assist voters with re-registering.
23. Sometimes individuals raise questions about the value of voting. In those cases, MWV staff and volunteers will express our stance that registering and voting is an important way to participate in the democratic process and to influence policy on issues that are important to the voter.

24. MWV works with partner organizations like the League of Women Voters of Montana, Forward Montana, Western Native Voice, and MontPIRG to register voters.

MWV's expressive and associational activity

25. MWV and its members express pro-democracy, pro-voting messaging by regularly speaking about the value of voting, and especially the value of democratic engagement by low-income voters.

26. As a part of conveying its pro-democracy and pro-voting messages, MWV holds voter registration events and assists eligible Montanans to apply to register to vote and then to successfully vote.

27. Each time MWV volunteers or staff speak with a potential voter at a registration drive, they are engaging in conversations about the value of voting as a low-income voter and urging those individuals to make their voices heard through the political process.

28. Each time MWV volunteers or staff register someone to vote, they are engaging in conversations with that registrant about making our democracy better and the part voting plays in doing so.

29. In partnering with other civic engagement organizations like the League of Women Voters of Montana to register voters, MWV and its partners share a common goal to collectively persuade all Montanans to take action by engaging in the political process.

30. MWV gains new members at our voter registration events. MWV does this by including a survey at the bottom of its voter registration forms that allows voters to opt into more communications from MWV.

31. MWV maintains long-lasting relationships with its member-voters. Registering someone to vote is the start of a relationship with that voter. MWV has a practice of following up

with registrants to help those voters navigate further obstacles to voting so they can actually cast their ballot. MWV also engages with members after voting is complete to encourage their further democratic engagement during the legislative process.

32. MWV does this voter mobilization work by keeping in touch with the voters they register, helping registrants to make a voting plan, and checking public records to see if they actually voted.
33. Ultimately, MWV's goal is to register voters, educate and mobilize its registered voters, and engage its members in leadership development.

HB 892 has caused MWV confusion

34. It is MWV's understanding and belief that a recent law, HB 892, concerns voter registration requirements in Montana.
35. HB 892 purports to require voters who have moved from another state or between Montana counties to deregister from their prior place of registration before re-registering in Montana.
36. MWV is not sure what is required to de-register, especially since many of the individuals MWV assists were previously registered in a wide array of different Montana counties and states.
37. MWV is not aware of a uniform way across Montana counties to de-register, nor is MWV aware of any uniform way to de-register in other states.
38. It is MWV's understanding and belief that HB 892 requires voters who have moved from another state or between Montana counties to provide information about their prior place of registration in Box 9 on their application forms when re-registering in Montana.

39. It is unclear to MWV how an improper omission of such information would be discovered, and if such an omission is discovered, how that application will be treated.
40. Specifically, MWV is concerned that, without more clarity, HB 892's provision prohibiting omission of prior registration information could be read to delay or deny registration to an otherwise valid applicant, simply because the individual did not know or remember their prior registration information.
41. It is also MWV's understanding and belief that violators of HB 892 could be subject to harsh criminal penalties.
42. It is unclear to MWV how or when these criminal penalties would be applied.
43. MWV has not been able to locate any public guidance from the State about what third party voter registration organizations are required to do to comply with HB 892.
44. As a result, MWV's staff and volunteers have experienced confusion about how to comply with HB 892's requirements in order to avoid criminal liability.

MWV works with populations most affected by HB 892

45. In my experience registering voters in Montana, the populations that MWV serves—including low-income voters, Native voters, formerly incarcerated Montanans, and housing insecure individuals—are more transient than the general population and are more likely to need to re-register to vote after moving from another state or across counties within Montana.
46. MWV registers individuals living in Indigenous communities, including Native voters living on Rocky Boy's Reservation.

47. Native voters may be particularly affected by HB 892 because some Native voters frequently move between cities and reservation communities, which requires them to re-register to vote in a new Montana county.
48. MWV assists individuals experiencing housing instability with registering to vote.
49. Unhoused voters and those experiencing housing instability are much more likely to encounter barriers that prevent them from registering to vote or participating in the political process. Often, unhoused voters are not even aware that they can register to vote, so MWV works to educate these voters about their eligibility, in addition to assisting them in registering to vote.
50. For example, in Missoula, MWV registers voters at the Poverello Center, a non-profit community space that serves community members experiencing hunger and homelessness.
51. In registering people at the Poverello Center, MWV meets many voters living at the shelter who move frequently and need to re-register because their address has changed. These voters include people who are moving between counties or from out-of-state.
52. Unfortunately, some of the individuals that MWV serves, and especially women and LGBTQ2S+ individuals, have experienced abuse and domestic violence. In my experience, such circumstances can cause these individuals to need to relocate or move quickly and more frequently than the general population, sometimes between counties or across state lines to avoid an abusive situation, making them more likely to need to re-register.
53. In recent years MWV has begun working to assist eligible incarcerated and formerly incarcerated individuals to register to vote.

54. Specifically, MWV registers voters at the Lewis Clark County Jail, where many Montanans have not received a felony conviction and are, thus, eligible to vote. While some of these individuals are first-time registrants, others do not know or remember whether or where they may have been previously registered.
55. MWV also works with Montanans who are eligible to vote after serving their term of incarceration for a felony conviction. Many of these individuals, especially those who served long periods of incarceration, do not know or remember whether or where they may have been previously registered.
56. Additionally, it is unclear whether HB 892's requirement that individuals provide prior registration information applies in cases where election officials removed a previously registered individual from the voter rolls due to a felony conviction and accompanying sentence of conviction.
57. For the majority of the people that MWV serves, the last thing on their minds is deregistering from a prior place of registration, due to time and resource constraints.
58. If HB 892's criminal penalties are enforced, the deregistration requirement is likely to disproportionately deter previously registered voters from re-registering.
59. In addition, many of the voters that MWV serves do not know if they were previously registered to vote or, if so, where they may have been registered. This is particularly an issue for young voters, low-income voters, unhoused people, and people who experience housing insecurity because they move frequently.
60. HB 892's requirement of listing prior registration information on threat of criminal penalty is likely to disproportionately deter more transient individuals who cannot remember where or if they were previously registered from re-registering.

61. Looking up previous voter registration information adds additional time to the voter registration process and may discourage potential registrants from completing the process with MWV or at all.
62. As MWV assists individuals through this prolonged registration process, spending more time per voter, the overall number of registrants that MWV is able to assist will be reduced.
63. Registration, even without the added steps introduced by HB 892, requires some amount of time and resources, the expenditure of which is often most felt by the low-income populations MWV serves who often work long hours and face overlapping financial hardships.
64. Thus, even aside from HB 892's criminal penalties, complying with HB 892's unnecessary and additional steps requiring deregistration and listing prior registration information is likely to create a greater hindrance for many low-income voters who are required to move, and therefore re-register, frequently.
65. The threat of criminal penalties attaching to even an inadvertent failure to comply with HB 892's new registration requirements serves to further deter registration by individuals for whom the registration process is already challenging.

HB 892 implicates MWV's core voter registration work

66. MWV's voter registration activity involves registering, educating, and mobilizing low-income voters, who often include people who have recently moved from another state or a different county within Montana.
67. As part of its voter registration activity, MWV assists individuals to re-register or update their voter registration.

68. Leading into the state and federal elections in 2024, MWV plans to continue engaging in voter registration efforts at grocery stores, food banks, housing shelters, offices of public assistance, and other locations where high concentrations of low-income voters are present.
69. It is MWV's understanding and belief that these voter registration efforts are affected by HB 892.
70. As a result of HB 892, MWV has begun instructing its staff and volunteers to convey to registrants that the prior place of registration information in Box 9 is a required field on Montana's voter registration application form, despite Box 9 not being marked on the voter registration form with an asterisk indicating that it is a required field, and work with individuals to complete that information.
71. MWV's volunteers and staff are instructing registrants that Box 9 is required for voters who have moved because of the criminal penalties listed in HB 892.
72. Because MWV is now instructing applicants that information regarding their prior place of registration is required and, when applicable, assisting applicants with completing that part of the registration, the amount of time required to assist each individual registrant is increased, reducing the overall number of applicants MWV can assist.
73. Spending more time per voter registration increases the likelihood that an applicant will leave before completing the registration, and simultaneously increases the wait time for the next individual requesting assistance from MWV at a voter registration event.
74. As a result, the increased time spent per applicant trying to comply with HB 892 reduces the overall number of applicants MWV can assist. This means some voters may have to navigate the registration process without the benefit of MWV's help—compounding the

burdens on individual low-income voters, who will be less likely to navigate the voter registration process without effective assistance.

75. The increased time spent per applicant trying to comply with HB 892 also decreases the number of individuals MWV can engage to join MWV's member mailing list or get involved with MWV's other pro-democracy and pro-voting programming.
76. If HB 892's criminal penalties are enforced, I believe that some eligible voters may decline to register when they are informed of those penalties because they ultimately decide exercising their right to vote is not worth potential prosecution and felony conviction.
77. If HB 892's criminal penalties are enforced, MWV may have to limit the assistance it provides to voter registration applicants so as to not risk facilitating a violation of HB 892.
78. For example, MWV may stop offering registration assistance to certain groups of voters, such as re-registrants, people known to have previously registered elsewhere but who are unsure whether they are currently registered, or people who have moved to Montana from another state.
79. In that scenario, MWV might limit its voter registration assistance to first-time registrants only. However, that would be extremely difficult given that some voters do not remember or know if they have been registered previously.
80. Indeed, if HB 892's criminal penalties are enforced, MWV may even be forced to slow or stop its voter registration activities all together rather than risk facilitating a violation of HB 892.

HB 892 Chills MWV's Political Speech

81. In registering voters, MWV staff and volunteers are trained to inform people about MWV's voter registration assistance and to ask people if they're registered to vote at their current address.
82. HB 892 hinders MWV's pro-democracy and pro-voting communications with its own members, voters, and other civic engagement organizations that are made in connection with voter registration activities.
83. MWV believes that giving disclaimers about HB 892's criminal penalties to potential applicants would interfere with the effectiveness of its pro-democracy and pro-voting message, and especially its message in favor of voting by low-income individuals.
84. The threat of HB 892's criminal penalties injures MWV by chilling MWV's pro-democracy and pro-voting speech at its planned voter registration events.
85. Because awareness of HB 892's criminal penalties will deter voters from registering, MWV's ability to gain new members will be hindered by enforcement of the law's criminal penalties.

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

DATED this 15 day of November, 2023.

LOCATION when signed: _____
725 W ALDER STREET SUITE # 21
MISSOULA, MT



JULIA MAXON

EXHIBIT 3

**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana,

Defendant.

Civil Action No. DV-16-2023-0001073-CR

**DECLARATION OF KIERSTEN IWAI
IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

I, KIERSTEN IWAI, state as follows:

1. I am over 18 years old and a resident of Gallatin County, Montana. The matters set forth in this Declaration are based on my personal knowledge.
2. I currently serve as the Executive Director of Forward Montana.
3. Forward Montana is a nonpartisan, not-for-profit organization headquartered in Missoula, Montana.
4. Forward Montana was founded in 2004 by a group of passionate University of Montana students who found there were too many barriers to civic engagement for young people in Montana.

5. Today, Forward Montana is the state's largest youth-led, youth-focused civic engagement organization and currently has fifteen full-time and one part-time, year-round staff members in Billings, Bozeman, Missoula, Butte, Whitefish, and Glendive. Additionally, Forward Montana employs eight community organizing fellows in its cohorts.

Forward Montana's Voter Registration Programs

6. At the core of Forward Montana's work is empowering young Montanans to exercise their civic rights and responsibilities through voting.
7. But the populations Forward Montana serves – young voters and student voters – face particularized barriers to registering and participating in the political process.
8. For these reasons, young voters and student voters often rely on Forward Montana to register to vote.
9. As a result, Forward Montana dedicates itself in significant part to year-round voter registration and mobilization efforts.
10. Each year Forward Montana registers thousands of young people. Since our inception, we have registered over 50,000 voters, including approximately 2,000 voters so far in 2023. Forward Montana defines young voters as citizens under the age of 35, although we will help all interested voters register.
11. Much of this work occurs at voter registration drives on and around college campuses and locations with a high concentration of potential young voters. This includes community events, such as markets, festivals, and concerts, as well as high traffic areas like grocery stores and coffee shops.

12. At Forward Montana voter registration drives, volunteers and staff set up an information table to encourage youth voting and engage members of the public to inquire if they are registered to vote and if not, to help them to register.
13. Forward Montana has run these registration events in advance of state and federal elections since 2006.
14. Forward Montana also assists high school students with registering to vote as soon as they are eligible.

Forward Montana's expressive activity

15. Forward Montana and its members express pro-democracy, pro-voting messaging by regularly speaking about the value of voting, and especially the value of democratic engagement by young voters.
16. As a part of conveying its pro-democracy and youth engagement messages, Forward Montana holds voter registration events and assists eligible Montanans to apply to register to vote and then successfully vote.
17. Each time Forward Montana volunteers or staff speak with a potential voter at a registration drive, they are engaging in conversations about the value of youth voting and urging those individuals to make their voices heard through the political process.
18. Each time Forward Montana volunteers or staff register someone to vote, they are engaging in conversations with that registrant about the role voting plays in strengthening our democracy.
19. Forward Montana also partners with Plaintiff League of Women Voters of Montana and other civic engagement organizations in their efforts to register voters in Montana.
20. In partnering with other organizations, Forward Montana's goal is to collectively persuade all Montanans to take action by engaging in the political process.

Confusion Caused by HB 892

21. It is Forward Montana's understanding and belief that a recent law, HB 892, concerns voter registration requirements in Montana.
22. It is Forward Montana's understanding and belief that HB 892 states that voters who have moved from another state or between Montana counties must deregister from their prior place of registration before re-registering in their current Montana county of residence.
23. It is unclear what is required to de-register pursuant to HB 892, especially since many of the individuals Forward Montana assists were previously registered in a wide array of different Montana counties and states.
24. It is Forward Montana's understanding and belief that HB 892 requires voters who have moved from another state or between Montana counties to provide information about their prior place of registration in Box 9 on their voter registration application forms when re-registering in their current Montana county of residence.
25. It is unclear how an improper omission of prior voter registration information on a submitted voter registration application pursuant to HB 892 would be discovered.
26. It is Forward Montana's understanding and belief that according to HB 892, violators could be subject to harsh criminal penalties.
27. It is unclear how or in which cases the criminal penalties included in HB 892 would be applied.
28. Forward Montana is unaware of any public guidance from the state about what third party voter registration organizations are required to do to ensure they, as well as the individuals they assist, comply with HB 892.

29. Forward Montana has dedicated staff time and resources to considering the changes HB 892 makes to voter registration in Montana, and any implications of those changes for Forward Montana's staff, volunteers, and the individuals it helps to register. Despite this consideration, it is unclear to Forward Montana exactly how HB 892 is to be administered and what changes it requires in the voter registration process.
30. As a result, Forward Montana has experienced confusion about how to comply with HB 892's requirements in order to avoid criminal liability for themselves and those they help to register.

HB 892 particularly affects young voters and student voters

31. Young voters and student voters face particularized barriers to registering and participating in the political process that are exacerbated by HB 892.
32. Young voters and student voters often lack spare time and resources, which impacts their ability to re-register to vote in person. For example, young voters and student voters often have inflexible class and work requirements during business hours and/or lack access to transportation. As a result, it can be difficult for these voters to re-register at their new county election office because these offices are typically only open during school or work hours when these voters are otherwise occupied. Montana's housing crisis has also increased the distance that many young voters must travel to reach a county election office.
33. Young voters and student voters are more transient than the general population and are more likely to have moved across state and county lines, requiring them to re-register to vote more frequently. In my experience registering voters in Montana, many student voters and young voters have previously registered to vote in another state or county

within Montana before moving to attend school or start a new job, but only intend to vote in their new place of residence.

34. This is especially true in the context of undergraduate students transferring from another institution, graduate students whose undergraduate studies were completed elsewhere, and young voters moving for varied job opportunities.
35. In my experience registering voters in Montana, it is common for voters to not know or remember whether they were previously registered or the location of their previous registration.
36. Many voters do not know how to look up this information. Although Forward Montana can research this information for voters moving within the state, it does not have individualized knowledge of other states to assist voters in looking up this information if they have moved from outside of Montana. Looking up previous voter registration information adds additional time to the voter registration process and may discourage potential registrants from completing the process with Forward Montana or at all.
37. Because they frequently move, young voters and student voters may not remember or know where they were previously registered to vote. Forward Montana regularly interacts with young Montanans eager to register to vote where they are currently living who do not know whether they were previously registered or cannot remember where they were previously registered.
38. This is concerning given that HB 892 purports to require previously registered voters to include this information on their voter registration application form when re-registering in Montana or face potential criminal penalties for omitting the information.
39. Every state has different processes for de-registering voters, if they have a process at all, Forward Montana does not have the capacity to learn and memorize all 50 states' voting

procedures to help assist voters moving from another state to navigate the de-registration requirement of HB 892.

HB 892 implicates Forward Montana's core voter registration work

40. Forward Montana's voter registration activity involves registering young voters, which often includes college and graduate students who recently moved from another state or a different county within Montana to attend a Montana college or university. It also includes individuals who have moved between Montana counties or to Montana from another state in search of employment.
41. In these cases, Forward Montana assists individuals to re-register or update their voter registration.
42. Leading into the state and federal elections in 2024, Forward Montana plans to continue engaging in these voter registration efforts on and around college campuses and locations with high concentrations of young voters under the age of 35.
43. It is Forward Montana's understanding and belief that these voter registration efforts are affected by HB 892.
44. As a result of HB 892, Forward Montana has begun instructing its volunteers to convey to registrants that the prior place of registration information in Box 9 is a required field on Montana's voter registration application form, despite Box 9 not being marked on the voter registration form with an asterisk indicating that it is a required field.
45. Forward Montana's volunteers and staff are instructing registrants that Box 9 is required for voters who have moved because of HB 892.
46. Because compliance with HB 892 could potentially increase the amount of time to register each individual registrant, this could reduce the overall number of applicants Forward Montana can assist.

47. Spending more time per voter registration increases the likelihood that an applicant will need to leave before completing the registration and simultaneously increases the wait time for the next individual requesting assistance from Forward Montana at a voter registration event.
48. As a result, the increased time spent per applicant trying to comply with HB 892 reduces the overall number of applicants Forward Montana can assist. This means some voters may have to navigate the registration process without the benefit of Forward Montana's help – compounding the burdens on individual young voters and student voters – who will then be less likely to navigate the voter registration process without effective assistance.
49. If HB 892's criminal penalties are enforced, I believe that some eligible voters may decline to register when they are informed of those penalties because they ultimately decide exercising their right to vote is not worth potential felony conviction.
50. Moreover, if HB 892's criminal penalties are enforced, Forward Montana may have to limit the assistance it provides to voter registration applicants so as to not risk facilitating a violation of HB 892.
51. For example, Forward Montana may stop offering registration assistance to certain groups of voters, such as re-registrants, people known to have previously registered elsewhere, or people who have moved to Montana from another state.
52. In that scenario, Forward Montana might also limit its voter registration assistance to first-time registrants only. However, that would be extremely difficult given that some voters do not remember or know they have been registered previously.

53. As a result, if HB 892's criminal penalties are enforced, Forward Montana may even be forced to slow or stop its voter registration activities all together rather than risk facilitating a violation of HB 892.

HB 892 Chills Forward Montana's Political Speech

54. HB 892 hinders Forward Montana's pro-democracy and pro-voting communications with its own members and other civic engagement organizations that are made in connection with voter registration activities.

55. Forward Montana believes that giving disclaimers about HB 892's criminal penalties to potential applicants would interfere with the effectiveness of its pro-democracy, pro-youth voting message.

56. The threat of HB 892's criminal penalties injures Forward Montana by chilling Forward Montana's pro-democracy and pro-youth voting speech at its planned voter registration events.

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

DATED this 14 day of November, 2023.

LOCATION when signed: washington DC



KIERSTEN IWAI

EXHIBIT 4

**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana,

Defendant.

Civil Action No. DV-16-2023-0001073-CR

**DECLARATION OF JOYE KOHL IN
SUPPORT OF PLAINTIFF’S MOTION
FOR PRELIMINARY INJUNCTION**

I, JOYE KOHL, based on my personal knowledge, declare as follows:

1. I am over 18 years old and a resident of Gallatin County, Montana.
2. I am a member of the Bozeman chapter of the League of Women Voters of Montana.
3. I recently moved to Gallatin County from Arizona in the fall of 2023.
4. I was previously registered to vote at my past residence in Arizona and would like to now register to vote at my new residence in Gallatin County.
5. I have not de-registered or otherwise canceled my voter registration in Arizona, and am not sure how to do so.
6. After I become registered in Gallatin County, I plan to vote in the 2024 primary and general elections in Montana.

7. I have no intention of also voting in Arizona or anywhere else, and will not do so.
8. I have not yet registered to vote in Gallatin County and, having recently moved to Montana from another state, I am not sure what steps I need to take to do so given the recent changes in law under HB 892.
9. I understand that I can complete Box 9 of the Montana voter registration form with my previous Arizona registration information. However, I do not know whether simply providing my most recent Arizona voter registration information is sufficient to fully comply with HB 892's de-registration requirement or HB 892's provision requiring me to state my previous registration information on the state application form.
10. I am confused by the instructions on the state form and whether it says that completing the information for Box 9 is required or not.
11. I am concerned that if completing Box 9 on the Montana voter registration application form to the best of my knowledge and ability is insufficient to comply with HB 892, I could risk being subject to the statute's criminal penalties by submitting the form and registering to vote in my current place of residence in Gallatin County.
12. I am concerned that if I do not or cannot ensure that my registration in Arizona is cancelled before I register in Gallatin County, I could face risks of criminal penalties under HB 892.

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

DATED this 13 day of November, 2023.

LOCATION when signed: Bozeman, MT


JOYE KOHL

EXHIBIT 5

**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana,

Defendant.

Civil Action No. DV-16-2023-0001073-CR

**DECLARATION OF MARGA
LINCOLN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

I, MARGA LINCOLN, based on my personal knowledge, declare as follows:

1. I am over 18 years old and a current resident of Lewis and Clark County, Montana.
2. I am planning to move to Missoula County on November 15, 2023.
3. Currently, I am a member of the Helena chapter of the League of Women Voters of Montana, and intend to remain a member of the League of Women Voters of Montana.
4. I am currently registered to vote at my residence in Helena and would like to register to vote at my new residence in Missoula County after I move.

5. I have not de-registered or otherwise canceled my voter registration in Helena and am not sure how to do so.
6. After I become registered in Missoula County, I plan to vote in the 2024 primary and general elections in Montana.
7. I have no intention of also voting in Helena, or anywhere else, and will not do so.
8. I have not yet registered to vote in Missoula County, and I am not sure what steps I will need to take to do so given the recent changes in law under HB 892.
9. I understand that I will be able to complete Box 9 of the Montana voter registration form with my previous Lewis and Clark registration information. However, I do not know whether simply providing my most recent Lewis and Clark voter registration information is sufficient to fully comply with HB 892's de-registration requirement or HB 892's provision requiring me to state my previous registration information on the state application form.
10. I am confused by the instructions on the state form and whether it says that completing the information for Box 9 is required or not.
11. I am concerned that if completing Box 9 on the Montana voter registration application form to the best of my knowledge and ability is insufficient to comply with HB 892, I could risk being subject to the statute's criminal penalties when I submit the form and register to vote in in Missoula County once I have moved there.
12. I am concerned that if I do not or cannot ensure that my registration in Lewis and Clark County is cancelled before I register in Missoula County, I could face risks of criminal penalties under HB 892.

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

DATED this 13 day of November, 2023.

LOCATION when signed: Helena

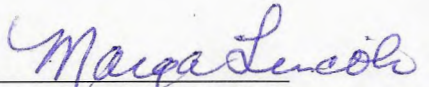

MARGA LINCOLN

EXHIBIT 6

**MONTANA 18TH JUDICIAL DISTRICT COURT,
GALLATIN COUNTY**

LEAGUE OF WOMEN VOTERS OF
MONTANA,

Plaintiff,

v.

AUSTIN KNUDSEN, in his official capacity
as the Attorney General of the State of
Montana; CHRISTI JACOBSEN, in her
official capacity as Secretary of State of the
State of Montana; and CHRIS GALLUS, in
his official capacity as the Commissioner of
Political Practices of the State of Montana,

Defendant.

Civil Action No. DV-16-2023-0001073-CR

**EXPERT DECLARATION AND REPORT OF DR. ALEXANDER STREET, Ph.D., IN
SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION**

I, Alexander Street, Ph.D., declare as follows:

I. Summary of Inquiry

1. I have been asked by counsel for the plaintiff to use my professional training and expertise to analyze the burdens that Montana House Bill (HB) 892 (2023) may impose on voters in Montana and on civic organizations such as the Montana League of Women Voters of Montana. Counsel also asked me to discuss the administrability of HB 892 and the extent of any problems of double voting or other types of voter fraud in Montana.
2. The framework for this report builds on academic research on voting and election administration. That research suggests HB 892 is impractical. It imposes a new penalty

for still being listed as a registered voter elsewhere when registering to vote in Montana, and also a penalty for failing to provide information on the previous registration, although these requirements conflict with the current practices of voters, civic groups, and election workers.

3. The report also includes evidence from the U.S. Census Bureau on the number of people moving to or within Montana from places where they may previously have been registered, and evidence from the U.S. Election Assistance Commission on the number of people submitting voter registration forms in Montana who may previously have been registered. These sources show that tens of thousands of people per year could be affected by HB 892.
4. The report reviews the scarcity of evidence of double voting or other voter fraud in Montana. I found no evidence of voter fraud in Montana of a kind that could be prevented by HB 892.
5. Finally, I also present evidence from a survey of Montana voters on their perceptions of the integrity of the electoral process; that evidence cuts against any claim that HB 892 would boost voter confidence.

II. Background and qualifications

6. I am an Associate Professor of Political Science at Carroll College in Helena, Montana, where I have been teaching and conducting research since 2014. I hold a Ph.D. in Political Science from the University of California, Berkeley, conferred in 2011. My undergraduate education was at the University of Oxford, where I took a First Class B.A. in Politics, Philosophy and Economics in 2003. I have also studied at the Humboldt

University in Berlin, Germany, and I have worked as a postdoctoral fellow at the European University Institute, Cornell University, and with the Max Planck Society in Göttingen, Germany. I spent the 2022-23 academic year in Germany as a visiting researcher at the University of Konstanz, on sabbatical, and I was awarded a Humboldt Research Fellowship for Experienced Researchers to support that work.

7. I have published ten peer-reviewed research articles, some of them co-authored with scholars at other institutions, and I have also published several book chapters and working papers. I have presented my research at many academic conferences and have given invited talks at universities in the U.S., Canada, and Germany. I have received “best conference paper” and “best article” awards from organized sections of the American Political Science Association and the Western Political Science Association. My research draws upon statistical analyses of data from voter files, election returns, public opinion surveys, census studies, and internet searches, among other sources. My publications are in the field of “political behavior,” i.e., the study of whether and how people acquire and assert the participatory rights of democratic citizenship. I teach mostly on American and Comparative Politics, on Elections and on Research Methods. I am including a copy of my Curriculum Vitae along with this report.
8. Based on my substantive expertise and my training in social science research methods, I have served as an expert witness in cases about election administration in Montana, New York and Ohio. In particular, I was retained as an expert and submitted an expert report in *N.Y. League of Women Voters et al. v. N.Y. State Board of Elections et al.*, No. 160342/2018, in New York state court concerning New York’s voter registration deadline. I was also retained as an expert and submitted an expert report in *League of*

Women Voters of Ohio, et al., v. LaRose, No. 2:20-cv-3843 (S.D. Ohio). I wrote expert reports and testified in *Western Native Voice v. Stapleton*, No. DV 20-0377, and in *Western Native Voice v. Jacobsen*, No. DV 21-0451 in Montana state court. Additionally, I have direct knowledge of election administration in Montana, having served as a Chief Judge at an elections site in Lewis and Clark County. I have now been asked by counsel for the League of Women Voters of Montana to write a report applying the theoretical and substantive findings from my field of research to the question of how a recently passed law, HB 892, is likely to affect election administration and political behavior in Montana. I am being compensated for this work at my standard rate of \$200 per hour. This compensation is not contingent on the nature of my findings or on the outcome of this litigation.

III. New legislation: HB 892

9. The 68th session of the Montana legislature passed HB 892 in the spring of 2023. HB 892 changes Montana election law in several ways. The changes include rewording a pre-existing ban on double voting in Montana,¹ along with new language that bans voting in the same or an equivalent election in both Montana and another state (which was already prohibited, in elections for federal offices, under federal election law).² HB 892

¹ The pre-existing wording was: “No person may vote who is not entitled to vote. No person may vote more than once at an election” (MCA 13-35-210(1) 2021). The rewording is as follows, “(1) A person who is not an elector may not vote. (2) An elector may not vote more than once at an election.” See https://leg.mt.gov/bills/2023/HB0899/HB0892_X.pdf (accessed October 28, 2023).

² The new wording is as follows, a person or elector may not “vote in both this state and another state or territory in the same or equivalent elections, except in a special district election in which a person or elector is entitled to vote.” Pre-existing federal election law prohibits “voting more

also includes new provisions on voter *registration*, namely that “A person or elector may not purposefully remain registered to vote in more than one place in this state or another state any time, unless related to involvement in special district elections.” Additionally, people completing a voter registration application in Montana could now be prosecuted under HB 892 if they neglect to “provide the previous registration information on the Montana voter registration application.” HB 892 sets quite severe new penalties for breaking these provisions, namely, a fine of up to \$5,000, imprisonment for up to 18 months, or both.

10. In this report I focus on changes to the voter *registration* requirements under HB 892.

These changes raise concerns over impracticality and also because of vagueness in the new wording. These problems could impinge on the democracy-sustaining work of the League of Women Voters of Montana, and similar civic organizations, and are likely to have a chilling effect on political participation among Montana residents. These problems could interfere with the right of suffrage and could result in reduced rates of voter registration and turnout. In order to understand these problems, it is helpful to see HB 892 and the work of the League of Women Voters of Montana in the context of evidence on the frequency with which voters move from one jurisdiction to another, and also in the context of research and evidence on election administration and political behavior. My aim in the next sections of this report is to help the court see this context. I explain why HB 892 is impractical, why it is likely to have a chilling effect on voters and

than once” for federal elections such as to the U.S. presidency or Congress (52 United States Code § 10307(e)).

civic organizations in Montana (such as the League of Women Voters of Montana), and why there is no clear evidence that HB 892 would solve an actual problem.

IV. HB 892 is impractical given current practices of election administration and voting

11. The prohibition in HB 892 on being registered as a voter in more than one place is out of line with established patterns in voter behavior and election administration. These patterns reflect the U.S. combination of a mobile *national* electorate and *local* election administration.

12. About one in seven Americans moves house each year. Of these, about half are within-county, while roughly a quarter are between counties in a state, and another quarter are between states.³ Domestic migration helps explain why Montana has recently ranked among the fastest-growing states in the nation.⁴ Almost all of the people moving to Montana are U.S. citizens who are (or will be) eligible to vote in the state. According to the U.S. Census Bureau, as of 2022, 47.3% of Montanans were born in another U.S. state or territory.⁵ In recent years, an average of around 39,000 people per year have moved to Montana from another state and an additional 36,000 people have moved from one Montana county to another.⁶ People moving between states, or between Montana

³ See <https://www.census.gov/library/stories/2023/04/fewer-people-moving-between-2019-and-2021.html> (accessed November 1, 2023).

⁴ See, e.g., <https://www.census.gov/newsroom/press-releases/2021/2021-population-estimates.html> (accessed October 30, 2023). See also Mastel et al. 2021.

⁵ See “State of Residence by Place of Birth Table 2022 T13,” U.S. Census Bureau estimates from the American Communities Survey (ACS), available at <https://www.census.gov/data/tables/time-series/demo/geographic-mobility/state-of-residence-place-of-birth-acs.html> (accessed October 28, 2023).

⁶ See “County-to-County Migration Flows, 2016-2020 ACS, In-, Out-, Net, and Gross Migration,” available at <https://www.census.gov/data/tables/2020/demo/geographic->

counties, are of particular relevance to this case because they may have been registered as voters at their previous place of residence. The influx of domestic migrants has been going mostly to the Montana counties that already had larger populations; this is particularly true for people from outside of Montana but also for those moving within the state. The biggest gains have been seen by Gallatin, Missoula, and Yellowstone counties, which have averaged between three and five thousand out-of-state additions per year, plus another five to seven thousand within-state movers.⁷

13. The United States also has highly decentralized election administration, with no nationwide system of voter registration, and is unusual in placing the onus on would-be voters to register for elections pertaining to their place of residence (Hasen 2012; Powell, Jr. 1986). Civic organizations play a key role in helping voters work through this process, which is one reason that civic groups, such as the League of Women Voters, have long been seen as the bedrock of democracy in America (e.g., Tocqueville 2003; Verba, Schlozman and Brady 1995). Scholars have found that residential mobility is associated

[mobility/county-to-county-migration-2016-2020.html](#) (accessed October 28, 2023). To incorporate information from lower-population counties, like many in Montana, it is better to use the estimates from five years of combined ACS data rather than the one-year estimates that are also available. Accordingly, these are averages over the five-year period from 2016 to 2020, the most recent data available at the time of writing. If anything, these averages may understate the number of people moving to Montana, which has increased since 2020, as indicated by more recent Census data on county population growth (for the largest counties). The advantage of using the data on county-to-county migration flows, rather than simply data on growth in county population totals, is that it allows me to set aside changes due to fertility and mortality, and also to distinguish between people moving from within Montana and people moving to Montana from other states.

⁷ Using the five-year ACS data from 2016 to 2020, Gallatin saw an average of around 3,000 out-of-state and 8,000 in-state movers per year, Missoula an average of around 6,000 out-of-state and 5,000 in-state, and Yellowstone around 4,000 out-of-state and 4,000 in-state. Recall that these numbers are for people moving to the counties; populations did not grow quite so fast because some people also moved away each year. These numbers also set aside population growth or decline due to births or deaths.

with a lower likelihood of voting in subsequent elections in part because of the need for movers to take the additional step of re-registering (e.g., Heighton 2000; McDonald 2008; Squire, Wolfinger and Glass 1987).

14. States do provide some information on the extent of changes to their (electronic) lists of registered voters, including changes due to voter mobility, through the biennial Election Administration and Voting Survey (EAVS) administered by the U.S. Election Assistance Commission. Table 1 shows reported numbers from EAVS for Montana for the two-year period between the 2018 and 2020 general federal elections. The table again reveals that, each year, tens of thousands of people update their voter registration records, including substantial numbers of people moving between Montana counties or moving to Montana from other states. Recently, Gallatin, Missoula, Yellowstone, Flathead, and Lewis and Clark counties have all reported voter registration applications or updates submitted by upwards of ten thousand “cross-jurisdiction” movers in a two-year cycle.⁸

⁸ From 2018 to 2020, Gallatin reported 22,285, Missoula 20,306, Yellowstone 19,305, Flathead 13,064, and Lewis and Clark 10,077. From 2020 to 2022, Gallatin reported 15,776, Yellowstone 14,505, Missoula 13,086, Flathead 10,712, and Lewis and Clark 7,605.

Table 1. Montana voter registration changes from 2018 to 2020

	Number in Montana
Registrants eligible to vote in 2020 general election	747,439
Voter registration forms newly received from close of registration for 2018 general to close of registration for 2020 general election	359,986
- of which new valid registrations ⁹	60,304 (16.8% of new forms)
- of which within-jurisdiction (e.g., name, address)	150,667 (41.8% of new forms)
- of which cross-jurisdiction (e.g., county)	136,272 (37.9% of new forms)

Source: 2020 EAVS dataset version 1.1 (released October 8, 2021). Other categories include relatively small numbers of pre-registrations for people under 18 (0.4% of new forms), duplicates of existing records (3% of new forms), and invalid/rejected (0.1% of new forms). The EAVS dataset for the 2022 election shows a somewhat lower total of new forms submitted, at around 237,000, as one would expect for a midterm election. Of those, a somewhat lower share (12.3%) are new registrations, a similar share (40.3%) reflect within-jurisdiction changes, and a somewhat higher share (45.4%) are due to cross-jurisdiction moves.

15. The EAVS reports also include numbers of voter registration forms submitted from “registration drives from advocacy groups or political parties,” a category that includes the League of Women Voters of Montana. The reports show around 10,000 such forms received in Montana in 2022, including about 3,000 new registrations, as well as registration forms for people who moved within or between counties, moved to Montana from another state, or were otherwise updating their information (not counting duplicates of existing registrations or forms that were rejected). The EAVS reports show a further 19,000 voter registrations from registration drives in 2020, of which around 4,000 were

⁹ The documentation does not fully detail how Montana officials report numbers of registration forms across the EAVS categories. From this information, it is not entirely clear whether people moving to Montana from another state would count as “new” or as “cross-jurisdiction.” If they are (all) included in the cross-jurisdiction category, Table 1 indicates that, in the run-up to the 2020 election, more than 100,000 people might have been affected by the provisions in HB 892 against remaining registered elsewhere, in addition to the requirement to provide information on the previous registration. If some new-to-Montana registrants are (also) included in the “new” category, the total number possibly affected, in Table 1, would have been nearly 200,000.

new, in addition to cross-jurisdiction movers. The EAVS reports show another 22,000 voter registrations from registration drives in 2018, of which nearly 6,000 were new, along with cross-jurisdiction movers. This exemplifies the importance of civic groups and may, if anything, understate their work in this area, since groups like the League of Women Voters of Montana may also help or encourage additional people to complete registration forms without necessarily coming to the attention of election officials as the source of the form.

16. However, despite all this mobility, Americans are generally not required to inform local, state, or federal governments of their place of residence, nor are they required to tell the agents of these governments when they leave.¹⁰ I am not aware of another U.S. state that actually penalizes people who, for some time, remain on the voter rolls in a previous place of residence after having also registered at their new home, in the way that HB 892 now stipulates for Montanans.¹¹ As a result, “very few movers notify their previous county or state that they’ve relocated” (Underhill 2023). Indeed, in many cases there would be practical barriers to doing so. People moving to Montana from another state are not likely to have been told, at the time of registration, that they would need to de-register if they moved to Montana, nor are they likely to have been informed of any available

¹⁰ This contrasts, for instance, with the situation in Germany, where residents are legally obliged to register with and provide documentation to the local government within two weeks of arrival, and where one is also required to inform them when one leaves.

¹¹ Indiana law includes a provision, dating back to 1986, that “A person who recklessly registers or offers to register to vote more than once commits a Class A misdemeanor” (Indiana Code 3-14-2-4). I am not aware of any prosecutions or convictions under this provision. Since 2022, South Carolina law requires that the state voter registration form including the following wording in an oath: “[...] that, to my knowledge, I am neither registered nor intend to register to vote in another state or county.’ Any applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense” S. C. Code § 7-5-170). I am not aware of any prosecutions or convictions under this provision.

process or processes for de-registering. Some people may not even have taken an affirmative step to register in their previous state. This is because some states, including several on the West Coast that are among the biggest sources of people moving to Montana, have adopted a version of “automatic voter registration” (AVR). AVR results in people being automatically added to the set of those registered to vote, or having their voter registration information updated, when they provide new information on their identity and home address to a range of government agencies (unless they opt out).¹² It is not clear whether, for instance, someone who did not opt out in an AVR state, and then moved to and registered as a voter in Montana, would be considered to have broken election law under HB 892, which prohibits “purposefully” remaining registered. Nor is it clear whether such a person would fall foul of HB 892’s new requirement to “provide the previous registration information,” i.e., information on a voter registration status for which the person in this example had not affirmatively applied.

17. Of course, election administrators do work to maintain their registered voter lists, including by removing people who have moved away. Montana’s procedures for voter list maintenance are bound by state and federal law. In Montana, and in many other states, election administrators are required to check the national change-of-address database of the United States Postal Service for signs that a voter may have moved away (MCA 13-2-220). Many states are also members of the Electronic Registration Information Center (ERIC), a nonprofit established in 2012 so that states can cross-reference lists of registrants and remove people who appear to have moved and registered

¹² See <https://www.ncsl.org/elections-and-campaigns/automatic-voter-registration> (accessed October 30, 2023).

in another state. This process of cross-referencing voter lists is tricky because, when very large numbers of people in one state are *each* cross-referenced against very large numbers of people in one or more other states, based on limited information such as first and last names and dates of birth, the sheer number of possible combinations implies that the process is likely to deliver many spurious duplicates (McDonald and Levitt 2008). This problem can be partially addressed by also drawing on other information, such as the last four digits of the Social Security Number, although sharing such information across states, along with voter records, does create additional privacy risks. I understand that ERIC has found ways to address these risks.¹³ ERIC members include several of the most common states of origin for people moving to Montana in recent years.¹⁴ Crucially, however, Montana is not a member of ERIC. I am not aware of a comparable, systematic approach used by Montana counties or by the Montana Secretary of State's Office to check whether new registrants in their jurisdiction are, for a time, still registered to vote in a previous state of residence. In the apparent absence of such a system, HB 892 threatens a severe penalty for people who register to vote in Montana and are, somehow, identified as also still appearing on a voter registration list in another state.

18. Montana does have a system for updating voter registration information for people who move between counties. I understand that, to date, when someone has registered in a new county, the person's identity is checked and, if the same person was previously listed in another county, the record is updated in the statewide system. However, it is not clear

¹³ See <https://ericstates.org/security/> (accessed November 9, 2023).

¹⁴ ERIC member states account for an average of 50.3% of those who moved to Montana from another state over the period from 2016 to 2020, according to Census Bureau data. The membership of ERIC changes over time; these figures are for membership at the time of writing. See <https://ericstates.org/about/> (accessed October 31, 2023).

from the language of HB 892 whether someone who went through this same process would count as complying with the new law, or whether that person ought *first* to have ensured that they were no longer registered in the previous county. Nor is it clear whether going through this process would count as providing the “previous registration information” as required under HB 892.

19. In sum, HB 892 threatens severe new penalties for people who, because of the American combination of a mobile national electorate and local election administration, follow the established practice of registering in the new place of residence without having to (first) also de-register in the previous jurisdiction. This is deeply impractical.

V. Implications of the impracticality of HB 892 for voters and civic organizations

20. The threat of prosecution under HB 892 is likely to loom over voters and civic organizations in Montana seeking to exercise their rights of suffrage and political expression. Existing academic research on political participation implies that this will have a chilling effect and will thereby reduce registration and turnout.

21. Arguably the most influential strand of research on political participation construes voting, and many other political acts, as rational, in the sense that the behavior of voters and civic groups is shaped by relevant costs and benefits (e.g., Riker and Ordeshook 1968). Hence, for example, turnout tends to be higher in elections in which citizens see more at stake, or in elections that are expected to be close (Cox and Munger 1989), whereas turnout tends to be lower when it is difficult to register and vote (Brady and McNulty 2011; Keele, Cubbison and White 2021). The costs of political participation are also borne more readily by those with greater access to resources, e.g., more education, or

more flexibility in work schedules, helping to explain why scholars consistently find clear social and economic disparities in the extent to which Americans exercise their political rights (Schlozman, Verba and Brady 2013).

22. Seen in this framework, the penalties in HB 892 are likely to deter some people who have moved to Montana, and some of those who have moved between Montana counties, from registering and voting because it would be difficult and time-consuming to ensure that they are no longer registered at their previous place of residence. This effect is likely to be magnified by the fact that voter registration activity is often heavily concentrated in the period shortly before an election, and even on Election Day itself, since that is when get-out-the-vote campaigns, political advertising, media coverage, and public attention all peak (Gimpel, Dyck and Shaw 2007; Street et al. 2015). For instance, for 2020, the Montana Secretary of State's office reported 15,962 voter registrations in the final 30 days leading to the general election, nearly half of them on Election Day itself, of which 11% were people who had moved between counties in the state.¹⁵ By the time this critical period of campaign and registration activity comes around, however, it may well be too late for people who are new to their place of residence, such as students, to make absolutely sure that they are not registered elsewhere – particularly because election administrators in the previous place of residence are also likely to be extremely busy.

¹⁵ See <https://sosmt.gov/elections/latereg/> (accessed November 2, 2023). For 2022, the Secretary of State's office reported 12,170 voter registrations in the final 30 days leading to the general election, of which 32% were people who had moved between precincts in a county, and 21% for people who had moved between counties in the state. For 2018, the Secretary of State's office reported 18,881 voter registrations in the final 30 days leading to the general election, of which 23% were people who had moved between precincts in a county, and 20% for people who had moved between counties in the state.

23. People who have moved recently might also fear violating HB 892 if they are unsure that they can provide accurate details on a previous registration, particularly if they had been moving between addresses within their previous area of residence and are no longer sure which of those addresses was listed. Frequent moves are more common for younger people, such as students (e.g., Bennion and Nickerson 2016; Heighton 2000), and for those living on American Indian reservations where, due to a history of land appropriation and poverty, people may resort to rotating through crowded housing options provided by family or friends (e.g., Monares 2021; Schroedel 2020).¹⁶ People who are homeless or housing-insecure would also be at greater risk, as might people who had lost their right to vote due to a felony but had regained this right having been released from prison. People who move to Montana while serving, or having recently served in the U.S. military, might also be unclear which previous residence to report, as required under HB 892, especially if they had been stationed overseas and had been voting through the processes established in the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). For these reasons, it would be risky for a wide range of recent movers to register and vote in Montana, and this is likely to depress turnout; scholars have found deterrent effects of prohibitive election laws even on people who are no longer barred from participating (Grimmer and Yoder 2022).

24. In addition to the deterrent effects on new registrations and voting, HB 892 is likely to deter civic groups from helping new residents of the county or state to register. Civic

¹⁶ According to the U.S. Department of Housing and Urban Development there are tens of thousands of homeless Native Americans living in tribal areas, and “[o]f American Indian and Alaska Native households living in tribal areas, 16 percent experience overcrowding compared with 2 percent of all U.S. households” (U.S. Department of Housing and Urban Development 2017: iv).

organizations, such as the League of Women Voters of Montana, may worry that their employees, members, or volunteers would damage the reputation of the organization, or perhaps even put themselves in legal jeopardy, if they help someone register, in violation of HB 892, particularly during the final campaign period when it would be hardest for voters to ensure that they are not registered elsewhere. The time leading up to a major election is also when civic groups such as the League of Women Voters of Montana tend to be most active with their voter registration and turnout work. Furthermore, since it may not be feasible to distinguish people who are new to the state or county and *have* been registered elsewhere, from those who are new and have *not* previously been registered elsewhere, civic groups like the League of Women Voters of Montana would have to worry even about helping with voter registration for people who are not actually at risk under HB 892.

VI. HB 892 is an impractical solution for a problem that barely exists (if at all)

25. The title under which HB 892 was proposed includes a reference to “Prohibiting Double Voting.” As I have noted, voting more than once in an election in Montana, or in a federal election, was already prohibited even before the passage of HB 892. In fact, there is no evidence of substantial rates of double voting in American elections – even though it is somewhat common for Americans who move across counties or states to temporarily remain registered in the previous place of residence (McDonald and Levitt 2008). A wide body of academic research, using a variety of data sources and methods of analysis, has consistently failed to detect traces of voter fraud on any significant scale (e.g., Ahlquist, Mayer and Jackman 2014; Cottrell, Herron and Westwood 2018; Eggers, Garro and

Grimmer 2021; Minnite 2010; though see also Herron 2019 for a rare exception in North Carolina not involving the acts or omissions penalized under HB 892). Nonetheless, some commentators have claimed for years that additional fraud is happening while going undetected. It is of course difficult to disprove such a claim of invisible voter fraud. Still, the claim rings hollow. Over recent years, hundreds of millions of votes have been cast in American elections, and yet, despite some allegations of massive wrongdoing, and investigations by politicians who promised to zealously pursue evidence of misconduct, there is *still* no substantial evidence of voter fraud.¹⁷ Accordingly, I am not aware of any evidence of substantial voter fraud in Montana.¹⁸ In 2017 the Montana Secretary of State’s office announced that they had investigated claims of absentee ballot misuse through a “top-down review” of the system but this did not produce any further evidence warranting prosecutions.¹⁹ I am not aware of *any* specific instances of

¹⁷ See, for example, coverage of a recent court case in which a judge found the claims of voter fraud presented by Kansas Secretary of State Kris Kobach, and by the experts whom Kobach had recruited, to be unpersuasive, <https://www.propublica.org/article/kris-kobach-voter-fraud-kansas-trial> (accessed November 1, 2023).

¹⁸ Recently, two people were accused of voting in a Montana election despite not being U.S. citizens. See <https://apnews.com/article/immigration-elections-voter-registration-montana-helena-34d812d60ec22a4d91a8ccbe551093ce> (accessed November 9, 2023). Additionally, a list maintained by the Heritage Foundation that reaches back to the 1980s includes just two reported cases of voter fraud in Montana, from 2011 (someone submitted an absentee ballot that had been mailed to an ex-wife) and 2021 (someone registered under a joke name). See <https://www.heritage.org/voterfraud/search?state=MT> (accessed November 1, 2023). Note, however, that this database has also been criticized for taking the examples out of context. In particular, any responsible treatment of the question should emphasize that, over recent years, hundreds of millions of votes have been cast without producing any evidence of attendant fraud – the denominator for calculating the *rate* of (attempted) fraud is enormous. See <https://www.brennancenter.org/our-work/research-reports/heritage-fraud-database-assessment> (accessed November 1, 2023).

¹⁹ See https://sosmt.gov/Portals/142/Stateof_SOS_Reports/2017_Annual%20Report.pdf, p. 10 (accessed November 1, 2023). In the report, officials say they contacted several Montanans who acknowledged that they had signed an absentee ballot return envelope for a family member, but this does not appear to have resulted in any prosecutions or convictions.

prosecutions or convictions for voting in both Montana and another state, or for voting in more than one Montana county.

26. Nor is there good reason to think that HB 892 would enhance voter confidence in the integrity of the electoral process in Montana. Scholarship on this question reveals that few voters are aware of the details of election administration in their state or county, and that, in the absence of such knowledge, their attitudes are instead driven by a wider set of political attitudes, beliefs, and identities. For example, Stewart III, Ansolabehere, and Persily (2016) find that public perceptions of fraud and confidence in the integrity of the electoral system are not connected to actual variation in voter ID requirements. Their research employs careful over-time comparisons of the same states in the years before and after they introduced such voter ID requirements. Instead, the authors show that survey responses on this issue show signs of the “winner’s effect,” whereby people who supported the presidential candidate who had just won become more likely to express confidence in the process, whereas those whose preferred candidate had just lost become less likely to do so (*see also* Levy 2021). Scholars have found that, increasingly, Americans show stark differences in views of election administration by party, reflecting the polarization of party elites on this issues, particularly due to the influence of former President Trump (Gronke et al. 2019; Persily and Stewart III 2021).²⁰ In this context, rather than helping, claims that additional election security measures are needed to prevent or combat voter fraud may actually further undermine public trust and belief in democratic systems (Justwan and Williamson 2022).

²⁰ As Gronke et al. put it, their results “are consistent with an elite-to-mass message transmission reflecting the current context of polarized party politics and the variation in the voter coalitions comprising the Democratic and Republican parties” (2019: 215).

27. My own analysis of public opinion surveys of Montana voters also cuts against any claim that HB 892 would boost public confidence in the electoral process. When surveyed about their confidence in vote counts in the wake of general federal elections in November 2022, Montanans tended to score above the national average, as they have in previous years. For example, 80% of Montanans said they were “very confident” that their vote had been counted as intended, and another 17% said they were “somewhat confident,” putting Montanans 8th in the country on this question, ahead of most states.²¹ Yet this relative confidence does not appear to reflect widespread and clear understanding of the actual process. For example, in the same survey, only 38% of Montanans said they were aware that, locally and in Montana, “Election officials test every machine used in the election to ensure they are secure,” while 40% said they knew that “Election officials conduct audits of ballots after every election to confirm the results were accurate” – and only 25% said they knew that both of these measures were taken. Knowledge of these security measures is not clearly linked to trust in the electoral process.²² Since awareness

²¹ This compares to the national averages of 71% “very confident” and 22% “somewhat confident.” Data are from the Survey on the Performance of American Elections (SPAЕ) (Stewart III 2023a). For all analyses with state likely voter weights, see <https://electionlab.mit.edu/research/projects/survey-performance-american-elections> (accessed November 7, 2023). As with voters across the country, Montanans express the highest confidence that their *own* vote was counted fairly, but successively less confidence that votes were counted as intended at the county, state, and federal levels. This may follow the general pattern of Americans tending to place more trust in local rather than national politics (Levi and Stoker 2000), or reporting higher satisfaction with their own representatives than with Congress as a whole (Durr, Gilmour and Wolbrecht 1997). Still, Montanans generally express quite high confidence, e.g., the average level of confidence in the statewide election process ranks behind only five other states and the District of Columbia.

²² For instance, summing knowledge of five security measures (machine tests, non-partisan poll watchers, partisan poll watchers, audits, paper ballots), in the 2022 SPAЕ data, Montanans who are aware of more of these measures are not significantly more confident that votes in Montana are counted as intended ($p=0.12$). Montana law allows non-partisan poll watchers (MCA 13-13-121), although, to my knowledge, partisan poll-watchers are more common. I focus on these

of existing security measures in Montana is generally quite low, and is not clearly related to confidence in the integrity of the vote count, it would *not* be plausible to claim that voter confidence in Montana would be enhanced by the new voter registration provisions in HB 892.

VII. Conclusion

28. All of the evidence that I have considered, from the broad academic literature on election administration to my own analysis on the impracticality of HB 892 given established patterns of voter behavior and election administration in Montana, tends to support the fears of the plaintiff that HB 892 will infringe on the right of suffrage and is likely to have a chilling effect on voter registration, turnout, and political association in Montana.



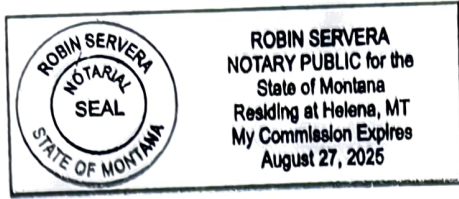
Alexander Street, Ph.D.

STATE OF Montana

COUNTY OF Lewis & Clark

measures because these are among those that are most clearly publicized by election officials in the state. The 2022 SPAE asks for awareness of up to 10 security measures, also including forms of cooperation between state election officials and various security agencies, but few people are aware of those, and *very* few people (2%) say they are aware of all of these security measures being pursued in Montana. However, as the director of the survey notes, “Even these percentages must be regarded skeptically. Like all areas of public policy, it is likely that few voters are highly knowledgeable about the details of election administration. This means that respondents may answer this question based on activities that sound like things election officials undertake, rather than out of actual awareness or knowledge of these activities” (Stewart III 2023b: 31).

Signed and sworn to before me on this 14th day of November, 2023.



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Bibliography

Ahlquist, John S., Kenneth R. Mayer and Simon Jackman. 2014. "Alien Abduction and Voter Impersonation in the 2012 U.S. General Election: Evidence from a Survey List Experiment." *Election Law Journal: Rules, Politics, and Policy* 13(4): 460-475.

Bennion, Elizabeth A. and David W. Nickerson. 2016. "I Will Register and Vote, If You Teach Me How: A Field Experiment Testing Voter Registration in College Classrooms." *PS: Political Science and Politics* 49(4): 867: 871.

Brady, Henry E. and John E. McNulty. "Turning Out to Vote: The Cost of Finding and Getting to the Polling Place." *American Political Science Review* 105, no. 1 (February 2011): 115-134.

Cottrell, David, Michael C. Herron and Sean J. Westwood. 2018. "An exploration of Donald Trump's allegations of massive voter fraud in the 2016 General Election." *Electoral Studies* 51: 123-142.

Cox, Gary W. and Michael C. Munger. 1989. "Closeness, Expenditures, and Turnout in the 1982 U.S. House Elections." *American Political Science Review* 83(1): 217-231.

Durr, Robert H., John B. Gilmour and Christina Wolbrecht. 1997. "Explaining Congressional Approval." *American Journal of Political Science* 41(1): 175-207.

Eggers, Andrew C., Haritz Garro and Justin Grimmer. 2021. "No evidence for systematic voter fraud: A guide to statistical claims about the 2020 election." *Proceedings of the National Academy of Sciences* 118(45): e2103619118.

Gimpel, James G., Joshua J. Dyck and Daron R. Shaw. 2007. "Election-Year Stimuli and the Timing of Voter Registration." *Party Politics* 13(3): 351-374.

Grimmer, Justin and Jesse Yoder. 2022. "The durable differential deterrent effects of strict photo identification laws." *Political Science Research and Methods*, 10(3): 453-469.

Gronke, Paul, William D. Hicks, Seth C. McKee, Charles Stewart III and James Dunham. 2019. "Voter ID Laws: A View from the Public." *Social Science Quarterly* 100(1): 215-232.

Hasen, Richard L. 2012. *The Voting Wars: From Florida 2000 to the Next Election Meltdown*. Yale University Press.

Heighton, Benjamin. 2000. "Voter Registration and Turnout in the United States." *Perspectives on Politics* 2(3): 507-515.

Herron, Michael C. 2019. "Mail-in absentee ballot anomalies in North Carolina's 9th congressional district." *Election Law Journal: Rules, Politics, and Policy* 18(3): 191-213.

Huseman, Jessica. 2019. "Kansas Abandons Technology Trumpeted by Kris Kobach, Trump's Onetime Voter Fraud Czar." ProPublica, <https://www.propublica.org/article/kansas-abandons-technology-trumpeted-by-kris-kobach-trumps-onetime-voter-fraud-czar>, December 12 2019.

Justwan, Florian and Ryan D. Williamson. 2022. "Trump and Trust: Examining the Relationship between Claims of Fraud and Citizen Attitudes." *PS: Political Science and Politics* 55(3): 462-469.

Keele, Luke, William Cubbison and Ismail White. 2021. "Suppressing Black Votes: A Historical Case Study of Voting Restrictions in Louisiana." *American Political Science Review* 115(2): 694-700.

Levi, Margaret and Laura Stoker. 2000. "Political Trust and Trustworthiness." *Annual Review of Political Science* 3: 475-507.

Mastel, Tara, Sarah Schmitt-Wilson, Sabre Moore and Eric Austin. 2021. "Montana Movers Study 2021 Report." Montana State University Extension, <https://www.montana.edu/extension/communitydevelopment/montanamovers.html> (accessed November 9, 2023).

McDonald, Michael P. 2008. "Portable Voter Registration." *Political Behavior* 30: 491-501.

McDonald, Michael P. and Justin Levitt. 2008. "Seeing Double Voting: An Extension of the Birthday Problem." *Election Law Journal* 7(2): 111-122.

Minnite, Lorraine. 2010. *The Myth of Voter Fraud*. Cornell University Press.

Monares, Freddy. 2021. "Pandemic relief will help build affordable housing on reservations." *Montana Public Radio* <https://www.mtpr.org/montana-news/2021-12-06/pandemic-relief-will-help-build-affordable-housing-on-reservations> (accessed November 9, 2023).

Morris Levy. 2021. "Winning cures everything? Beliefs about voter fraud, voter confidence, and the 2016 election." *Electoral Studies* 74. <https://doi.org/10.1016/j.electstud.2020.102156>.

Persily, Nathaniel and Charles Stewart III. 2021. "The Miracle and Tragedy of the 2020 U.S. Election." *Journal of Democracy* 32(2): 159-178.

Powell Jr., G. Bingham. 1986. "American Voter Turnout in Comparative Perspective." *The American Political Science Review* 80(1): 17-43.

Putnam, Robert D.. 2000. *Bowling alone: the collapse and revival of American community*. Simon and Shuster.

Riker, William H., and Peter C. Ordeshook. 1968. "A Theory of the Calculus of Voting." *The American Political Science Review* 62(1): 25-42.

Schlozman, Kay Lehman, Sidney Verba and Henry E. Brady. 2013. *The Unheavenly Chorus: Unequal Political Voice and the Broken Promise of American Democracy*. Princeton University Press.

Schroedel, Jean. 2020. *Voting in Indian Country: The View from the Trenches*. University of Pennsylvania Press.

Squire, Peverill, Raymond E. Wolfinger and David P. Glass. 1987. "Residential Mobility and Voter Turnout." *The American Political Science Review* 81(1): 45-66.

Stewart III, Charles. 2023a. "2022 Survey of the Performance of American Elections." <https://doi.org/10.7910/DVN/SPU2XP>, Harvard Dataverse, V1.

Stewart III, Charles. 2023b. *How We Voted in 2022: A Topical Look at the Survey of the Performance of American Elections*. MIT Election Data and Science Lab. <https://electionlab.mit.edu/sites/default/files/2023-05/How-We-Voted-In-2022.pdf> (accessed November 5, 2023).

Stewart III, Charles, Stephen Ansolabehere and Nathaniel Persily. 2016. "Revisiting Public Opinion on Voter Identification and Voter Fraud in an Era of Increasing Partisan Polarization." *Stanford Law Review* 68 (June): 1455-1489.

Tocqueville, Alexis. 2003. *Democracy in America and Two Essays on America*. Penguin.

Underhill, Wendy. 2023. "More Withdrawals From Voter Data Group ERIC Likely." National Conference of State Legislatures, June 20, 2023 <https://www.ncsl.org/state-legislatures-news/details/more-withdrawals-from-voter-data-group-eric-likely> (accessed October 28, 2023).

U.S. Department of Housing and Urban Development. 2017. *Housing Needs of American Indians and Alaska Natives in Tribal Areas*. Washington, D.C..

<https://www.huduser.gov/portal/sites/default/files/pdf/HNAIHousingNeeds.pdf> (accessed November 9, 2023).

Verba, Sidney, Kay Lehman Schlozman and Henry E. Brady. 1995. *Voice and Equality: Civic Voluntarism in American Politics*. Harvard University Press.

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REFEREED JOURNAL PUBLICATIONS

- [1] "Angela Merkel's record on immigration and gender," *German Politics* 31(1): 137-156. 2022.
- [2] "Understanding Support for Immigrant Political Representation: Evidence from German Cities." With Karen Schönwälder, *Journal of Ethnic and Migration Studies*, 47(11): 2650-2667. 2021.
- [3] "Political Effects of Having Undocumented Parents." With Michael Jones-Correa & Chris Zepeda-Millán, *Political Research Quarterly*, 70(4):818-32. 2017.
- [4] "The Political Effects of Immigrant Naturalization." *International Migration Review*, 51(2): 323-43. 2017.
- [5] "Estimating Voter Registration Deadline Effects with Web Search Data." With Thomas A. Murray, John Blitzler and Rajan S. Patel, *Political Analysis*, 23(2): 212-24. 2015.
- [6] "Mass Deportations and the Future of Latino Partisanship." With Michael Jones-Correa & Chris Zepeda-Millán. *Social Science Quarterly*, 96(2): 540-52. 2015.
- [7] "My Child Will Be A Citizen: Intergenerational Motives for Naturalization." *World Politics*, 66(2): 264-98. 2014.
- [8] "Representation Despite Discrimination: Minority Candidates in Germany." *Political Research Quarterly*, 67(2): 374-85. 2014.
- [9] "Naturalization Dynamics in Immigrant Families." *Comparative Migration Studies* 1(1):23-44. 2013.
- [10] "Schooling the next generation of German citizens: A comparison of citizenship curricula in Berlin and Baden-Württemberg." With Daniel Faas. *Educational Studies* 37(4): 469-79. 2011.

- IN PREPARATION [11] “Checking Ballot Return Signatures Leads to Errors: Theory and Evidence from Recent US Elections,” presented at the 2021 American Political Science Association annual meeting.
- OTHER PUBLICATIONS [12] Review of *Documenting Americans: A Political History of National ID Card Proposals in the United States*. In *Perspectives on Politics* 18(2): 639-640. 2020.
- [13] Brief for Amicus Curiae Professor Alexander Street, Ph.D. In Support of Appellees, *Chelsea Collaborative v. Galvin*, Commonwealth of Massachusetts Supreme Judicial Court (no. SJC-12435). 2018.
- [14] Review of *Immigration and New Limits on Citizenship Rights: Denmark and Beyond*. In *Contemporary Sociology* 45(6): 798-99. 2016.
- [15] “Studying Minority Politics with Survey Experiments and Election Data.” *APSA Migration and Citizenship Newsletter* 4(1): 23-28. December 2015.
- [16] “Google data suggest millions of Americans are prevented from voting by early registration deadlines” *LSE US Centre blog*, April 14 2015.
- [17] “Google searches show that millions of people wanted to vote but couldn’t.” *The Monkey Cage blog*, The Washington Post, March 26 2015.
- [18] “Immigration and Integration,” in Sarah Colvin, ed., *Routledge Handbook of German Politics and Culture*. 2014, with Randall Hansen.
- [19] “Mass deportations are alienating young Latino voters from the Democratic Party.” *Latino Decisions blog*, May 19 2014.
- [20] “The Political Effects of Becoming a Citizen: Solution or Selection?” *Max Weber Programme working paper 2012/19*.
- AWARDS Prizes for scholarship
- 2017 Best article award, Migration and Citizenship section, American Political Science Association, for *Political Effects of Having Undocumented Parents*
 - 2016 Best paper prize, Latino Politics section, Western Political Science Association, for *Political Effects of Having Undocumented Parents*
- Grants for research and infrastructure
- Humboldt Research Fellowship for Advanced Researchers, 2023 \$10,000
 - Berberet Summer Research Grant, Carroll College, 2021, PI \$1,500
 - Montana PBS grant for Carroll College Exit Poll, 2020, PI \$2,000
 - Montana PBS grant for Carroll College Exit Poll, 2018, PI \$2,000
 - USB Renewable Energy, 2018, PI with J. Rowley \$48,000
 - Russell Sage Foundation, 2013, PI with C. Zepeda-Millán \$30,000
 - Cornell Institute for the Social Sciences, 2013, PI with M. Jones-Correa \$12,000

Grants for classes and speaker series

- Diversity and Civil Discourse, Charles Koch Foundation, 2019-21 \$18,000
- Mallette grant support for collaboration with Tribal Colleges, 2016 \$4,700
- Mallette grant support for collaboration with Tribal Colleges, 2015 \$1,300
- Speaker Series, Cornell Institute for European Studies, 2012-13 \$9,000
- Course Development Grant, European Studies, UC Berkeley, 2010 \$2,000

DATA FOR
SCHOLARLY USE

Latino Second Generation Study, 2012-2013 [United States] (ICPSR 36625). *Link to dataset via ICPSR.*

Carroll College Exit Polls 2014, 2016, 2017, 2018, 2020. *Link to datasets via Carroll College institutional repository.*

EXPERT WITNESS

ACLU of Montana, expert report and testimony, *Western Native Voice vs. Jacobsen*, Montana Thirteenth Judicial District Court (no. DV 21-0451), 2022.

ACLU of Montana, expert report and testimony, *Western Native Voice vs. Stapleton*, Montana Thirteenth Judicial District Court (no. DV 20-0377), 2020.

ACLU of Ohio, expert report and deposition, *League of Women Voters of Ohio vs. LaRose*, United States District Court Southern District of Ohio Eastern Division (no. 2:20-cv-3843), 2020.

ACLU of New York, expert report, *League of Women Voters v. New York State Board of Elections*, United States District Court Southern District of New York (no. 1:20-cv-05238-MKV), 2018-2020.

ACLU of Massachusetts, amicus curiae report, *Chelsea Collaborative v. Galvin*, Commonwealth of Massachusetts Supreme Judicial Court (no. SJC-12435), 2017-2018.

SELECTED
PRESENTATIONS,
INVITED TALKS

American Political Science Association (APSA) annual meeting 2021, 2019, 2017, 2013, 2011.

The University of Toronto, 2016.

The Ohio State University, 2015.

Pacific Northwest Political Science Association annual meeting 2015.

Western Political Science Association (WPSA) annual meeting 2015, 2014.

Council for European Studies (CES) annual meeting 2015, 2010.

Cornell University, 2012.

Midwest Political Science Association (MPSA) annual meeting 2012, 2011.

Harvard University, 2011.

Panel organizer/chair/discussant: APSA (2019), CES (2015, 2010), MPSA (2012).

TEACHING

Assistant and Associate Professor, Carroll College 2014-
*Introduction to Comparative Politics; Political Economy;
State and Nation in World Politics; Democracy and Autocracy;
Political Research Methods; Citizenship, Global and Local;
Elections, Political Parties and Public Opinion; Senior Seminar;
Greek and Roman Thought; Honors Scholars Program Capstone.*

Instructor, University of Göttingen. Spring 2014
Migration and International Relations

Instructor, Prison Education Project, Auburn Correctional Facility. Spring 2013
Introduction to Comparative Politics

Instructor, Prison University Project, San Quentin State Prison. 2010-11
Math tutoring

Teaching assistant, University of California, Berkeley. 2006-2009
*Comparative Political Economy; Intro. to Quantitative Methods;
Intro. to Comparative Politics; Immigrants, Citizenship and the State;
The Welfare State in Comparative Perspective.*

TEACHER
TRAINING

Future-proofing your courses, Carroll College, Summer 2020.

Indigenous Studies Network short course, Washington, D.C., September 2019.

MiClassroom technology pilot projects, Carroll College, Spring 2016 & Spring 2018.

Service Learning training, Carroll College, Fall 2015.

Fundamental Principles of Online Teaching, Carroll College, Summer 2015.

ACADEMIC
SERVICE

Faculty Welfare Committee, Budget Advisory Committee, Carroll College, 2023-.

Strategic Planning Task Force, Carroll College, 2019-21.

Chair, Best Conference Paper selection committee, Migration and Citizenship organized section of the American Political Science Association, 2019.

Political Science internships coordinator, Carroll College, 2018-19.

Equal Opportunity Policy investigation team, Carroll College, 2017-2020.

International Relations program director, Carroll College, 2015-.

Institutional Review Board member, Carroll College, 2015-2022.

Referee for academic journals: *American Politics Research*, *American Journal of Political Science*, *American Political Science Review*, *British Journal of Political Science*, *Canadian Journal of Political Science*, *Comparative Political Studies*, *Ethnic and Racial Studies*, *Ethnicities*, *International Migration Review*, *Journal of Ethnic and Migration Studies*, *Journal of International Migration and Integration*, *Journal of Politics*, *Party Politics*, *West European Politics*, *World Politics*.

Referee for funding proposals: Russell Sage Foundation, Social Science and Humanities Research Council of Canada.

(CV last updated November 2023)

EXHIBIT 7



MONTANA VOTER REGISTRATION APPLICATION

Fields marked with an asterisk (*) are required. If you do not provide all of the required information, your application to register to vote will not be complete. **UNDER FEDERAL AND/OR STATE LAW ALL ELECTORS MUST PRESENT ID WHEN VOTING.** Please type or print clearly using black or blue ink. **COMPLETE FORM AND SUBMIT TO COUNTY ELECTION OFFICE.**

ELIGIBILITY REQUIREMENTS AND IDENTIFYING INFORMATION

NOTE: VOTER REGISTRATION REQUIRES U.S. CITIZENSHIP

1 Check all that apply: New Registration Name Change Address Change Signature Update Other

2 Are you a citizen of the United States?* Yes No
 Will you be at least 18 years of age on or before the next election?* Yes No
 Will you be a Montana resident for at least 30 days before the next election?* Yes No

If you checked "No" in response to any of these questions, do not complete this form.

3 Last Name* First Name* Middle Name (Optional) Suffix (Jr., Sr., Etc.)

4 Date of Birth* Contact Phone Number (Optional) Email Address (Optional)
 month / day / year

5 Select one of the following identification (ID) options and provide the required information:*

Montana driver's license or Montana state ID card number _____
 The last 4 digits of my Social Security Number (SSN) _____

I am unable to provide my Montana driver's license number, Montana state ID card number, or the last four digits of my SSN. I am presenting an original version (in person) or attaching a readable copy (by mail) of the following item(s):

Military ID card, a tribal photo ID card, a United States passport, or a Montana concealed carry permit.
OR
 Photo ID with my name (including, but not limited to, a school district or postsecondary education photo ID) AND a current utility bill, bank statement, paycheck, government check, or other government document that shows my name and current address.

6 Montana Residence Address* City* County* Zip Code*

7 Mailing Address (required if differs from residence address) City State Zip Code

8 If applicable, check one of the following:
 Military Domestic (or military spouse or dependent) – only if on active duty and will be absent from place of registration
 Military Overseas (or overseas military spouse or dependent) U.S. Citizen Overseas

PREVIOUS REGISTRATION INFORMATION – will be used to provide cancellation information to former jurisdiction **REQUIRED IF NAME CHANGED OR IF PREVIOUSLY REGISTERED TO VOTE IN ANOTHER MT COUNTY OR IN ANOTHER STATE**

9 Previous City, County and State Residence Address of Previous Registration Previous Registration Name

RECEIVE YOUR BALLOT IN THE MAIL

Yes, I request an absentee ballot to be mailed to me for ALL elections in which I am eligible to vote as long as I reside at the address listed on this application. I understand that if I file a change of address with the U.S. postal service, I must complete, sign, and return a confirmation notice mailed to me by the county election office.

If your mailing address differs during certain times of the year please add the seasonal mailing address information in this space, or contact your county election office. Seasonal mailing address for the period of

____ / ____ / ____ through ____ / ____ / ____ Seasonal Mailing Address: _____

APPLICANT AFFIRMATION

I affirm under penalty of perjury that the information on this application is true, that I am a citizen of the United States, that I will be at least 18 years old on or before the next election, that I will have been a resident of Montana for at least 30 days prior to the next election, and that I am not serving a felony conviction in a penal institution nor have been found to be of unsound mind by a court. I understand that if I have given false information on this application, I may be subject to a fine or imprisonment, or both, under federal and/or state law.

Signature* _____ Date* _____

THE AFFIRMATION ON THIS APPLICATION FOR VOTER REGISTRATION MUST BE SIGNED BY THE APPLICANT - FAILURE TO DO SO WILL PREVENT APPLICATION FROM BEING PROCESSED.

For county use only

Date	Senate	House	Precinct / Split	Ward	School	
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Please place completed registration application and related documents in an envelope, affix postage, and send to your county Election Administrator office.

<u>County</u>	<u>Election Administrator Address</u>	<u>County</u>	<u>Election Administrator Address</u>
Beaverhead	2 S Pacific St No 3	Dillon	MT 59725
Big Horn	PO Box 908	Hardin	MT 59034
Blaine	PO Box 278	Chinook	MT 59523
Broadwater	515 Broadway St	Townsend	MT 59644
Carbon	PO Box 887	Red Lodge	MT 59068
Carter	Box 315	Ekalaka	MT 59324
Cascade	Box 2305	Great Falls	MT 59403
Chouteau	Box 459	Fort Benton	MT 59442
Custer	1010 Main	Miles City	MT 59301
Daniels	Box 247	Scobey	MT 59263
Dawson	207 West Bell	Glendive	MT 59330
Deer Lodge	800 Main	Anaconda	MT 59711
Fallon	Box 846	Baker	MT 59313
Fergus	712 W Main	Lewistown	MT 59457
Flathead	290 B North Main	Kalispell	MT 59901
Gallatin	310 W Main Rm 210	Bozeman	MT 59715
Garfield	Box 7	Jordan	MT 59337
Glacier	512 E Main	Cut Bank	MT 59427
Golden Valley	PO Box 10	Ryegate	MT 59074
Granite	Box 925	Philipsburg	MT 59858
Hill	315 4th St	Havre	MT 59501
Jefferson	Box H	Boulder	MT 59632
Judith Basin	Box 427	Stanford	MT 59479
Lake	106 4th Ave E	Polson	MT 59860
Lewis & Clark	316 N Park Ave Rm 168	Helena	MT 59623
Liberty	Box 459	Chester	MT 59522
Lincoln	418 Mineral Ave	Libby	MT 59923
Madison	Box 366	Virginia City	MT 59755
		McCone	Box 199
		Meagher	Box 309
		Mineral	Box 550
		Missoula	140 N Russell St
		Musselshell	506 Main
		Park	414 E Callender St
		Petroleum	Box 226
		Phillips	Box 360
		Pondera	20 4th Ave SW
		Powder River	Box 200
		Powell	409 Missouri
		Prairie	Box 125
		Ravalli	215 S 4th St Ste C
		Richland	201 W Main
		Roosevelt	400 2nd Ave S
		Rosebud	Box 47
		Sanders	Box 519
		Sheridan	100 W Laurel Ave
		Silver Bow	155 W Granite Rm
		Stillwater	208 Box 149
		Sweet Grass	Box 888
		Teton	Box 610
		Toole	226 1st St S
		Treasure	Box 392
		Valley	501 Court Sq Box 2
		Wheatland	Box 1903
		Wibaux	PO Box 199
		Yellowstone	Box 35002
			Circle MT 59215
			White Sulphur Springs MT 59645
			Superior MT 59872
			Missoula MT 59801
			Roundup MT 59072
			Livingston MT 59047
			Winnett MT 59087
			Malta MT 59538
			Conrad MT 59425
			Broadus MT 59317
			Deer Lodge MT 59722
			Terry MT 59349
			Hamilton MT 59840
			Sidney MT 59270
			Wolf Point MT 59201
			Forsyth MT 59327
			Thompson Falls MT 59873
			Plentywood MT 59254
			Butte MT 59701
			Columbus MT 59019
			Big Timber MT 59011
			Choteau MT 59422
			Shelby MT 59474
			Hysham MT 59038
			Glasgow MT 59230
			Harlowton MT 59036
			Wibaux MT 59353
			Billings MT 59107

May 22, 2023

EXHIBIT 8



AN ACT REVISING VOTING LIMITS; PROHIBITING DOUBLE VOTING; PROVIDING A PENALTY;
PROVIDING A DEFINITION; PROVIDING AN APPROPRIATION; AMENDING SECTION 13-35-210, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 13-35-210, MCA, is amended to read:

"13-35-210. Limits on voting rights. (1) ~~No person may vote who is not entitled to vote. A person who is not an elector may not vote.~~

(2) ~~No person.~~ An elector may not vote more than once at an election.

(2)(3) ~~No~~ A person may not, for any election, apply for a ballot in the name of some other person, whether it be the name of a living, dead, or fictitious person.

(4) A person or elector may not vote in this state more than once at any election held in this state or vote in both this state and another state or territory in the same or equivalent elections, except in a special district election in which a person or elector is entitled to vote.

(5) A person or elector may not purposefully remain registered to vote in more than one place in this state or another state any time, unless related to involvement in special district elections. A person or elector previously registered to vote in another county or another state shall provide the previous registration information on the Montana voter registration application provided for in 13-2-110.

(6) A person who violates this section shall, on conviction, be fined up to \$5,000, be imprisoned for up to 18 months, or both.

(7) (a) As used in this section, "equivalent elections" means:

(i) elections that have the same date for in-person voting; or

(ii) primary elections that determine which candidates appear on the ballots of general elections if

those general elections have the same date for in-person voting.

(b) The term does not include a special district election held simultaneously with another election."

Section 2. Appropriation. There is appropriated \$1,000 from the general fund to the secretary of state for the biennium beginning July 1, 2023, for the purpose of implementing [this act].

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 892, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

HOUSE BILL NO. 892

INTRODUCED BY L. HELLEGAARD, J. READ

AN ACT REVISING VOTING LIMITS; PROHIBITING DOUBLE VOTING; PROVIDING A PENALTY; PROVIDING A DEFINITION; PROVIDING AN APPROPRIATION; AMENDING SECTION 13-35-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

EXHIBIT 9

From: [Bradley Seaman](#)
To: [James, Austin](#); [Fuller, Stuart](#)
Cc: [SOS Elections](#)
Subject: RE: Requesting Guidance on HB 892 - Voter Registration Forms
Date: Monday, September 18, 2023 9:44:00 AM
Attachments: [image001.png](#)
[image002.png](#)

Hello Austin,

I wanted to follow back up on this. What steps should we take if this information is not listed, but located in the system?

Thank you,
Bradley

From: James, Austin <Austin.James@mt.gov>
Sent: Friday, August 25, 2023 11:32 AM
To: Bradley Seaman <bseaman@missoulacounty.us>; Fuller, Stuart <stuart.fuller@mt.gov>
Cc: SOS Elections <SOSElections@mt.gov>
Subject: RE: Requesting Guidance on HB 892 - Voter Registration Forms

Bradley,

Thanks for the feedback and hypotheticals for us to play out as we work through our implementation discussions. We will analyze your email and get back to you in due time.

Hope all is well!



Austin Markus James | Chief Legal Counsel | Director of Elections
Secretary of State Christi Jacobsen
State Capitol Building
Helena, MT 59601
PHONE 406.444.6197

[website](#) | [email](#) | [map](#)

CONFIDENTIALITY NOTICE:

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From: Bradley Seaman <bseaman@missoulacounty.us>
Sent: Friday, August 25, 2023 11:08 AM
To: James, Austin <Austin.James@mt.gov>; Fuller, Stuart <Stuart.Fuller@mt.gov>; SOS Elections Help <SOSElectionsHelp@service.mt.gov>
Subject: [EXTERNAL] Requesting Guidance on HB 892 - Voter Registration Forms

Hello SOS team,

[HB 892](#) added the additional requirement that “A person or elector may not purposefully remain registered to vote in more than one place in this state or another state any time, unless related to involvement in special district elections. A person or elector previously registered to vote in another county or another state shall provide the previous registration information on the Montana voter registration application provided for in 13-2-110.”

We were notified by another county of an updated voter registration form added to your website.

The new form states:

“PREVIOUS REGISTRATION INFORMATION – will be used to provide cancellation of former jurisdiction REQUIRED IF NAME CHANGED OR IF PREVIOUSLY REGISTERED TO VOTE IN ANOTHER MT COUNTY OR IN ANOTHER STATE”

Are we able to continue issuing / accepting any older versions of the form? 44.3.2004 seems to state that we can, but previous versions may not have the language that this information is required. What is the process to take if we receive older forms and this information is not completed??

If the previous registration information is not provided, what steps should we take when processing a form? 44.3.2005 states: “(4) An applicant for voter registration who does not complete all required fields on the application or does not provide identification, as defined in ARM [44.3.2002](#), shall be registered as a provisionally registered elector.” Provisionally status is normally used for voters who have an ID that will not verify and pending status is normally used for a voter who did not complete all required fields. Would voters be entered in to the database under pending or provisional status if the previous registration information is not provided?



MONTANA VOTER REGISTRATION APPLICATION

Fields marked with an asterisk (*) are required. If you do not provide all of the required information, your application to register to vote will not be complete. UNDER FEDERAL AND/OR STATE LAW ALL ELECTORS MUST PRESENT ID WHEN VOTING. Please type or print clearly using black or blue ink. COMPLETE FORM AND SUBMIT TO COUNTY ELECTION OFFICE.

ELIGIBILITY REQUIREMENTS AND IDENTIFYING INFORMATION			
NOTE: VOTER REGISTRATION REQUIRES U.S. CITIZENSHIP			
1 Check all that apply: <input type="checkbox"/> New Registration <input type="checkbox"/> Name Change <input type="checkbox"/> Address Change <input type="checkbox"/> Signature Update <input type="checkbox"/> Other			
2 Are you a citizen of the United States?*		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be at least 18 years of age on or before the next election?*		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be a Montana resident for at least 30 days before the next election?*		Yes <input type="checkbox"/>	No <input type="checkbox"/>
If you checked "No" in response to any of these questions, do not complete this form.			
3 Last Name*	First Name*	Middle Name (Optional)	Suffix (Jr., Sr., Etc.)
4 Date of Birth* month / day / year		Contact Phone Number (Optional)	Email Address (Optional)
5 Select one of the following identification (ID) options and provide the required information:*			
<input type="checkbox"/> Montana driver's license or Montana state ID card number _____			
<input type="checkbox"/> The last 4 digits of my Social Security Number (SSN) _____			
<input type="checkbox"/> I am unable to provide my Montana driver's license number, Montana state ID card number, or the last four digits of my SSN. I am presenting an original version (in person) or attaching a readable copy (by mail) of the following item(s):			
<input type="checkbox"/> Military ID card, a tribal photo ID card, a United States passport, or a Montana concealed carry permit.			
OR			
<input type="checkbox"/> Photo ID with my name (including, but not limited to, a school district or postsecondary education photo ID) AND a current utility bill, bank statement, paycheck, government check, or other government document that shows my name and current address.			
6 Montana Residence Address*	City*	County*	Zip Code*
7 Mailing Address (required if differs from residence address)	City	State	Zip Code
8 If applicable, check one of the following:			
<input type="checkbox"/> Military Domestic (or military spouse or dependent) – only if on active duty and will be absent from place of registration			
<input type="checkbox"/> Military Overseas (or overseas military spouse or dependent) <input type="checkbox"/> U.S. Citizen Overseas			
PREVIOUS REGISTRATION INFORMATION – will be used to provide cancellation information to former jurisdiction REQUIRED IF NAME CHANGED OR IF PREVIOUSLY REGISTERED TO VOTE IN ANOTHER MT COUNTY OR IN ANOTHER STATE			
9 Previous City, County and State	Residence Address of Previous Registration	Previous Registration Name	
RECEIVE YOUR BALLOT IN THE MAIL			
<input type="checkbox"/> Yes, I request an absentee ballot to be mailed to me for ALL elections in which I am eligible to vote as long as I reside at the address listed on this application. I understand that if I file a change of address with the U.S. postal service, I must complete, sign, and return a confirmation notice mailed to me by the county election office.			
If your mailing address differs during certain times of the year please add the seasonal mailing address information in this space, or contact your county election office. Seasonal mailing address for the period of _____ through _____ Seasonal Mailing Address: _____			
APPLICANT AFFIRMATION			
<i>I affirm under penalty of perjury that the information on this application is true, that I am a citizen of the United States, that I will be at least 18 years old on or before the next election, that I will have been a resident of Montana for at least 30 days prior to the next election, and that I am not serving a felony conviction in a penal institution nor have been found to be of unsound mind by a court. I understand that if I have given false information on this application, I may be subject to a fine or imprisonment, or both, under federal and/or state law.</i>			
Signature* _____		Date* _____	
THE AFFIRMATION ON THIS APPLICATION FOR VOTER REGISTRATION MUST BE SIGNED BY THE APPLICANT – FAILURE TO DO SO WILL PREVENT APPLICATION FROM BEING PROCESSED.			
For county use only			

We would not be able to locate if a voter was registered outside of the state, but what specific steps should we take if we receive a voter registration form for a voter we are able to locate in another county.

For example, if we received a voter registration form from Austin James and it did not have the required previous registration information, but when entering the voter registration, we saw that the same person was registered in Lewis and Clark county, I believe that would become a required portion of the form.

Would we enter this voter into the database under pending - incomplete and follow those steps to request the required information? What specific steps should we take in that circumstance and could we receive a form letter to send out to voters if we encounter this situation?

Thank you for your guidance on this new procedure.

Please let me know if you have any questions about this and / or want to jump on a call to discuss this.

Thank you,

BRADLEY SEAMAN

MISSOULA COUNTY ELECTIONS ADMINISTRATOR
(406) 258-4751 (OFFICE)
(406) 258-3980 (DIRECT LINE)
(406) 258-3913 (FAX)
BSEAMAN@MISSOULACOUNTY.US



[\[missoulavotes.com\]](http://missoulavotes.com)

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EXHIBIT 10

From: [Regina Plettenberg](#)
To: "[Bradley Seaman](#)"; [KV Aldrich](#); [Connor Fitzpatrick](#); [Amanda Kelly](#); [Amy Reeves](#); [Angie Paulsen](#); [Cynde Jo Gatlin](#); [Semerad, Eric](#); [Heidi Stadel](#); [Janel Tucek](#); [Joan Duffield](#); [Kody Farkell](#); [Lana Claassen](#); [Lynnel LaBrie](#); [Macque Bohleen](#); [Maritza Reddington](#); [Marlee Sears](#); [Sarah Graham](#); [Stacey Reynolds](#); [Stephanie Verhasselt](#); [Trevia Nelson](#); [Vera Pederson](#)
Cc: "[Eric Bryson](#)"; "[Shantil Siaperas](#)"
Subject: RE: [EXTERNAL] RE: Bills to review 3-24-23
Date: Tuesday, March 28, 2023 2:41:56 PM
Attachments: [image001.png](#)

Yes.

Regina Plettenberg

Clerk & Recorder/Election Administrator/
Superintendent of Schools

215 S 4th St, Suite C
Hamilton, MT 59840
406-375-6555
recorder@rc.mt.gov



From: Bradley Seaman <bseaman@missoulacounty.us>
Sent: Tuesday, March 28, 2023 12:31 PM
To: [KV Aldrich](mailto:kvaldrich@yellowstonecountymt.gov) <kvaldrich@yellowstonecountymt.gov>; [Connor Fitzpatrick](mailto:CFITZPATRICK@lccountymt.gov) <CFITZPATRICK@lccountymt.gov>; [Regina Plettenberg](mailto:rplettenberg@rc.mt.gov) <rplettenberg@rc.mt.gov>; [Amanda Kelly](mailto:akelly@jbccounty.org) <akelly@jbccounty.org>; [Amy Reeves](mailto:areeves@lccountymt.gov) <areeves@lccountymt.gov>; [Angie Paulsen](mailto:apaulsen@co.broadwater.mt.us) <apaulsen@co.broadwater.mt.us>; [Cynde Jo Gatlin](mailto:cgatlin@prco.mt.gov) <cgatlin@prco.mt.gov>; [Eric Semerad](mailto:eric.semerad@gallatin.mt.gov) <eric.semerad@gallatin.mt.gov>; [Heidi Stadel](mailto:hstadel@stillwatercountymt.gov) <hstadel@stillwatercountymt.gov>; [Janel Tucek](mailto:clerkrecorder@co.fergus.mt.us) <clerkrecorder@co.fergus.mt.us>; [Joan Duffield](mailto:jduffield@rosebudcountymt.com) <jduffield@rosebudcountymt.com>; [Kody Farkell](mailto:kody.farkell@ponderacounty.org) <kody.farkell@ponderacounty.org>; [Lana Claassen](mailto:claassen@itstriangle.com) <claassen@itstriangle.com>; [Lynnel LaBrie](mailto:llabrie@mt.gov) <llabrie@mt.gov>; [Macque Bohleen](mailto:mbohleen@co.carbon.mt.us) <mbohleen@co.carbon.mt.us>; [Maritza Reddington](mailto:clerkrecorder@parkcounty.org) <clerkrecorder@parkcounty.org>; [Marlee Sears](mailto:msears@treasurecountymt.com) <msears@treasurecountymt.com>; [Sarah Graham](mailto:sgraham@co.granite.mt.us) <sgraham@co.granite.mt.us>; [Stacey Reynolds](mailto:sreynolds@beaverheadcounty.org) <sreynolds@beaverheadcounty.org>; [Stephanie Verhasselt](mailto:sverhasselt@richland.org) <sverhasselt@richland.org>; [Trevia Nelson](mailto:tnelson@toolecountymt.gov) <tnelson@toolecountymt.gov>; [Vera Pederson](mailto:sgclerk1@itstriangle.com) <sgclerk1@itstriangle.com>
Cc: 'Eric Bryson' <ebryson@mtcounties.org>; 'Shantil Siaperas' <shantil@mtcounties.org>
Subject: [EXTERNAL] RE: Bills to review 3-24-23

Are we opposing 905?

From: [KV Aldrich](mailto:kvaldrich@yellowstonecountymt.gov) <kvaldrich@yellowstonecountymt.gov>
Sent: Monday, March 27, 2023 12:36 PM
To: [Connor Fitzpatrick](mailto:CFITZPATRICK@lccountymt.gov) <CFITZPATRICK@lccountymt.gov>; [Regina Plettenberg](mailto:rplettenberg@rc.mt.gov)

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Cc: 'Eric Bryson' <ebryson@mtcounties.org>; 'Shantil Siaperas' <shantil@mtcounties.org>

Subject: RE: Bills to review 3-24-23

Yes, actually there is only one mental state in the bill, which is “may not purposefully remain registered to vote in more than one place in this state or another state [at] any time.” The rest of the statute, as proposed, does not have a mental state. If there is no mental state, a crime does not require proof of a mental state, and with a new set of drafters who have not worked with criminal law statutes, this is something that we need to watch out for, and a matter I’ve noted a few times in past bills – since sometimes people don’t realize how important putting a mental state is in changing anything with a penalty. In any event, in my reading of the bill as currently written, it doesn’t appear to require a mental state for any of the other provisions.

From: Connor Fitzpatrick <CFITZPATRICK@lccountymt.gov>

Sent: Monday, March 27, 2023 12:27 PM

To: KV Aldrich <kvaldrich@yellowstonecountymt.gov>; Regina Plettenberg <rplettenberg@rc.mt.gov>; Amanda Kelly <akelly@jbcountry.org>; Amy Reeves <areeves@lccountymt.gov>; Angie Paulsen <apaulsen@co.broadwater.mt.us>; Bradley Seaman <bseaman@missoulacounty.us>; Cynde Jo Gatlin <cgatlin@prco.mt.gov>; Eric Semerad <eric.semerad@gallatin.mt.gov>; Heidi Stadel <hstadel@stillwatercountymt.gov>; Janel Tucek <clerkrecorder@co.fergus.mt.us>; Joan Duffield <jduffield@rosebudcountymt.com>; Kody Farkell <kody.farkell@ponderacounty.org>; Lana Claassen <claassen@itstriangle.com>; Lynnel LaBrie <llabrie@mt.gov>; Macque Bohleen <mbohleen@co.carbon.mt.us>; Maritza Reddington <clerkrecorder@parkcounty.org>; Marlee Sears <msears@treasurecountymt.com>; Sarah Graham <sgraham@co.granite.mt.us>; Stacey Reynolds <sreynolds@beaverheadcounty.org>; Stephanie Verhasselt <sverhasselt@richland.org>; Treva Nelson <tnelson@toolecountymt.gov>; Vera Pederson <sgclerk1@itstriangle.com>

Cc: 'Eric Bryson' <ebryson@mtcounties.org>; 'Shantil Siaperas' <shantil@mtcounties.org>

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I think for the first part, you would have to prove intent, but that’s just my thought on it. Definitely not a lawyer, so include a huge block of salt with that.

There is a group of states that assist one another with making sure people aren’t registered to vote in multiple states or try to vote in multiple states. The group is called ERIC (Electronic Registration

Information Center, <https://ericstates.org/>) and is a non-profit. There's been a bit of a hullabaloo about them in certain circles recently due to misinformation, but they could assist with that provision. Again, not sure about bringing a case up on it, but we would at least know when someone has registered in another state.

Liability is a good point on HB905 too; that should be clearly outlined before anything else happens with it. I concur that there should also be security requirements for this group too. We have many on the elections side, they should have many similar requirements too.

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From: KV Aldrich <kvaldrich@yellowstonecountymt.gov>

Sent: Monday, March 27, 2023 12:17 PM

To: Connor Fitzpatrick <CFITZPATRICK@lccountymt.gov>; Regina Plettenberg <rplettenberg@rc.mt.gov>; Amanda Kelly <akelly@jbcountry.org>; Amy Reeves <areeves@lccountymt.gov>; Angie Paulsen <apaulsen@co.broadwater.mt.us>; Bradley Seaman <bseaman@missoulacounty.us>; Cynde Jo Gatlin <cgatlin@prco.mt.gov>; Eric Semerad <eric.semerad@gallatin.mt.gov>; Heidi Stadel <hstadel@stillwatercountymt.gov>; Janel Tucek <clerkrecorder@co.fergus.mt.us>; Joan Duffield <jduffield@rosebudcountymt.com>; Kody Farkell <kody.farkell@ponderacounty.org>; Lana Claassen <claassen@itstriangle.com>; Lynnel LaBrie <llabrie@mt.gov>; Macque Bohleen <mbohleen@co.carbon.mt.us>; Maritza Reddington <clerkrecorder@parkcounty.org>; Marlee Sears <msears@treasurecountymt.com>; Sarah Graham <sgraham@co.granite.mt.us>; Stacey Reynolds <sreynolds@beaverheadcounty.org>; Stephanie Verhasselt <sverhasselt@richland.org>; Treva Nelson <tnelson@toolecountymt.gov>; Vera Pederson <sgclerk1@itstriangle.com>

Cc: 'Eric Bryson' <ebryson@mtcounties.org>; 'Shantil Siaperas' <shantil@mtcounties.org>

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The penalties for any election law violation not otherwise given a specific penalty is a misdemeanor as found in 13-35-103. This is generally up to 6 months in jail. HB 892 would increase the penalty to a felony.

What if an individual who moves doesn't remember if they are registered and does not put it on the form? I have a lot of registrants, and I'll be honest, many of them are just registering in the courthouse to get their certificate of registration to take over to register their vehicle, etc. Some of

them probably don't have much intention to vote. Will they remember that in two years when they move and try to register in their new city? If they don't, they are now subject to a felony and up to 18 months in prison because they didn't list it pursuant to this bill. I think that's a bit of overkill. The existing section already prohibits voting twice. The general requirement that one must be a resident for 30 days would already be implicated if a person tried to vote here or elsewhere (that is *generally* a requirement elsewhere, though I can't say for certain which states might not have a residency requirement). This seems like a straight forward bill but I think the felony penalty in the same section that requires a person put their previous registration information on their application is concerning. Perhaps move that to a different section about registration, which would make it the default misdemeanor, would be sufficient to allay that concern.

And although I understand the sentiment, I also think there's some very serious legal dubiousness in trying to legislate the registration status of people in other states, and that is why I would bet the severability section is tacked onto the end.

HB 905 – I have serious concerns about handing over our county ballots to any other entity not responsible for the election when we are required to keep them under seal and protected so that there is no question in the event of litigation and questions about the election that the files are absolutely undisturbed and pristine. Are they assuming liability for the disturbed records? Will they be storing and housing them? What security requirements will they be subject to? How will the ballots be transported and handled? Will these appointed individuals be trained election judges pursuant to Title 13? What about the people doing the hand-counting? Who will be training them? What penalties will they be subject to for mishandling election materials? What does this refer to: “evaluate the implementation and execution of the security measures adopted in subsection (1) to determine whether the measures were properly followed by county election administrators.” Nothing is in subsection (1) concerning security measures so.... This text doesn't seem to make sense in its current form. The appropriation doesn't reflect the cost across the state to do this. So, this team is just going to recount by hand races and let me and the SOS know how we did? That's a lot of money to reconfirm what the post-election audit is designed to do. Strange that it terminates in 2027.

From: Connor Fitzpatrick <CFITZPATRICK@lccountymt.gov>

Sent: Monday, March 27, 2023 11:43 AM

To: Regina Plettenberg <rplettenberg@rc.mt.gov>; Amanda Kelly <akelly@jbcountry.org>; Amy Reeves <areeves@lccountymt.gov>; Angie Paulsen <apaulsen@co.broadwater.mt.us>; Bradley Seaman <bseaman@missoulacounty.us>; Cynde Jo Gatlin <cgatlin@prco.mt.gov>; Eric Semerad <eric.semerad@gallatin.mt.gov>; KV Aldrich <kvaldrich@yellowstonecountymt.gov>; Heidi Stadel <hstadel@stillwatercountymt.gov>; Janel Tucek <clerkrecorder@co.fergus.mt.us>; Joan Duffield <jduffield@rosebudcountymt.com>; Kody Farkell <kody.farkell@ponderacounty.org>; Lana Claassen <claassen@itstriangle.com>; Lynnel LaBrie <llabrie@mt.gov>; Macque Bohleen <mbohleen@co.carbon.mt.us>; Maritza Reddington <clerkrecorder@parkcounty.org>; Marlee Sears <msears@treasurecountymt.com>; Sarah Graham <sgraham@co.granite.mt.us>; Stacey Reynolds <sreynolds@beaverheadcounty.org>; Stephanie Verhasselt <sverhasselt@richland.org>; Treva Nelson <tnelson@toolecountymt.gov>; Vera Pederson <sgclerk1@itstriangle.com>

Cc: 'Eric Bryson' <ebryson@mtcounties.org>; 'Shantil Siaperas' <shantil@mtcounties.org>

Subject: RE: Bills to review 3-24-23

Some of these are a doozy. Must be another transmittal week....

HB866: This sounds like a great way to gerrymander some districts. Weighting votes based on the outcome of the previous general election completely undermines the whole point of the redistricting commission, which is to redistrict the House and Senate districts to be as competitive races as possible (while also balancing population). Also, practically speaking, for much of my lifetime we have had a Republican majority legislature and a Democratic governor. With this change, you could literally have any party draw house district lines that could secure them a majority in the legislature, regardless of the amount of support that party has across the state. I would think that would give both parties pause and would lead them to not support even giving voters a chance to look at this.

HB892: There's a general prohibition on voting twice in an election, but this does clarify the penalties (I am always for making the law clearer). Upon passage, this could also be looked at as legal requirement for the voter to provide us their prior registration (something else I like). This is certainly one of those bills that doesn't need an appropriation though, but that will probably be amended out by the Senate. I think we should support this. Its simple and to the point.

HB905: The big one. Biggest initial thought: absolutely no way \$100k is going to cover hand counting every ballot in the state in a federal election. Second, this is entirely open ended on what elections will be hand counted by this group, so I am assuming all (including school elections done by school clerks), unless the precinct language precludes district and ward elections. Third, the evaluation of security measures should not be done by people who aren't security experts; we also already have our security checked every year. Those checks are also confidential; with this many branches of government involved I am unsure whether that would have the same confidentiality. We would need assurances that those would not be subject to a public record request.

Looking at the bigger picture now, ballots are currently sealed after they are counted, sealed again after the post-election audit, and require a court order to open. Getting a court order would require someone to have evidence of wrongdoing or a miscount (or something similar). I don't see how this group would get around that, especially with their timeline of "within a year of the election". This also undermines the separation between the state and the counties, a separation that provides security for our elections, direct accountability if something does go wrong, and keeps more partisan hands from attempting to interfere. A good compromise here would be to send a representative from wherever they chose to observe the post-election audit. That keeps everything in county hands, keeps hyper-partisanship out of the process, and keeps the cost to state taxpayers low. Oppose as is, but maybe seek to shift it to the idea of having an observer at the post-election audit as a compromise.

HB716: The amendment seems to have more or less pulled this one back to where it started. If that's the case, support it and win some legislative capital.

SB420: This is one that I have on my "not this session" wish list. While it would likely be easier to

combine with the Federal election over every other type of election, I would rather see this after the outcome of the HB774 study bill. I have a feeling that cities might not be on board for this one (even though I haven't heard from either the City of Helena or the City of East Helena) as it would likely make their elections more partisan and, by connection with the federal election, potentially more of a knock-down-drag-out political fight for positions by candidates. I might be taking my concerns too academic on this, but I think the cities should be able to have a one on one conversation both with us and the legislators on this before we jump in on it. Leaving it to be handled with HB774 as a study bill would be my favored outcome, so maybe just an informational testimony.

My thoughts, of course.

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From: Regina Plettenberg <rplettenberg@rc.mt.gov>

Sent: Sunday, March 26, 2023 7:38 PM

To: Amanda Kelly <akelly@jbcountry.org>; Amy Reeves <areeves@lccountymt.gov>; Angie Paulsen <apaulsen@co.broadwater.mt.us>; Bradley Seaman <bseaman@missoulacounty.us>; Connor Fitzpatrick <CFITZPATRICK@lccountymt.gov>; Cynde Jo Gatlin <cgatlin@prco.mt.gov>; Eric Semerad <eric.semerad@gallatin.mt.gov>; Ginger Aldrich <kaldrich@yellowstonecountymt.gov>; Heidi Stadel <hstadel@stillwatercountymt.gov>; Janel Tucek <clerkrecorder@co.fergus.mt.us>; Joan Duffield <jduffield@rosebudcountymt.com>; Kody Farkell <kody.farkell@ponderacounty.org>; Lana Claassen <claassen@itstriangle.com>; Lynnel LaBrie <llabrie@mt.gov>; Macque Bohleen <mbohleen@co.carbon.mt.us>; Maritza Reddington <clerkrecorder@parkcounty.org>; Marlee Sears <msears@treasurecountymt.com>; Sarah Graham <sgraham@co.granite.mt.us>; Stacey Reynolds <sreynolds@beaverheadcounty.org>; Stephanie Verhasselt <sverhasselt@richland.org>; Treva Nelson <tnelson@toolecountymt.gov>; Vera Pederson <sgclerk1@itstriangle.com>

Cc: 'Eric Bryson' <ebryson@mtcounties.org>; 'Shantil Siaperas' <shantil@mtcounties.org>

Subject: Bills to review 3-24-23

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REMINDER: ALL EMAILS ARE SUBJECT TO RECORDS REQUEST

I have not needed you to review bills for several weeks but we have a few new ones:

[HB866](#) – constitutional amendment related to redistricting. An election would be required.

[HB892](#) – prohibit double voting

[HB905](#) – create an election integrity team

Also, I need to know how you want to approach:

[HB716](#) – informational or support

[SB420](#) – informational or support

Thanks!!

Regina Plettenberg

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EXHIBIT 11

Top Search Terms: Candidate Filing, File Annual Report, Business Portal Login, Apostilles



MONTANA ELECTIONS ARE **SAFE, SECURE, AND TRANSPARENT**

- + A PERSON MAY REGISTER TO VOTE IN MONTANA IF THEY MEET CERTAIN REQUIREMENTS:
- + PAPER BALLOTS ARE ONE OF THE STRENGTHS OF MONTANA'S ELECTIONS.
- + MONTANA LAW REQUIRES ANNUAL MAINTENANCE OF THE VOTER REGISTRATION LIST.
- + MONTANA VOTING SYSTEMS ARE PUBLICLY TESTED.
- + MONTANA DOES NOT PERMIT VOTING SYSTEMS TO BE CONNECTED TO THE INTERNET.
- + ALL ELECTIONS SHALL BE BY SECRET BALLOT.
- + VOTERS ARE NOT REQUIRED TO VOTE IN EVERY CONTEST ON THE BALLOT.
- + COUNTIES ARE AUTHORIZED TO PURCHASE APPROVED VOTING SYSTEMS.
- + CERTAIN ELECTIONS MAY BE CONDUCTED BY MAIL BALLOT PURSUANT TO MONTANA LAW.
- + NOVEMBER'S GENERAL ELECTION RESULTS ARE UNOFFICIAL UNTIL THE COMPLETION OF THE COUNTY CANVASS AND THE STATE CANVASS.
- MONTANA VOTERS ARE REQUIRED TO UPDATE THEIR REGISTRATION INFORMATION.
 - o If a voter changes mailing or residential addresses, they must notify the county election office.
 - o If a voter changes their name (for example: marriage, divorce, adoption, etc.) they must notify the county election office.
 - o A voter may notify the **county election office** directly or via the Department of Justice, Motor Vehicle Division (Fill out and sign a registration form when you apply for or renew your driver's license or Montana ID).

+ MONTANA VOTERS DO NOT REGISTER BY POLITICAL PARTY.

LOCATION & CONTACT OUR SUPPORT, HELP, RESOURCES SUBSCRIBE TO OUR NEWSLETTER RECORDS MANA

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Front Desk: 406-444-2034

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EXHIBIT 12

Election Administration FAQs – Checking Election IQ



Montana Secretary of State
sosmt.gov • soselections@mt.gov
August 2016

FAQ Topics



 Polling Place Scenarios

 Registration and Election
Processes

 Voting Equipment, UOCAVA,
Accessibility

Election Administration FAQs



Polling Place Scenarios

1. A voter shows up to vote at the polls and the register indicates an absentee has been issued. How should election judges handle this voter?

Election Administration FAQs



Polling Place Scenarios

1. The judges should issue a provisional ballot to the voter that can be resolved when it is determined that the absentee ballot was not returned.

Election Administration FAQs



Polling Place Scenarios

2. A voter takes another person into the voting booth with them. What should the election judge do?

Election Administration FAQs



Polling Place Scenarios

2. The law is clear that no more than one individual may occupy a voting station, however election judges may not have any way to know if the voter needs assistance in some way, including but not limited to assistance reading the ballot, and in order to preserve the privacy of the voter, elections judges should not try to police any instance in which a voter takes another person into the voting booth.

Election Administration FAQs



Polling Place Scenarios

3. Do we have to post a list of absentee voters at the polling place? Can we just provide such a list to the election judges?

Election Administration FAQs



Polling Place Scenarios

3. The law requires that a certificate containing a list of everyone issued an absentee ballot be posted at each polling place for each precinct. This is an important part of the transparency of the election process.

Election Administration FAQs



Polling Place Scenarios

4. A voter comes to the polling place to vote but does not have photo ID, how should this be handled?

Election Administration FAQs



Polling Place Scenarios

4. The voter can provide non-photo ID such as a utility bill, paycheck stub or other government document that shows the voter's name and current address OR can be provided with the Polling Place Elector ID Form if no other form of ID is available.

Election Administration FAQs



Polling Place Scenarios

5. The voter's address on the photo ID used at the polls does not match the address in the precinct register, what should the register judge do?

Election Administration FAQs



Polling Place Scenarios

5. When providing photo ID at the polls, it is not necessary to verify that the address on the ID matches the address in the precinct register. (The register judge should provide a VR form to the voter and request that they update their registration for the next election if their address has changed.)

Election Administration FAQs



Polling Place Scenarios

6. Election Judges have always put pencils in the voting booths, is this still OK?

Election Administration FAQs



Polling Place Scenarios

6. No – voting booths should be supplied with blue or black ink pens only. At one time pencils were used, but with the new tabulator technology, pens are the best option. Additionally, using pens instead of pencils is a more permanent mark in case ballots are opened for a recount or court challenge.

Election Administration FAQs



Polling Place Scenarios

7. A voter was marked as absentee in the precinct register, but the judges let the individual sign the register and vote a regular ballot anyway, and the ballot was deposited with other polling place ballots.

When we processed registers, it was discovered that the absentee ballot had been voted and accepted.

Election Administration FAQs



Polling Place Scenarios

7. Although it happens rarely, this is one of the most critical errors made by election judges. It is important to train them on this issue, and to review with them if they make the error.

Sometimes the voter has forgotten they voted absentee, sometimes it's confusion when there are multiple elections going on. If the judges don't let the voter know that they have an absentee ballot issued, they may have reason to think everything is fine when they vote at the polls. (You should turn the voting information over to your county attorney to investigate right away.)

Election Administration FAQs



Late Registration Scenarios

1. A voter shows up in person during the late registration period **but does not want nor receive a ballot** – is the voter a late registrant?

Election Administration FAQs



Late Registration Scenarios

1. No. Late registrants should always be issued an absentee ballot at the time of late registration. If they are not issued a ballot for the election, you can register them as an Active registrant with a vote eligible date of the day after the election, but do not make them a late registrant.

Election Administration FAQs



Late Registration Scenarios

2. A voter comes in to late register *after noon on the day before the election.*
Is the voter a late registrant, even if they don't come back the next day for a ballot?

Election Administration FAQs



Late Registration Scenarios

2. No, the voter is not a late registrant unless and until they return to the late registration location on election day and are issued a ballot. Unless and until they do so, register them as Active with a vote eligible date of the day after election day.

Election Administration FAQs



Late Registration Scenarios

3. In what instances do we register **MVD registrants** as late registrants? If we receive their PDF registration form and it is signed after the close of regular registration, do we register them as a late registrant?

Election Administration FAQs



Late Registration Scenarios

3. Unless and until MVD registrants come into the office for late registration and receive a ballot, they are not late registrants. If their signed PDF registration form is dated after the close of regular registration, you can register them as Active with a vote eligible date of the day after election day.

Election Administration FAQs



Late Registration Scenarios

4. What are the **dates** that we need to enter for late registrants in MT Votes?

Election Administration FAQs



Late Registration Scenarios

4. For the Vote Eligible Date, always use the Sunday before the close of regular registration (this year, the date is October 9, 2016). For the County Registration Date, use whatever date that you are registering them. Do not use the Sunday vote eligible date for non late-registrants (unless they are provisional registrants who are late registering).

Election Administration FAQs



Provisionals

5. What is the difference between a provisional **registrant** and a provisional **ballot**?

Election Administration FAQs



Provisionals

5. People are registered as provisional if they fail to provide a verifiable DLN or partial SSN. People are issued a provisional ballot if their identity or eligibility to vote comes into question and is not resolved. (example: election day transfer registrants are given provisional ballots but ARE NOT provisionally registered)

Election Administration FAQs



Provisionals

6. Is the ballot sent to a provisional registrant automatically **treated as a provisional ballot?**

Election Administration FAQs



Provisionals

6. The ballots sent to provisional registrants do not need to be issued as provisional or treated as provisional unless, when you receive the ballot from the voter, the registrant still fails to provide a verifiable DLN or partial SSN.

Election Administration FAQs



Source of Registration

7. Why is it important to update the **source of registration**, even if we receive a duplicate voter registration?

Election Administration FAQs



Source of Registration

7. Interest groups are closely watching states' sources of registration, especially for MVD and public assistance agency voter registrations, to see if all agencies are sending them and counties are receiving them. If counties do not change the source of registration (even in the duplicate tab) then there is no way to prove that counties are receiving the VR applications.

Election Administration FAQs



Source of Registration

8. How should we track the source of a **duplicate** voter registration?

Election Administration FAQs



Source of Registration

8. In Montana Votes, use the Duplicate Voter Registration tab. If you use the Duplicate Voter Registration tab, you do not need to change the source of voter registration in the Registration tab, but be sure to add it in the Duplicate Registration tab.

The screenshot shows the Montana Votes software interface. The 'Duplicate Reg.' tab is selected and circled in red. A red arrow points to the 'Source of Registration' dropdown menu. The interface includes fields for 'Duplicate Count' and 'Received Date', buttons for 'Add Duplicate Received' and 'Delete', a table with columns for 'Duplicate Count', 'Received Date', and 'Source of Registration', and a 'Comments' field at the bottom.

Duplicate Count	Received Date	Source of Registration

Election Administration FAQs



Source of Registration

9. What if in one set of MVD reports there are **multiple VR applications** for one voter, with only a small change between them (especially one that looks like a typographical change)?

Election Administration FAQs



Source of Registration

9. When you receive the MVD PDFs, and there are multiple PDFs for the same voter in the same extract, you should enter the PDF with the most recent date and time. MVD offices often correct errors the same day they are made, and generate a new application form each time they correct an error, so you do not have to enter each of them, especially if the only change is typographical.

Election Administration FAQs



Undeliverable Ballots

10. In a federal election, if we receive a ballot back undeliverable, do we send an **NVRA notice** right away and inactivate them during the even year if the notice is returned undeliverable, like in odd-year mail ballot elections?

Election Administration FAQs



Undeliverable Ballots

10. No – when you receive a federal election ballot back undeliverable, as a courtesy you can follow up with a forwardable notice, but you cannot inactivate the voter between the primary and general or during the even year. You must wait to conduct the NVRA process in the odd year (by sending two notices to the non-voter, and then inactivating if you do not receive any response)

Election Administration FAQs



Undeliverable Ballots

11. In a federal election, if we receive a ballot back undeliverable, and we investigate the reason for return, what if the voter tells us their new mailing address over the **phone**? What if it is also the voter's new residence address?

Election Administration FAQs



Undeliverable Ballots

11. You can mail a ballot to a voter based on their statement over the phone that they have a new mailing address, but do not update their mailing address in MT Votes (except in the “resend” field) unless and until you receive their signature envelope or other document on which they confirm their address.

However, even if the mailing address is also their new residence address, the ballot you send would still be based on their old residence address, not on their new residence address, unless they come into your office for late registration.

Election Administration FAQs



Undeliverable Ballots

12. Do we need to **receipt** in undeliverable ballots? Do we need to wait until all undeliverable ballots come back in order to **close** our election? Do we need to **reopen** our election if we receive an undeliverable ballot after we have already closed our election?

Election Administration FAQs



Undeliverable Ballots

12. You should receipt in your undeliverable ballots before you close your election, but you do not need to wait to close your election until you have received all undeliverable ballots.

You should NOT reopen a closed election to receipt in undeliverable ballots, as this can cause serious problems.

Election Administration FAQs



Voting System Security

1. What is Chain-of Custody?

Election Administration FAQs



Voting System Security

1. Chronological documentation (i.e. paper trail) that shows control, transfer, and disposition of sensitive items. This provides voters/public with assurance that voting systems and ballots are being monitored and safeguarded from tampering.



Voting System Chain of Custody & Security Seal Log

Chain of Custody on front, Security Seal Log on the reverse side.

This form is for security and tracking voting/tabulating equipment including transport to the polls and back.

Part 1: (to be completed by election administrator)- Materials prepared at election office to be delivered to the polling place

County: _____ Precinct: _____ Polling Place: _____ Election Date: _____

AutoMARK Serial #	Flashcard Door Seal #	Side of Unit Seal #	Other:	Other:	
M100 /DS200 Serial #	Key/Printer Door Seal #	Media Access Seal #	Access Panel Seal #	Ballot Box Seal #	Other:
M650/DS850 Serial #	Media Drive Seal #	Access Door seal #	USB Door 2 #	USB Door 3 #	Power Door #

Verified by:

Election Administrator (Date/Time)

and one other official

Part 2: (to be completed by chief election judge or polling place manager before the polls open)

AutoMARK Serial #	Flashcard Door Seal #	Side of Unit Seal #	Other:	Other:	
M100 /DS200 Serial #	Key/Printer Door Seal #	Media Access Seal #	Access Panel Seal #	Ballot Box Seal #	Other:
M650/DS850 Serial #	Media Drive Seal #	Access Door seal #	USB Door 2 #	USB Door 3 #	Power Door #

Before Polls Open – Seals verified by:

Polling Place Manager or Chief Election Judge (Date/Time)

Election Judge



Ballots, Media, and Other Items Chain of Custody & Security Seal Log

Chain of Custody on front, Security Seal Log on the reverse side.

This is a sample of the form required for security and tracking purposes for ballots and media. Form accompanies ballots and/or media anytime they are accessed or transported, and is updated anytime a seal is removed/replaced. Counties must modify the form to fit their specific election day processes.

Part 1: Apply Initial Seals at election office. To be completed by election administrator.

County: _____ Precinct: _____ Polling Place: _____ Election Date: _____



Ballot Container Seal # (should match Seal # on Ballot Certification Report)	Media/Other Seal #

The undersigned hereby verify that ballot containers and any media containers contain the seal number(s) listed above for transport to the polling place.

Election Administrator (Date/Time)

and one other official (Date/Time)

Part 2: Verify seals from Part 1, remove, and replace as necessary. To be completed by chief election judge or polling place manager at polling place before the polls open.

Ballot Container Seal # (should match Seal # in Part 1)	Media/Other Seal # (should be same Seal # as Part 1)

The undersigned hereby verify that the ballot containers and any media containers contain the seal number(s) listed above upon receipt at the polling place, and contain the seal number(s) of any seals removed and new seals applied

Polling Place Manager or Chief Election Judge (Date/Time)

Election Judge (Date/Time)

Security Seal Log – Page 2 of Chain of Custody & Security Seal Log

Election: _____ Precinct: _____ Polling Place: _____

Removed Seal	Machine Type Machine Number	Machine Seal Location	Seal Number Removed/Placed	Reason Removed	Date	Initials
(place removed seal here)	<input type="checkbox"/> AutoMARK <input type="checkbox"/> M100 <input type="checkbox"/> M650 <input type="checkbox"/> DS200 <input type="checkbox"/> DS850	<input type="checkbox"/> Media Card <input type="checkbox"/> Access Panel <input type="checkbox"/> _____ <input type="checkbox"/> _____	-----			
(place removed seal here)	<input type="checkbox"/> AutoMARK <input type="checkbox"/> M100 <input type="checkbox"/> M650 <input type="checkbox"/> DS200 <input type="checkbox"/> DS850	<input type="checkbox"/> Media Card <input type="checkbox"/> Access Panel <input type="checkbox"/> _____ <input type="checkbox"/> _____	-----			
(place removed seal here)	<input type="checkbox"/> AutoMARK <input type="checkbox"/> M100 <input type="checkbox"/> M650 <input type="checkbox"/> DS200 <input type="checkbox"/> DS850	<input type="checkbox"/> Media Card <input type="checkbox"/> Access Panel <input type="checkbox"/> _____ <input type="checkbox"/> _____	-----			
(place removed seal here)	<input type="checkbox"/> AutoMARK <input type="checkbox"/> M100 <input type="checkbox"/> M650 <input type="checkbox"/> DS200 <input type="checkbox"/> DS850	<input type="checkbox"/> Media Card <input type="checkbox"/> Access Panel <input type="checkbox"/> _____ <input type="checkbox"/> _____	-----			
(place removed seal here)	<input type="checkbox"/> AutoMARK <input type="checkbox"/> M100 <input type="checkbox"/> M650 <input type="checkbox"/> DS200 <input type="checkbox"/> DS850	<input type="checkbox"/> Media Card <input type="checkbox"/> Access Panel <input type="checkbox"/> _____ <input type="checkbox"/> _____	-----			
(place removed seal here)	<input type="checkbox"/> AutoMARK <input type="checkbox"/> M100 <input type="checkbox"/> M650 <input type="checkbox"/> DS200 <input type="checkbox"/> DS850	<input type="checkbox"/> Media Card <input type="checkbox"/> Access Panel <input type="checkbox"/> _____ <input type="checkbox"/> _____	-----			

*This form must be retained for four years.

Election Administration FAQs



Voting System Security

2. Where should security seals be placed?

Election Administration FAQs



Voting System Security

2. Over media ports (when stored), case halves, access points (e.g. doors, latches, panels, and bins). Be sure NOT to place seals over ADA port on AutoMARKs

Election Administration FAQs



Voting System Security

3. How do we control access to voting systems?

Election Administration FAQs



Voting System Security

3. Ensuring storage locations remain locked at all times. Access to storage locations should be exclusively controlled by the Election Administrator. Access should be limited to programming, maintenance, or testing.

Election Administration FAQs



Voting System Security

4. Why do we control access to voting systems?

Election Administration FAQs



The Washington Post



PostEverything

By November, Russian hackers could target voting machines

If Russia really is responsible, there's no reason political interference would end with the DNC emails.

Election Administration FAQs



Voting System Testing

5. What is a test deck?

Election Administration FAQs



Voting System Testing

5. A collection of marked ballots that generates the predetermined outcome set forth by a ballot key in order to verify the efficacy of tabulator software. The number of ballots is based on the race with the most ballot positions and the number of ballot styles.

Election Administration FAQs



Voting System Testing

5. What is a ballot key?

Election Administration FAQs



Voting System Testing

5. A spreadsheet that contains the candidates and races for each ballot style that is used to create a test deck to verify tabulator results with a predetermined outcome.

Election Administration FAQs



Voting System Testing

5. On a ballot key, each candidate should have a different number of total votes. Do not mark 5 votes for Candidate A and 5 votes for Candidate B. This will not reveal any errors in the tabulation software.

Election Administration FAQs



Voting System Testing

6. Why do I need to use a test deck?

Election Administration FAQs



Voting System Testing

6. To determine if tabulators are reading each ballot position, that votes are counted accurately, that ballots are being sorted correctly, and ballot styles are being properly recognized.

Election Administration FAQs



Voting System Testing

7. Who creates the test deck?

Election Administration FAQs



Voting System Testing

7. Test decks should be created by the election office and ballots should be marked in the same way they will be marked by the voter. Do not use test decks provided by voting system vendor.

Election Administration FAQs



Voting System Testing

8. What is needed in order to create a test deck?

Election Administration FAQs



Voting System Testing

8. You will need ballots, election software, pens that will be used by voters, people to mark ballots, and **TIME.**

Election Administration FAQs



Voting System Testing

9. When do I build the test deck?

Election Administration FAQs



Voting System Testing

9. As soon as ballots are available. The sooner a problem is detected with the election software, the sooner the vendor can resolve the issue and replace defective media.

Election Administration FAQs



Voting System Testing

10. What needs to be contained in a test deck?

Election Administration FAQs



Voting System Testing

10. At least one over-voted ballot, one under-voted ballot, one blank ballot, a ballot that contains marginal marks, and any foreseen anomaly that might cause tabulator error (e.g. folds, etc.)

Election Administration FAQs



Voting System Testing

11. How many ballots do I need in a test deck?

Election Administration FAQs



Voting System Testing

11. The number of ballots depends upon the number of candidates in the largest race and the number of ballot styles/splits.

Election Administration FAQs



Voting System Testing

11. If there are 10 ballot styles and the largest race contains 4 ballot positions (3 candidates and a write-in), the test deck should contain at least 100 ballots.

Election Administration FAQs



UOCAVA

12. What is the MOVE Act?

Election Administration FAQs



UOCAVA

12. The Military and Overseas Voter Empowerment Act amended UOCAVA by providing greater protections for service members, their eligible family members, and overseas citizens.

Election Administration FAQs



UOCAVA

12. The MOVE Act requires states to send absentee ballots to UOCAVA voters at least 45 days before federal elections and allows UOCAVA voters to track receipt of their ballots (My Voter Page). This is why it's important that receipt of a UOCAVA ballot be entered into MT Votes immediately.

Election Administration FAQs



UOCAVA

13. Does an FPCA need to be signed?

Election Administration FAQs



UOCAVA

13. An FPCA that is transmitted electronically (i.e. via email) need only contain either the voter's last 4 of SSN or MT DL number. It does not need to be listed in the signature block. An FPCA that is mailed or faxed must contain the voter's signature.

Election Administration FAQs



UOCAVA

14. How should an FPCA be processed during late registration?

Election Administration FAQs



UOCAVA

14. UOCAVA voters cannot appear in person. An FPCA, or other form of voter registration, from a UOCAVA voter would be accepted and the voter would be entered as a late registrant.

Election Administration FAQs



UOCAVA

14. Update the Source of Registration in MT Votes to FPCA. Specify the method that the FPCA was received (e.g. FPCA-EAS, FPCA-Email, etc.).

Election Administration FAQs



UOCAVA

15. How do UOCAVA voters determine their voting residence address?

Election Administration FAQs



UOCAVA

15. The residence address for a UOCAVA voter is their, "...true, fixed address that [they] consider [their] permanent home and where [they] had a physical presence.

Election Administration FAQs



UOCAVA

15. This residence may remain valid even if the voter no longer owns property or has ties to the state, if the voter's intent to return is uncertain, or if the voter's previous address is no longer a recognized residential address.

Election Administration FAQs



UOCAVA

16. What is the process for a UOCAVA voter that changes counties?

Election Administration FAQs



UOCAVA

16. Pre-45 days, this is done as a county-to-county transfer in MT Votes. Post-45 days, it will be necessary to void the ballot sent from the original county, perform the county-to-county transfer in MT Votes, and issue a ballot from the new county. (Note: if the voter is using the EAS and indicates a new county of residence, call the SOS for assistance to make sure that the voter can be issued an EAS ballot from the correct county.)

Election Administration FAQs



UOCAVA

17. What are the responsibilities of an EA in the Electronic Absentee System (EAS)?

Election Administration FAQs



UOCAVA

17. Monitor county's voters that access and generate ballots, verify that ballots generated through the EAS are being received, reach out to voters as necessary and research address discrepancies.

Election Administration FAQs



UOCAVA

18. What if a UOCAVA ballot must be rejected?

Election Administration FAQs



UOCAVA

18. Contact SOS before rejecting a UOCAVA ballot **FOR ANY REASON.**

Do this via email

(soselections@mt.gov) so that there is documentation.

Election Administration FAQs



Voting Accessibility

19. What is a Designated Agent?

Election Administration FAQs



Voting Accessibility

19. Voters with a disability may chose to have another person designated as an agent to provide signature, deliver an absentee ballot, and provide assistance to the voter throughout the registration and voting process.

Election Administration FAQs



Voting Accessibility

20. What is Curbside Voting?

Election Administration FAQs



Voting Accessibility

20. A voter who is unable to enter a polling place may request to have a ballot delivered to them at their vehicle. Two election judges of different political parties can deliver the ballot. The voter will sign the oath form stating that they are unable to enter the polling place and then mark their ballot inside their vehicle.

Election Administration FAQs



Voting Accessibility

21. What is the Electronic Ballot Request System (EBRS)?

Election Administration FAQs



Voting Accessibility

21. A website that allows voters with disabilities to access an absentee ballot on their home computer. EBRS voters can also fill out a voter registration card using the system. The EBRS only allows voters to access and mark their ballot. EBRS voters cannot email their ballot.

EXHIBIT 13



CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE



Guide to Agency-Based Voter Registration

NATIONAL VOTER REGISTRATION ACT (NVRA)

Montana Secretary of State, Elections and Voter Services
State Capitol Building
1301 E. 6th Ave Room 260
PO Box 202801
Helena, MT 59620
406-444-9608
sosmt.gov soselections@mt.gov

Revised July 31, 2023



CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE

NVRA information and Agency Responsibilities

The National Voter Registration Act (NVRA) was passed by Congress in 1993. This sweeping legislation requires that states offer voter registration at state motor vehicle agencies, as well as state and local offices offering public assistance.

Purposes and Requirements of the National Voter Registration Act

The primary objectives of the NVRA are:

- Establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;
- Protect the integrity of the electoral process by ensuring that accurate and current voter registration rolls are maintained; and
- Enhance the participation of eligible citizens as voters in elections for Federal office (42 U.S.C. §1973gg).

The NVRA pursues these objectives by:

- Expanding the number of locations and opportunities whereby eligible citizens may apply to register to vote;
- Requiring voter registration file maintenance procedures that, in a uniform and nondiscriminatory manner, identify and remove the names of only those individuals who are no longer eligible to vote; and
- Providing registration requirements and procedures to ensure that an individual's right to vote prevails over current bureaucratic or legal technicalities.

NVRA agency staff must provide the same level of assistance to all applicants in completing voter-registration application forms as is provided with respect to every other service or application for benefits (unless the applicant specifically refuses such assistance).

Agency staff are prohibited under NVRA from: seeking to influence an applicant's political preference or party allegiance; displaying any such political preference or party allegiance; making any statement to an applicant or taking any action that has the purpose or effect of discouraging the applicant from registering to vote; or making any statement to an applicant or taking any action that has the purpose or effect of leading the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.



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Registration Requirements

- STEP 1) As required by the NVRA, each U.S. citizen seeking the following must be asked if the person wishes to register to vote:
- A) Anyone seeking assistance
 - B) Anyone seeking renewal or recertification
 - C) Anyone making an address change
- STEP 2) If the person chooses to register, ask them if they would like you to assist them in filling out the voter registration application form.
- If they indicate they are already registered, ask if they need to update name or residence address.
- If they decline to register or are already registered, track this in CHIMES (OPA offices) or mark the applicable box on the tally sheet (NON-OPA offices).
- If they do not respond, or if they leave the Voter Registration Questionnaire (VRQ) blank, provide or mail them a voter registration application, and track this in CHIMES (OPA offices) or mark the applicable box (NON-OPA offices).
- STEP 3) For individuals who submit a voter registration application, make sure the voter registration application is filled out completely and signed by the individual.
- STEP 4) If you have not done so already:
- OPA OFFICES: track the individual's response in CHIMES,
- NON-OPA OFFICES: mark the applicable box on the tally sheet.
- STEP 5) Send (or deliver) the voter registration application to the county election administrator within 3 days, in an envelope identifying your agency, for tracking purposes.



CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE

Frequently Asked Questions - Voter Registration Applicants

Q. What are the eligibility requirements?
What if I am a felon?

A. Citizens must be at least 18, and residents of MT for at least 30 days before the next election. Felons can register and vote if they are no longer incarcerated.

Q. Can I still register even if the election is less than 30 days away?

A. Yes. You will need to late register in the county election office.

Q. If I register to vote, can I be called to jury duty?

A. Jury lists are selected from registered driver lists, as well as registered voter lists.

Q. How will I know if I am registered to vote?

A. Registrants receive a card in the mail confirming their registration.

Q. Do I have to re-register to vote if I have moved?

A. Yes, since your precinct may have changed.

Q. What if I need to take the registration form with me to fill it out?

A. This is permitted.



CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE

Frequently Asked Questions from Agency Staff

Q. Are we required to ask each individual if they are registered to vote?

A. Yes, when providing applications for services or assistance, recertification/renewal, and change of address forms.

Q. If we mail an application, recertification/renewal, or change of address form to an elector, do we have to include anything with it?

A. All such documents must be sent with a voter registration application.

Q. What reporting requirements do agencies have?

A. FOR OPA OFFICES: track the individual's response in CHIMES.

FOR NON-OPA OFFICES: mark the applicable box on the tally sheet. See attached a sample monthly tally sheet and monthly transmittal form. Send these in by the 5th of the month as directed on the forms.

Q. What do we do with completed registration forms?

A. Send (or deliver) them in an envelope with your agency name on it within 3 days to the county election administrator whose contact information is on the back of the form.

MT VOTER REGISTRATION APPLICATION INSTRUCTIONS

(These instructions may be printed off and provided to client)

Section 1:

Check the appropriate box.
Check the "Other" box if your reason for filling out the card is not otherwise listed.

Section 2:

You must complete all of these. If you answer "No" to any of the questions, do not complete the form.

Section 3 and 4:

These sections identify your name and date of birth. Be sure to put in your last name first. You are not required to provide a middle name or middle initial.

Section 5:

This section establishes your identity. See the next page for detailed instructions.*

Section 8:

If you are an active duty military member (or a spouse or dependent) who are absent or will be absent from your place of registration, or if you are residing overseas, fill in the appropriate box. Only fill in a box if you are either on active duty (or a spouse or dependent of a person on active duty) or overseas.

Section 9:

If you previously registered to vote, but have changed your name or address since that time, filling in the information in Section 9 will allow election officials to replace your old name and address with the new name and address information you provided in your answers to Sections 3, 6 and 7 above.

If your address has changed since the last time you registered to vote, fill in your OLD address information in the first two spaces under Section 9. If your name has changed since the last time you registered to vote, fill your OLD name in the third box under Section 9.

Section 6:

Fill in your street address or rural address, city, county and zip. If neither of those addresses is available, provide other specific geographic location info from which the location of your residence may be easily determined.

Section 7:


If you receive your mail at the same address you wrote in responding to Section 6, don't fill in this address. If you receive your mail at a different address than you identified in Section 6, fill in the mailing address, city, county and zip code.

Absentee List Section:

This optional section allows you to request absentee ballots to be mailed to you automatically for future elections. If you check the box, you will receive ballots for all elections, subject to confirmation every 2 years.

Signature Section:

You must sign and date the Voter Registration Application. Before signing and dating the Application, read it and make sure that all your answers are complete and true.



MONTANA VOTER REGISTRATION APPLICATION

Fields marked with an asterisk (*) are required. If you do not provide all of the required information, your application to register to vote will not be complete. UNDER FEDERAL AND/OR STATE LAW ALL ELECTORS MUST PRESENT ID WHEN VOTING. Please type or print clearly using black or blue ink. COMPLETE FORM AND SUBMIT TO COUNTY ELECTION OFFICE.

NOTE: VOTER REGISTRATION REQUIRES U.S. CITIZENSHIP

ELIGIBILITY REQUIREMENTS AND IDENTIFYING INFORMATION			
1 Check all that apply: <input type="checkbox"/> New Registration <input type="checkbox"/> Name Change <input type="checkbox"/> Address Change <input type="checkbox"/> Signature Update <input type="checkbox"/> Other			
2 Are you a citizen of the United States?*		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be at least 18 years of age on or before the next election?*		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be a Montana resident for at least 30 days before the next election?*		Yes <input type="checkbox"/>	No <input type="checkbox"/>
<small>*If you checked "No" in response to any of these questions, do not complete this form.</small>			
3 Last Name*	First Name*	Middle Name	Suffix (Jr., Sr., Etc.)
4 Date of Birth*	Contact Phone Number	Email Address	
5 Select one of the following and provide the required information*			
<input type="checkbox"/> I have a Montana Driver's License or Montana ID and that number is _____			
<input type="checkbox"/> I do not have a Montana Driver's License or MT ID card. The last 4 digits of my SSN are _____			
<input type="checkbox"/> I do not have a Montana Driver's License or MT ID card, or a Social Security Number. I have attached a copy of a photo ID that shows my name, or acceptable ID that shows my name and current address (paycheck stub; utility bill; bank statement; or government document).			
<small>ID numbers provided above are kept confidential and are not available for public inspection.</small>			
6 Montana Residence Address*	City*	County*	Zip Code*
7 Mailing Address (required if differs from residence address)	City	State	Zip Code
8 If applicable, check one of the following:			
<input type="checkbox"/> Military Domestic (or military spouse or dependent) – only if on active duty and will be absent from place of registration			
<input type="checkbox"/> Military Overseas (or overseas military spouse or dependent) <input type="checkbox"/> U.S. Citizen Overseas			
PREVIOUS REGISTRATION INFORMATION – will be used to provide cancellation information to former jurisdiction <small>REQUIRED IF NAME CHANGED OR IF PREVIOUSLY REGISTERED TO VOTE IN ANOTHER MT COUNTY OR IN ANOTHER STATE</small>			
9 Previous City, County and State	Residence Address of Previous Registration	Previous Registration Name	
RECEIVE YOUR BALLOT IN THE MAIL			
<input type="checkbox"/> Yes, I request an absentee ballot to be mailed to me for all elections in which I am eligible to vote as long as I reside at the address listed on this application. I understand that in order to continue to receive an absentee ballot, I must complete, sign, and return an address confirmation notice mailed to me by the county election office in January of each even-numbered year.			
If your mailing address differs during certain times of the year please add the seasonal mailing address information in this space, or contact your county election office. Seasonal mailing address for the period of _____ through _____			
APPLICANT AFFIRMATION			
<small>I affirm under penalty of perjury that the information on this application is true, that I am a citizen of the United States, that I will be at least 18 years old on or before the next election, that I will have been a resident of Montana for at least 30 days prior to the next election, and that I am not serving a felony conviction in a penal institution nor have been found to be of unsound mind by a court. I understand that if I have given false information on this application, I may be subject to a fine or imprisonment, or both, under federal and/or state law.</small>			
Signature*		Date*	
<small>THE AFFIRMATION ON THIS APPLICATION FOR VOTER REGISTRATION MUST BE SIGNED BY THE APPLICANT – FAILURE TO DO SO WILL PREVENT APPLICATION FROM BEING PROCESSED.</small>			
<small>For county use only</small>			
Date	Senate	House	Precinct / Split Ward School



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MONTANA SECRETARY OF STATE

MT VOTER REGISTRATION APPLICATION INSTRUCTIONS (continued)

(These instructions may be printed off and given to client)

***Section 5:**

This Section identifies you as the person you claim to be. You only need to check one (1) box and fill in the associated blank.

1) Check the first box in Section 5 if you have a valid Montana Driver's License or a Montana ID and write the license or ID number in the space provided. If you check this box and provide a driver's license number or Montana ID number, you don't have to check another box in Section 5.

2) Check the second box in Section 5 if you have not been issued a valid Montana Driver's License or a Montana ID but you do have a Social Security number. Print the last four digits of your Social Security number in the space provided. If you check this box and provide the last four digits in your Social Security number, you don't have to check another box in Section 5.

3) Check the third box if you have not been issued a Montana Driver's License, a Montana ID, or a Social Security Number. This is extremely rare, especially for those who are applying for or receiving government assistance. If and only if you have not been issued such a number, attach to your Voter Registration Application either a copy of another kind of photo ID with

Note: You can turn your completed Voter Registration Application into the agency that provided it to you, and agency staff will send it to the county election office. Or, you can submit directly to your [county election office](#).

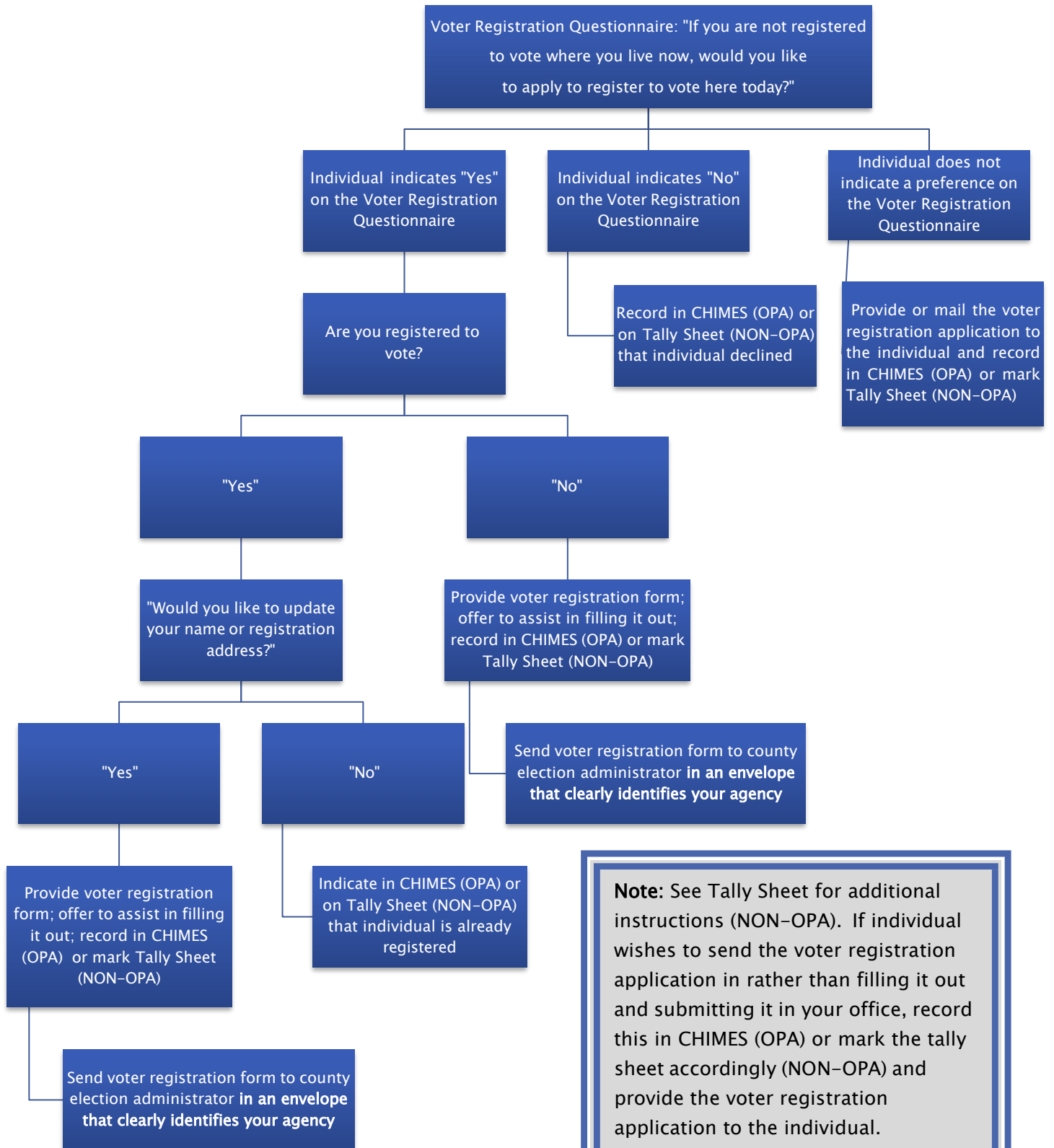
Instructions for NVRA Site Coordinator

- 1) Each agency should designate an NVRA site coordinator.
- 2) The coordinator ensures that all staff members have the most current voter registration forms and understand the procedures.
- 3) Ensure that all paper-, telephone-, Intranet-, and Internet-based applications, recertifications/ renewals, and address change forms include the option to register to vote and to update voter registration. (Although individuals may request voter registration applications by telephone and by Internet/Intranet, submitted voter registration applications must be signed.)
- 4) For any individuals who did not indicate whether or not they want to register to vote and/or who leave the Voter Registration Questionnaire (VRQ) form blank, you must provide them with the voter registration application or send them a voter registration application packet.
- 5) Track and report voter registration efforts as follows:

Offices of Public Assistance:	Vocational Rehabilitation Offices and All Other Offices Designated for Agency-Based Voter Registration:
1) Track the individual's response in CHIMES.	1) Track all information on the monthly tally and transmittal forms (<i>see samples below</i>) 2) Email the forms by the 5 th day of the month to soselections@mt.gov .



Flow Chart for Agency-Based Voter Registration (*see also Voter Registration Section - Agency Forms*)



AGENCY VOTER REGISTRATION MONTHLY TALLY SHEET

(for combined counties, please list data for each county individually (for tallies, for each client choose only one category (A-D) below)

Reporting for the Month/Year:		Individual County & Site:		Reporting Clerk:
(A) <u>Registered This Month</u> Total =	(B) <u>Declined This Month</u> Total =	(C) <u>Already Registered</u> Total =	(D) <u>Other than those clients who declined (B) or indicated they were already registered (C), client did not register but staff provided or mailed voter registration application to client (includes clients who left Voter Registration Questionnaire blank)</u> Total =	
<u>Comments or suggestions on the program</u>				

Instructions: **OPA Offices:** Track all of the above information in CHIMES; it is not necessary to complete or send in monthly tally or transmittal forms. **Non-OPA Offices:** 1) Email all tally sheets and the transmittal form to soselections@mt.gov .

SAMPLE

Reporting for the Month/Year: July (1-31)/2023		Individual County & Site Lewis & Clark OPA		Reporting Clerk: Jon Doe
(A) <u>Registered This Month</u> IIII IIII III Total = 13	(B) <u>Declined This Month</u> IIII IIII Total = 9	(C) <u>Already Registered</u> IIII Total = 5	(D) <u>Other than those clients who declined (B) or indicated they were already registered (C), client did not register but staff provided or mailed voter registration application to client (includes clients who left Voter Registration Questionnaire blank)</u> III Total = 3	

AGENCY VOTER REGISTRATION MONTHLY TRANSMITTAL FORM

(For combined counties, please list data for each county individually)

Reporting for the Month/Year: _____

Site Coordinator: _____

<u>Individual</u> <u>County & Site</u>	<u>(A) Registered This Month</u> Total =	<u>(B) Declined This Month</u> Total =	<u>(C) Already Registered</u>	<u>(D) Other than those clients who declined (B) or indicated they were already registered (C), client did not register but staff provided or mailed voter registration application to client (includes clients who left Voter Registration Questionnaire</u>
<u>Individual</u> <u>County & Site</u>	<u>(A) Registered This Month</u> Total =	<u>(B) Declined This Month</u> Total =	<u>(C) Already Registered</u>	<u>(D) Other than those clients who declined (B) or indicated they were already registered (C), client did not register but staff provided or mailed voter registration application to client (includes clients who left Voter Registration Questionnaire</u>
<u>Individual</u> <u>County & Site</u>	<u>(A) Registered This Month</u> Total =	<u>(B) Declined This Month</u> Total =	<u>(C) Already Registered</u>	<u>(D) Other than those clients who declined (B) or indicated they were already registered (C), client did not register but staff provided or mailed voter registration application to client (includes clients who left Voter Registration Questionnaire</u>
<u>Individual</u> <u>County & Site</u>	<u>(A) Registered This Month</u> Total =	<u>(B) Declined This Month</u> Total =	<u>(C) Already Registered</u>	<u>(D) Other than those clients who declined (B) or indicated they were already registered (C), client did not register but staff provided or mailed voter registration application to client (includes clients who left Voter Registration Questionnaire</u>
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<u>Individual</u> <u>County & Site</u>	<u>(A) Registered This Month</u> Total =	<u>(B) Declined This Month</u> Total =	<u>(C) Already Registered</u>	<u>(D) Other than those clients who declined (B) or indicated they were already registered (C), client did not register but staff provided or mailed voter registration application to client (includes clients who left Voter Registration Questionnaire</u>

EXHIBIT 14

Top Search Terms: [Candidate Filing](#), [File Annual Report](#), [Business Portal Login](#), [Apostilles](#)

If you have a question that is not listed in the FAQs below, contact the Elections Division at soselections@mt.gov or call 888-884-VOTE.

GENERAL QUESTIONS

Q. What is the date of the federal general election?

A: A federal general election is held every even-numbered year on the first Tuesday after the first Monday in November. Presidential elections are combined with congressional, statewide, state district, and county elections.

The 2024 federal general election will be held on Tuesday, **November 5th, 2024**.

Q. Where can I find polling place information and/or satellite location information?

A. For polling place information and other voter-specific information, feel free to visit the My Voter Page service, <https://app.mt.gov/voterinfo/>. For a list of polling places and satellite locations for the upcoming or most recent federal election, visit [Polling Places and Satellite Offices](#).

Q. What are the dates of municipal primary and general elections?

A. A municipal primary election, if necessary, is held every odd-numbered year on the first Tuesday after the second Monday in September. A municipal general election is held every odd-numbered year on the first Tuesday after the first Monday in November.

Q. Where can I find out information about school elections?

A. Visit the Office of Public Instruction website at <http://opi.mt.gov/Leadership/Finance-Grants/School-Finance/Elections>.

Q. What are the deadlines for the close of regular registration for the federal primary and general elections?

A. Regular registration closes 30 days before the election.

Q. Do I have to vote in a primary election in order to vote in the general election?

A. No.

Q. Which parties are qualified for primary access in Montana? Is there party registration in Montana? Can people in a primary election vote for more than one party's candidates?

A. The list of Montana's qualified parties is available on our website at: <https://sosmt.gov/elections/parties>.

There is no party registration in Montana. Individuals who vote in a primary election are given all the parties' ballots, and can choose in private which party ballot they wish to vote. Voters in a primary election cannot vote more than one party's ballots.

IDENTIFICATION

Q. What ID do I have to show when I vote at the polls?

A. There are many identification options available. Visit the Voter ID webpage at <https://sosmt.gov/voter-id> for more information.

Q. What if I forget my ID when I vote at the polls?

A. If you do not have proper identification when you arrive at the polls, you can vote a provisional ballot.

Q. How do I obtain a copy of my Social Security Card?

A. For information on obtaining a copy of your Social Security Card [click here](#).

VOTER REGISTRATION AND LATE REGISTRATION

Q. How do I register, update my registration, find out if my registration is still on file, or find out the location of my polling place?

A. For information about registering to vote, visit <http://www.sosmt.gov/elections/vote>. You may also contact your **county election administrator** to register or update your registration or visit **My Voter Page** to find out if you are registered to vote, where you are registered to vote, the location and directions to your polling place, the status of your absentee ballot, and to view a sample ballot.

Voter Registration by County daily totals are available.

Q. How do I cancel my voter registration or unregister?

A. Submit a written request for cancellation to your county election office. A list of county offices can be found online by [clicking here](#).

Q. What is late registration and what are the dates that it opens and closes?

A. Regular registration closes 30 days before any election. Late registration is an option for people who miss the regular registration deadline. It is available starting the day after the close of regular registration and ends at *noon on the day before the election. Late registration must be done at the county election office (or at the location designated by the election administrator), not at a polling place.

**This provision will not be enforced for the 2023 elections based on the court order issued on September 30, 2022. Registrations before the close of polls on Election Day will be processed.*

Q. Are late registration totals available? What years are available?

A. **Late registration** totals from 2006 through the present are available.

CANDIDATE FILING

Q. During statewide election years, when does candidate filing open? When does it close?

A. Candidate filing opens 145 days before the primary, and closes 85 days before the primary. For the 2024 election cycle, the candidate filing period is January 11 – March 11, 2024.

Q. News reports indicate that individuals have filed for office, but there are not yet any candidates listed on the Secretary of State's website. Why is that?

A. Often times candidates will announce their candidacies before the first date to file for office with the Secretary of State. In many cases, candidates file campaign paperwork with the **Federal Election Commission** (for federal offices) or with the **Commissioner of Political Practices** (for non-federal offices) before the opening of candidate filing with the Secretary of State.

Q. How do I find forms and information to run as a presidential, independent, write-in or minor-party candidate?

A. Information is on the SOS webpage at <https://sosmt.gov/elections/information>. If you are interested in running as a presidential candidate, an independent, write-in candidate or as a candidate of a party that has not qualified for the ballot in Montana, or to form a political party, you may also contact Elections and Voter Services at (406) 444-9608 or by email at soselections@mt.gov.

VOTER FILE

Q. How can individuals purchase the Voter File or an available extract?

A. Contact information for questions on the **Voter File** is below.

- *About the Service* – Montana Interactive, 449-3468, x6357.

- *Technical Questions* – Secretary of State IT, SOSInfo_Services@mt.gov.
- *General Questions* – Secretary of State Elections Division, soselections@mt.gov.

ABSENTEE VOTING

Q. Does Montana have “early voting”? Does Montana have in-person absentee voting before election day? When does it start?

A. Montana does not have true early voting, but does have in-person absentee voting that allows electors, as soon as absentee ballots are available, to receive, mark and submit an absentee ballot in person at the election office or by mail to the election office. However, ballots are not counted until election day. Early-in person absentee voting does not require a reason and starts as soon as ballots are available – by not later than 30 days before an election.

Q. Who can vote absentee in Montana?

A. Since October 1, 1999, any registered Montana elector who wishes to vote absentee in Montana may do so, without having to specify a reason.

Q. How do I request an absentee ballot?

A. Print an [Application for Absentee Ballot](#) from the Secretary of State website, fill it out, and drop it off at the county election office or fax or mail the form to your county election office.

Q. When are the first and last days to request an absentee ballot?

A. There is no earliest day to apply for an absentee ballot. An application for absentee ballot must be received by the election office by noon the day before election day.

Q. What if I become ill and will not make it to the polls on election day?

A. If you request an absentee ballot because of a sudden illness or health emergency occurring between 5 p.m. of the Friday preceding the election and before close of polls on election day, you may ask your county election administrator to have a special absentee election board bring an absentee ballot to you.

Q. Can people request to be placed on an absentee list?

A. Yes. The [Application for Absentee Ballot](#) includes the option to receive ballots for subsequent elections.

Q. Are absentee turnout figures available? What years are available?

A. [Absentee turnout](#) from 2000 through the present is available.

ABSENT ACTIVE DUTY MILITARY, MILITARY FAMILY MEMBERS AND OVERSEAS CITIZENS

Q: What are the options for active duty military members, their family and overseas citizens who are eligible to register and vote in Montana?

A: Within 46 days of a Federal Primary or Federal General election, Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters and their family members can register and request an absentee ballot with the Federal Post Card Application (FPCA) by using the Secretary of State’s Electronic Absentee System (EAS).

- Once the ballot is marked using the EAS system, UOCAVA voters can return it in email, mail or fax to the local [county election office](#).

Outside of 46 days before a federal election, eligible UOCAVA voters can submit the [Federal Post Card Application](#) (FPCA) from the Federal Voting Assistance Program at: www.fvap.gov.

- Fvap.gov also has tips on registration and voting as a UOCAVA voter, including information for voting by facsimile and online.
- The FPCA form is used for voter registration, to update and activate an existing UOCAVA record and to request absentee ballots for all state and local elections in the upcoming calendar year.

Q: When is the earliest date UOCAVA voters can request an absentee ballot?

A: UOCAVA voters can submit the FPCA and request an absentee ballot at any time. The FPCA is good for all eligible elections through the calendar year following the submission.

FVAP recommends all UOCAVA voters submit an updated FPCA every year. You can submit the FPCA by doing the following:

- Electronically fill out the FPCA form and email it to your local [county election office](#), if you use the last 4 digits of your SSN or MT Driver's License # or a Military CAC card, this can be used in lieu of a signature; or
- Print the FPCA form, fill it out, sign and mail it to the [county election office](#); or
- Before you leave for active duty or move overseas, visit your [county election office](#) on weekdays 8:00 a.m. and 5:00 p.m. and submit a completed FPCA form.

Q: What are my options if my absentee ballot won't reach me or the county election office on time to be counted?

A: UOCAVA voters can mark an electronic ballot for federal elections using the Secretary of State's EAS system within 46 days of a federal election. Or, you can contact the [county election office](#) for assistance or vote using a **Federal Write-In Absentee Ballot** (FWAB). FWAB's will be counted if a regular absentee ballot is not received at the county election office before 8:00 p.m. on election day. FWAB's must be submitted on or before election day by 8:00 p.m. and the county election office must receive it within 6 days after the election for it to be counted.

Additional information can be found at: www.fvap.gov or 1-800-438-VOTE (8683)

MAIL BALLOT ELECTIONS

Q. What kind of elections can be conducted by mail ballot?

A. Generally, any municipal (city or town) election or district election (school, fire, water and sewer, etc.) can be conducted by mail ballot, if agreed to by the governing body.

Elections that cannot currently be conducted by mail ballot include any regularly scheduled federal, state, or county elections; any special federal or state elections, unless authorized by the Legislature; or any regularly scheduled or special elections when another election in the political subdivision is taking place at the polls on the same day.

Q. How is a mail ballot election different than a non-mail ballot election?

A. In non-mail ballot elections, voters have the option to vote at the polls or request an absentee ballot. In mail ballot elections, all qualified active and provisionally registered voters are mailed ballots on the same day without having to request them.

Q. What if I am going to be absent during a mail ballot election – how do I still receive a ballot?

A. You may vote in person in the election administrator's office as soon as ballots are available. Or, you can make a signed written request that the ballot be mailed to an address other than the address that appears on your registration application. The ballot will be mailed on the same day all other ballots are mailed.

Any such in-person or written requests must be accepted until noon the day before the ballots are scheduled to be mailed.

Q. What if I want to drop my mail ballot off rather than mailing it?

A. You always have the option to drop your ballot off at the county election office or, if available, at one or more alternative places of deposit chosen at the option of the election administrator. Any such places of deposit will be noted in your mail ballot materials.

VOTING SYSTEMS

Q. What kind of voting systems are available in Montana?

A. Voting systems must be certified to meet certain standards before they can be used in Montana. Most counties use either precinct level tabulators called M100s or DS200s or central count tabulators, called M650s, DS450s, DS850s, or DS950s. Some small counties do not use a vote tabulating system, but instead count ballots by hand. All counties have available voter assist terminals called ExpressVotes for use by individuals with vision or mobility impairments.

Q. What is the difference between the types of tabulating methods?

A. There are three different types of tabulation methods used in Montana. The first is a precinct tabulator, the second is a central count tabulator and the third is the manual hand count method.

A precinct level tabulating system involves a voter placing the marked ballot in either an optical scan (M100) or digital scan tabulation (DS200) machine at the polling place. The system will notify you of an undervote, which is an unvoted race or an unvoted ballot and will tell you if you have voted for too many choices in a race, also called an overvote. If you over vote, the machine will prompt you to either return your ballot to be corrected or submit your ballot as is. If there is no notification, or you choose to submit your ballot as is, the LCD screen on the machine count will increase by 1, indicating that your ballot has been counted.

A central count tabulating system gets its name because ballots are brought in from the surrounding precincts to be counted in a central location. This ballot scanner quickly and accurately counts voted ballots. When the machine detects an overvote or a write-in vote, the machine will notify the operator; these ballots are then manually verified.

The third way ballots are counted in Montana is via hand count. Currently there are 10 counties that hand count.

If you would like to see how your county tabulates ballots, please visit this [webpage](#).

VOTING SYSTEMS EQUIPPED FOR PEOPLE WITH DISABILITIES

Are there voting systems in Montana available to assist voters with a disability or physical limitation?

Yes, the Secretary of State's office has partnered with all 56 counties in Montana to offer [ExpressVote®](#) ballot-marking technology that provides options for all voters including those who have a disability or physical limitations to mark and cast a ballot privately and independently.

- If you cannot enter a polling place, election judges will assist you with "curbside voting."
- If you have a physical disability or are unable to read or write, you may ask an election judge to help you mark your ballot. Or, you can bring any individual (other than your employer or employer's agent or union agent) who, with the permission of the election judge, can go into the voting booth with you and help you vote.
- You may also designate an agent to assist you with the voting process on the [Designation of Agent by Individual with Disability](#) form. Deliver the signed application to your [local election office](#).
- You may [apply for an electronic ballot](#) that can be marked on your personal computer, printed and returned by mail or in person to the county election office.
- The Voter Information Pamphlet published by the Secretary of State for each Federal General Election is available in braille, audio or large print formats.

What if I prefer not to use an ExpressVote® ballot-marking system?

Using ExpressVote® to mark your ballot is optional; a person can choose to use it, regardless of disability status. If a voter with a disability chooses not to use ExpressVote®, the voter has the option to have either an election judge or an individual chosen by the elector (designated agent) assist the voter in marking their ballot.

- The ExpressVote® voter assist terminals are ballot-marking systems that use touch-screen technology to produce a paper record for tabulation. It is designed to provide privacy and accessibility to all voters including those who are blind, vision-impaired, or have a disability or condition that makes it difficult or impossible to mark a ballot. It is a universal voting system designed for use by all with an accessible keypad equipped with braille and the ability to use rocker panel and Sip-and-Puff devices. As a compliant ADA voting solution, ExpressVote® allows both standing and seated voters the ability to mark and cast a ballot.

Detailed information on how to use ExpressVote® ballot-marking system can be found at:

<https://sosmt.gov/elections/disabilities>.

BALLOT ISSUES

Q. Where can I find out information about starting a statewide ballot issue petition or about current and past statewide ballot issues?

A. You can go to the following page on the Secretary of State's website https://sosmt.gov/elections/ballot_issues for information about statewide ballot issues. (For information about past statewide ballot issues, scroll to the bottom of that web page or go to [Archived](#) ballot issues.)

For information about current statewide ballot issues, you can go to https://sosmt.gov/elections/ballot_issues/proposed-2024-ballot-issues/.

ELECTION RESULTS

Q. Where can I go to find past election results, including information about votes cast for candidates and on statewide ballot issues, the number of polling places and precincts, and turnout by county?

A. Go to the following link: <https://sosmt.gov/elections/results>.

Q. On election night during the federal primary and general elections, where can I go for the latest election results?

A. You can go to the SOS website at <http://mtelectionresults.gov> for the latest unofficial results on election night.

CAMPAIGNS AND CAMPAIGN FINANCE

Q. What agency should I contact if I have campaign questions and/or campaign finance questions? Where do I file my campaign reporting forms?

A. For campaign and campaign finance questions, as well as questions about campaign reporting forms, please contact the Commissioner of Political Practices, <http://politicalpractices.mt.gov/aboutus>. The Federal Election Commission, <http://www.fec.gov>, has jurisdiction over campaign questions regarding federal races, such as congressional races.

Q. I am concerned about receiving automated calls, often called “robo calls.” What should I do?

A. For information about automated calls, please see https://politicalpractices.mt.gov/_docs/Education-and-Resources/RoboCallsHandout.pdf.

LOCATION & CONTACT OUR OFFICE ▾

Christi Jacobsen
Montana Secretary of State
Montana Capitol Building, Rm 260
P.O. Box 202801
Helena, MT 59620-2801
Front Desk: 406-444-2034

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EXHIBIT 15



The 68th Regular Session of the Montana Legislature adjourned Sine Die on May 2nd, 2023; Legislative day 87.

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Bill Draft Number: LC1633 **Current Bill Text:** [Previous Version\(s\)](#)

Bill Type - Number: HB 892 [Fiscal Note\(s\)](#)

[Associated Amendments](#) **Disclaimer:** All amendments are drafts only for consideration by a committee and are subject to change. An amendment formally adopted by the committee will be incorporated into the standing committee report to the respective body and, if adopted, will be engrossed into the next version of the bill.

Short Title: Prohibit double voting

Primary Sponsor: [Lyn Hellegaard](#) (R) HD 97

Chapter Number: 742

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 60

Print Friendly

Action - Most Recent First	Date	Votes Yes	Votes No	Committee / Audio
Chapter Number Assigned	05/22/2023			
(H) Signed by Governor	05/22/2023			
(H) Transmitted to Governor	05/12/2023			
(S) Signed by President	05/11/2023			
(H) Signed by Speaker	05/11/2023			
(H) Returned from Enrolling	05/11/2023			
(C) Printed - Enrolled Version Available	05/11/2023			
(H) Sent to Enrolling	05/03/2023			
(H) 3rd Reading Passed as Amended by Senate	05/02/2023	<u>76</u>	<u>20</u>	
(H) Scheduled for 3rd Reading	05/02/2023			
(H) Scheduled for 3rd Reading	05/02/2023			
(H) 2nd Reading Senate Amendments Concurred	05/02/2023	<u>82</u>	<u>17</u>	
(H) Scheduled for 2nd Reading	05/02/2023			
(S) Returned to House with Amendments	04/28/2023			
(S) 3rd Reading Concurred	04/27/2023	<u>34</u>	<u>16</u>	
(S) Scheduled for 3rd Reading	04/27/2023			
(C) Printed - New Version Available	04/25/2023			
(S) 2nd Reading Concurred as Amended	04/25/2023	<u>31</u>	<u>19</u>	
(S) 2nd Reading Motion to Amend Carried	04/25/2023	<u>31</u>	<u>19</u>	
(S) Scheduled for 2nd Reading	04/25/2023			
(C) Amendments Available	04/24/2023			
(S) Committee Report--Bill Concurred	04/21/2023			(S) State Administration
(S) Committee Executive Action--Bill Concurred	04/21/2023	<u>6</u>	<u>4</u>	(S) State Administration
(S) Hearing	04/17/2023			(S) State Administration

(S) <u>Hearing Canceled</u>	04/15/2023			(S) State Administration
(S) Referred to Committee	04/04/2023			(S) State Administration
(S) First Reading	04/04/2023			
(H) Transmitted to Senate	04/04/2023			
(H) 3rd Reading Passed	04/03/2023	<u>71</u>	<u>28</u>	
(H) 2nd Reading Passed	03/31/2023	<u>71</u>	<u>29</u>	🔊 🔊
(H) Fiscal Note Printed	03/31/2023			
(H) Fiscal Note Signed	03/31/2023			
(H) Fiscal Note Received	03/30/2023			
(H) <u>Committee Report--Bill Passed</u>	03/29/2023			(H) State Administration
(H) <u>Committee Executive Action--Bill Passed</u>	03/29/2023	<u>13</u>	<u>5</u>	(H) State Administration
(H) <u>Hearing</u>	03/29/2023			(H) <u>State Administration</u> 🔊 🔊
(H) First Reading	03/24/2023			
(H) Referred to Committee	03/24/2023			(H) State Administration
(C) Introduced Bill Text Available Electronically 📄	03/24/2023			
(H) Fiscal Note Requested	03/24/2023			
(H) Introduced	03/24/2023			
(C) Fiscal Note Probable	03/24/2023			
(C) Draft Delivered to Requester	03/23/2023			
(C) Draft Ready for Delivery	03/23/2023			
(C) Executive Director Final Review	03/23/2023			
(C) Draft Ready for Delivery	03/23/2023			
(C) Draft in Assembly	03/23/2023			
(C) Executive Director Review	03/23/2023			
(C) Bill Draft Text Available Electronically	03/23/2023			
(C) Draft in Final Drafter Review	03/23/2023			
(C) Draft in Input/Proofing	03/23/2023			
(C) Draft to Drafter - Edit Review	03/23/2023			
(C) Draft in Edit	03/22/2023			
(C) Draft in Legal Review	03/21/2023			
(C) Draft to Requester for Review	03/21/2023			
(C) Draft to Requester for Review	03/21/2023			
(C) Draft to Requester for Review	02/16/2023			
(C) Draft Taken Off Hold	02/16/2023			
(C) Draft On Hold	01/16/2023			
(C) Draft Request Received	11/29/2022			

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Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Knudsen	Casey	
Drafter	Carroll	Joe	
Primary Sponsor	Hellegaard	Lyn	

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Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Appropriations (see also: State Finance)	Appropriation	Simple	APP
Elections (see also: Ballot Issues)		Simple	ELEC

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Additional Bill Information

Fiscal Note Probable: Yes

Preintroduction Required: N

Session Law Ch. Number: 742

DEADLINE

Category: Appropriation Bills

Transmittal Date: 04/04/2023

Return (with 2nd house amendments) Date: 04/28/2023

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Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	22-MAY-23	

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11/13/2023 01:37 PM Mountain Time

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EXHIBIT 16

Summary

Automatic Voter Registration

Updated September 26, 2023

Related Topic: [Elections](#)

Automatic voter registration (AVR) is a process in which eligible individuals are automatically registered to vote when interacting with certain government agencies, such as a department of motor vehicles. Information gathered from participating government agencies is transmitted to election officials, who use it to either create a new voter record or update an existing registration. While this process is triggered by an interaction with a participating government agency, it is not compulsory—individuals may choose to opt out of registration during their transaction at the agency, or later by returning a mailer, depending on the state.

Twenty-four states and Washington, D.C., are categorized by NCSL as having enacted or implemented automatic voter registration.

How AVR Works

In 1993, Congress passed the [National Voter Registration Act](#) (NVRA). The NVRA pioneered a new way to register to vote in America: It required most states to provide citizens with an opportunity to register to vote when applying for or renewing a driver's license at a department of motor vehicles (DMV) or other designated state agencies. Because of the requirement for DMVs to participate in voter registration, the NVRA is often referred to as "motor voter."

Some states apply the same automated processes to other state-designated agencies. Under Section 7 of the NVRA, any state office that provides public assistance or operates state-funded programs that serve individuals with disabilities must offer opportunities to register to vote. The law also requires states to designate additional offices providing voter registration services.

Since the passage of the NVRA, the collection of voter information has shifted from paper-based forms to digital records, with many state DMV systems linking electronically to statewide voter registration databases. This allows the DMV to not only collect information on eligible voters but also electronically transfer that information to the voter registration database. Electronic data transfers are more accurate and less resource intensive.

In January 2016, Oregon became the first state to implement AVR. In what is sometimes referred to as the "Oregon model," an eligible voter who interacts with the DMV is not asked whether they would like to register to vote, but instead automatically opted into registering. Shortly thereafter, the voter is sent a notification by mail informing them they were registered; they can opt out of registration by returning the notification.

Other states that have adopted AVR have chosen different approaches, characterized by the point at which a voter may opt out of being registered to vote. The majority of AVR states use one of two

approaches:

1. Front-end opt out: With this approach, the customer at a participating agency may choose to register to vote or decline to register at the point of service. An electronic screen will ask whether the customer would like to register to vote. If they decline, the voter is not registered. If they affirm, in states where voters have the option of affiliating with a political party, the next screen will ask if they would like to do so.
2. Back-end opt out: Customers during their agency transaction provide information needed to register to vote. After the transaction occurs, the customer is notified by the agency via a post-transaction mailer that they will be registered to vote, unless they respond to the notification and decline. If the customer takes no action, they will be registered to vote. In this approach, registration information is automatically transferred, and customers may choose to decline or affiliate after receiving the post-transaction mailer.

See the table below for details on enactment dates, enabling legislation, participating state agencies and opt out method.

Note: In some states, NCSL uses its own approach for categorization. If a legislature enacts a bill with the words “automatic” or “automated” in it to describe a paperless system for registering voters at DMVs or other state agencies, they are included on this page. Likewise, if, through existing authority and administrative action, a state moves toward either of the two categories, they are included. Last, if NCSL learns from a representative of the state’s chief election official that their system qualifies as automatic or automated, they are added too.

States With Automatic Voter Registration

State	Year Enacted	Bill Number	Year Implemented	Participating Agencies	Type of Opt-Out
Alaska	2016	Measure 1	2017	Permanent Fund Dividend	Back-end (post-transaction mailer)
California	2015	AB 1461	2018	DMV	Front-end (point-of-service)
Colorado	N/A	Done through Department of Motor Vehicles system	2017	DMV, Department of Health and other agencies designated by the	Back-end (post-transaction mailer)

State	Year Enacted	Bill Number	Year Implemented	Participating Agencies	Type of Opt-Out
				secretary of state	
Connecticut	2016	Agreement between Secretary of State and Department of Motor Vehicles	2016	DMV	Front-end (point-of-service)
Delaware	2021	SB 5	Statutory deadline of 2023	DMV, Department of Health and Social Services, Department of Labor and any state agency selected by its chief administrator to provide voter registration services for its employees and the public	Back-end (post-transaction mailer)
District of Columbia	2016	B21-0194	2018	DMV	Front-end (point-of-service)
Georgia	2016	Done through Department of Driver Services and Attorney	2016	DMV	Front-end (point-of-service)

State	Year Enacted	Bill Number	Year Implemented	Participating Agencies	Type of Opt-Out
		General's office			
Hawaii	2021	SB 159	2021	DMV	Front-end (point-of-service)
Illinois	2017	SB 1933	2018	DMV and other agencies designated by the State Board of Elections	Front-end (point-of-service)
Maine	2019	HB 1070	2022	DMV and other designated "source agencies"	Front-end (point-of-service)
Maryland	2018	SB 1048	2019	DMV, health benefit exchange, local departments of social services and the Mobility Certification Office	Front-end (point-of-service)
Massachusetts	2018	HB 4834	2020	DMV, division of medical assistance, health insurance connector authority and other	Back-end (post-transaction mailer)

State	Year Enacted	Bill Number	Year Implemented	Participating Agencies	Type of Opt-Out
				agencies verified by the secretary of state that collect “reliable citizenship information”	
Michigan	2018	Ballot Proposal 3	2019	DMV	Front-end (point-of-service)
Minnesota	2023	HB 3	2023	DMV, health benefit exchange, other participating state agencies	Back-end (post-transaction mailer)
New Jersey	2018	AB 2014	2018	DMV and other state agencies designated by the secretary of state	Front-end (point-of-service)
New Mexico	2019	SB 672	2020	DMV	Front-end (point-of-service)
New York	2020	SB 8806	Anticipated 2023	DMV, DOH, DOL and additional agencies	Front-end (point-of-service)
Nevada	2018 (Phase	Ballot Question	2020 (Phase 1); anticipated	DMV (in 2020)	Front-end (point-of-

State	Year Enacted	Bill Number	Year Implemented	Participating Agencies	Type of Opt-Out
	1); 2021 (Phase 2)	Number 5 AB 345 AB 432	2024 (Phase 2) The first phase of Nevada’s AVR system was established through the DMV and implemented on Jan. 1, 2020, after voters approved Ballot Question Number 5 in 2018 and the legislature enacted enabling legislation, AB 345 , in 2019. The second phase, created by AB 432 in 2021, expanded AVR to state agencies beyond the DMV and is to be implemented by Jan. 1, 2024.	Department of Health and Human Services, agencies designated by the Department of Health and Human Services to receive applications for Medicaid, the Silver State Health Insurance Exchange and any other state agency or tribal agency that meets certain requirements and is approved by the Governor (by 2024)	service)
Oregon	2015	HB 2177	2016	DMV	Back-end (post-transaction mailer)
Pennsylvania	N/A	Governor announcement	2023	DMV	Front-end (point-of-

State	Year Enacted	Bill Number	Year Implemented	Participating Agencies	Type of Opt-Out
					service)
Rhode Island	2017	HB 5702	2018	DMV and other state agencies designated by the secretary of state	Front-end (point-of-service)
Vermont	2016	HB 458	2017	DMV and other state agencies designated by the secretary of state	Front-end (point-of-service)
Virginia	2020	HB 235	2020	DMV	Front-end (point-of-service)
Washington	2018	HB 2595	2019	DMV, health benefit exchange and other state agencies approved by the secretary of state	Front-end (point-of-service)
West Virginia	2016	HB 4013	2021	DMV	Front-end (point-of-service)

What Are the Benefits of Automatic Voter Registration?

Proponents of automatic voter registration say the policy removes barriers to registration for eligible voters, a step toward increasing voter participation. By registering through a routine and necessary

transaction such as those at the DMV, voters won't have to worry about registration deadlines or application submissions.

Automatic registration can also help with [voter registration list maintenance](#) because the process updates existing registrations with current addresses. Precise voter rolls facilitate election accuracy while reducing the use of [provisional ballots](#)—a fail-safe voting option when there is a discrepancy in a voter's registration status, but which cost more to process. Some supporters also say automatic voter registration leads to higher voter turnout, although evidence supporting this claim is mixed.

What Are the Disadvantages of Automatic Voter Registration?

Opponents of automatic voter registration may say that the government should not tell citizens they must register to vote, particularly in states that provide the "opt-out" choice by mail, after the fact. Furthermore, they question whether opt-out forms that are sent and received through the mail are sufficient to ensure an individual can decline to register.

[MIT Election Data and Science Lab](#)

Voter Registration | Report

[The Pew Charitable Trusts](#)

Measuring Motor Voter | PDF

Related Resources

Updated November 10, 2023

Voters Are Clear: ‘Don’t Let 2024 Be a Sequel’

Political analyst Amy Walter told an NCSL Base Camp audience that the upcoming presidential election will look much like the last: The candidates are likely to be the same, and the same handful of states that determined the 2020 outcome will play the same role in 2024.

Elections

State Legislatures News

Updated November 09, 2023

2023 Elections: Trends and Takeaways From Tuesday’s Off-Year Contest

Experts at NCSL’s Base Camp meeting tallied the wins and losses and teased out the trends in the 2023 election.

Elections

State Legislatures News

Updated November 09, 2023

Voter ID Laws

Read the latest updates on voter ID legislative action in the states and find out more about the two ways voter ID laws can be categorized. "

Elections

Map

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EXHIBIT 17

See something? Please let us know!

While our website is fairly new, we are working to make sure that all of our content is working as it should. You can contact us by visiting our [Contact Us](#) page to submit an inquiry form (Concerning: "Website feedback") if you notice something that needs our attention.

Thank you!

Click on the "X" in the upper right corner of this message box to remove it from your view.



UNITED STATES
ELECTION ASSISTANCE
COMMISSION


Menu

Voter Registration Cancellations

Monday, October 31, 2022

[Share](#)

If you are registered to vote and would like to cancel or withdraw your voter registration, please follow your state and/or local election office's guidelines. States and local jurisdictions have different options for voters who wish to cancel their voter registration.

Some states allow for voters to utilize an online portal to withdraw their voter registration, while some states and jurisdictions have made PDF versions of their cancellation forms available online.

If your state does not have a link to their form listed, please use the directories below to contact your local election office for further assistance. If you have additional questions regarding voter registration cancellation, please contact your local election office.

Alabama

Cancellation Form: N/A

[Local Election Office Directory](#)

Alaska

[Cancellation Form](#)

[Local Election Office Directory](#)

American Samoa

Cancellation Form: N/A

Local Election Office Directory: N/A

Arizona

Cancellation Form: N/A

[Local Election Office Directory](#)

Arkansas

Cancellation Form: N/A

[Local Election Office Directory](#)

California

[Cancellation Form](#)

[Local Election Office Directory](#)

Colorado

[Cancellation Form](#)

[Local Election Office Directory](#)

Connecticut

Cancellation Form: N/A

[Local Election Office Directory](#)

Delaware

[Cancellation Form](#)

[Local Election Office Directory](#)

District of Columbia

[Cancellation Form](#)

[Local Election Office Directory](#)

Florida

Cancellation Form: N/A

[Local Election Office Directory](#)

Georgia

Cancellation Form: N/A

[Local Election Office Directory](#)

Guam

Cancellation Form: N/A

Local Election Office Directory: N/A

Hawaii

Cancellation Form: N/A

[Local Election Office Directory](#)

Idaho

Cancellation Form: N/A

[Local Election Office Directory](#)

Illinois

Cancellation Form: N/A

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Indiana

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Iowa

Cancellation Form: N/A

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Kansas

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Kentucky

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Louisiana

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Maine

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Missouri

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Montana

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Nebraska

Cancellation Form: N/A

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Nevada

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New Hampshire

Cancellation Form: N/A

Local Election Office Directory: N/A

New Jersey

Cancellation Form: N/A

[Local Election Office Directory](#)

New Mexico

[Cancellation Form](#)

[Local Election Office Directory](#)

New York

Cancellation Form: N/A

[Local Election Office Directory](#)

North Carolina

[Cancellation Form](#)

[Additional Information](#)

[Local Election Office Directory](#)

North Dakota

Cancellation Form

Local Election Office Directory

Northern Mariana Islands

Cancellation Form: N/A

Local Election Office Directory: N/A

Ohio

[Cancellation Form](#)

[Local Election Office Directory](#)

Oklahoma

[Cancellation Form](#)

[Local Election Office Directory](#)

Oregon

Cancellation Form: N/A

[Local Election Office Directory](#)

Pennsylvania

[Cancellation Form](#)

[Local Election Office Directory](#)

Puerto Rico

Cancellation Form: N/A

Local Election Office Directory: N/A

Rhode Island

Cancellation Form: N/A

[Local Election Office Directory](#)

South Carolina

Cancellation Form: N/A

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South Dakota

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Tennessee

Cancellation Form: N/A

[Local Election Office Directory](#)

Texas

Cancellation Form: N/A

[Local Election Office Directory](#)

Utah

Cancellation Form: N/A

[Local Election Office Directory](#)

Vermont

Cancellation Form: N/A

[Local Election Office Directory](#)

Virgin Islands

Cancellation Form: N/A

Local Election Office Directory: N/A

Virginia

[Cancellation Form](#)

[Local Election Office Directory](#)

Washington

[Cancellation Form](#)

[Local Election Office Directory](#)

West Virginia

Cancellation Form: N/A

[Local Election Office Directory](#)

Wisconsin

Cancellation Form: N/A

[Local Election Office Directory](#)

Wyoming

Cancellation Form: N/A

[Local Election Office Directory](#)



U.S. Election Assistance Commission

633 3rd Street NW, Suite 200,
Washington, DC 20001



Contact the EAC

Phone: 1 (866) 747-1471 (toll free)

Email: clearinghouse@eac.gov

Website: [Contact Us](#)

[About EAC](#)

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[FOIA Requests](#)

[No FEAR Act Data](#)

[Office of the Inspector General](#)

[Privacy Policy](#)

[Site Map](#)

For more U.S. government information

visit: USA.gov

EXHIBIT 18

Election Fraud Cases

← *Change State*



Refining Filters



STATE

Montana

YEAR

2021

NAME

Michael Winters

CASE TYPE

Criminal Conviction

FRAUD TYPE

False Registrations



Michael Winters

Michael Winters was charged in Gallatin County with one count of deceptive election practices for filling out a voter registration form under the false name "Miguel Raton" - Spanish for Mickey Mouse. Winters combined his driver's license number and Mickey Mouse's birthday to fill out the registration form. But the ID number belonged to a Missoula resident, which Winters said was unintentional, and he didn't know the person. He pleaded guilty and was sentenced to 6 months in prison, which was suspended in lieu of his completing 100 hours of community service. He was also assessed fees and costs of \$375.

Source: <https://herit.ag/40IAtxS>, <https://herit.ag/40Q6Pa1>,
<https://herit.ag/41FzbVt> , <https://herit.ag/3ozrQrT>



STATE

Montana

YEAR

2011

NAME

Alan Lloyd Skari

CASE TYPE

Criminal Conviction

FRAUD TYPE

Fraudulent Use Of Absentee Ballots



Alan Lloyd Skari

Alan Lloyd Skari pleaded guilty to a "limits on voting rights" charge after he submitted his ex-wife's absentee ballot without her permission. He was given a six-month suspended sentence and ordered to pay a \$250 fine plus a \$35 surcharge.

Source: <https://herit.ag/2WixO26>



EXHIBIT 19



August 17, 2023

Christi Jacobsen
Montana Secretary of State
Montana Capitol Building, Rm 260
P.O. Box 202801
Helena, MT 59620-2801

Via email and certified mail

Re: Demand for Documents Pursuant to the National Voter Registration Act

Dear Secretary Jacobsen:

We are writing on behalf of the League of Women Voters of Montana and Montana Women Vote to request documents pursuant to the National Voter Registration Act (NVRA) concerning Montana’s voter list maintenance and voter registration policies and practices.

The current Montana state voter registration form purports to make it a “require[d]” field that applicants provide their previous registration information if their name has changed or if they previously registered to vote in another jurisdiction, and specifies that such information “will be used to provide cancellation information to [the] former jurisdiction.”¹

On May 22, 2023, Governor Greg Gianforte signed Montana House Bill 892 (“HB 892”) into law.² As further explained in the accompanying NVRA notice letter, HB 892 mandates that voter registration applicants must deregister in a prior jurisdiction before seeking registration in a new Montana county, or else face threats of criminal felony prosecution. HB 892’s Deregistration Requirement specifies that “a person or elector may not purposefully remain registered to vote in more than one place in this state or another state any time,” with an exception for concurrent registrations to vote in special district elections. § 13-35-210(5), MCA. HB 892’s Omission Provision also separately requires that “[a] person or elector previously registered to vote in another county or another state shall provide the previous registration information on the Montana voter registration application.” *Id.*

On their face, these two provisions implicate Montana’s voter list maintenance and voter registration practices and responsibilities. They also appear to subject a voter registration applicant to criminal liability if they: (1) remain registered in more than one jurisdiction beyond a limited exception for

¹ See Montana State Voter Registration Application, Montana Sec’y of State, https://sosmt.gov/wp-admin/admin-ajax.php?juwpfis_admin=false&action=wpfd&task=file.download&wpfd_category_id=766&wpfd_file_id=47309&token=acb38cbb998e43108cfd572bc458c4ff&preview=1 (last visited Aug. 16, 2023). Montana’s voter registration form indicates in bold and all capitalized letters that providing past registration information is “REQUIRED IF NAME CHANGED OR IF PREVIOUSLY REGISTERED TO VOTE IN ANOTHER MT COUNTY OR IN ANOTHER STATE.” *Id.* At the same time, the prompt to provide past registration information is not marked with the asterisk that the form otherwise uses to instruct applicants of the required fields. *See id.*

² See Montana Legislature, “Section Effective Dates,” Detailed Bill Information: HB 892, available at <https://legiscan.com/MT/text/HB892/2023> (last accessed Aug. 16, 2023). The law went into effect the same day.

special-district (or equivalent) elections; and/or (2) omit or incorrectly input their prior place of registration when using a state voter registration form.

Demand for Documents

Under the NVRA, Montana must, upon request, produce “all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1). Likewise, the Montana Public Records Act, § 2-6-1001, *et seq.*, provides the right to inspect documents of the state.

Under these requirements, we request the following documents be produced forthwith:

- (1) Any records concerning the policies and practices of, or guidance to, Montana election offices and officials for processing, recording, referencing, verifying, or otherwise utilizing prior place of registration information provided on a voter registration application.
- (2) Any records concerning changes to the policies or practices described in (1) above.
- (3) Any records relating to new voter registration requirements related to prior places of registration implemented with the enactment of HB 892, including any new or changed policies, practices, or guidance related to the prior place of registration information included on voter registration applications.
- (4) Any records concerning the development of the current Montana state voter registration form, *supra* note 1, with regard to the field inquiring for “PREVIOUS REGISTRATION INFORMATION.”
- (5) Any records concerning the development of a new Montana state voter registration form related to HB 892.

We are requesting these records from January 1, 2021 through the present. Please provide the requested documents electronically by email (ahuling@campaignlegal.org) or FTP transfer if available. If any responsive documents are in the possession of the Secretary of State or any employees of the Secretary of State on non-governmental computers, electronic devices, or in paper copy, please include such documents in your production.

If there are any applicable fees for searching or copying these records, please inform us if the estimated cost will exceed \$300. However, we also request a waiver of all applicable fees, if any, because the disclosure of the requested information is in the public interest and this information is not being sought for commercial purposes.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Sincerely,

/s/ Hayden Johnson

Danielle Lang
Alice C.C. Huling
Alexandra Copper
Hayden Johnson

Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20005
(202) 736-2200
dlang@campaignlegalcenter.org
ahuling@campaignlegalcenter.org
acopper@campaignlegalcenter.org
hjohnson@campaignlegalcenter.org

EXHIBIT 20

From: [Alice Huling](#)
To: soselections@mt.gov
Cc: [Hayden Johnson](#); [Alexandra Copper](#); [Danielle Lang](#); [Molly Danahy](#); [Mel Neal](#)
Subject: FW: NVRA Notice Letter and Documents Request re HB 892
Date: Tuesday, October 17, 2023 5:28:16 PM
Attachments: [MT HB 892 NVRA Documents Request - final 8.17.23.pdf](#)

Good Afternoon,

Pursuant to the National Voter Registration Act and the Montana Public Records Act, on August 17, 2023, we sent your office the attached public records request letter seeking documents pertaining to Montana HB 892. To date we have not received any response to that request.

Please provide an update as to the processing of our request, including when we should expect to receive any responsive documents. And if you have any questions about any of the categories of records sought in our request, we would be happy to schedule a time to discuss and clarify our requests. We appreciate your attention to our request.

Best,
Alice

Alice Huling

Senior Legal Counsel, Voting Rights

202.856.7912 | [@acch12](#)

Campaign Legal Center
1101 14th St. NW, Suite 400
Washington, DC 20005
campaignlegalcenter.org

Check out CLC's new podcast: [Democracy Decoded](#)

From: Hayden Johnson <HJohnson@campaignlegalcenter.org>
Sent: Thursday, August 17, 2023 4:40 PM
To: soselections@mt.gov
Cc: Alexandra Copper <ACopper@campaignlegalcenter.org>; Alice Huling <AHuling@campaignlegalcenter.org>; Danielle Lang <dlang@campaignlegalcenter.org>; Molly Danahy <mdanahy@campaignlegalcenter.org>
Subject: NVRA Notice Letter and Documents Request re HB 892

Dear Secretary Jacobsen:

Please find attached an NVRA Notice Letter and accompanying Request for Documents regarding Montana HB 892.

The attachments were also mailed to your office today, 8/17/23, and are scheduled to arrive

8/19/23.

Best,
Hayden

--

Hayden Johnson

Legal Counsel

he/him/his (← Why am I listing my pronouns? Learn more [here.](#))

hjohnson@campaignlegalcenter.org | 918.557.8435

Campaign Legal Center
1101 14th St. NW, Suite 400
Washington, DC 20005
campaignlegalcenter.org

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EXHIBIT 21

Late Registration Procedures – Directive #01-06 (updated May 2010)

ELECTION ADVISORY ISSUED OCTOBER 11 AND NOVEMBER 3, 2006

New registrants--registering less than 30 days before the election (Not registered anywhere in Montana)

- Must have been a resident of the county where they intend to vote for at least 30 days.
- Must register to vote at the county election administrator's office and **MUST PICK UP THEIR BALLOT IN PERSON** at the election administrator's office; they can vote immediately or they can take an absentee ballot with them, but the voted ballot **MUST** be returned to the Election Administrator's office in person or by mail (13-2-304, MCA).

Electors changing counties (Registered elector changing counties of residence)

- As long as they are registered in another Montana county, they need not have been a resident for at least 30 days of the new county where they intend to vote (13-2-514, MCA).
- Make sure MT Votes does not indicate that an absentee ballot has already been sent -- **if it does, they can only change registration for the next election.**
- If the county-to-county registrant wants to vote in the new county they must change their registration at the county election administrator's office and **MUST PICK UP THEIR BALLOT IN PERSON** at the election administrator's office; they can vote immediately or they can take an absentee ballot with them but the voted ballot **MUST** be returned to the Election Administrator's office (13-2-304, MCA).
- **IMPORTANT NOTE:** In order to reduce the possibility of any individual voting in more than one county, and consistent with current procedures for individuals who do not appear in your precinct registers, individuals who choose to change their registration from one Montana county to another county will need to vote provisionally only on election day, providing supplemental registers are run the Monday before the election. The provisional ballot will be counted after you confirm that they have not voted in another county.

- In MT Votes, notify the old county of the transfer AND the fact that the elector voted in the election (done through use of the Provisional Module in MT Votes).
- After the election, the old county will verify that the elector did not vote in the old county (through the Provisional Module in MT Votes). If the elector attempts to cast two ballots in different counties in the same election, count the ballot which is not provisional and notify the county attorney and the Secretary of State's office.

Electors changing precincts within the county (Must already be registered in the County)

- They can vote once in their old precinct (13-2-512, MCA).
- If people want to vote a ballot for their new precinct in the upcoming election, they must late register in their new precinct at the election administrator's office and **MUST PICK UP THEIR BALLOT IN PERSON** at the election administrator's office. They can vote immediately or they can take an absentee ballot with them, but the voted ballot **MUST** be returned to the Election Administrator's office in person or by mail (13-2-304, MCA).
- Make sure MT Votes does not indicate that an absentee ballot has already been sent -- **if it does, they can only change registration for the next election.**
- **IMPORTANT NOTE:** In order to prevent any individual from voting at the polls in your county and also voting (through late registration at the county election administrator's office) in a different precinct, individuals who choose to change their registration from one precinct to another in your county will need to vote provisionally only on election day. The provisional ballot will be counted after you confirm that they have not voted at the polls.

Remember: An application for voter registration properly executed and postmarked on or before the day regular registration is closed still must be accepted as a regular registration for 3 days after regular registration is closed (13-2-301(3), MCA)

EXHIBIT 22



UPDATED April 8, 2016

ELECTION DIRECTIVE

September 28, 2007

#03-07

TOPIC: HANDLING MAIL BALLOT INACTIVE ELECTORS AND LATE REGISTRANTS

Procedures for Handling Inactive Electors in Mail Ballot Elections

1. Inactive electors are not automatically sent mail ballots; they must reactivate under the procedures below in order to receive ballots in a mail ballot election.
2. If an inactive elector requests a ballot, or mails in or brings in a voter registration form (or other document listing the elector's current residence address) **before** the ballots are mailed, change their status in MT Votes to "Active" and send the person a ballot along with the rest of the mail ballots.
3. If an inactive elector requests a ballot, or mails in or brings in a voter registration form (or other document listing the elector's current residence address) **after** the day on which you mailed your ballots, change their status in MT Votes to "Active" and provide them with a ballot in person or by mail.

You do not need to have them fill out a Replacement/Late Ballot Request since they, by following 13-2-222, MCA, are activating their registration and are therefore automatically eligible for a ballot. You may wish to keep a record of the issuance of ballots to reactivated electors in case you receive requests for this information.

4. In MT Votes, after you have activated the elector, the system will automatically put this voter into an Active/Prepared status. You can issue the ballot from Election Management or from Elections > Issue Ballot..

Procedures for Handling Late Registrants in Mail Ballot Elections

5. By law, a late registrant must come into your office if the individual wishes to register after the close of regular registration. If a late registrant comes in to register, enter them in the system and follow the procedures in 13-19-207(2)(b)(ii) (before ballots are mailed); 13-19-303(2)(b)(ii), MCA (after ballots are mailed); or 13-19-207(2)(d) (on election day).

6. For transfer late registrants on election day who are registered in another county or precinct, issue them a provisional ballot using the MT Votes Provisional Module, and consult the Provisional Module in MT Votes after the election in order to determine whether they voted in the other county or in the other precinct. If they did not vote in the other county or precinct, the ballot can be treated as a regular ballot. If they did vote in the other county or precinct, notify this office and your county attorney immediately.

A late transfer registrant can be moved even if a ballot has been issued in the previous county or precinct, as long as the issued ballot is voided in MT Votes before the move is made. DO NOT create a duplicate voter.

7. A late registrant who is not tracked in the provisional ballot module (#6) must be given an Absentee Type of Election Specific, unless otherwise requested by the voter.
8. All Late Registrants must be given a Vote Eligible date of the Sunday before the close of regular registration.

CERTIFICATE OF SERVICE

I, Constance Van Kley, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit to the following on 11-16-2023:

Rylee Sommers-Flanagan (Attorney)
P.O. Box 31
Helena MT 59624
Representing: League of Women Voters of Montana
Service Method: eService

Christi Jacobsen (Defendant)
Office of the Secretary of State
P.O. Box 202801
Helena 59620
Service Method: Certified Mail

Austin Knudsen (Defendant)
Office of the Attorney General
P.O. Box 201401
Helena 59620
Service Method: Certified Mail

Chris Gallus (Defendant)
Commissioner of Political Practices
P.O. Box 202401
Helena 59620
Service Method: Certified Mail

Electronically Signed By: Constance Van Kley
Dated: 11-16-2023