

SENATE BILL NO. 96

INTRODUCED BY C. WILLIAMS

BY REQUEST OF THE DEPARTMENT OF JUSTICE AND THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO INITIATIVES AND REFERENDUMS; REVISING THE PROCEDURE FOR REVIEWING A PROPOSED BALLOT ISSUE; REVISING THE ATTORNEY GENERAL'S PROCEDURE FOR PREPARING BALLOT STATEMENTS AND REVIEWING PROPOSED BALLOT ISSUES FOR LEGAL SUFFICIENCY; PROVIDING THAT THE SUPREME COURT HAS ORIGINAL JURISDICTION TO HEAR CHALLENGES TO THE ATTORNEY GENERAL'S BALLOT STATEMENTS AND DETERMINATION OF LEGAL SUFFICIENCY; REQUIRING THE ATTORNEY GENERAL TO PREPARE A STATEMENT IF A PROPOSED BALLOT ISSUE CONFLICTS WITH ANOTHER PROPOSED BALLOT ISSUE; REQUIRING THE SECRETARY OF STATE TO PREPARE THE PETITION FORM FOR BALLOT ISSUES; PROVIDING THAT SIGNATURE GATHERERS MUST BE MONTANA RESIDENTS AND MAY NOT BE PAID BASED UPON THE NUMBER OF SIGNATURES GATHERED; ELIMINATING THE CERTIFICATION OF SIGNATURES BY A PERSON WHO ASSISTED IN GATHERING THE SIGNATURES; PROVIDING FOR CONSISTENT USE OF DEFINED TERMS; AMENDING SECTIONS 3-2-202, 3-5-302, 13-1-101, 13-22-102, 13-27-102, 13-27-201, 13-27-202, 13-27-204, 13-27-205, 13-27-207, 13-27-208, 13-27-302, 13-27-312, 13-27-315, 13-27-316, 13-27-402, 13-27-403, 13-27-501, 13-35-207, 13-37-210, 13-37-226, AND 13-37-228, MCA; AND REPEALING SECTIONS 13-27-310 AND 13-27-313, MCA."

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

Section 1. Section 3-2-202, MCA, is amended to read:

"3-2-202. Original jurisdiction -- contest review of ballot issue statements. (1) ~~Except as provided in subsection (3),~~ In the exercise of its original jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, injunction, and habeas corpus.

(2) ~~It also~~ The supreme court has the power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

(3) ~~(a) Except as provided in subsection (3)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

- ~~—— (i) violation of the law relating to qualifications for inclusion on the ballot;~~
- ~~—— (ii) constitutional defect in the substance of a proposed ballot issue; or~~
- ~~—— (iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~
- ~~—— (b) A contest of a ballot issue based on subsection (3)(a)(i) or (3)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

(3) The supreme court has original jurisdiction to review the attorney general's ballot statements and legal sufficiency determination in an action brought pursuant to 13-27-316.

~~(e)(4) Nothing in subsection (3) limits the right to challenge a measure ballot issue enacted by a vote of the people."~~

Section 2. Section 3-5-302, MCA, is amended to read:

"3-5-302. Original jurisdiction. (1) ~~Except as provided in subsection (6), the~~ The district court has original jurisdiction in:

- (a) all criminal cases amounting to felony;
- (b) all civil and probate matters;
- (c) all cases at law and in equity;
- (d) all cases of misdemeanor not otherwise provided for; and
- (e) all ~~such~~ special actions and proceedings ~~as that~~ that are not otherwise provided for.

(2) The district court has concurrent original jurisdiction with the justice's court in the following criminal cases amounting to misdemeanor:

- (a) misdemeanors arising at the same time as and out of the same transaction as a felony or misdemeanor offense charged in district court;
- (b) misdemeanors resulting from the reduction of a felony or misdemeanor offense charged in the district court; and
- (c) misdemeanors resulting from a finding of a lesser included offense in a felony or misdemeanor case tried in district court.

(3) The district court has exclusive original jurisdiction in all civil actions that might result in a judgment against the state for the payment of money.

(4) The district court has the power of naturalization and of issuing papers ~~therefor~~ for naturalization in all cases where it is authorized to do so by the laws of the United States.

(5) The district court and its judges have power to issue, hear, and determine writs of mandamus, quo

warranto, certiorari, prohibition, and injunction, other original remedial writs, and all writs of habeas corpus on petition by or on behalf of any person held in actual custody in their respective districts. Injunctions and writs of prohibition and habeas corpus may be issued and served on legal holidays and nonjudicial days.

~~(6) (a) Except as provided in subsection (6)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

~~—— (i) violation of the law relating to qualifications for inclusion on the ballot;~~

~~—— (ii) constitutional defect in the substance of a proposed ballot issue; or~~

~~—— (iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~—— (b) A contest of a ballot issue based on subsection (6)(a)(i) or (6)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~—— (c) Nothing in subsection (6) limits the right to challenge a measure enacted by a vote of the people."~~

Section 3. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector who voted in the previous federal general election and whose name is on the active list.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means:

(a) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or

(b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or

appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

- (i) solicitation is made;
 - (ii) contribution is received and retained; or
 - (iii) expenditure is made; and
- (c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon approval preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(22) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(28) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(29) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(30) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(31) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper or nonpaper ballot."

Section 4. Section 13-22-102, MCA, is amended to read:

"13-22-102. Purpose and intent. The intent of the legislature is to establish a nonpartisan youth voting program that will:

- (1) provide the youth of Montana with practical experience in the democratic process;
- (2) increase the likelihood that Montana's youth will participate in the process as adult voters and encourage the participation of more parents in elections;
- (3) not benefit any elected official, candidate for elective office, political party, campaign for or against any ballot issue, or any ~~measure~~ proposed ballot issue attempting to qualify for placement on a ballot; and
- (4) be entirely funded through private donations."

Section 5. Section 13-27-102, MCA, is amended to read:

"13-27-102. Who may petition and gather signatures. (1) A petition for the initiative, the referendum, or to call a constitutional convention may be signed only by a qualified elector of the state of Montana.

(2) A person gathering signatures for the initiative, the referendum, or to call a constitutional convention:

(a) must be a resident of the state of Montana; and

(b) may not be paid based upon the number of signatures gathered."

Section 6. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, for the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the ~~measure~~ issue to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed

on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the measure issue proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the measure issue must be in the bill form provided in the most recent issue edition of the bill drafting manual furnished by the legislative services division and may not contain a preamble or argumentative language. If sheets are circulated in sections, the complete text of the measure issue must be attached to each section.

(3) An internet posting of petition language must include a statement that the petition language and format may not be modified. An internet posting must include an affidavit in substantially the same form as prescribed by the secretary of state pursuant to 13-27-302."

Section 7. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required. ~~(1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:~~

~~—— (a) The text of the proposed measure must be submitted to the legislative services division for review.~~

(1) A proponent of a ballot issue shall submit the text of the proposed issue to the secretary of state. The text may not be submitted 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 to the legislative services division for review.

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

~~(e)(b)~~ Within 14 days after submission of the text, the legislative services division staff shall make recommend in writing to the person submitting the text ~~written recommendations for changes in~~ proponent revisions to the text or a statement state that no changes revisions are recommended.

~~(d)(c)~~ The ~~person submitting the text~~ proponent shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended ~~changes revisions~~. If no changes revisions are not recommended, ~~no a~~ response is not required.

~~(2)(3)~~ The legislative services division shall furnish a copy of the correspondence provided for in subsection ~~(1)~~ (2) to the secretary of state, who shall make a copy of the correspondence available to any person upon request.

~~(3)(4)~~ Before a petition may be circulated for signatures, ~~a sample sheet containing the~~ final text of the

proposed measure issue must be submitted to the secretary of state in the form in which it will be circulated. The ~~sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall reject the proposed issue if the text contains material not submitted to the legislative services division that is a substantive change not recommended by the legislative services division. The~~ If accepted, the secretary of state shall refer a copy of the ~~petition sheet~~ proposed issue to the attorney general for ~~approval~~ a determination as to legal sufficiency and for preparation of ballot statements pursuant to 13-27-312. ~~The secretary of state and attorney general shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The attorney general shall also review the petition as to its legal sufficiency. If the attorney general determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact and provide a copy of the determination to the secretary of state and to the petitioner within the time provided in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney general's determination is overruled pursuant to 13-27-316. As used in this section, "legal sufficiency" means that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors and that the text of the proposed measure complies with constitutional requirements governing submission of ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative services division unless the material not submitted to the legislative services division is a substantive change not suggested by the legislative services division.~~

~~(4)~~(5) (a) The secretary of state shall review the ~~comments~~ legal sufficiency opinion and ballot statements of the attorney general received pursuant to 13-27-312 and ~~make a final decision as to the approval or rejection of the petition.~~

(b) If the attorney general approves the proposed issue, 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 the statements of implication, as prepared 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.

~~(b)~~(c) The ~~If the attorney general rejects the proposed issue, the secretary of state shall send written notice to the person who submitted the petition sheet~~ proposed issue of the ~~approval or rejection, of the form of~~

~~the petition within 28 days after submission of the petition sheet including the attorney general's legal sufficiency opinion.~~

~~(c)(d) If an action is filed challenging the validity of the petition, the secretary of state shall immediately notify the person who submitted the petition sheet proposed issue.~~

~~(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.~~

~~————(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implication, all as approved by the secretary of state and the attorney general. The petition may be circulated by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the attorney general pending a final determination of its legal sufficiency."~~

Section 8. Section 13-27-204, MCA, is amended to read:

"13-27-204. Petition for initiative. (1) The following 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 ~~measure~~ initiative will appear on the next general election ballot. If a majority of voters vote for this ~~measure~~ initiative at that election, it will become law.

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

(Title of ~~measure~~ initiative written pursuant to 13-27-312) (Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the ~~measure~~ 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 ~~measure~~ initiative on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ initiative.

(d)

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) 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 card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, 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 card may not be used as the only means to disqualify the signature of that petition signer."

Section 9. Section 13-27-205, MCA, is amended to read:

"13-27-205. Petition for referendum. (1) The following is substantially the form for a petition calling for approval or rejection of an act of the legislature by the referendum:

PETITION TO PLACE REFERENDUM NO. ____ ON THE ELECTION BALLOT

(a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is ____, Senate (House) Bill Number ____ will appear on the next general election ballot. If a majority of voters vote for this ~~measure~~ referendum at that election it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number ____, passed by the legislature on _____ on the next general election ballot:

(Title of referendum written pursuant to 13-27-312) (Statement of implication written pursuant to 13-27-312)

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

(d)

WARNING

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

(e) Each person ~~must~~ 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 ~~registry~~ registration card; or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, legislative representative district number, 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 card may not be used as the only means to disqualify the signature of that petition signer."

Section 10. Section 13-27-207, MCA, is amended to read:

"13-27-207. Petition for initiative for constitutional amendment. (1) The following is substantially the form for a petition for an initiative to amend the constitution:

PETITION TO PLACE CONSTITUTIONAL AMENDMENT NO. ____ ON THE ELECTION BALLOT

(a) If 10% of the voters in each of one-half of the counties sign this petition and the total number of voters signing the petition is _____, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

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

(Title of the proposed constitutional amendment written pursuant to 13-27-312)(Statement of implication written pursuant to 13-27-312)

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

(d)

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) 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 card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, 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 card may not be used as the only means to disqualify the signature of that petition signer."

Section 11. Section 13-27-208, MCA, is amended to read:

"13-27-208. Petitions to be made available in each county election administrator's office. Upon final approval of ~~a petition~~ a proposed ballot issue as ~~required under 13-27-202(4)~~ provided in 13-27-202, the secretary of state shall forward a copy of the petition, along with signature sheets, to the election administrator of each county. The election administrator shall make a copy of each approved petition available for reading ~~and signing~~ in the administrator's office during business hours in an election year until the petitions are submitted under 13-27-301. The secretary of state may charge the person who submitted the ~~petition~~ proposed ballot issue a fee, which must be set and deposited in accordance with 2-15-405."

NEW SECTION. **Section 12. Issues referred by legislature.** The secretary of state shall transmit a copy of an act referred to the people or a constitutional amendment proposed by the legislature to the attorney general no later than 6 months before the election at which the issue will be voted on by the people.

Section 13. Section 13-27-302, MCA, is amended to read:

"13-27-302. Certification of signatures. An affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who is the signature gatherer), swear that I gathered ~~or assisted in gathering~~ the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

(date on which the first signature was gathered)

(Signature of petition signature gatherer)

(Address of petition signature gatherer)

Subscribed and sworn to before me this ____ day of _____, 20__

Seal

(Person authorized to take oaths)

(Title or notarial information)"

Section 14. Section 13-27-312, MCA, is amended to read:

"13-27-312. Review of ~~petition~~ proposed ballot issue by attorney general -- preparation of statements -- fiscal note. (1) Upon receipt of a ~~petition~~ proposed ballot issue from the office of the secretary of state pursuant to 13-27-202, the attorney general shall examine the ~~petition as to form and proposed issue for legal sufficiency; and prepare ballot statements~~ as provided in 13-27-202, and, if the ~~proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, 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~~ this section. The budget director, in cooperation with the agency or agencies affected by the petition, is responsible for preparing the fiscal note and shall return it within 6 days unless the attorney general, for good cause shown, extends the time for completing the fiscal note.

(2) ~~If the petition form is approved, the~~ The attorney general shall endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general shall prepare:

(a) a statement, not to exceed 100 words, explaining the purpose of the ~~measure~~ issue; and

(b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against the ~~measure~~ issue.

(3) If the proposed ballot issue has an effect on the revenue, expenditures, or the 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. The ~~If the fiscal note indicates a fiscal impact, the~~ attorney general shall prepare a fiscal statement of no more than 50 words ~~if a fiscal note was prepared for the proposed ballot issue, and the statement must be used on the petition and ballot if the~~ measure issue is placed on the ballot.

(4) ~~The statement of purpose and the~~ ballot statements of implication 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 ~~measure~~ issue. ~~Statements of implication must be written so~~

~~that a positive vote indicates support for the measure and a negative vote indicates opposition to the measure.~~

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

(6) The statements of implication 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 but not limited to the following example:

FOR extending the right to vote to persons 18 years of age

AGAINST extending the right to vote to persons 18 years of age

~~(7) If the petition is rejected as to form, the attorney general shall forward the comments to the secretary of state within 21 days after receipt of the petition by the attorney general. If the petition is approved as to form, the attorney general shall forward the statement of purpose, the statements of implication, and the fiscal statement, if applicable, to the secretary of state within 21 days after receipt of the petition by the attorney general.~~

(7) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this part, "legal sufficiency" means the petition complies with statutory and constitutional requirements governing submission of the proposed issue to the electors. 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.

~~(8) (a) If the petition is approved as to form, within~~ Within 30 days of the approval after receipt of the proposed issue from the secretary of state, the attorney general shall forward to the secretary of state ~~the determination regarding an opinion as to the issue's legal sufficiency, as provided in 13-27-202.~~

(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 ballot statements prepared pursuant to this section and 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 prepared ballot statements under this section."

Section 15. Section 13-27-315, MCA, is amended to read:

"13-27-315. Statements by attorney general on issues referred by legislature. ~~(4)~~ Upon receipt of a copy of a ballot form under ~~13-27-310(2)~~ for an issue proposed referred by the legislature from the secretary of state pursuant to [section 12], the attorney general shall ~~order a fiscal note as provided in 13-27-312(1)~~ if the ~~issue has an effect on the revenues, expenditures, or the fiscal liability of the state~~ prepare and forward to the secretary of state, within 30 days, ballot statements as provided in 13-27-312, except that the attorney general may not prepare statements of implication of a vote for or against a ballot issue if the statements have been provided by the legislature. ~~At the same time the explanatory statement is prepared under subsection (2), the attorney general shall prepare a fiscal statement of no more than 50 words to be forwarded to the secretary of state at the same time as the explanatory statement.~~

~~(2) At the same time the attorney general, pursuant to 13-27-313, informs the secretary of state of the approval or rejection of a ballot form for an issue proposed by the legislature, the attorney general shall forward to the secretary of state a statement, not exceeding 100 words, expressing a true and impartial explanation of the purpose of the measure in plain, easily understood language. The statement may not be an argument and may not be written to create a prejudice for or against the issue. The statement prepared under this section is known as the attorney general's explanatory statement.~~

~~—————(3) If statements of the implication of a vote for or against a ballot issue have not been provided by the legislature, the attorney general shall prepare the statements. Requirements for statements of implication for ballot issues referred by the legislature are the same as those provided in 13-27-312 for other ballot issues. Statements of implication prepared by the attorney general must be returned to the secretary of state no later than the time specified for approval of the ballot form."~~

Section 16. Section 13-27-316, MCA, is amended to read:

"13-27-316. Court review of attorney general opinion or statements. (1) If the proponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ ballot statements formulated by the attorney general ~~pursuant to 13-27-312~~ do not satisfy the requirements of 13-27-312; or believe that the attorney general was incorrect in determining that the petition was legally deficient, they may, within 10 days of the ~~secretary of state's or attorney general's~~ determination regarding legal sufficiency provided for in 13-27-202, file an ~~action in the district court in and for the county of Lewis and Clark~~ original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's determination and requesting the court to alter the statement or modify the attorney general's determination.

(2) If the opponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ ballot statements formulated by the attorney general pursuant to ~~13-27-312~~ do not satisfy the requirements of 13-27-312; or believe that the attorney general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of the date of certification to the governor that the completed petition has been officially filed, file an ~~action in the district court in and for the county of Lewis and Clark~~ original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's ~~conclusion~~ determination and requesting the court to alter the statement or overrule the attorney general's determination concerning the legal sufficiency of the petition.

(3) (a) Notice must be served upon the secretary of state and upon the attorney general.

(b) If the proceeding requests modification of ballot statements, an action brought under this section must state how the attorney general's ballot statements do not satisfy the requirements of 13-27-312 and must propose alternate ballot statements that satisfy the requirements of 13-27-312.

(c) (i) Pursuant to Article IV, section 7(2), of the Montana constitution, an action brought pursuant to this section takes precedence over other cases and matters in the district supreme court. The court shall examine the proposed measure issue and the challenged statement or determination of the attorney general and shall as soon as possible render a decision and certify to the secretary of state a statement which the court determines will meet the requirements of 13-27-312 or an opinion as to the adequacy of the ballot statements or the correctness of the attorney general's determination.

(ii) If the court decides that the ballot statements do not meet the requirements of 13-27-312, it may order the attorney general to revise the statements immediately or certify to the secretary of state a statement that the court determines will meet the requirements of 13-27-312. A statement revised by the attorney general pursuant to the court's order or certified by the court must be placed on the petition for circulation and on the official ballot.

(iii) If the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue does not comply with statutory and constitutional requirements governing submission of the issue to the electors, any petitions supporting the issue are void and the issue may not appear on the ballot. A proponent of the ballot issue may resubmit a revised issue pursuant to 13-27-202, subject to the deadlines provided in this chapter.

(iv) If the court decides that the attorney general's legal deficiency determination is incorrect and that a proposed issue complies with statutory and constitutional requirements governing submission of the issue to the electors, the attorney general shall prepare ballot statements pursuant to 13-27-312 and forward the statements to the secretary of state as soon as possible.

~~(b) A statement certified by the court must be placed on the petition for circulation and on the official ballot.~~

~~(4) A copy of the petition in final form must be filed in the office of the secretary of state by the proponents.~~

~~(5) Any party may appeal the order of the district court to the Montana supreme court by filing a notice of appeal within 5 days of the date of the order of the district court.~~

(4) A petition for a proposed ballot issue may be circulated by a signature gatherer upon transmission of the sample petition form by the secretary of state pending review under this section. If, upon review, the attorney general or the supreme court revises the petition form or ballot statements, any petitions signed prior to the revision are void.

(5) An original proceeding in the supreme court under this section is the exclusive remedy for a challenge to the attorney general's ballot statements or legal sufficiency determination. A ballot issue may not be invalidated under this section after the secretary of state has certified the ballot under 13-12-201.

(6) This section does not limit the right to challenge a constitutional defect in the substance of an issue approved by a vote of the people."

NEW SECTION. Section 17. Contest of ballot issue petitions. (1) Any qualified elector may, within 30 days after the date on which the issue was certified to the governor, file an action in the district court in and for the county of Lewis and Clark contesting the certification of a ballot issue for illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(2) If a court finds that illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures probably affected the outcome of the petition process and certification, the secretary of state shall decertify the contested ballot issue.

Section 18. Section 13-27-402, MCA, is amended to read:

"13-27-402. Committees to prepare arguments for and against ballot issues. (1) The arguments advocating approval or rejection of the ballot issue and rebuttal arguments must be submitted to the secretary of state by committees appointed as provided in this section.

(2) The committee advocating approval of a legislative act referred to the people either by the legislature or by referendum petition or advocating approval of a constitutional amendment referred by the legislature must be composed of:

(a) one senator known to favor the referred ~~measure~~ ballot issue, appointed by the president of the senate;

(b) one representative known to favor the referred ~~measure~~ ballot issue, appointed by the speaker of the house of representatives; and

(c) one individual who need not be a member of the legislature, appointed by the first two members.

(3) (a) The committee advocating rejection of an act referred to the people or of a constitutional amendment proposed by the legislature must be composed of:

(i) one senator appointed by the president of the senate;

(ii) one representative appointed by the speaker of the house of representatives; and

(iii) one individual who need not be a member of the legislature, appointed by the first two members.

(b) Whenever possible, the members must be known to have opposed the issue.

(4) The following must be three-member committees and must be appointed by the person submitting the ~~petition~~ ballot issue to the secretary of state under the provisions of 13-27-202:

(a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition must be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member must be appointed by the first four members. If possible, members must be known to favor rejection of the issue.

(6) A person may not be required to serve on any committee under this section, and except for legislative appointments made by the president of the senate or by the speaker of the house of representatives, the person making an appointment must have written acceptance of appointment from the appointee. If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments."

Section 19. Section 13-27-403, MCA, is amended to read:

"13-27-403. Appointment to committee. (1) Except as provided in subsection (2), appointments to committees advocating approval or rejection of an act referred to the people, a constitutional amendment proposed by the legislature, or a ballot ~~measure~~ issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week prior to the deadline for filing arguments on

the ballot issue under 13-27-406.

(2) Appointments to committees advocating approval or rejection of a ballot ~~measure~~ issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week before the deadline for filing arguments on the ballot issue under 13-27-406. All persons responsible for appointing members to the committee shall submit to the secretary of state the names and addresses of the appointees no later than the date set by this subsection. The submission must include the written acceptance of appointment from each appointee required by section 13-27-402(6). If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments.

(3) Within 5 days after receiving notice under subsection (2); but not later than 5 days after the deadline set for appointment of committee members, the secretary of state shall notify the appointees to a committee appointed pursuant to subsection (1) or (2) by certified mail, with return receipt requested, of the deadlines for submission of the committee's arguments."

Section 20. Section 13-27-501, MCA, is amended to read:

"13-27-501. Secretary of state to certify ballot form -- abbreviated ballot. (1) The secretary of state shall furnish to the official of each county responsible for preparation of the ballots, at the same time as the election administrator certifies the names of the persons who are candidates for offices to be filled at the election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is to appear on the ballot.

(2) ~~Except as provided in subsection (4), the~~ The secretary of state shall list for each issue:

- (a) the number;
- (b) the method of placement on the ballot;
- (c) the title;
- (d) the attorney general's explanatory statement, if applicable;
- (e) the fiscal statement, if applicable; ~~and~~

(f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot; and

(g) a statement that the issue conflicts with one or more issues, referenced by number, that also appear on the ballot, if applicable.

(3) When required to do so, the secretary of state shall use for each ballot issue the title of the legislative

act or legislative constitutional proposal or the title provided by the attorney general or district court. Following the number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

- (a) an act referred by the legislature;
- (b) an amendment to the constitution proposed by the legislature;
- (c) an act of the legislature referred by referendum petition; or
- (d) a law or constitutional amendment proposed by initiative petition.

~~(4) The county election administrator may, at least 14 days prior to the deadline for ballot certification by the secretary of state, request in writing that the county election administrator be furnished an abbreviated form of the certified ballot. The secretary of state shall furnish to all counties from which the secretary of state has received such a request a certified ballot containing only the information in subsections (2)(a), (2)(e), and (2)(f). If the county election administrator requests that the abbreviated ballot be prepared, copies of the information contained in subsections (2)(a) through (2)(f) must be distributed to each elector by an election judge as the elector enters the polling place."~~

Section 21. Section 13-35-207, MCA, is amended to read:

"13-35-207. Deceptive election practices. A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

- (1) falsely represents his the person's name or other information required upon his the person's registry card and causes registration with the card;
- (2) signs a registry card knowingly witnessing any false or misleading statement;
- (3) knowingly causes a false statement, certificate, or return of any kind to be signed;
- (4) falsely makes a declaration or certificate of nomination;
- (5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false;
- (6) forges or falsely makes the official endorsement of a ballot;
- (7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;
- (8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;

- (9) signs a name other than ~~his~~ the person's own to a petition, signs more than once for the same ~~measure~~ ballot issue, or signs a petition while not being a qualified elector of the state; or
- (10) makes a false oath or affidavit where an oath or affidavit is required by law."

Section 22. Section 13-37-210, MCA, is amended to read:

"13-37-210. Naming and labeling of political committees. (1) Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

- (a) name and identify itself in its organizational statement using a name or phrase:
- (i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and
- (ii) if a majority of its contributors share a common employer, that identifies the employer; and
- (b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot ~~measure~~ issue by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot ~~measure~~ issue as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128."

Section 23. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports:

- (a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;
- (b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before the election and the day of the election;
- (c) not more than 20 days after the date of the election; and
- (d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which the text of the proposed ~~measure~~ ballot issue is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue is or is expected to be on the ballot;

(b) on the 10th day of March and on the 10th day of each subsequent month through September;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3)(a) may be made by mail or by electronic communication to the clerk and recorder and the commissioner of political practices.

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

(5) For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file:

(a) a report on the 12th day preceding the date of an election in which it participates by making an expenditure;

(b) a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner may promulgate rules regarding the extent to which organizations that are incidental political committees shall report their politically related activities in accordance with this chapter.

(7) All reports required by this section must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."

Section 24. Section 13-37-228, MCA, is amended to read:

"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101 until the fifth day before the date of filing of the appropriate initial report pursuant to subsections (1) through (5) of 13-37-226. Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by ~~approval~~ transmission of the form of the petition to the proponent of the ballot issue or referral by the secretary of state, even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5).

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which the candidate or political committee participates whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election."

NEW SECTION. **Section 25. Repealer.** Sections 13-27-310 and 13-27-313, MCA, are repealed.

NEW SECTION. Section 26. Codification instruction. (1) [Section 12] 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 12].

(2) [Section 17] is intended to be codified as an integral part of Title 13, chapter 27, part 3, and the provisions of Title 13, chapter 27, part 3, apply to [section 17].

- END -

