

Ballot Measures: Legislative Services Division Review and Associated Timeline

State Administration & Veterans' Affairs Interim Committee
May 2022

MONTANA CONSTITUTION

Provisions Concerning Initiatives and Referendums

Article III, Section 4. Initiative. (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held.

Article III, Section 5. Referendum. (1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five percent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state no later than six months after adjournment of the legislature which passed the act.

(2) An act referred to the people is in effect until suspended by petitions signed by at least 15 percent of the qualified electors in a majority of the legislative representative districts. If so suspended the act shall become operative only after it is approved at an election, the result of which has been determined and declared as provided by law.

Article III, Section 6. Elections. The people shall vote on initiative and referendum measures at the general election unless the legislature orders a special election.

Convention Notes

Article IV, Section 7. Ballot issues — challenges — elections. (1) An initiative or referendum that qualifies for the ballot under Article III or Article XIV shall be submitted to the qualified electors as provided in the Article under which the initiative or referendum qualified unless a new election is held pursuant to this section.

(2) A preelection challenge to the procedure by which an initiative or referendum qualified for the ballot or a postelection challenge to the manner in which the election was conducted shall be given priority by the courts.

(3) If the election on an initiative or referendum properly qualifying for the ballot is declared invalid because the election was improperly conducted, the secretary of state shall submit the issue to the qualified electors at the next regularly scheduled statewide election unless the legislature orders a special election.

Article XIV, Section 2. Initiative for constitutional convention. (1) The people may by initiative petition direct the secretary of state to submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution. The petition shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The secretary of state shall certify the filing of the petition in his office and cause the question to be submitted at the next general election.

Article XIV, Section 8. Amendment by legislative referendum. Amendments to this constitution may be proposed by any member of the legislature. If adopted by an affirmative roll call vote of two-thirds of all the members thereof, whether one or more bodies, the proposed amendment shall be submitted to the qualified electors at the next general election. If approved by a majority of the electors voting thereon, the amendment shall become a part of this constitution on the first day of July after certification of the election returns unless the amendment provides otherwise.

Article XIV, Section 9. Amendment by initiative. (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The petitions shall be filed with the secretary of state. If the petitions are found to have been signed by the required number of electors, the secretary of state shall cause the amendment to be published as provided by law twice each month for two months previous to the next regular state-wide election.

(3) At that election, the proposed amendment shall be submitted to the qualified electors for approval or rejection. If approved by a majority voting thereon, it shall become a part of the constitution effective the first day of July following its approval, unless the amendment provides otherwise.

Statutory Provisions

Concerning Initiatives and Referendums

Title 13, chapter 27: Ballot Issues

- Part 1: General Provisions
- Part 2: Form of Petitions
- Part 3: Submission and Processing of Petitions
- Part 4: Voter Information Pamphlets
- Part 5: Election Procedure

13-1-104. Times for holding general elections. (1) A general election must be held throughout the state on the first Tuesday after the first Monday in November.

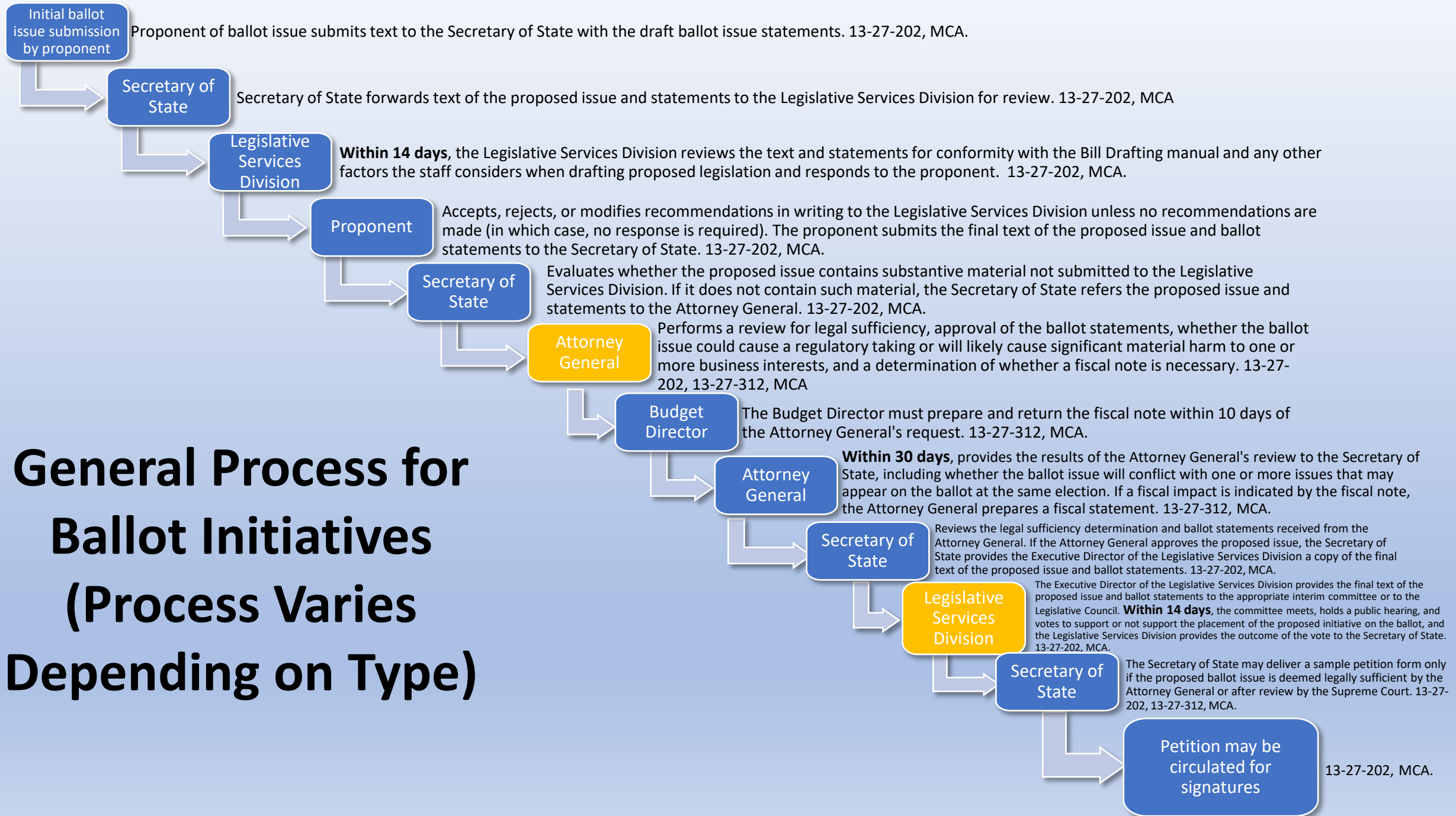
(2) In every even-numbered year, the following elections must be held on general election day:

- (a) an election on any ballot issue submitted to electors pursuant to Article III, section 6, unless the legislature orders a special election, or Article XIV, section 8, of the Montana constitution;
- (b) an election of federal officers, members of the legislature, state officers, multicounty district officers elected at a statewide election, district court judges, and county officers; and
- (c) any other election required by law to be held on general election day in an even-numbered year.

(3) In every odd-numbered year, the following elections must be held on the same day as the general election:

- (a) an election of officers for municipalities required by law to hold the election; and
- (b) any other election required by law to be held on general election day in an odd-numbered year.

General Process for Ballot Initiatives (Process Varies Depending on Type)



Attorney General

- Reviews whether the ballot issue could cause a regulatory taking or will likely cause significant material harm to one or more business interests. 13-27-312(9), MCA

“[T]he Court holds that the Attorney General’s obligation to review ballot issues for “significant material harm” and the Secretary of State’s obligation to place adverse findings on the sample petition form is an obligation that **applies only to statutory initiatives and no other form of ballot issue.**” – *Mont. Fed. of Pub. Employees v. St.*, First Jud. Dist., No. DDV-2022-29 (Apr. 26, 2022).

Legislative Services Division

- The Executive Director of the Legislative Services Division provides the final text of the proposed issue and ballot statements to the appropriate interim committee or to the Legislative Council. Within 14 days, the committee meets, holds a public hearing, and votes to support or not support the placement of the proposed initiative on the ballot, and the Legislative Services Division provides the outcome of the vote to the Secretary of State. 13-27-312(7), 13-27-202, MCA.

“[T]he legislature did not intend for the interim committee vote provisions of HB 651 to apply to anything other than statutory initiatives. . . . [t]he Court holds that those provisions of HB 651 do not apply to constitutional initiatives . . .” – *Mont. Fed. of Pub. Employees v. St.*, First Jud. Dist., No. DDV-2022-29 (Apr. 26, 2022).

Legislative Services Division

Within 14 days, the Legislative Services Division reviews the text and statements for conformity with the Bill Drafting Manual and any other factors the staff considers when drafting proposed legislation and responds to the proponent. 13-27-202, MCA.

13-27-202, MCA:

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.

2020 Bill Drafting Manual: All MCA statute text must be retrieved from the most recent datastore prepared by the Legislative Services Division.

Article III, section 4 2021/2022 Timeline

[illegible]

[But see 13-27-104: July 15, 2022]

October 15, 2021

Apr. 29, 2021

January 1

Jan. 4, 2021
Jan. 7, 2019
Jan. 2, 2017
Jan. 5, 2015
Jan. 7, 2013
Jan. 3, 2011
Jan. 5, 2009
Jan. 3, 2007
Jan. 3, 2005
Jan. 6, 2003
Jan. 3, 2001
Jan. 4, 1999
Apr. 21, 1999

Jan. 4, 2021

First day to
circulate approved
initiative
13-27-202

Petition signatures
due to county
election
administrators.
13-27-301

General election
13-1-104
Art. III, sec. 6
*(Unless the
Legislature orders
a special election)*

End of Regular Session

Apr. 29, 2021

Apr. 25, 2019

Apr. 27, 2017

Apr. 28, 2015

Apr. 24, 2013

Apr. 28, 2011

Apr. 28, 2009

Apr. 27, 2007

Apr. 21, 2005

Apr. 26, 2003

Apr. 21, 2001

Apr. 21, 1999

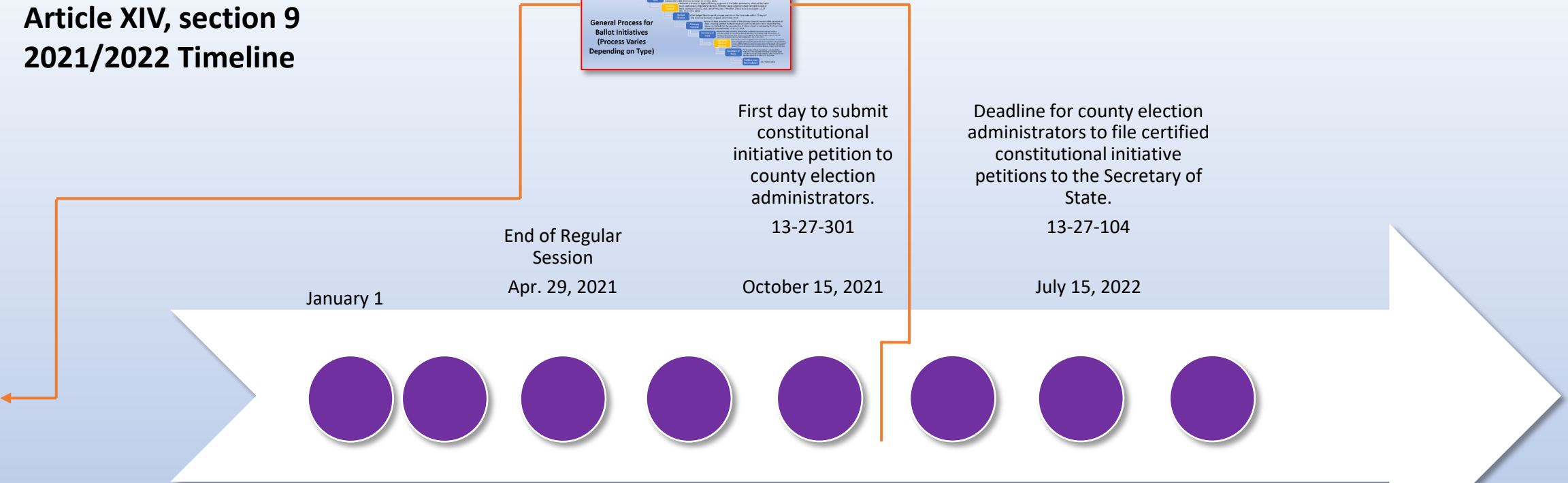
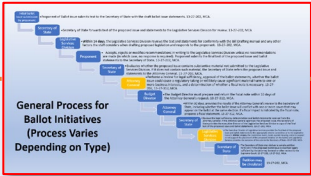
Apr. 21, 1999

"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." -- 13-27-202

CONSTITUTIONAL INITIATIVE PETITIONS

Article XIV, section 9

2021/2022 Timeline



January 1

End of Regular Session
Apr. 29, 2021

First day to submit constitutional initiative petition to county election administrators.
13-27-301
October 15, 2021

Deadline for county election administrators to file certified constitutional initiative petitions to the Secretary of State.
13-27-104
July 15, 2022



- Beginning of Regular Session
- Jan. 4, 2021
 - Jan. 7, 2019
 - Jan. 2, 2017
 - Jan. 5, 2015
 - Jan. 7, 2013
 - Jan. 3, 2011
 - Jan. 5, 2009
 - Jan. 3, 2007
 - Jan. 3, 2005
 - Jan. 6, 2003
 - Jan. 3, 2001
 - Jan. 4, 1999
 - Apr. 21, 1999

Jan. 4, 2021
Beginning of Session

June 17, 2021
First day to circulate approved constitutional initiative.
13-27-202



"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." -- 13-27-202

June 17, 2022
Petition signatures due to county election administrators.
13-27-301

Nov. 8, 2022
General election
13-1-104
Art. XIV, sec. 9

- End of Regular Session
- Apr. 29, 2021
 - Apr. 25, 2019
 - Apr. 27, 2017
 - Apr. 28, 2015
 - Apr. 24, 2013
 - Apr. 28, 2011
 - Apr. 28, 2009
 - Apr. 27, 2007
 - Apr. 21, 2005
 - Apr. 26, 2003
 - Apr. 21, 2001
 - Apr. 21, 1999
 - Apr. 21, 1999

REFERENDUM PETITION (STATUTORY)
Also referred to as "Initiative Referendum"

Article III, section 5

2021/2022 Timeline

*"A referendum petition shall be filed with the secretary of state
no later than six months after adjournment of the legislature
which passed the act." – Art. III, sec. 5*



Deadline for county
election administrators
to file certified initiative
petitions to the
Secretary of State.

Art. III, sec. 5
Oct. 29, 2021

January 1

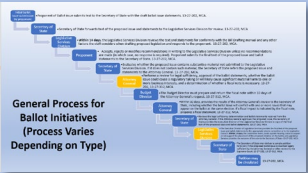
End of Regular Session
Apr. 29, 2021



Beginning of Regular Session

Jan. 4, 2021
Jan. 7, 2019
Jan. 2, 2017
Jan. 5, 2015
Jan. 7, 2013
Jan. 3, 2011
Jan. 5, 2009
Jan. 3, 2007
Jan. 3, 2005
Jan. 6, 2003
Jan. 3, 2001
Jan. 4, 1999
Apr. 21, 1999

Jan. 4,
2021
Beginning
of Regular
Session



October 1, 2021
Signed petition sheets
must be submitted to
the county election
administrator.
13-27-301

Nov. 8, 2022
General election
13-1-104
Art. III, sec. 6
*(Unless the Legislature
orders a special election)*

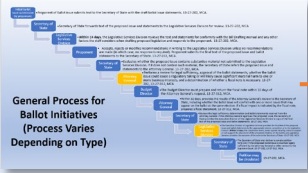
End of Regular Session

Apr. 29, 2021
Apr. 25, 2019
Apr. 27, 2017
Apr. 28, 2015
Apr. 24, 2013
Apr. 28, 2011
Apr. 28, 2009
Apr. 27, 2007
Apr. 21, 2005
Apr. 26, 2003
Apr. 21, 2001
Apr. 21, 1999
Apr. 21, 1999

CONSTITUTIONAL CONVENTION PETITION

Article XIV, section 2

2021/2022 Timeline



First day to submit
petition to county
election administrators.
13-27-301

October 15, 2021

Deadline for county
election administrators
to file certified
constitutional initiative
petitions to the
Secretary of State.

13-27-104

July 15, 2022

June 17, 2021
First day to circulate
approved constitutional
initiative.
13-27-202

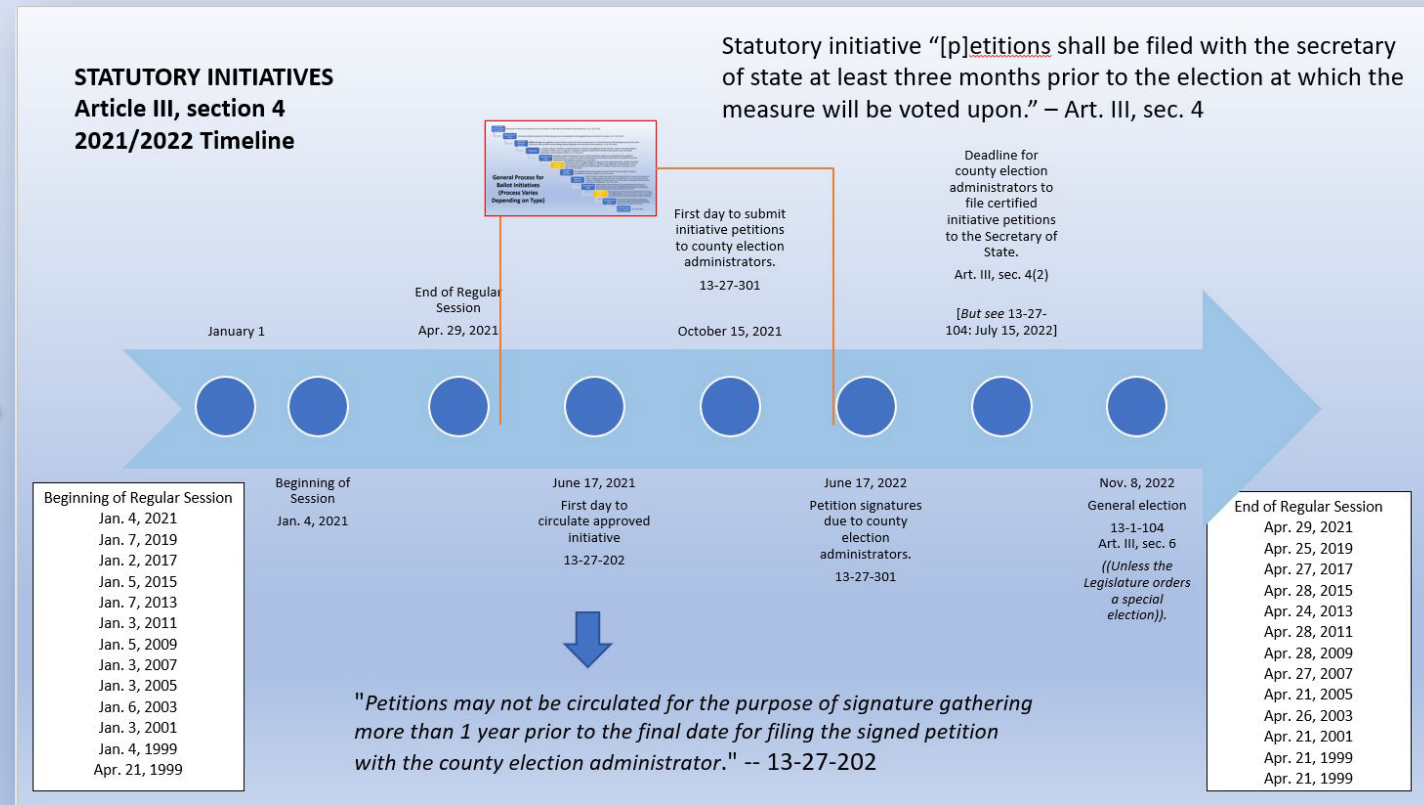
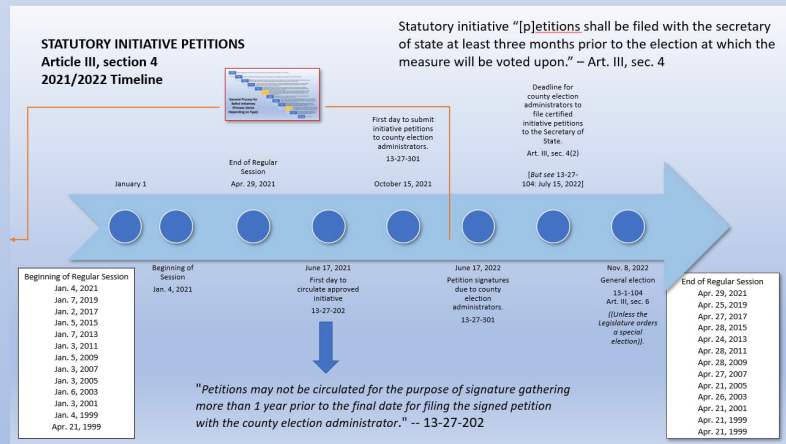
June 17, 2022
Petition
signatures
due to county
election
administrator
s.
13-27-301

Nov. 8, 2022
General election
13-1-104
Art. XIV, sec. 2

"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." -- 13-27-202

Recommendations for Ballot Measure Submission Timing Due to Effects by Regular Legislative Sessions

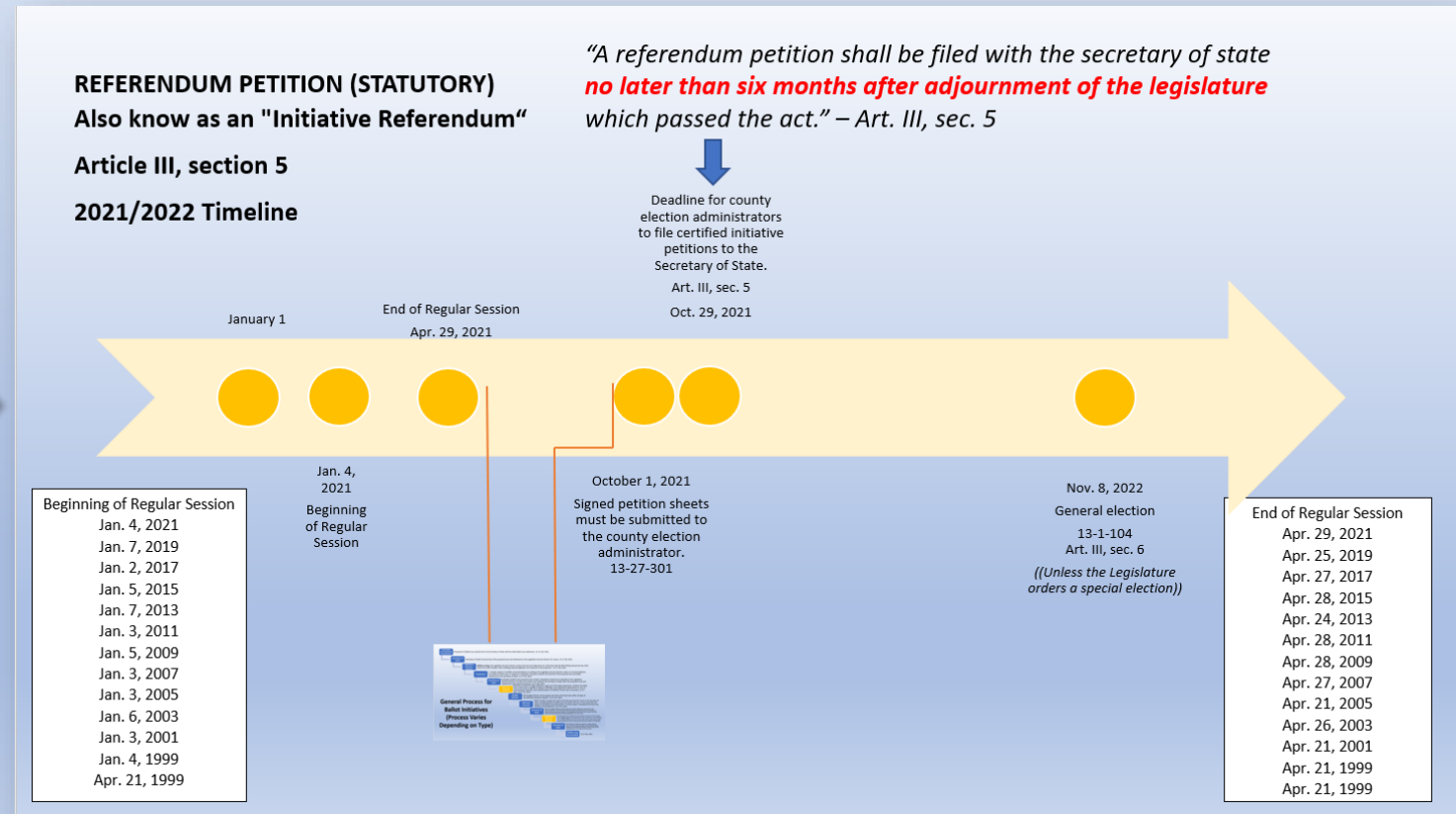
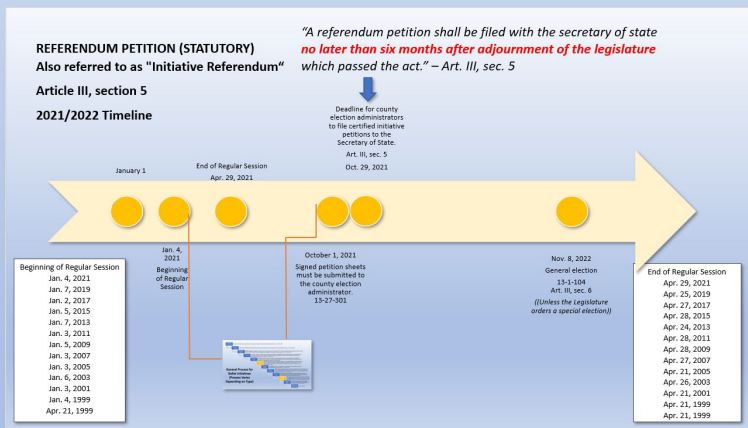
- **Statutory Initiative Petitions:** Recommendation to adopt a new initial starting date for submissions 10 days after the conclusion of the regular legislative session due to the Legislature's general revision of statutes and the effect of coordination instructions
 - Would not affect submissions during special sessions



Note: "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." -- 13-27-202, MCA

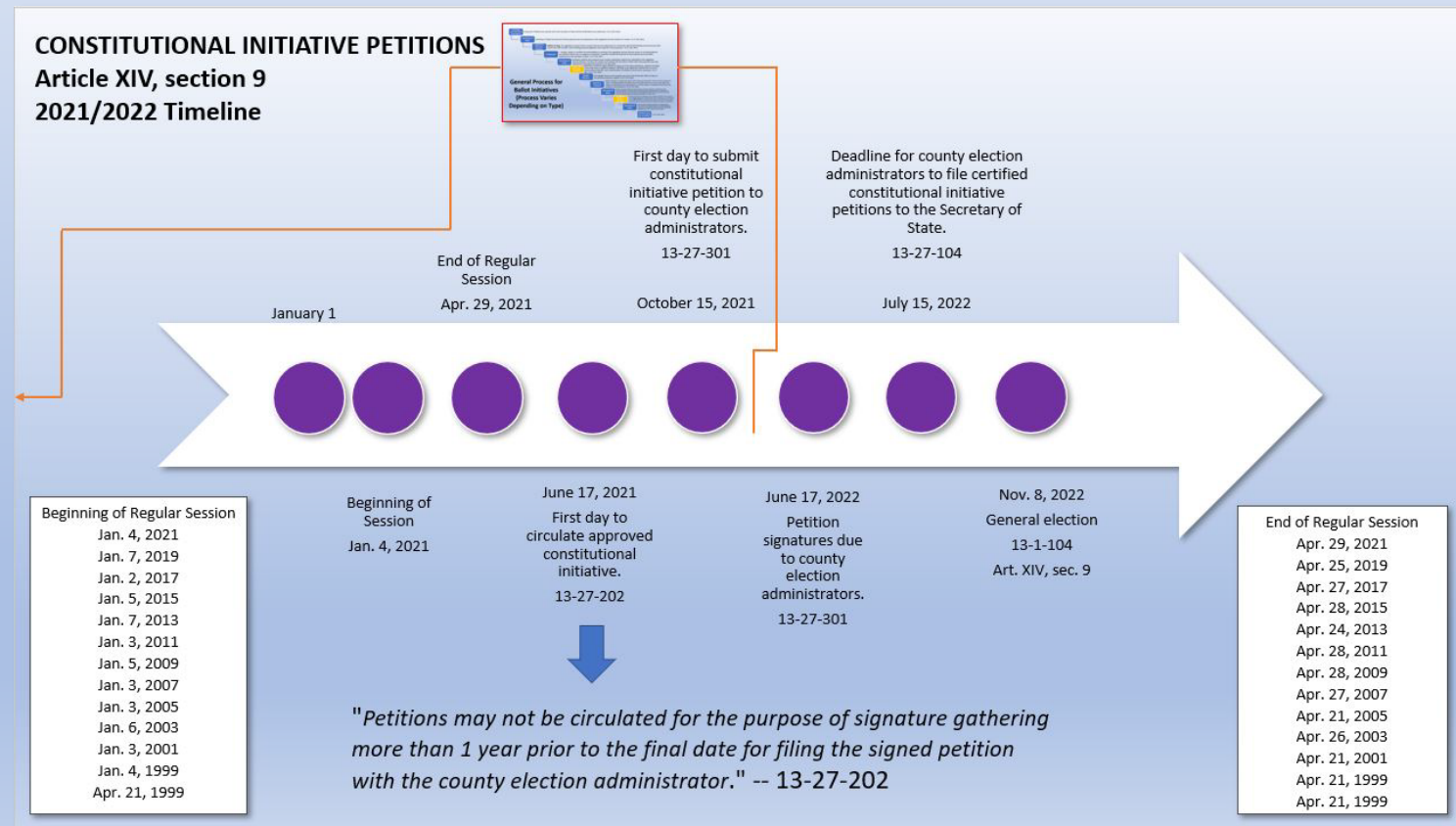
Recommendations for Ballot Measure Submission Timing Due to Effects by Regular Legislative Sessions

- **Referendum Petition (Statutory):** Recommendation to adopt a new initial starting date for submissions 10 days after the conclusion of the regular legislative session due to the effect of amendments and coordination instructions
 - Would not affect submissions during special sessions
 - Could be paired with a *streamlined* review process for referendum petitions because the bills have already been prepared and enacted by the Legislature; associated fiscal notes have been prepared.



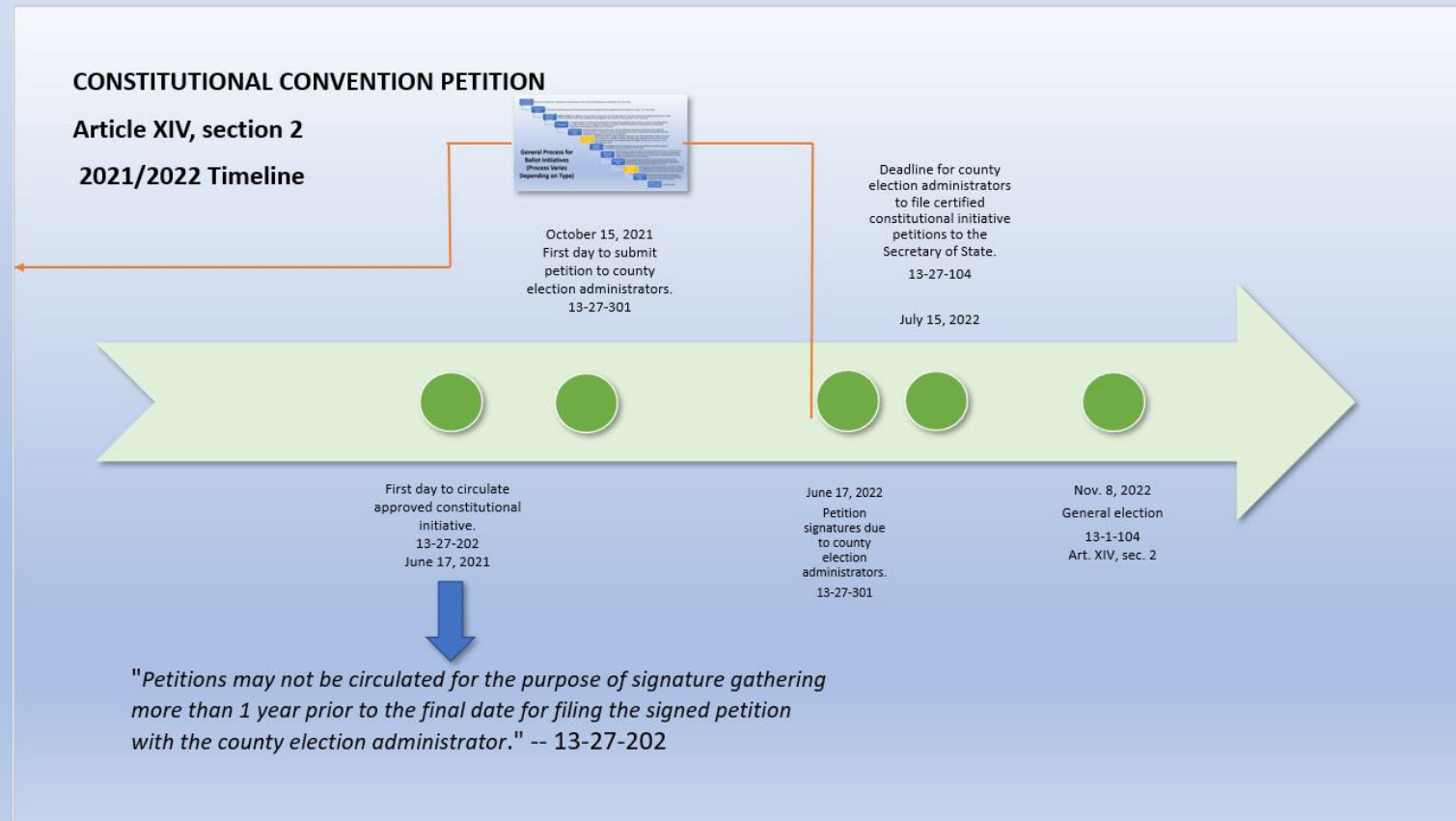
Recommendations for Ballot Measure Submission Timing Due to Effects by Regular Legislative Sessions

Constitutional Initiative: No recommended changes (may continue to submit anytime)



Recommendations for Ballot Measure Submission Timing Due to Effects by Regular Legislative Sessions

Constitutional Convention Petitions: No recommended changes (may continue to submit anytime)



Ballot Issue Cleanup from Recent Constitutional Amendments:

Constitutional Amendment No. 47, proposed by Ch. 217, L. 2019, and approved at the general election held November 3, 2020, in (2) near middle of first sentence substituted "one-third of the legislative representative districts" for "one-half of the counties". Amendment effective November 3, 2020.

Art. III, sec. 4(2): Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each **of at least one-third of the legislative representative districts** and the total number of signers must be at least five percent of the total qualified electors of the state.
...

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.

...

Ballot Issue Cleanup from Recent Constitutional Amendments Continued:

Constitutional Amendment No. 46, proposed by Ch. 216, L. 2019, and approved at the general election held November 3, 2020, in (1) at end of last sentence substituted "each of two-fifths of the legislative districts" for "each of at least one-half of the counties". Amendment effective November 3, 2020.

Art. XIV, sec. 9: (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts . . .

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.

. . .