Voter Information Pamphlet

SENATE JUDICIARY
EXHIBIT NO. 5
DATE 2/19/13
BILL NO. SB321

Your Guide To The 2012 General Election Ballot Issues

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Published by

Montana Secretary of State Linda McCulloch

Toll-Free Voter Hotline: 1-888-884-VOTE (8683)

A Message from Secretary of State Linda McCulloch

Dear Montana Voter,

Voting is one of the most fundamental rights we enjoy as citizens of this great state and nation. Your vote is not only important; it has the power to initiate change in government.

As Montana's Chief Elections Officer, I am pleased to provide the Voter Information Pamphlet (VIP) to assist you in making informed decisions about issues that will appear on the General Election ballot. One VIP is mailed to every household with an active registered voter.

The Montana Constitution grants the right for individuals, groups and the Legislature to propose constitutional and statutory changes to Montana law through the initiative and referendum process. This process allows for proposed changes to the law to be placed on the ballot, and voted on by Montanans.

This year, the ballot will include three legislative referenda and two citizen proposals – one initiative referendum and one statutory initiative. Each citizen proposal qualified for the ballot through the signature gathering and petitions process. The legislative referenda were referred to the ballot by the Montana Legislature, and did not have to meet signature gathering requirements.

Please take the time to carefully read this pamphlet and to ask questions as needed. More information regarding elections can be found on our website at **sos.mt.gov**.

In rural states like Montana, your vote not only counts, it can be enough to change the outcome of an election. American governments should reflect the will of the people, and every vote is a voice heard.

Thank you for being an informed voter.

Linda McCulloch

Linda McCulloch, Montana Secretary of State

Published in 2012 by Montana Secretary of State Linda McCulloch. Distributed by Montana's county election offices. If you would like to receive additional copies of the VIP or would like to receive it in large print, Braille, audio CD, online, electronically, or in another accessible format, contact the Secretary of State's Office by phone at (406) 444-4732, or by email at SOSElections@mt.gov. TTY: (406) 444-9068.

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Who writes the information in the VIP?

The Attorney General writes an explanatory statement for each ballot issue. The statement, which is not to exceed 100 words, is required to be a true and impartial explanation of the purpose of each issue. The Attorney General also prepares the fiscal statement, if necessary, and the "for" and "against" ballot language for each citizen issue. The Legislature provides a title, and the "for" and "against" ballot language for each legislative referendum.

Proponent and opponent arguments and rebuttals are written by appointed committees. Arguments are limited to one page and rebuttals are limited to one-half page. All arguments and rebuttals are printed as filed by the committees and do not necessarily represent the views of the Secretary of State or the State of Montana.

Can I get the VIP in a different format?

If you would like to receive the Voter Information Pamphlet in an accessible format, including large print, Braille, audio CD, online, or electronically, contact the Secretary of State's Office by phone at (406) 444-4732, or by email at soselections@mt.gov.

The Secretary of State also has a text telephone (TTY) at (406) 444-9068. The device allows you to leave a message.

For information about registering and voting, contact the office's toll-free voter hotline at 1-888-884-VOTE (8683), or visit the Secretary of State's elections website at sos.mt.gov/Elections.

Disclaimer

The information included in the VIP for each ballot issue is the official ballot language, the text of each issue, and the arguments and rebuttals for and against each issue.

The opinions expressed therein do not necessarily represent the views of the Secretary of State or of the State of Montana. The Secretary of State does not guarantee the truth or accuracy of included statements.

Ballot Issue Worksheet on Page 46
Fill It Out, Tear It Out, Use It To VOTE!

Ballot Language for Legislative Referendum No. 120

Legislative Referendum No. 120

AN ACT REFERRED BY THE LEGISLATURE

AN ACT REQUIRING PARENTAL NOTIFICATION PRIOR TO AN ABORTION FOR A MINOR; PROVIDING FOR A JUDICIAL WAIVER OF NOTIFICATION; PROVIDING PENALTIES; REPEALING PRIOR STATUTES RELATING TO PARENTAL NOTIFICATION; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 41-1-405 AND 47-1-104, MCA; REPEALING SECTIONS 50-20-201, 50-20-202, 50-20-203, 50-20-204, 50-20-205, 50-20-208, 50-20-209, 50-20-211, 50-20-212, AND 50-20-215, MCA; AND PROVIDING AN EFFECTIVE DATE.

LR-120 prohibits a physician from performing an abortion on a minor under 16 years of age unless a physician notifies a parent or legal guardian of the minor at least 48 hours prior to the procedure. Notice is not required if: (1) there is a medical emergency; (2) it is waived by a youth court in a sealed proceeding; or (3) it is waived by the parent or guardian. A person who performs an abortion in violation of the act, or who coerces a minor to have an abortion, is subject to criminal prosecution and civil liability.

[ ] FOR requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.

[ ] AGAINST requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.

Complete Text of House Bill 627, Referred by LR-120

AN ACT REQUIRING PARENTAL NOTIFICATION PRIOR TO AN ABORTION FOR A MINOR; PROVIDING FOR A JUDICIAL WAIVER OF NOTIFICATION; PROVIDING PENALTIES; REPEALING PRIOR STATUTES RELATING TO PARENTAL NOTIFICATION; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 41-1-405 AND 47-1-104, MCA; REPEALING SECTIONS 50-20-201, 50-20-202, 50-20-203, 50-20-204, 50-20-205, 50-20-208, 50-20-209, 50-20-211, 50-20-212, AND 50-20-215, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Short title. [Sections 1 through 9] may be cited as the "Parental Notice of Abortion Act of 2011".

Section 2. Legislative purpose and findings. (1) The legislature finds that:

(a) immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences;

(b) the medical, emotional, and psychological consequences of abortion are sometimes serious and can be lasting, particularly when the patient is immature;

(c) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related;

(d) parents ordinarily possess information essential to a physician in the exercise of the physician's best medical judgment concerning the minor;

(e) parents who are aware that their minor daughter has had an abortion may better ensure that the daughter receives adequate medical care after the abortion; and

(f) parental consultation is usually desirable and in the best interests of the minor.

(2) The purpose of [sections 1 through 9] is to further the important and compelling state interests of:

(a) protecting minors against their own immaturity;

(b) fostering family unity and preserving the family as a viable social unit;

(c) protecting the constitutional rights of parents to rear children who are members of their household; and

(d) reducing teenage pregnancy and unnecessary abortion.

(Complete Text continued on page 3)

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Section 3. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Actual notice" means the giving of notice directly in person or by telephone.

(2) "Coerce" means to restrain or dominate the choice of a minor female by force, threat of force, or deprivation of food and shelter.

(3) "Emancipated minor" means a person under 18 years of age who is or has been married or who has been granted an order of limited emancipation by a court as provided in 41-3-438.

(4) "Medical emergency" means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of the woman's pregnancy to avert the woman's death or a condition for which a delay in treatment will create serious risk of substantial and irreversible impairment of a major bodily function.

(5) "Minor" means a female under 16 years of age who is not an emancipated minor.

(6) "Physical abuse" means any physical injury intentionally inflicted by a parent or legal guardian on a child.

(7) "Physician" means a person licensed to practice medicine under Title 37, chapter 3.

(8) "Sexual abuse" has the meaning given in 41-3-102.

Section 4. Notice of parent required. A physician may not perform an abortion upon a minor unless the physician has given at least 48 hours' actual notice to one parent or to the legal guardian of the pregnant minor of the physician's intention to perform the abortion. The actual notice may be given by a referring physician. The physician who performs the abortion must receive the written statement of the referring physician certifying that the referring physician has given actual notice. If actual notice is not possible after a reasonable effort, the physician or the physician's agent shall give alternate notice as provided in [section 5].

Section 5. Alternative notification. In lieu of the actual notice required by [section 4], notice may be made by certified mail addressed to the parent at the usual place of residence of the parent with return receipt requested and delivery restricted to the addressee, which means a postal employee may deliver the mail only to the authorized addressee. Time of delivery is considered to occur at noon on the next day on which regular mail delivery takes place after mailing.

Section 6. Exceptions. Notice is not required under [section 4 or 5] if:

(1) the attending physician certifies in the patient's medical record that a medical emergency exists and there is insufficient time to provide notice;

(2) notice is waived, in writing, by the person entitled to notice; or

(3) notice is waived under [section 8].

Section 7. Coercion prohibited. A parent, a guardian, or any other person may not coerce a minor to have an abortion. If a minor is denied financial support by the minor's parents, guardian, or custodian because of the minor's refusal to have an abortion, the minor must be considered an emancipated minor for the purposes of eligibility for public assistance benefits. The public assistance benefits may not be used to obtain an abortion.

Section 8. Procedure for judicial waiver of notice.

(1) The requirements and procedures under this section are available to minors whether or not they are residents of this state.

(2) The minor may petition the youth court for a waiver of the notice requirement and may participate in the proceedings on the person's own behalf. The petition must include a statement that the petitioner is pregnant and is not emancipated. The court may appoint a guardian ad litem for the petitioner. A guardian ad litem is required to maintain the confidentiality of the proceedings. The youth court shall advise the petitioner of the right to assigned counsel and shall order the office of state public defender, provided for in 47-1-201, to assign counsel upon request.

(3) Proceedings under this section are confidential and must ensure the anonymity of the petitioner. All proceedings under this section must be sealed. The petitioner may file the petition using a pseudonym or using the petitioner's initials. All documents related to the petition are confidential and are not available to the public. The proceedings on the petition must be given preference over other pending matters to the extent necessary to ensure that the court

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reaches a prompt decision. The court shall issue written findings of fact and conclusions of law and rule within 48 hours of the time that the petition is filed unless the time is extended at the request of the petitioner. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the notice requirement is waived.

(4) If the court finds that the petitioner is competent to decide whether to have an abortion, the court shall issue an order authorizing the minor to consent to the performance or inducement of an abortion without the notification of a parent or guardian.

(5) The court shall issue an order authorizing the petitioner to consent to an abortion without the notification of a parent or guardian if the court finds that:

(a) there is evidence of physical abuse, sexual abuse, or emotional abuse of the petitioner by one or both parents, a guardian, or a custodian; or

(b) the notification of a parent or guardian is not in the best interests of the petitioner.

(6) If the court does not make a finding specified in subsection (4) or (5), the court shall dismiss the petition.

(7) A court that conducts proceedings under this section shall issue written and specific findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence, findings, and conclusions be maintained.

(8) The supreme court may adopt rules providing an expedited confidential appeal by a petitioner if the youth court denies a petition. An order authorizing an abortion without notice is not subject to appeal.

(9) Filing fees may not be required of a pregnant minor who petitions a court for a waiver of parental notification or appeals a denial of a petition.

Section 9. Criminal and civil penalties. (1) A person convicted of performing an abortion in violation of [section 4 or 5] shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(2) Failure to provide the notice required under [section 4 or 5] is prima facie evidence in an appropriate civil action for a violation of a professional obligation. The evidence does not apply to issues other than failure to notify the parents or guardian. A civil action may be based on a claim that the failure to notify was the result of a violation of the appropriate legal standard of care. Failure to provide notice is presumed to be actual malice pursuant to the provisions of 27-1-221. [Sections 1 through 9] do not limit the common-law rights of parents.

(3) A person who coerces a minor to have an abortion is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a second or subsequent conviction, the person shall be fined an amount not less than $500 and not more than $50,000 and be imprisoned in the state prison for a term not less than 10 days and not more than 5 years, or both.

(4) A person not authorized to receive notice under [section 5] who signs a notice of waiver as provided in [section 6(2)] is guilty of a misdemeanor.

Section 10. Section 41-1-405, MCA, is amended to read:

"41-1-405. Emergencies and special situations. (1) A health professional may render or attempt to render emergency service or first aid, medical, surgical, dental, or psychiatric treatment, without compensation, to any injured person or any person regardless of age who is in need of immediate health care when, in good faith, the professional believes that the giving of aid is the only alternative to probable death or serious physical or mental damage.

(2) A health professional may render nonemergency services to minors for conditions that will endanger the health or life of the minor if services would be delayed by obtaining consent from spouse, parent, parents, or legal guardian.

(3) Consent may not be required of a minor who does not possess the mental capacity or who has a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal guardians, if a physician determines that the health service should be given.

(4) Self-consent of minors does not apply to sterilization or abortion, except as provided in ~~Title 50, chapter 20, part 2~~ [sections 1 through 9]."

Section 11. Section 47-1-104, MCA, is amended to read:

"47-1-104. Statewide system -- structure and scope of services -- assignment of counsel at

(Complete Text continued on page 5)

(Complete Text continued from page 4)

public expense. (1) There is a statewide public defender system, which must deliver public defender services in all courts in this state. The system is supervised by the commission and administered by the office.

(2) The commission shall approve a strategic plan for service delivery and divide the state into not more than 11 public defender regions. The commission may establish a regional office to provide public defender services in each region, as provided in 47-1-215, establish a contracted services program to provide services in the region, or utilize other service delivery methods as appropriate and consistent with the purposes described in 47-1-102.

(3) ~~Beginning July 1, 2006, when~~ When a court orders the office to assign counsel, the office shall immediately assign a public defender qualified to provide the required services. The commission shall establish protocols to ensure that the office makes appropriate assignments in a timely manner.

(4) ~~Beginning July 1, 2006, a~~ A court may order the office to assign counsel under this chapter in the following cases:

(a) in cases in which a person is entitled to assistance of counsel at public expense because of financial inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as follows:

(i) for a person charged with a felony or charged with a misdemeanor for which there is a possibility of incarceration, as provided in 46-8-101;

(ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as provided in 40-6-119;

(iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any removal, placement, or termination proceeding pursuant to 41-3-422 and as required under the federal Indian Child Welfare Act, as provided in 41-3-425; (iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;

(v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;

(vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;

(vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided in 53-21-116;

(ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as provided in 53-24-302; and

(x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.

(b) in cases in which a person is entitled by law to the assistance of counsel at public expense regardless of the person's financial ability to retain private counsel, as follows:

(i) as provided for in 41-3-425;

(ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent or in need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction Prosecution Act, as provided in 41-5-1607;

(iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on Juveniles, as provided in 41-6-101;

(iv) for a minor who petitions for a waiver of parental notification requirements under the Parental Notice of Abortion Act, as provided in ~~50-20-212~~ [section 8];

(v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;

(vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in a proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;

(viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a mental disorder of the ward, as provided in 72-5-322; and

(c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).

(5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.

(Complete Text continued on page 6)

(Complete Text continued from page 5)

(b) A private attorney who is contracted with under the provisions of 47-1-216 to provide public defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service for the statewide public defender system and does not result in a conflict of interest."

Section 12. Repealer. The following sections of the Montana Code Annotated are repealed:

50-20-201. Short title.
50-20-202. Legislative purpose and findings.
50-20-203. Definitions.
50-20-204. Notice of parent required.
50-20-205. Alternate notification.
50-20-208. Exceptions.
50-20-209. Coercion prohibited.
50-20-211. Reports.
50-20-212. Procedure for judicial waiver of notice.
50-20-215. Criminal and civil penalties.

Section 13. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 50, chapter 20, and the provisions of Title 50, chapter 20, apply to [sections 1 through 9].

Section 14. Coordination instruction. If both Senate Bill No. 97 and [this act] are passed and approved, then [this act] is void.

Section 15. Effective date. If approved by the electorate, [this act] is effective January 1, 2013.

Section 16. Submission to electorate. [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:

[] FOR requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.

[] AGAINST requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.

Argument For LR-120

In Montana, a girl as young as thirteen years old can get an abortion without a parent ever knowing about it. Legislative Referendum 120 would require at least one parent to be notified before an abortion could be performed on a child under sixteen. Ironically, in Montana, a child must get her parent's permission before going to a tanning salon, or having her ears pierced. So how can she get an abortion without her parent even being told? It makes no sense. A "yes" vote on LR-120 will correct this defect in our laws.

Parents are responsible for protecting the health and well-being of their child, and that is why their involvement in medical decisions affecting their child is crucial. Abortion procedures typically involve surgery, the administration of powerful drugs, or both. It can involve anesthesia, and possible complications such as hemorrhaging, infection and death. Parents have the most knowledge of their child's medical history, including possible drug allergies, prior illnesses, and other health conditions. If a teenage girl suffers complications following an abortion, who is responsible for ensuring that she receives proper care? Her parents are. But if they don't even know an abortion has occurred, it can cripple their ability to ensure their daughter receives proper care.

The issue here is the right and the duty of parents to be involved in their child's life and look out for her best interests. A child needs her parent's advice, protection, and love during this stressful time. This is an adult decision, and it should include the adults who care the most about her future.

Another reason for parents to be involved is to protect a child who is being victimized by a child predator. If a neighbor, someone from school, or even an older boyfriend gets a child pregnant, they can coerce her into getting a secret abortion to cover their tracks. Informing the parent of a girl who has been threatened or coerced into silence will put an end to the abuse. Parents have a right and a responsibility to protect their child, but they can't help if they're kept in the dark.

Thirty seven states have now passed parental consent or notification laws. All of the states surrounding Montana require either parental consent or notification, and it's time to close the loophole that allows a pregnant child from a surrounding state to be brought to Montana for this serious procedure without parental involvement.

(Argument continued on page 7)

(Argument continued from page 6)

LR-120 simply requires one parent to be notified of their child's pending abortion. Please vote YES on LR-120 to support the right and responsibility of parents to care for their children.

Argument Against LR-120

Please Vote AGAINST Legislative Referendum 120 (LR-120)

Imagine a girl from an abusive home, perhaps your daughter's friend, forced to tell her parents she is pregnant and needs an abortion. Imagine how an abusive parent might react. While most girls seeking an abortion involve their parents in their decision, there will always be vulnerable teens who find themselves in situations where they can't go to their parents. LR-120 puts them in serious danger.

LR-120 MEANS MORE GOVERNMENT INTRUSION

It doesn't matter how many laws we pass. No law can mandate good family communication. Laws can't make teenagers talk to their parents, especially if their families are in crisis. This law amounts to government intrusion and isn't right for Montana. In the real world, this law may place a teen in danger who is from an abusive or violent family.

LR-120 WILL PUT OUR KIDS IN DANGER

The sad truth is that not all families are caring families. The real answer to teen pregnancy is prevention and strong, concerned families, not laws that endanger our daughters. The best way to protect our daughters is to begin talking about responsible, appropriate sexual behavior from the time they are young and foster an atmosphere that assures them that they can come to us with important decisions about their reproductive lives. We want teens facing an unintended pregnancy to have safe medical care and counseling if they can't talk to their parents. Forcing a girl to tell her parents or to try to go to court to get a waiver from a judge may drive her to engage in destructive behavior such as seeking an illegal abortion or running away.

LR-120 IS UNNECESSARY IN MONTANA

On average more than 80% of girls obtaining an abortion include their parents in their decision. On average, only a small number of teens may have very legitimate reasons not to involve their parents in seeking medical care such as abuse or incest in the home.

LR-120 IS UNCONSTITUTIONAL

LR-120 does not address the core problems with Montana's unconstitutional and unenforceable parental notification law. In 1999, a Montana court found that Montana's parental notification law violated two different sections of the Montana Constitution. LR-120 would reenact that invalid law with only minor changes. Those small changes would not fix the serious constitutional violations of the law that led to the court striking it down.

The Montana State Constitution's fundamental right to privacy includes the right of all Montanans to make private medical decisions. The young women targeted by LR-120 have that same constitutional right to consult with a doctor and to receive the healthcare treatment they need. LR-120 strips them of that right to privacy and puts their health in serious danger. The passage of LR-120 would only generate more lawsuits, forcing parties to litigate on topics already ruled upon, leading to unnecessary costs for the state and tax payers.

Proponents' Rebuttal of Argument Against LR-120

The opponents are using the same tired arguments that have been tried in the other 37 states that have passed parental notification laws. The truth is, after these laws are passed, the doomsday scenarios never materialize. Parental notification laws protect kids from sexual predators, reduce the chance of post-abortion medical complications, and empower parents who want to protect their child's health and safety.

As for the argument that the law is unconstitutional, the purpose of this referendum is to re-visit the issue, taking into consideration the concerns of the court. This new law adheres to the court's decision, and strikes a reasonable balance between parental involvement and a child's right to privacy.

Our opponents would have you believe that abortion clinics always have the child's best interest at heart, but recent hidden-camera interviews, and

(Rebuttal continued on page 8)

(Rebuttal continued from page 7)

statements from abortion clinic employees, prove otherwise. See one such interview at **mtparentalrights.org**. It's shocking, but true; child predators use coerced abortions to cover their tracks.

It's also important to remember that parental permission is currently required before a minor can get her ears pierced, or get a tattoo. An abortion is much more serious. In fact, a young woman recently bled to death after an abortion in Florida. Hemorrhaging after a surgical abortion is always a concern, and parents won't even know to watch for it if they don't know the abortion took place.

A CHILD SHOULD NEVER HAVE SURGERY WITHOUT HER PARENT'S KNOWLEDGE. PROTECT CHILDREN BY INVOLVING THEIR PARENTS. VOTE YES ON LR-120.

Opponents' Rebuttal of Argument For LR-120

LR-120 puts our young women in danger.

The truth is, not all families are caring and not all parents are responsible. Even though you might provide a loving, supportive home for your own daughter, some young women live in abusive homes. It could be your daughter's friend or the girl down the street. Imagine, an abusive father receiving a notice that his daughter is pregnant and seeking an abortion. He could react violently. We must protect girls from situations like this.

Most young women in Montana already involve their parents in their decision to seek an abortion. This law is unnecessary government intrusion and it is unconstitutional. For young women who are from abusive homes, LR-120 would make a bad situation worse. These young women need counseling and safe medical care. If they feel afraid to seek these services because they know their parents will be notified, they may feel forced to make bad decisions such as running away or seeking an illegal abortion.

Please, vote AGAINST LR-120 and keep our young women safe.

Credits

The PROPONENT argument and rebuttal were prepared by State Senator Jeff Essmann and State Representative Gerry Bennett.

The OPPONENT argument and rebuttal were prepared by State Senator Lynda Moss and State Representative Diane Sands.

Ballot Language for Legislative Referendum No. 121

Legislative Referendum No. 121

AN ACT REFERRED BY THE LEGISLATURE

AN ACT DENYING CERTAIN STATE-FUNDED SERVICES TO ILLEGAL ALIENS; ESTABLISHING PROCEDURES FOR DETERMINING A PERSON'S CITIZENSHIP STATUS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

LR-121 prohibits providing state services to people who are not U.S. citizens and who have unlawfully entered or unlawfully remained in the United States. Under LR-121, every individual seeking a state service, such as applying for any state licenses, state employment, unemployment or disability benefits, or aid for university students, must provide evidence of U.S. citizenship or lawful alien status, and/or have their status verified through federal databases. State agencies must notify the U.S. Department of Homeland Security of noncitizens who have unlawfully entered or remained in the U.S. and who have applied for state services.

The costs associated with verifying U.S. citizenship or lawful alien status will vary by agency and cannot

(Ballot Language continued on page 9)

(Ballot Language continued from page 8)

be precisely determined. However, on-going costs may include: hiring and training state personnel to use various federal databases; software, hardware and search charges; and information assessment and management costs.

[ ] FOR denying certain state services to illegal aliens.

[ ] AGAINST denying certain state services to illegal aliens.

Complete Text of House Bill 638, Referred by LR-121

AN ACT DENYING CERTAIN STATE-FUNDED SERVICES TO ILLEGAL ALIENS; ESTABLISHING PROCEDURES FOR DETERMINING A PERSON'S CITIZENSHIP STATUS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Certain state services denied to illegal aliens. (1) To the extent allowed by federal law and the Montana constitution and notwithstanding any other state law, a state agency may not provide a state service to an illegal alien and shall comply with the requirements of this section.

(2) To determine whether an applicant for a state service is an illegal alien, the agency may use the systematic alien verification for entitlements program provided by the United States department of homeland security or any other lawful method of making the determination.

(3) A state agency shall notify appropriate personnel in immigration and customs enforcement under the United States department of homeland security or its successor of any illegal alien applying for a state service.

(4) An agency shall require a person seeking a state service to provide proof of United States citizenship or legal alien status.

(5) A state agency shall execute any written agreement required by federal law to implement this section.

(6) As used in this section, the following definitions apply:

(a) "Agency" means a department, board, commission, committee, authority, or office of the legislative or executive branches of state government, including a unit of the Montana university system.

(b) "Illegal alien" means an individual who is not a citizen of the United States and who has unlawfully entered or remains unlawfully in the United States.

(c) "State service" means a payment of money, the grant of a state license or permit, or the provision of another valuable item or service under any of the following programs and provisions of law:

(i) employment with a state agency;

(ii) qualification as a student in the university system for the purposes of a public education, as provided in 20-25-502;

(iii) student financial assistance, as provided in Title 20, chapter 26;

(iv) issuance of a state license or permit to practice a trade or profession, as provided in Title 37;

(v) unemployment insurance benefits, as provided in Title 39, chapter 51;

(vi) vocational rehabilitation, as provided in Title 53, chapter 7;

(vii) services for victims of crime, as provided in Title 53, chapter 9;

(viii) services for the physically disabled, as provided in Title 53, chapter 19, parts 3 and 4;

(ix) a grant, as provided in Title 90.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 4, and the provisions of Title 1, chapter 1, part 4, apply to [section 1].

Section 3. Coordination instruction. If House Bill No. 534 is passed and approved, then [this act] is void.

Section 4. 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.

(Complete Text continued on page 10)

(Complete Text continued from page 9)

Section 5. Effective date. If approved by the electorate, [this act] is effective January 1, 2013.
Section 6. Applicability. [This act] applies to the provision of a state service, as defined in [section 1], applied for or intended to be made on or after January 1, 2013.
Section 7. Submission to the electorate. [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:
[] FOR denying certain state services to illegal aliens.
[] AGAINST denying certain state services to illegal aliens.

Argument For LR-121

The purpose of this referendum is to save Montana taxpayers money, honor the rule of law, and deny state and federal taxpayer supported services to those unlawfully in the United States. The ballot language requires the federal government to be notified and to enforce immigration control of illegal aliens who apply for state services, thus forcing them to leave Montana rather than use our services and take our jobs.

Illegal aliens can cost the taxpayers of Montana millions and have cost our nation billions of dollars. Illegal aliens can live in Montana two ways. One is to live on our dime by applying for and obtaining services such as food stamps, unemployment benefits, disability benefits, state licenses, and aid to university students. The other is to take jobs from our citizens. This is especially insulting when unemployment is high and Montana citizens are out of work.

The ballot language requires all applicants for state services to demonstrate that they are in the country legally just like we all do when we apply for a Montana driver's license. Therefore, this law will not discriminate because everyone is treated equally.

Our nation is in economic trouble. We spend over $1.3 trillion dollars more per year than we take in through taxation. Our national debt has increased by trillions of dollars in the last 5 years with billions spent on fraudulent payments which include illegal aliens. We cannot afford to, and we should not, spend another dime supporting individuals who are in our country illegally. Now is the time to stop this for our personal and economic security.

Argument Against LR-121

LR-121 is against everything that we Montanans believe in. Montana has a long and rich tradition of being open and welcoming. As long as you are willing to work hard and be a good neighbor, there is a place for you under the Big Sky. Our state has always been a special place where you can provide a better life for your family, where hard work and self-reliance are rewarded with opportunity, a fair shake, and access to a quality education.

LR-121 changes all of that. It replaces the values of our homesteading pioneers with federal databases and bureaucratic screenings – more red tape that you and your family will have to fight through when you apply for state services, whether it's admission at any of our colleges, applying for a state license or permit, or even trying to get help as the victim of crime.

We value our Montana freedom and hold strong to our independent nature. That's why we've fought back against attempts to create a national identification card. However, LR-121 could force state employees to check your identity against a federal database and then report you to federal officials if something doesn't match up. Even worse, this federal database is not free, and the state will bear the cost of using the system and training employees to use it.

This is just the kind of unnecessary bureaucratic meddling that we fought against when we led the nation in rejecting Real ID. LR-121 requires public employees to make judgments about citizenship that are better left to individuals with training and resources to properly make these determinations. Our country needs real immigration reform, not more paperwork for state employees and everyday Montanans.

Proponents' Rebuttal of Argument Against LR-121

The opponents of LR-121 avoid the point of the referendum and never once mention the word "law." This referendum simply ensures that public benefits and services are not provided to those who have no lawful right to receive them. Verifying U.S. citizenship or legal residency protects Montana taxpayers from unwarranted burdens by enforcing the rule of law.

The opponents say that public employees must make judgments about "citizenship." This is not correct because the federal government provides two online services, one free and the other of minimal cost, to easily verify the status of individuals requesting state services or employment. One of these services is already used by a number of public jurisdictions in Montana and by hundreds of private companies across the state to confirm legal status for employment.

This referendum will not only lawfully and correctly regulate the expenditures of Montana taxpayers' monies. It will enhance state and federal efforts to combat illegal immigration in Montana. Passing this referendum is the right thing to do for our state. Vote YES on LR-121!

Opponents' Rebuttal of Argument For LR-121

Facts are a stubborn thing.

This referendum is a misguided effort to use our state resources to enforce federal immigration laws. It will be costly and damaging to the State of Montana.

As Montanans, we honor the rule of law and want our laws to reflect our values. We don't want to be screened through federal databases, adding extra red tape for Montanans to go through when applying for a job, college, or licenses or permits. We especially don't want to have to show our papers when we've been a victim of crime.

We don't want employees of the State of Montana to serve as federal immigration agents, using a flawed database to screen Montanans, and giving out names to the federal government when things don't seem to match up.

We don't want to pay the federal government to do its job. LR-121 proposes a "pay-per-use" federal database that costs between $.50 and $2.00 for each search. When you consider the numbers of applicants for state services, this adds up.

The bottom line is that we don't need this law in Montana. The supporters have not backed up their claim that illegal immigration is costing the state millions of dollars. Nor have they provided any proof that unauthorized aliens in Montana have applied for unemployment insurance benefits, let alone received them.

It is the federal government's job to enforce immigration laws, not ours. Let's stand together and vote against LR-121.

Credits

The PROPONENT argument and rebuttal were prepared by State Senator Jim Shockley and State Representative David Howard.

The OPPONENT argument and rebuttal were prepared by State Senator Dave Wanzenried and State Representative Margie MacDonald.

Ballot Language for Legislative Referendum No. 122

Legislative Referendum No. 122

AN ACT REFERRED BY THE LEGISLATURE

AN ACT PROHIBITING THE STATE OR FEDERAL GOVERNMENT FROM MANDATING THE PURCHASE OF HEALTH INSURANCE COVERAGE OR IMPOSING PENALTIES FOR DECISIONS RELATED TO THE PURCHASE OF HEALTH INSURANCE COVERAGE; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO

(Ballot Language continued on page 12)

(Ballot Language continued from page 11)

THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.

LR-122 prohibits the state and federal governments from requiring the purchase of health insurance or imposing any penalty, tax, fee or fine on those who do not purchase health insurance. The prohibition does not apply to: (1) a court which orders the purchase of insurance when an individual or entity is a named party in a judicial dispute; (2) the state department of public health and human services as part of a child support enforcement action; or (3) the Montana university system as a requirement for students.

[ ] FOR prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalties for decisions related to purchasing health insurance.

[ ] AGAINST prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalties for decisions related to purchasing health insurance.

Complete Text of Senate Bill 418, Referred by LR-122

AN ACT PROHIBITING THE STATE OR FEDERAL GOVERNMENT FROM MANDATING THE PURCHASE OF HEALTH INSURANCE COVERAGE OR IMPOSING PENALTIES FOR DECISIONS RELATED TO THE PURCHASE OF HEALTH INSURANCE COVERAGE; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Short title. [Sections 1 and 2] may be cited as the "Montana Health Care Freedom Act".
Section 2. Health insurance purchase mandate prohibited -- exceptions. (1) The state or federal government may not:
(a) mandate or require a person or entity to purchase health insurance coverage as defined in 33-22-140; or
(b) impose a penalty, tax, fee, or fine of any type if a person or entity declines to purchase health insurance coverage.
(2) This section does not apply to a requirement to purchase health insurance coverage that is imposed by:
(a) a court when an individual or entity is a named party in a judicial dispute;
(b) the department of public health and human services as part of a child support enforcement action; or
(c) the Montana university system as a requirement for students.
Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1 and 2].
Section 4. Effective date. If approved by the electorate, [this act] is effective January 1, 2013.
Section 5. Submission to electorate. [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:
[] FOR prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalties for decisions related to purchasing health insurance.
[] AGAINST prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalties for decisions related to purchasing health insurance.

Argument For LR-122

Congress calls it a mandate. The U.S. Supreme Court calls it a tax. President Obama calls it a penalty. Whatever you call it, it means money out of your pocket, and less freedom to decide on your own health care.

ObamaCare is the largest and most expensive welfare expansion in the last 50 years. One of its central themes was a new federal government requirement that you either buy government dictated minimum health insurance, or pay the government for choosing not to buy. This ObamaCare mandate was quickly challenged in court by most other states,

(Argument continued on page 13)

(Argument continued from page 12)

but our Montana Attorney General cowered from joining them. Nonetheless, the Montana Legislature refused to appease the federal government, and instead referred a broad prohibition to the people of Montana against any "mandate, penalty, tax, fee or fine." This Referendum (LR-122) creates new legal grounds so that the rights of Montana citizens were protected from federal coercion or state collusion, regardless of the outcome of the court challenge.

Congress used the Commerce Clause to justify the Affordable Care Act's unprecedented mandate to purchase a product. The U.S. Supreme Court ruled this justification was unconstitutional. However, the Court also ruled that Congress could apply its taxing power against people who chose not to buy the minimum level of insurance dictated by Congress. As a result, families declining to buy government mandated insurance policies must soon pay over $2,000 per year to the IRS. Experts believe this annual penalty amount will rise to more closely match the expected higher insurance premiums (up to $12,500 by 2016).

While ObamaCare may be good for the hospital, drug and insurance companies that supported it, its dramatic expansion of Medicaid and minimum insurance coverage can only be paid for through higher taxes and insurance premiums. Consequently, ObamaCare does nothing to control health care costs, and will ironically thwart its very title of "affordability." Instead, it will further socialize medicine, increase rationing, allow bureaucrats to become decision makers, and eliminate the ability of people to choose their level of care.

To mitigate these effects, upon passage of LR-122, Montanans will have new protections against state and federal government over reach concerning their health care. We urge you to vote FOR the referendum.

Argument Against LR-122

Montanans should vote *against* LR-122 because every Montanan deserves to receive health care when they need it, no matter how sick they are. Beginning in 2014, insurance companies can no longer refuse to cover some Montanans just because they are sick and need health care; they'll have to cover everyone. It's the law. But if LR-122 passes some Montanans will take a gamble and go without health insurance, figuring they can just get it after they become sick or injured. That gamble will cost us all dearly. The more people who do not have coverage, whether because it is not affordable or because they can afford it but take the gamble by not buying it, the more health insurance costs everyone else.

Insurance companies will have to charge extremely high rates to Montanans and small businesses that make the responsible decision to purchase insurance. Higher rates will be needed to pay the claims not only for those who made the responsible choice, but also for those who took the gamble to go without, or those who couldn't afford insurance. Those higher rates, in turn, will mean even more people will be unable to afford insurance, resulting in even higher premiums for the few who can still afford it. Montanans will be in a big mess.

LR-122 is intended to undermine and reverse reforms in federal law that: allow young adults to stay on their parent's insurance; lower premiums for those who most need it; provide insurance to those with serious health conditions but simply cannot afford it; give tax credits to small businesses so they can provide insurance for their employees, lower costs by promoting wellness and prevention, and lower prescription drug costs for seniors. LR-122 threatens to take all these improvements away.

The federal law isn't perfect, but it's a good start. Americans on the whole spend more on health care than any other industrial democracy but nearly one in five of us is still not insured, and lack access to the primary care that keeps us healthy and saves all of us money. The vast majority of those who are not insured are working full-time; many are heads of household. And the new law helps balance the federal budget. The non-partisan Congressional Budget Office estimates that it will reduce the deficit by $138 billion over ten years.

LR-122 rewards irresponsible behavior, threatens jobs in the insurance and healthcare industries, and diminishes the opportunity for many Montanans to

(Argument continued on page 14)

(Argument continued from page 13)

finally get the health care they need. LR-122 threatens to divide us once again into those with health care and those without. The Supreme Court has spoken. It's time to come together and build a health care system that works for all of us.

Montanans should reject LR-122.

Proponents' Rebuttal of Argument Against LR-122

Every Montanan deserves the right to choose what lawful products or services they buy (or don't buy), without government oppression. Montanans do not deserve to be called "irresponsible," as the opponents of LR-122 argue, when you decide how to spend your own money.

The opponents of LR-122 are distorting the costs of ObamaCare to fit their big government agenda. The truth is that insurance premiums are skyrocketing due to ObamaCare mandates, not from supposed "irresponsible behavior" of everyday Montanans. According to a survey by the non-partisan Kaiser Family Foundation, ObamaCare has been a factor in insurance premiums rising by 9% in 2011. Because of ObamaCare, Montana families pay over $15,000 a year for insurance, which is almost $1,500 more than they paid previously. LR-122 creates responsible law. If you cannot afford to pay high insurance costs, the State of Montana will not tax you, or support the federal government in taxing you, for your decision.

Moreover, if Montana enforces the ObamaCare insurance tax, the precedent will be set for a host of new social directives on what goods and services the state dictates you must purchase. LR-122 stands firmly against this idea. Instead, individuals should have the ability to prioritize their own spending, based on their own needs.

By passing LR-122, Montanans will stop their government from depriving them of freedom of choice. This will result in greater respect for Montanans as responsible individuals, as well as reduce their health care costs. Vote FOR LR-122.

Opponents' Rebuttal of Argument For LR-122

Proponents of LR-122 want the freedom not to purchase insurance, but others want the freedom to access good medical care and not be "rationed" out of the system because they get sick. The market is broken when willing buyers cannot buy the product they want at an affordable price.

Opponents of reform note that the law was quickly challenged in court, but fail to mention that they just as quickly LOST their case. The Supreme Court ruled that the federal law complies with the Constitution. Our Attorney General wisely kept Montana out of the doomed lawsuit, saving taxpayer dollars. It would have made no difference.

Likewise, passage of LR-122 makes no difference and provides no legal basis to challenge the Supreme Court's decision. Montana cannot enforce a state law that conflicts with the Supreme Court's ruling. LR-122, if passed, will be immediately challenged and dismissed as unconstitutional – wasting taxpayer dollars.

Don't be fooled; LR-122 in no way expands Medicaid or welfare. It does increase access to healthcare by making it more affordable and preventing insurance companies from discriminating against people who are sick. LR-122 proponents admit they want to destroy the law and with it, all the reforms that will curb the worst abuses of insurance companies. Companies will again be allowed to deny health insurance to someone just because they are sick or might get sick. Companies already ration healthcare by discriminating against Montanans who get cancer, diabetes or other life-threatening illnesses. Vote NO on LR-122.

Credits

The PROPONENT argument and rebuttal were prepared by State Senator Art Wittich and State Representative Cary Smith.

The OPPONENT argument and rebuttal were prepared by State Senator Christine Kaufmann and State Representative Franke Wilmer.

Ballot Language for Initiative Referendum No. 124

Initiative Referendum No. 124

AN ACT OF THE LEGISLATURE REFERRED BY REFERENDUM PETITION

In 2004, Montana voters approved I-148, creating a medical marijuana program for patients with debilitating medical conditions. Senate Bill 423, passed by the 2011 Legislature, repeals I-148 and enacts a new medical marijuana program, which includes: permitting patients to grow marijuana or designate a provider; limiting each marijuana provider to three patients; prohibiting marijuana providers from accepting anything of value in exchange for services or products; granting local governments authority to regulate marijuana providers; establishing specific standards for demonstrating chronic pain; and reviewing the practices of doctors who certify marijuana use for 25 or more patients in a 12-month period.

If Senate Bill 423 is affirmed by the voters, there will be no fiscal impact because the legislature has funded the costs of its implementation. If Senate Bill 423 is rejected by the voters, there may be a small savings to the State.

[ ] FOR Senate Bill 423, a bill which repeals I-148 and enacts a new medical marijuana program.

[ ] AGAINST Senate Bill 423, a bill which repeals I-148 and enacts a new medical marijuana program. A vote against Senate Bill 423 will restore I-148.

Complete Text of Senate Bill 423, Referred by IR-124

AN ACT ESTABLISHING THE MONTANA MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS 37-1-316, 37-3-343, 37-3-347, 41-5-216, 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES.

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

Section 1. Short title -- purpose. (1) [Sections 1 through 23] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through 23] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 23] by persons who obtain registry identification cards;

(c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;

(d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and

(e) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

Section 2. Definitions. As used in [sections 1 through 23], the following definitions apply:

(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction.

(2) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely

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affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician and by:

(i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

(5) "Marijuana" has the meaning provided in 50-32-101.

(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(9) "Paraphernalia" has the meaning provided in 45-10-101.

(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to assist a registered cardholder as allowed under [sections 1 through 23].

(b) The term does not include the cardholder's treating physician or referral physician.

(11) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(12) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(13) "Registered premises" means the location at which a provider or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder.

(14) "Registry identification card" means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder, provider, or marijuana-infused products provider.

(15) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 23] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(16) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(Complete Text continued on page 17)

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(17) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(18) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient's medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

(19) "Treating physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the person applying to be a registered cardholder.

(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(21) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of [section 7] and is provided in a manner that meets the standard of care.

Section 3. Department responsibilities -- issuance of cards -- confidentiality -- reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 23]; and

(ii) are named as providers or marijuana-infused products providers by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 23].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider or marijuana-infused products provider.

(3) Registry identification cards issued pursuant to [sections 1 through 23] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider or marijuana-infused products provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition, a provider, or a marijuana-infused products provider; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall review the information contained in an application or renewal submitted pursuant to [sections 1 through 23] and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 5 days of approving an application or renewal.

(5) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) (a) Registry identification cards expire 1 year after the date of issuance unless:

(Complete Text continued on page 18)

(Complete Text continued from page 17)

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

(b) A provider's or marijuana-infused products provider's registry identification card expires at the time the department issues a card to a new provider or new marijuana-infused products providers named by a registered cardholder.

(7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products providers or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(9) The department shall provide the names of providers and marijuana-infused products providers to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of [section 17].

(10) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, or marijuana-infused products providers.

(12) The board of medical examiners shall report annually to the legislature on:

(a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and

(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications.

Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the person's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;

(f) a statement, on a form prescribed by the department, that the person will not divert to any

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other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;

(g) the name of the person's treating physician or referral physician and the street address and telephone number of the physician's office;

(h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;

(i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and

(j) the written certification and accompanying statements from the person's treating physician or referral physician as required pursuant to [section 7].

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to serve as the minor's marijuana-infused products provider;

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;

(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

(c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5].

(d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product.

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to [section 7] from a second physician in addition to the minor's treating physician or referral physician.

(4) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.

(6) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 10] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage.

Section 5. Provider types -- requirements -- limitations -- activities. (1) The department shall issue a registry identification card to or renew a card for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

(b) proof that the person is a Montana resident;

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(Complete Text continued from page 19)

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;

(e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;

(f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at only one location as provided in subsection (7). The location must be identified by street address.

(g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person under this section if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under [section 16];

(d) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4].

(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.

(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.

(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.

(5) Marijuana for use pursuant to [sections 1 through 23] must be cultivated and manufactured in Montana.

(6) A provider or marijuana-infused products provider may not:

(a) accept anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;

(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or

(c) use marijuana unless the person is also a registered cardholder.

(7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a registered cardholder only at one of the following locations:

(i) a property that is owned by the provider or marijuana-infused products provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or marijuana-infused products provider or another registered cardholder.

Section 6. Marijuana-infused products provider -- requirements -- allowable activities. (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(Complete Text continued on page 21)

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(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

Section 7. Written certification -- accompanying statements. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the person's treating physician and that the person has been under the physician's ongoing medical care as part of a bona fide professional relationship with the person; or

(ii) the person's referral physician;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;

(j) list restrictions on the person's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(l) state that the physician will:

(i) continue to serve as the person's treating physician or referral physician; and

(ii) monitor the person's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

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(Complete Text continued from page 21)

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

Section 8. Registry card to be carried and exhibited on demand -- photo identification required. A registered cardholder, provider, or marijuana-infused products provider shall keep the person's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

Section 9. Health care facility procedures for patients with marijuana for use. (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in [section 11], a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

Section 10. Legal protections -- allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 11] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 23] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 23].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or

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(Complete Text continued from page 22)

vicinity of the use of marijuana as permitted under [sections 1 through 23].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in [section 14], possession of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 23] if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 23].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

Section 11. Limitations of the act. (1) [Sections 1 through 23] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

(viii) at a public park, public beach, public recreation center, or youth center;

(ix) in or on the property of any church, synagogue, or other place of worship;

(x) in plain view of or in a place open to the general public; or

(xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 23] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

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(5) Nothing in [sections 1 through 23] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 23] may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

Section 12. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not: (i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where medical marijuana is cultivated or manufactured or where marijuana-infused products are made.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the medical use of marijuana.

Section 13. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

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(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses.

Section 14. Inspection procedures. (1) The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 23].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

Section 15. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense;

(b) allows another person to be in possession of the person's:

(i) registry identification card; or

(ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing marijuana.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates [sections 1 through 23] is punishable by a fine not to exceed $500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 23] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

Section 16. Fraudulent representation -- penalties. (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 7] is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under [section 5].

Section 17. Confidentiality of registry information -- penalty. (1) Except as provided in 37-3-203, a person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 23].

(2) A person convicted of a violation of this section shall be fined not to exceed $1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

Section 18. Law enforcement authority. Nothing in this chapter may be construed to limit a

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law enforcement agency's ability to investigate unlawful activity in relation to a person with a registry identification card.

Section 19. Forfeiture. (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 23] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through 23].

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.

Section 20. Advertising prohibited. Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.

Section 21. Hotline. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 23].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 23]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

Section 22. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 23] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 23].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

Section 23. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 23]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers and marijuana-infused products providers and for persons with debilitating medical conditions and renewal of registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under [sections 4 and 5];

(d) other rules necessary to implement the purposes of [sections 1 through 23].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 23].

Section 24. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against

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a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23]."

Section 25. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23].

(Complete Text continued on page 28)

(Complete Text continued from page 27)

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 26. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23];

~~(b)~~(c) fails to pay a required fee;

~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 27. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and

(Complete Text continued on page 29)

(Complete Text continued from page 28)

human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."

Section 28. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 15]."

Section 29. Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives

(Complete Text continued on page 30)

(Complete Text continued from page 29)

of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

(b) prohibition of the offender's owning or carrying a dangerous weapon;

(c) restrictions on the offender's freedom of association;

(d) restrictions on the offender's freedom of movement;

(e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card issued under [section 3];

~~(f)~~(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

Section 30. Section 50-46-201, MCA, is amended to read:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(Complete Text continued on page 31)

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(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

Section 31. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 32. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

(b) forfeiture of bail that is not vacated; or

(c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving

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record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

Section 33. Emergency rulemaking. The department of public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 23] beginning June 1, 2011.

Section 34. Repealer. The following sections of the Montana Code Annotated are repealed:

50-46-101. Short title.

50-46-102. Definitions.

50-46-103. Procedures -- minors -- confidentiality -- report to legislature.

50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.

50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

50-46-205. Limitations of Medical Marijuana Act.

50-46-206. Affirmative defense.

50-46-207. Fraudulent representation of medical use of marijuana -- penalty.

50-46-210. Rulemaking -- fees.

Section 35. Transition. (1) Registry identification cards issued to persons with debilitating medical conditions prior to [the effective date of this section] are valid until the expiration date listed on the card.

(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 33].

(b) Until October 1, 2011, the department may issue cards to persons applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptoms of the cardholder's debilitating medical condition.

(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before [the effective date of this section] may not be in possession of mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 23] as provided for in subsection (2). Before July 1, 2011, a caregiver who has not obtained a registry

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identification card pursuant to [sections 1 through 23] shall take any mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products still in the caregiver's possession to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items.

Section 36. Codification instruction. [Sections 1 through 23] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 23].

Section 37. Coordination instruction. If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void.

Section 38. Instructions to code commissioner. (1) Wherever a reference to "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 11 of Senate Bill No. 423].

Section 39. 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 40. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2011.

(2) [Sections 20, 30, 31, 33, the repeal of 50-46-103 provided for in section 34, and sections 35 and 38], and this section are effective on passage and approval.

Argument For SB 423, Referred by IR-124

SB 423 was passed by the 2011 Legislature to bring the use of marijuana for medical purposes in Montana back to what voters voted for in 2004. What the voters of Montana supported is established by the Voter Information Pamphlet (VIP) argument in support of the original 2004 Initiative, I-148. The very first sentence of that VIP presented a very limited scope of purpose for the original initiative: "This initiative would allow the production, possession, and use of marijuana by patients with debilitating medical conditions."

The proponents' argument in the 2004 VIP stated that I-148 would "allow patients to grow their own personal supply of marijuana so that they will no longer have to buy marijuana from the criminal market." It stated that I-148 "would provide ID cards to legitimate patients so that police can easily distinguish between recreational marijuana users and legitimate medical marijuana users." Unfortunately, that is not what the state of Montana got.

After the October 2009 issuance of a memo by an Assistant US Attorney General, the lax language of the original initiative led to an explosion in the number of cardholders from about 4,000 in September 2009 to nearly 27,000 in December 2010. The number of cardholders peaked at over 31,000 in May 2011. In July 2011 it was revealed that just one physician was responsible for issuance of at least 6,860 of those cards. Half of the registered cardholders were under the age of 41.

There was no mention in the 2004 VIP that Medical Marijuana Act authorized providers would themselves supply the criminal market. Nor that the sale and distribution of marijuana would occur through storefront operations, that marijuana would be advertised for sale through the use of billboards and provocative signage, that marijuana plants would be publicly displayed, or that the product itself would be smoked in a public setting on the lawn of the state capitol.

(Argument continued on page 34)

(Argument continued from page 33)

There was no mention that the Act would lead to the creation of Medical Marijuana caravans where many registration cards were handed out after "the physician might spend seven - eight minutes with each patient and then give them a letter of recommendation – no physical exam, no medical history, no follow-up." There was no mention in the VIP of the creation of a corporate "medical marijuana industry" that advocates talked about preserving in the 26 hours of hearings held on the various bills seeking to deal with a situation that Governor Schweitzer correctly characterized as "the Wild West."

SB 423 is working. It has allowed those cities and towns that wished for more local control to exercise it. It has tightened qualifications for issuance of the cards and card numbers have fallen dramatically. The average age of card holders has increased.

Repealing SB 423 will bring back an unregulated Wild West situation that was never presented to the voters. SB 423 honors the intent of Montana voters to have a regulated program to help a small population of truly ill individuals. Vote FOR SB 423.

Argument Against SB 423, Referred by IR-124

Listen to the doctors and patients, not the politicians. On IR-124, vote AGAINST Senate Bill 423.

In 2004, Montana voters gave seriously ill patients the right to seek relief from their pain by using marijuana when recommended by a doctor.

In 2011, **legislators effectively took away that right and overturned the will of the people**. They repealed the voter initiative and replaced it with their own flawed law. This "grow your own" law literally provides no legal way for a patient to obtain medical marijuana seeds or plants. It's designed not to work.

Lori's Story

Listen to 66-year-old cancer patient Lori Burnam:

> *"I use marijuana to treat my nausea and pain from advanced cancer. My family and my doctor have seen how it helps."*

> *"But this new law has taken away my medicine. Patients like me have no legal way to get it.* ***I'm sick. Am I supposed to go to some street dealer?****"*

SB 423 Harms Patients, Stifles Doctors

SB 423 makes it harder for doctors to care for patients eligible for medical marijuana.

Dr. Edwin Stickney is past president of the Montana Medical Association and the Montana chapter of the American Academy of Family Physicians. He says:

> *"The politicians have now made it more risky, legally, to recommend marijuana than to prescribe powerful narcotics. Doctors are threatened with state investigations. Many won't touch this."*

> ***"This law disrespects the doctor-patient relationship****. The people who get hurt are the patients."*

Legislators Overreacted and Trampled Rights

SB 423 is an extreme over-correction. After voters passed the medical marijuana law, state leaders failed to create regulations. Then opponents shredded the law. Is there no middle ground?

Better Regulation Is Possible

There is a better way. We can regulate medical marijuana. **We can protect patients' rights, help those who are ill AND protect our communities.**

We will never go back to the excesses that came before. Federal law enforcement ensures that. New court decisions ensure that.

Your vote AGAINST SB 423 is a vote FOR regulation.

Bipartisan Support for Regulation and Patients' Rights

The new Montana Republican Party platform says:

> *"We recognize that a significant problem exists with Montana's current laws regarding the medical use of marijuana and we support action by the next legislature to create a workable and realistic regulatory structure."*

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(Argument continued from page 34)

The new Montana Democratic Party platform says:

> *"[The party] supports the right of qualified patients, with a medical condition where marijuana is appropriate, to have safe access to medical marijuana."*

"Safe access." A "workable and realistic regulatory structure." These are goals we can all share.

Reaching those goals starts with your vote AGAINST SB 423. Only a vote AGAINST SB 423 sends a clear message to the 2013 Legislature to address patients' needs fairly – with a new bill.

Listen to the doctors and patients. Listen to the bipartisan consensus.

On IR-124, please say "NO" to SB 423, and "yes" to regulating medical marijuana effectively.

To learn more, or to help, please visit Patients for Reform, Not Repeal at **www.PatientsForReform.org**.

Proponents' Rebuttal of Argument Against SB 423

SB 423 does not overturn the will of the people. It put Medical Marijuana back to what the people thought they were voting for as described in the I-148 Voter Information Guide for the original 2004 Medical Marijuana Act.

SB 423 doesn't make it harder for doctors to care for patients. It sets up a standard of care where patients are protected from doctors that were recommending marijuana without a thorough medical examination, obtaining fees from the medical marijuana industry for each recommendation and from doctors that were doing no follow-up examinations when renewing recommendations.

I-148 never included provisions that provided for a means to obtain seeds or plants and neither does SB 423, thereby preserving the original law.

SB 423 was designed to create a workable and realistic regulatory structure. The provisions of SB 423 have been working with respect to physician standards of care, patient access, and the exercise of local control. SB 423 was passed with 78% bipartisan legislative support.

The Montana Cannabis Industry Association that organized this effort to repeal SB 423 has revealed its true intention and repeated the arguments that they made during the 2011 Legislative Session. **They want to create a "regulated marijuana industry", an industry Montanans never voted for.**

SB 423 preserves the ability for people that have received a doctor's recommendation to grow their own marijuana or receive assistance from another individual to help them obtain marijuana. Protect our communities. Don't bring back the chaos! VOTE for SB 423.

Opponents' Rebuttal of Argument For SB 423

The politicians arguing for SB 423 fail to mention that **they led the charge to completely repeal** Montana's voter-approved medical marijuana law.

Only after the governor vetoed their repeal bill did they create SB 423, which also repeals our voter initiative, then replaces it with a flawed, unworkable law. **Their goal was still repeal – not honoring voter intent.**

Bottom line: SB 423 does not work for patients. It gives them no safe and legal access to medical marijuana when recommended by a doctor. SB 423 also makes it much harder for doctors to care for eligible patients.

SB 423 doesn't regulate medical marijuana, it nullifies patients' rights. That disrespects the will of the voters.

Helping patients was never the goal of SB 423. Pushing medical marijuana underground was the goal.

Please vote AGAINST SB 423. *It's the first step to getting a new bill and new regulations that work.*

(Rebuttal continued on page 36)

(Rebuttal continued from page 35)

Bipartisan Support for Patients' Rights

After passage of this unworkable new law, the major political parties came out in favor of "safe access" and a "workable and realistic" regulatory system for medical marijuana. **SB 423 was not the right answer**.

Vote AGAINST SB 423 to tell the politicians to listen to the patients and doctors.

Only a vote AGAINST SB 423 sends a clear message:

- Come up with a workable system for medical marijuana.
- Protect patients AND communities.
- Keep faith with the voters – *for real this time.*

www.PatientsForReform.org

Credits

The PROPONENT argument and rebuttal were prepared by State Senator Jeff Essmann and State Representative Cary Smith.

The OPPONENT argument and rebuttal were prepared by Lori Burnam, Sarah Baugh Combs, and Dr. Edwin Stickney.

Ballot Language for Initiative No. 166

Initiative No. 166

A LAW PROPOSED BY INITIATIVE PETITION

Ballot initiative I-166 establishes a state policy that corporations are not entitled to constitutional rights because they are not human beings, and charges Montana elected and appointed officials, state and federal, to implement that policy. With this policy, the people of Montana establish that there should be a level playing field in campaign spending, in part by prohibiting corporate campaign contributions and expenditures and by limiting political spending in elections. Further, Montana's congressional delegation is charged with proposing a joint resolution offering an amendment to the United States Constitution establishing that corporations are not human beings entitled to constitutional rights.

[ ] FOR charging Montana elected and appointed officials, state and federal, with implementing a policy that corporations are not human beings with constitutional rights.

[ ] AGAINST charging Montana elected and appointed officials, state and federal, with implementing a policy that corporations are not human beings with constitutional rights.

Complete Text of Initiative No. 166

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Prohibition on Corporate Contributions and Expenditures in Montana Elections Act."

NEW SECTION. **Section 2. Preamble.** The people of the state of Montana find that:

(1) since 1912, through passage of the Corrupt Practices Act by initiative, Montana has prohibited corporate contributions to and expenditures on candidate elections;

(2) in 1996, by passage of Initiative No. 125, Montana prohibited corporations from using corporate funds to make contributions to or expenditures on ballot issue campaigns;

(3) Montana's 1996 prohibition on corporate contributions to ballot issue campaigns was invalidated by *Montana Chamber of Commerce v. Argenbright*, 226 F.3d 1049 (2000). Montana's 1912 prohibition on corporate contributions to and expenditures on candidate elections is also being challenged under the holding of *Citizens United v.*

(Complete Text continued on page 37)

(Complete Text continued from page 36)

FEC, 558 U.S. _____, 130 S.Ct. 876 (2010). This decision equated the political speech rights of corporations with those of human beings.

(4) in 2011 the Montana Supreme Court, in its decision, *Western Tradition Partnership, Inc. v. Attorney General,* 2011 MT 328, upheld Montana's 1912 prohibition on corporate contributions to and expenditures on candidate campaigns, stating in its opinion as follows:

(a) examples of well-financed corruption involving corporate money abound in Montana;

(b) the corporate power that can be exerted with unlimited corporate political spending is still a vital interest to the people of Montana;

(c) corporate independent spending on Montana ballot issues has far exceeded spending from other sources;

(d) unlimited corporate money into candidate elections would irrevocably change the dynamic of local Montana political office races;

(e) with the infusion of unlimited corporate money in support of or opposition to a targeted candidate, the average citizen candidate in Montana would be unable to compete against the corporate-sponsored candidate, and Montana citizens, who for over 100 years have made their modest election contributions meaningfully count, would be effectively shut out of the process; and

(f) clearly the impact of unlimited corporate donations creates a dominating impact on the Montana political process and inevitably minimizes the impact of individual Montana citizens.

NEW SECTION. **Section 3. Policy.** (1) It is policy of the state of Montana that each elected and appointed official in Montana, whether acting on a state or federal level, advance the philosophy that corporations are not human beings with constitutional rights and that each such elected and appointed official is charged to act to prohibit, whenever possible, corporations from making contributions to or expenditures on the campaigns of candidates or ballot issues. As part of this policy, each such elected and appointed official in Montana is charged to promote actions that accomplish a level playing field in election spending.

(2) When carrying out the policy under subsection (1), Montana's elected and appointed officials are generally directed as follows:

(a) that the people of Montana regard money as property, not speech;

(b) that the people of Montana regard the rights under the United States Constitution as rights of human beings, not rights of corporations;

(c) that the people of Montana regard the immense aggregation of wealth that is accumulated by corporations using advantages provided by the government to be corrosive and distorting when used to advance the political interests of corporations;

(d) that the people of Montana intend that there should be a level playing field in campaign spending that allows all individuals, regardless of wealth, to express their views to one another and their government; and

(e) that the people of Montana intend that a level playing field in campaign spending includes limits on overall campaign expenditures and limits on large contributions to or expenditures for the benefit of any campaign by any source, including corporations, individuals, or political committees.

NEW SECTION. **Section 4. Promotion of policy by elected or appointed officials.**

(1) Montana's congressional delegation is charged with proposing a joint resolution offering an amendment to the United States constitution that accomplishes the following:

(a) overturns the U.S. Supreme Court's ruling in *Citizens United v. Federal Election Commission;*

(b) establishes that corporations are not human beings with constitutional rights;

(c) establishes that campaign contributions or expenditures by corporations, whether to candidates or ballot issues, may be prohibited by a political body at any level of government; and

(d) accomplishes the goals of Montanans in achieving a level playing field in election spending.

(2) Montana's congressional delegation is charged to work diligently to bring such a joint resolution to a vote and passage, including use of discharge petitions, cloture, and every other procedural method to secure a vote and passage.

(3) The members of the Montana legislature, if given the opportunity, are charged with ratifying any amendment to the United States constitution that is consistent with the policy of the state of Montana.

(Complete Text continued on page 38)

(Complete Text continued from page 37)

NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act.]

NEW SECTION. **Section 6. 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.

NEW SECTION. **Section 7. Effective date.** [This act] is effective upon approval by the electorate.

NEW SECTION. **Section 8. Codification instruction.** Sections [1 through 4] are intended to be codified as an integral part of Title 13 and the provisions of Title 13 apply to sections [1 through 4].

Argument For I-166

We encourage you to Vote FOR I-166. This ballot initiative seeks to keep corporate money from unduly influencing our elections.

Long ago, in Montana's frontier days, we learned a hard lesson about big money in politics when a miner named William A. Clark came upon a massive copper vein near Butte. It was the largest deposit on earth, and overnight he became one of the wealthiest men in the world. He bought up half the state of Montana, and if he needed favors from politicians, he bought those as well.

In 1899, Clark decided he wanted to become a United States senator. The State Legislature appointed United States senators in those days, so Clark simply gave each corruptible state legislator the equivalent of $250,000 today. Clark "won" the "election," but when the Senate learned about the bribes, it kicked him out.

Fed up with such corruption, Montanans fought back and passed the Corrupt Practices Act by citizen initiative in 1912. We later banned large individual donations, too.

Thus, unlike other states, candidates in Montana must raise money in very small increments, no more than a few hundred dollars from an individual donor per election. A state legislator, for example, can't accept more than $160. And everything must be disclosed.

These laws have allowed Montana to preserve a rare and pure form of democracy for a century, where citizens have access to government and nobody can buy their way to the front of the line.

But now our system is in jeopardy, thanks to a recent U.S. Supreme Court decision which struck down Montana's anti-corruption statute, the very statute that we passed in 1912 in response to the William Clark scandal. The Court declared that corporations have the same First Amendment rights as people.

But we all know corporations aren't people, and they shouldn't be granted the same constitutional rights as people to influence our elections. Giant corporations should not be allowed to curry favor with politicians by bankrolling their campaigns. We need to **get big money out of our elections** and restore government of, by and for the people.

The Court's rulings on this subject also open up the real possibility that foreign money will make its way into the American political system and Montana's elections specifically. We don't need countries like Saudi Arabia and Iran and China making cash donations to try to buy politicians.

We disagree very strongly with the U.S. Supreme Court, and I-166 can begin the process of overriding the Court's decision and returning our elections to the people. It will make a firm statement that corporations and people are not the same thing. **Democracy should never be for sale.**

Argument Against I-166

I-166 seeks to impair numerous US Supreme Court decisions that collectively span nearly 200 years. In each case, the Court has consistently, and emphatically, recognized that a corporation has many of the same rights as a natural person. These shared rights include: the right to contract, to enforce

(Argument continued on page 39)

(Argument continued from page 38)

contracts, to sue, to be sued, the right to own property, and freedom of speech.

Corporate rights and protections, just as with individuals, are key elements upon which our economy is predicated. Corporations are formed by individuals who pool resources and speak with a common voice. These individuals neither renounce nor relinquish their constitutional rights simply because they are named collectively as a corporation. Without these rights, governmental police agencies would be free to storm places of business and seize property and documents without cause. The government would be able to censor corporate speech, which includes that of incorporated newspapers and other media.

In the case of *Citizens United v. Federal Election Commission*, the Court extended a corporation's First Amendment guarantee of freedom of speech to include elections. The practical effect of this ruling is to allow corporations to participate in campaign financing.

I-166 is an ill-advised, far-reaching response to the *Citizens United* decision. Its composition vilifies Montana corporations, calling them corrupt, immensely wealthy, advantaged, corrosive, and otherwise heinous. In reality, our nation's historical prosperity is due in large part to these entities. Denying corporations the very rights that they rely on for their existence would have dire consequences for our continued economic well-being.

Labor unions, who regularly contribute to political campaigns, are structured in similar fashion to corporations. In law, unions are viewed as a collection of individuals acting with a single voice and unity of purpose. By simple extension, the language of I-166 would seem to imply that unions, akin to corporations, are corrupt and unworthy of these same constitutional rights and protections.

Perhaps most alarming is that I-166 contains language directing that Montana's elected officials act to deny corporations of their established constitutional rights. The Court's recent refusal to hear Montana's challenge to *Citizens United* clearly indicates that Montana's attempt to deny corporations of First Amendment rights is in violation of the United States Constitution, which all Montana lawmakers are sworn by oath to uphold. Inconceivably, I-166 would require our lawmakers to break their oaths by ignoring the findings of the Court and the tenets of the US Constitution. This is a departure from the system envisioned by our founders, creates unknown liability, and endangers the entire concept of American government.

As written, I-166 is not limited to the issue of corporate campaign financing. Rather, it endangers all of a corporation's existing constitutional rights. Montana's economy would be irreparably damaged without the jobs, goods, services, and tax revenues provided by corporations. This is the undeniable potential of this initiative. Vote **against** I-166.

Proponents' Rebuttal of Argument Against I-166

First, <u>this initiative does not take away any rights from individuals</u>. A CEO of a corporation may personally contribute to a campaign, but **that CEO should not be allowed to use <u>shareholders' money</u>, from the <u>corporate treasury</u>, to spend unlimited amounts to <u>buy an election</u>.**

And corporations, contrary to what the opponents claim, are not people and do not have the rights of people. Shareholders have free speech rights, but until the Supreme Court's *Citizens United* ruling in 2010, those free speech rights never included the right to spend unlimited corporate money to get somebody elected to office. This is a new right which the Court has bestowed upon corporations, and most Americans, and most Montanans, think this is wrong.

Corporations do not breathe, do not have children, do not die fighting in wars and do not vote in elections. They are not citizens and they certainly should not be granted the same constitutional rights as human beings, nor did any of the framers of the Constitution believe so.

Furthermore, **Big Money in elections tips the scales against locally owned Montana**

(Rebuttal continued on page 40)

(Rebuttal continued from page 39)

businesses. In a recent poll, 66% of small business owners said unlimited corporate money in elections is bad for them.

I-166 does a very basic and simple thing: it instructs Montana's congressional delegation to get behind a constitutional amendment and establishes that corporations are not people. **Stand with Montana and vote FOR I-166.**

Opponents' Rebuttal of Argument For I-166

The proponents' narrative details the corrosive influence of money, the corruption of the early 1900's, and the William Clark scandal. Their argument fails to address the present, the true intent of I-166, and its implications to the State of Montana.

Montanans overwhelmingly support campaign finance regulation: believing that no person, corporation, or union should have the power to buy an election, and that all political contributions should be subject to public scrutiny.

Supporters of I-166 claim that it will protect Montanans by providing for fair elections. It does not. I-166 is a wolf in sheep's clothing.

I-166 declares: '...corporations are not entitled to constitutional rights...' This language would eliminate **all** of a corporation's constitutional protections. These include existing rights, as well as those rights conferred in the *Citizens United* decision. The ballot language does not distinguish between the two. This is a fatal flaw.

The denial of a corporation's existing rights, such as the right to own property, creates a legal environment in which corporations cannot exist. Without corporations, and the benefits they provide, Montana's prosperity will suffer.

Montana's small businesses are made up of hard-working, dedicated citizens. I-166 labels these businesses as corrupt, corrosive, and abusive. A vote against I-166 rejects these labels and instead, protects the rights of local farms, ranches, and main street businesses.

I-166 is a poorly constructed initiative, full of disastrous potential, and it gravely imperils Montana's future. Vote **against** I-166.

Credits

The PROPONENT argument and rebuttal were prepared by Governor Brian Schweitzer, Lieutenant Governor John Bohlinger, and former Secretary of State Verner Bertelsen.

The OPPONENT argument and rebuttal were prepared by State Senator Ed Buttrey, State Representative Rob Cook, and Lee Bruner.

Ballot Issue Notes

Voting in Montana Elections

★ Register to Vote – It's Easy!

You must be:

- **A citizen of the United States**
- **A resident of Montana for at least 30 days before the next election**
- **18 years of age on or before the next election.**

You can register in many ways. Options include:

- Visiting your county election office and filling out a *Voter Registration Application*
- Filling out an application on the Secretary of State's website, printing it and returning it in person or by mail to the county election office
- Choosing to register when getting or renewing your Montana driver's license, or when requesting public assistance.

Regular Registration Deadline for the 2012 General Election:

- 5:00 p.m. October 9, 2012

Late Registration for the 2012 General Election:

- Begins October 10, 2012
- Closes on Election Day (Nov. 6) at 8:00 p.m.
- Must be done at the county election office or the location designated by the County Election Administrator
- Late registration is temporarily closed beginning at noon on the day before the election, but opens again election morning.

Whatever method you use to register – return your application to the county election office!

★ Voting by Absentee Ballot

To vote by absentee ballot, you must:

- Fill out and sign an *Application for Absentee Ballot* or *Annual Absentee List Application*
- Application forms can be found on the Secretary of State's website at **sos.mt.gov/Elections**
- Submit the signed application to the county election office by mail or in person
- Once you receive your ballot packet, read the directions carefully and vote your ballot
- Sign the signature envelope and return the ballot to the county election office by mail or in person
- Absentee ballots must reach the county election office by the close of polls on Election Day!

★ Annual Absentee List

Voters on the Annual Absentee List automatically receive an absentee ballot for every election in which they are eligible to vote. To sign up, choose the option when completing one of these forms:

- *Annual Absentee List Application*
- *Application for Absentee Ballot*
- *Voter Registration Application*

To remain on the Annual Absentee List, you must sign and return the *Annual Absentee Address Confirmation*, which the county election office will mail to you in January of each year. Failure to return the confirmation card will result in your name being removed from the Annual Absentee List.

★ Election Day

You can find the location of your polling place by contacting your county election office, or by checking:

- *My Voter Page* (access at **sos.mt.gov**)
- *Voter Registration Confirmation Card*

Most polling places open at 7:00 a.m. Some smaller polling places may open at noon. All polling places close at 8:00 p.m.

Be sure to bring ID with you. Any of the following forms of ID can be used:

- Current photo ID (driver's license, state ID, tribal ID, school ID, etc.)
- Voter registration confirmation card
- Current utility bill, bank statement, paycheck, government check or other government document that shows your name and current address.

Voting in Montana Elections

If you forget your ID you can:

- Return to the polls when you have ID
- Fill out a *Polling Place Elector ID Form* available at each polling place
- Vote a provisional ballot
  - Your provisional ballot will be counted if your identity and eligibility to vote can be verified.

★ Provisional Ballots

If you have identity or eligibility problems when you get to the polls, you have the option to vote a ballot that is provisional and will be counted if your identity or eligibility problem can be solved.

The election official who gives you the ballot will explain to you why your ballot is provisional, and will tell you what steps you can take to resolve the provisional status of your ballot.

★ Voting for People with Disabilities

Each polling place and election office is equipped with an AutoMARK, voting equipment specially designed for individuals with visual or mobility impairments.

An AutoMARK can be used by any voter, and has the following features:

- *Touch screen*
- *Keypad with raised buttons*
- *Braille markings*
- *Headphones to listen to the ballot choices*
- *Sip and puff personal device connections*
- *Visual and audio vote confirmations*

The AutoMARK prints a regular ballot based on a voter's confirmed choices. It does not save ballots and does not tabulate votes.

★ Military and Overseas Electors

Absent active duty military and overseas citizen electors can register to vote, request an absentee ballot, and vote their ballot electronically for all federal elections with the *Electronic Absentee System*.

Voters can track the status of their absentee ballot using the online election tool, *My Voter Page*.

★ My Voter Page (MVP)

My Voter Page is the Secretary of State's online voter information service.

By entering your name and date of birth, you can:

- Check your voter registration
- Check where you are registered to vote
- Find the location of your polling place
- Track your absentee ballot
- View a sample ballot.

The polling locations listed on MVP are for state and federal Primary and General Elections, and may not apply to other elections.

Check out *My Voter Page* by clicking on the MVP icon at **sos.mt.gov**.

MVP
My Voter Page

★ MVP Mobile App

You can now access *My Voter Page* from your mobile device! It's free, and available to registered voters in Montana.

To get started, search for "My Voter Page" in the Android Market or Apple App Store.

Don't forget to VOTE on Tuesday, November 6!

Election Night Results

Visit Us Online After the Polls Close @ sos.mt.gov

County Election Offices

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Dillon MT 59725
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Ballot Issue Worksheet

This worksheet is intended to help you remember your decision about each ballot issue. For an Election Day reminder, **Fill it out**, **Tear it out**, and **Use it to VOTE** in the General Election on November 6.

Tear along dotted line

Legislative Referendum No. 120

- ◯ FOR requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.
- ◯ AGAINST requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.

Legislative Referendum No. 121

- ◯ FOR denying certain state services to illegal aliens.
- ◯ AGAINST denying certain state services to illegal aliens.

Legislative Referendum No. 122

- ◯ FOR prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalities for decisions related to purchasing health insurance.
- ◯ AGAINST prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalities for decisions related to purchasing health insurance.

Initiative Referendum No. 124

- ◯ FOR Senate Bill 423, a bill which repeals I-148 and enacts a new medical marijuana program.
- ◯ AGAINST Senate Bill 423, a bill which repeals I-148 and enacts a new medical marijuana program. A vote against Senate Bill 423 will restore I-148.

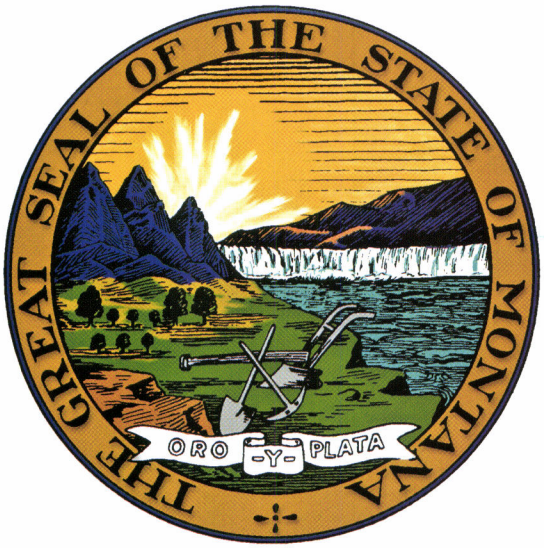
Initiative No. 166

- ◯ FOR charging Montana elected and appointed officials, state and federal, with implementing a policy that corporations are not human beings with constitutional rights.
- ◯ AGAINST charging Montana elected and appointed officials, state and federal, with implementing a policy that corporations are not human beings with constitutional rights.

Every vote is a voice heard.
Don't forget to vote in the General Election on November 6!

Notes Page

Notes Page



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Do Not Forward—Do Not Return

My Voter Page
All The Information You Need to Vote
View Sample Ballot, Polling Place Location,
Absentee Ballot Tracking, & More
Online at sos.mt.gov

Election Reminders

- **The Federal General Election is Tuesday, November 6.**
- **Polls are open from 7:00 a.m. to 8:00 p.m.**
  Some precincts may open at noon. Check your local media or county election office for polling place times and locations.
- **Don't forget to bring your ID when you vote!**
- **It's not too late to register to vote!**
  Montana's late registration law allows eligible Montanans to register & vote right up until the close of polls on Election Day.

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