AN ACT GENERALLY REVISING BALLOT INITIATIVES; DEFINING APPROPRIATION FOR THE PURPOSES OF A BALLOT INITIATIVE; REQUIRING EMPLOYERS OF PAID SIGNATURE GATHERERS TO REGISTER WITH THE SECRETARY OF STATE AND PAY A FEE; ALLOWING FOR A WAIVER; REQUIRING INTERIM COMMITTEES OR THE LEGISLATIVE COUNCIL TO REVIEW PROPOSED BALLOT INITIATIVE LANGUAGE AND VOTE WHETHER TO SUPPORT THE PLACEMENT OF A MEASURE ON THE BALLOT; REQUIRING LANGUAGE REGARDING THE REVIEW BY AN INTERIM COMMITTEE OR THE LEGISLATIVE COUNCIL BE PLACED ON THE PETITION PRIOR TO SIGNATURE GATHERING; REQUIRING THE ATTORNEY GENERAL TO REVIEW BALLOT INITIATIVES FOR REGULATORY TAKINGS AND DETERMINATIONS TO BE PLACED ON THE PETITION PRIOR TO SIGNATURE GATHERING; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 5-5-215, 5-11-105, 13-27-202, 13-27-204, AND 13-27-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Petitions for initiative -- requirements and limitations. (1) In accordance with Article III, section 4, of the Montana constitution, the text of an initiative may not provide for the appropriation of revenue.

(2) For the purposes of this section, "appropriation" includes but is not limited to, the act of designating or setting aside budgetary authority, or directly or indirectly incurring a financial obligation with the expectation that a certain amount of money will be expended or directed for a specific use or purpose. The term also includes increasing or expanding eligibility to a government program.

Section 2. Section 5-5-215, MCA, is amended to read:

"5-5-215. Duties of interim committees. (1) Each interim committee shall:

(a) review administrative rules within its jurisdiction;

(b) subject to 5-5-217(3), conduct interim studies as assigned;

(c) monitor the operation of assigned executive branch agencies with specific attention to the following:

(i) identification of issues likely to require future legislative attention;

(ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and

(iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;

(d) review, if requested by any member of the interim committee, the statutorily established advisory councils and required reports of assigned agencies to make recommendations to the next legislature on retention or elimination of any advisory council or required reports pursuant to 5-11-210;

(e) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; ~~and~~

(f) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work; and

(g) review proposed ballot initiatives within the interim committee's subject area and vote to either support or not support the placement of the text of an initiative on the ballot in accordance with 13-27-202.

(2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.

(3) The legislative services division shall keep accurate records of the activities and proceedings of each interim committee."

Section 3. Section 5-11-105, MCA, is amended to read:

"**5-11-105. Powers and duties of council.** (1) The legislative council shall:

(a) employ and, in accordance with the rules for classification and pay established as provided in this section, set the salary of an executive director of the legislative services division, who serves at the pleasure of and is responsible to the legislative council;

(b) with the concurrence of the legislative audit committee and the legislative finance committee, adopt rules for classification and pay of legislative branch employees, other than those of the office of consumer counsel;

(c) with the concurrence of the legislative audit committee and the legislative finance committee, adopt rules governing personnel management of branch employees, other than those of the office of consumer counsel;

(d) adopt procedures to administer legislator claims for reimbursements authorized by law for interim activity;

(e) establish time schedules and deadlines for the interim committees of the legislature, including dates for requesting bills and completing interim work;

(f) review proposed legislation for agencies or entities that are not assigned to an interim committee, as provided in 5-5-223 through 5-5-228, or to the environmental quality council, as provided in 75-1-324; ~~and~~

(g) review proposed ballot initiatives and vote to either support or not support the placement of the text of an initiative on the ballot in accordance with 13-27-202; and

~~(g)~~(h) perform other duties assigned by law.

(2) If a question of statewide importance arises when the legislature is not in session and a legislative interim committee has not been assigned to consider the question, the legislative council shall assign the question to an appropriate interim committee, as provided in 5-5-202, or to the appropriate statutorily created committee."

Section 4. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- registration by paid signature gatherers -- approval of form required. (1) (a) A proponent of a ballot issue shall submit the text of the proposed ballot issue to the secretary of state together with draft ballot issue statements intended to comply with 13-27-312. Petitions may not be circulated for the purpose of signature gathering more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall forward a copy of the text of the proposed issue and statements to the legislative services division for review.

(b) A person who employs a paid signature gatherer shall register with the secretary of state prior to

collecting signatures. Except as provided in subsection (1)(c), the registration in this subsection (1) must be accompanied by a filing fee of not more than $100 or an amount set by the secretary of state. The fee must be deposited in an account to the credit of the secretary of state in accordance with 2-15-405(4).

(c) A person who employs a paid signature gatherer may seek a waiver from the fee required in subsection (1)(b) by demonstrating a financial inability to pay without substantial hardship.

(d) The secretary of state may adopt rules to provide for the administration of this subsection (1), including rules to implement a standard registration form and the waiver provisions in subsection (1)(c).

(2) (a) The legislative services division staff shall review the text and statements for clarity, consistency, and conformity with the most recent edition of the bill drafting manual furnished by the legislative services division, the requirements of 13-27-312, and any other factors that the staff considers when drafting proposed legislation.

(b) Within 14 days after submission of the text and statements, the legislative services division staff shall recommend in writing to the proponent revisions to the text and revisions to the statements to make them consistent with any recommendations for change to the text and the requirements of 13-27-312 or state that no revisions are recommended.

(c) The proponent shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended revisions. If revisions are not recommended, a response is not required.

(3) The legislative services division shall furnish a copy of the correspondence provided for in subsection (2) to the secretary of state, who shall make a copy of the correspondence available to any person upon request.

(4) Before a petition may be circulated for signatures, the final text of the proposed issue and ballot statements must be submitted to the secretary of state. The secretary of state shall reject the proposed issue if the text or a ballot statement contains material not submitted to the legislative services division that is a substantive change not recommended by the legislative services division. If accepted, the secretary of state shall refer a copy of the proposed issue and statements to the attorney general for a determination as to the legal sufficiency of the issue and for approval of the petitioner's ballot statements and for a determination pursuant to 13-27-312 as to whether a fiscal note is necessary.

(5) (a) The secretary of state shall review the legal sufficiency opinion and ballot statements of the petitioner, as approved by the attorney general and received pursuant to 13-27-312.

(b) If the attorney general approves the proposed issue, the secretary of state shall provide the executive director of the legislative services division a copy of the final text of the proposed issue and ballot statements. The executive director shall provide the information to the appropriate interim committee for review in accordance with 5-5-215. If questions arise regarding which interim committee has jurisdiction over the matter, the executive director shall direct the review to the legislative council in accordance with 5-11-105.

(c) The appropriate interim committee or legislative council shall meet and hold a public hearing after receiving the information and vote to either support or not support the placement of the proposed initiative text on the ballot. The outcome of the vote must be submitted to the secretary of state no later than 14 days after receipt of the final text of the proposed issue and ballot statements. Nothing in this section prevents the interim committee from meeting remotely or via conference call. Proxies must be allowed for legislators unable to participate if a quorum of the committee or council meets to fulfill the requirements of this section.

(d) The executive director shall provide written correspondence to the secretary of state providing the name of the interim committee or the administrative committee that voted on the proposal, the date of the vote, and the outcome of the vote conducted in accordance with subsection (5)(c).

~~(b)~~(e) ~~If the attorney general approves the proposed issue~~ After the executive director provides the information to the secretary of state in accordance with subsection (5)(d), the secretary of state shall immediately send to the person submitting the proposed issue a sample petition form, including the text of the proposed issue, the statement of purpose and implication, and the yes and no statements, as prepared by the petitioner, reviewed by the legislative services division, and approved by the attorney general and in the form provided by this part. A signature gatherer may circulate the petition only in the form of the sample prepared by the secretary of state. The secretary of state shall immediately provide a copy of the sample petition form to any interested parties who have made a request to be informed of an approved petition.

~~(c)~~(f) If the attorney general rejects the proposed issue, the secretary of state shall send written notice to the person who submitted the proposed issue of the rejection, including the attorney general's legal sufficiency opinion.

~~(d)~~(g) If an action is filed challenging the validity of the petition, the secretary of state shall

immediately notify the person who submitted the proposed issue."

Section 5. Section 13-27-204, MCA, is amended to read:

"13-27-204. Petition for initiative. (1) The following, including the language provided for in subsection (2)(b), is substantially the form for a petition calling for a vote to enact a law by initiative:

PETITION TO PLACE INITIATIVE NO.____ON THE ELECTION BALLOT

(a) If 5% of the voters in each of one-half of the counties sign this petition and the total number of voters signing this petition is _____, this initiative will appear on the next general election ballot. If a majority of voters vote for this initiative at that election, it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following initiative on the _____, 20__, general election ballot:

(Title of initiative written pursuant to 13-27-312)

(Statement of purpose and implication written pursuant to 13-27-312)

(Yes and no statements written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the initiative, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the initiative on the ballot and does not necessarily mean the signer agrees with the initiative.

(d) Voters are advised that either an interim committee or an administrative committee of the legislature in accordance with 5-5-215 or 5-11-105 reviewed the content of this initiative and [did] or [did not] support the placement of the proposed text of this initiative on the ballot. The outcome of the vote was [x] in favor of placing the measure on the ballot and [x] against placing the measure on the ballot.

~~(d)~~(e)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a $500 fine, 6 months in jail, or both.

~~(e)~~(f) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration form or the signature will not be

counted.

(2) (a) If the attorney general determines the proposed ballot issue will likely cause significant material harm to one or more business interests in Montana pursuant to 13-27-312(9), the statement in subsection (2)(b) must appear on the front page of the petition form before the information set forth in subsection (1).

(b)

WARNING

The Attorney General of Montana has determined the proposed ballot issue will likely cause significant material harm to one or more business interests in Montana.

~~(2)~~(3) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration form may not be used as the only means to disqualify the signature of that petition signer."

Section 6. Section 13-27-312, MCA, is amended to read:

"**13-27-312. Review of proposed ballot issue and statements by attorney general -- preparation of fiscal note.** (1) Upon receipt of a proposed ballot issue and statements from the office of the secretary of state pursuant to 13-27-202, the attorney general shall examine the proposed ballot issue for legal sufficiency as provided in this section and shall determine whether the ballot statements comply with the requirements of this section.

(2) The attorney general shall, in reviewing the ballot statements, endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general shall review the ballot statements to determine if they contain the following matters:

(a) a statement of purpose and implication, not to exceed 135 words, explaining the purpose and implication of the issue; and

(b) yes and no statements in the form prescribed in subsection (6).

(3) If the proposed ballot issue has an effect on the revenue, expenditures, or fiscal liability of the state, the attorney general shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the agency or agencies affected by the ballot issue, is responsible for preparing the fiscal note and shall return it to the attorney general within 10 days. If the fiscal note indicates a fiscal impact, the attorney general shall prepare a fiscal statement of no more than 50 words, and the statement must be used on the petition and ballot if the issue is placed on the ballot.

(4) The ballot statements must express the true and impartial explanation of the proposed ballot issue in plain, easily understood language and may not be arguments or written so as to create prejudice for or against the issue.

(5) Unless altered by the court under 13-27-316, the statement of purpose and implication is the petition title for the issue circulated by the petition and the ballot title if the issue is placed on the ballot.

(6) The yes and no statements must be written so that a positive vote indicates support for the issue and a negative vote indicates opposition to the issue and must be placed beside the diagram provided for marking of the ballot in a manner similar to the following:

[] YES (insert the type of ballot issue and its number)

[] NO (insert the type of ballot issue and its number)

(7) The outcome of the vote by an interim committee or an administrative committee required in 13-27-202(5)(c) does not need to be reflected in the statement of purpose and implication, the petition title, or the ballot title if the issue is placed on the ballot.

~~(7)~~(8) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this part, "legal sufficiency" means that the petition complies with statutory and constitutional requirements governing submission of the proposed issue to the electors, the substantive legality of the proposed issue if approved by the voters, and whether the proposed issue constitutes an appropriation as set forth in [section 1]. ~~Review of the petition for legal sufficiency does not include consideration of the substantive legality of the issue if approved by the voters.~~ The attorney general shall also determine if the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(9) (a) The attorney general shall review the proposed ballot issue as to whether the proposed issue

could cause a regulatory taking under Montana law or otherwise will likely cause significant material harm to one or more business interests in Montana if approved by the voters.

(b) If the attorney general determines the proposed ballot issue will likely cause significant material harm to one or more business interests in Montana, the attorney general shall notify the secretary of state, which must include the finding set forth in 13-27-204(2) on the final form of the petition.

~~(8)~~(10) (a) Within 30 days after receipt of the proposed issue from the secretary of state, the attorney general shall forward to the secretary of state an opinion as to the issue's legal sufficiency.

(b) If the attorney general determines that the proposed ballot issue is legally sufficient, the attorney general shall also forward to the secretary of state the petitioner's ballot statements that comply with the requirements of this section. If the attorney general determines in writing that a ballot statement clearly does not comply with the requirements of this section, the attorney general shall prepare a statement that complies with the requirements of this section, forward that statement to the secretary of state as the approved statement, and provide a copy to the petitioner. The attorney general shall give the secretary of state notice of whether the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(c) If the attorney general determines that the proposed ballot issue is not legally sufficient, the secretary of state may not deliver a sample petition form unless the attorney general's opinion is overruled pursuant to 13-27-316 and the attorney general has approved or prepared ballot statements under this section."

Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 13, chapter 27, part 2, and the provisions of Title 13, chapter 27, part 2, apply to [section 1].

Section 8. 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 9. Effective date. [This act] is effective on passage and approval.

Section 10. Applicability. [This act] applies to ballot initiatives submitted to the secretary of state in

accordance with 13-27-202(1) on or after [the effective date of this act].

- END -

I hereby certify that the within bill,

HB 651, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____day

of_____, 2021.

_____

President of the Senate

Signed this _____day
of_____, 2021.

HOUSE BILL NO. 651

INTRODUCED BY M. BERTOGLIO, M. BLASDEL, J. ELLSWORTH, S. FITZPATRICK, C. GLIMM, R. OSMUNDSON, J. SMALL, S. GALLOWAY, W. GALT, S. GUNDERSON, C. HINKLE, L. JONES, S. KERNS, C. KNUDSEN, B. LER, R. MARSHALL, J. READ, K. SEEKINS-CROWE, J. TREBAS, B. USHER, S. VINTON

AN ACT GENERALLY REVISING BALLOT INITIATIVES; DEFINING APPROPRIATION FOR THE PURPOSES OF A BALLOT INITIATIVE; REQUIRING EMPLOYERS OF PAID SIGNATURE GATHERERS TO REGISTER WITH THE SECRETARY OF STATE AND PAY A FEE; ALLOWING FOR A WAIVER; REQUIRING INTERIM COMMITTEES OR THE LEGISLATIVE COUNCIL TO REVIEW PROPOSED BALLOT INITIATIVE LANGUAGE AND VOTE WHETHER TO SUPPORT THE PLACEMENT OF A MEASURE ON THE BALLOT; REQUIRING LANGUAGE REGARDING THE REVIEW BY AN INTERIM COMMITTEE OR THE LEGISLATIVE COUNCIL BE PLACED ON THE PETITION PRIOR TO SIGNATURE GATHERING; REQUIRING THE ATTORNEY GENERAL TO REVIEW BALLOT INITIATIVES FOR REGULATORY TAKINGS AND DETERMINATIONS TO BE PLACED ON THE PETITION PRIOR TO SIGNATURE GATHERING; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 5-5-215, 5-11-105, 13-27-202, 13-27-204, AND 13-27-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.