

CHAPTER NO. 400

SENATE BILL NO. 256

INTRODUCED BY LENSINK

BY REQUEST OF THE SECRETARY OF STATE AND  
THE ATTORNEY GENERAL

IN THE SENATE

January 25, 1979	Introduced and referred to Committee on Judiciary.
February 17, 1979	Committee recommend bill do pass as amended. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 16, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 17, 1979	Second reading, concurred in.
March 21, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 22, 1979	Returned from second house. Concurred in as amended.
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March 23, 1979

Second reading, amendments  
adopted.

March 24, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

1 Amended BILL NO. 256  
 2 INTRODUCED BY Lenont  
 3 BY REQUEST OF THE SECRETARY OF STATE AND  
 4 THE ATTORNEY GENERAL

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 7 LAWS RELATING TO STATEWIDE BALLOT ISSUES; AMENDING SECTIONS  
 8 13-27-201, 13-27-202, 13-27-301, 13-27-303, 13-27-306,  
 9 13-27-310, 13-27-312, 13-27-313, 13-27-315, 13-27-401,  
 10 13-27-405, 13-27-406, 13-27-410, 13-27-501, 13-27-502, AND  
 11 85-8-624, MCA; AND REPEALING SECTIONS 13-27-314 AND  
 12 13-27-407, MCA."

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 13-27-201, MCA, is amended to read:  
 16 "13-27-201. Form of petition generally. (1) A petition  
 17 for the initiative, the referendum, or to call a  
 18 constitutional convention must be substantially in the form  
 19 provided by this chapter. Clerical or technical errors that  
 20 do not interfere with the ability to judge the sufficiency  
 21 of signatures on the petition do not render a petition void.  
 22 (2) Petition sheets may not exceed 8 1/2 x 14 inches  
 23 in size. Separate sheets of a petition may be fastened in  
 24 sections of not more than 25 sheets. Near the top of each  
 25 sheet containing signature lines must be printed the title

1 of the statute or constitutional amendment proposed or the  
 2 measure to be referred or a statement that the petition is  
 3 for the purpose of calling a constitutional convention. If  
 4 signature lines are printed on both the front and back of a  
 5 petition sheet, the information required above must appear  
 6 on both the front and back of the sheet. The complete text  
 7 of the measure proposed or referred must be attached to or  
 8 contained within each signature sheet if sheets are  
 9 circulated separately. The text of the measure must be in  
 10 the bill form provided in the most recent issue of the bill  
 11 drafting manual furnished by the legislative council. If  
 12 sheets are circulated in sections, the complete text of the  
 13 measure must be attached to each section."

14 Section 2. Section 13-27-202, MCA, is amended to read:  
 15 "13-27-202. Approval of form required. (1) Before a  
 16 petition may be circulated for signatures, a sample sheet  
 17 must be submitted to the secretary of state in the form in  
 18 which it will be circulated. The secretary of state shall  
 19 refer a copy of the petition sheet to the attorney general  
 20 for his approval. The secretary of state and attorney  
 21 general must each review the sheet petition for sufficiency  
 22 as to form and approve or reject the form of the petition,  
 23 stating his the reasons therefor for rejection, if any. The  
 24 ~~attorney general shall return the sheet together with his~~  
 25 ~~comments within 3 working days after receiving it.~~

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 INTRODUCED BILL

1       (2) The secretary of state shall review the comments  
 2 and statements of the attorney general received pursuant to  
 3 13-27-312 and make a final decision as to the approval or  
 4 ~~disapproval~~ rejection of the form of the sheet petition. The  
 5 secretary of state ~~must notify~~ shall send written notice to  
 6 the person who submitted the petition sheet of the approval  
 7 or rejection together with reasons for rejection, ~~if~~  
 8 ~~applicable~~ within ~~1 week of receiving~~ 28 days after  
 9 submission of the petition sheet."

10       Section 3. Section 13-27-301, MCA, is amended to read:

11       "13-27-301. Submission of petition sheets. Signed  
 12 sheets or sections of petitions shall be submitted to the  
 13 official responsible for registration of electors in the  
 14 county in which the signatures were obtained no sooner than  
 15 1 year and no later than 2 weeks before the final date for  
 16 filing the petition with the secretary of state. ~~In no case~~  
 17 ~~however, may a person submit a sheet or section of a~~  
 18 ~~petition to the county official so late as to allow less~~  
 19 ~~than 1 working day before the final date for filing the~~  
 20 ~~petition with the secretary of state for every 200~~  
 21 ~~signatures on the sheets or sections of the petition~~  
 22 ~~submitted."~~

23       Section 4. Section 13-27-303, MCA, is amended to read:

24       "13-27-303. Verification of signatures by county  
 25 official. ~~(1)~~ The county official receiving the sheets or

1 sections of a petition shall check the names of all signers  
 2 to verify they are registered electors of the county. In  
 3 addition, the official shall randomly select signatures on  
 4 each sheet or section and compare them with the signatures  
 5 of the electors as they appear in the registration records  
 6 of the office. If all the randomly selected signatures  
 7 appear to be genuine, the number of signatures of registered  
 8 electors on the sheet or section may be certified to the  
 9 secretary of state without further comparison of signatures.  
 10 If any of the randomly selected signatures do not appear to  
 11 be genuine, all signatures on that sheet or section must be  
 12 compared with the signatures in the registration records of  
 13 the office.

14       ~~(2) The county official to whom the sheets or sections~~  
 15 ~~of the petition are submitted may not retain a sheet or~~  
 16 ~~section for longer than 1 working day for each 200~~  
 17 ~~signatures on the sheet or section. The secretary of state~~  
 18 ~~may extend this time if he is convinced the workload~~  
 19 ~~involved requires extension."~~

20       Section 5. Section 13-27-306, MCA, is amended to read:

21       "13-27-306. Challenge to signatures by elector of  
 22 county. A registered elector of a county having reason to  
 23 believe that signatures on a petition that were not among  
 24 those actually compared with signatures in the registration  
 25 records of the county are not genuine may file a sworn

1 statement or affirmation of his belief and request for  
 2 comparison of those signatures he believes are not genuine  
 3 with the county official certifying the sheet or section of  
 4 the petition. If any of the challenged signatures are not  
 5 genuine, the county official must compare all signatures on  
 6 that sheet or section and issue an amended certificate to  
 7 the secretary of state, giving the correct number of valid  
 8 signatures, on or before the deadline, as provided for in  
 9 13-27-104, for filing in the office of the secretary of  
 10 state."

11 Section 6. Section 13-27-310, MCA, is amended to read:

12 "13-27-310. Transmittal of issues referred by the  
 13 legislature and ballot form forms to the attorney general.

14 (1) The secretary of state shall transmit a copy of ~~a ballot~~  
 15 ~~issue proposed by any type of initiative petition or~~  
 16 ~~referred to the people by referendum petition and a copy of~~  
 17 the form in which the a ballot issue proposed by petition  
 18 will appear on the ballot to the attorney general on the  
 19 same day ~~he certifies the official filing of~~ the completed  
 20 petition is certified to the governor.

21 (2) The secretary of state shall transmit a copy of an  
 22 act referred to the people or a constitutional amendment  
 23 proposed by the legislature and a copy of the form in which  
 24 the issue will appear on the ballot to the attorney general  
 25 no later than 6 months before the election at which the

1 issue will be voted on by the people.

2 ~~(3) If the ballot form is not approved by the attorney~~  
 3 ~~general pursuant to 13-27-313, the secretary of state shall~~  
 4 ~~immediately submit a new ballot form to the attorney~~  
 5 ~~general."~~

6 Section 7. Section 13-27-312, MCA, is amended to read:

7 "13-27-312. ~~Attorney general's statement~~ Review of  
 8 petition by attorney general -- preparation of statement.  
 9 ~~Within 10 days after receiving a copy of a ballot issue that~~  
 10 ~~will be voted on by the people, the attorney general shall~~  
 11 ~~return to the secretary of state a statement not exceeding~~  
 12 ~~100 words in ordinary plain language explaining the general~~  
 13 ~~purpose of the issue submitted. The statement by the~~  
 14 ~~attorney general shall give a true and impartial statement~~  
 15 ~~of the purposes of the issue in plain, easily understood~~  
 16 ~~language and in a manner that is not an argument or likely~~  
 17 ~~to create prejudice either for or against the issue. (1)~~  
 18 Upon receipt of a petition from the office of the secretary  
 19 of state pursuant to 13-27-202, the attorney general shall  
 20 examine the petition as to form. If the petition form is  
 21 approved, the attorney general shall prepare and transmit to  
 22 the secretary of state a concise statement not exceeding 100  
 23 words. This statement shall express a true and impartial  
 24 explanation of the purpose of the proposed ballot issue in  
 25 plain, easily understood language. The statement may not

1 intentionally be an argument and may not intentionally be  
 2 written so as to create prejudice for or against the  
 3 measure. The statement prepared pursuant to this subsection,  
 4 unless altered by a court under [section 10], is the  
 5 petition title for the measure circulated by the petition  
 6 and the ballot title if the measure is placed on the ballot.

7 (2) At the same time the statement of purpose is  
 8 prepared, the attorney general shall prepare statements of  
 9 the implication of a vote for or against a ballot issue. The  
 10 statements of implication may be no more than 25 words each  
 11 and shall be in simple, impartial language clearly  
 12 explaining the meaning of a vote for and a vote against the  
 13 issue. The statements of implication prepared pursuant to  
 14 this section, unless altered by a court under [section 10],  
 15 are the statements to be used on the petition and the ballot  
 16 if the measure is placed on the ballot. The statements of  
 17 implication shall be placed beside the diagram provided for  
 18 marking of the ballot in a manner similar to the following  
 19 example:

20  FOR extending the right to vote to persons 18 years  
 21 of age.

22  AGAINST extending the right to vote to persons 18  
 23 years of age.

24 (3) If the petition is rejected as to form, the  
 25 attorney general shall forward his comments to the secretary

1 of state within 10 days after receipt of the petition by the  
 2 attorney general. If the petition is approved as to form,  
 3 the attorney general shall forward the statement of purpose  
 4 and the statements of implication to the secretary of state  
 5 within 21 days after receipt of the petition by the attorney  
 6 general."

7 Section 8. Section 13-27-313, MCA, is amended to read:  
 8 "13-27-313. Review of ballot form forms by attorney  
 9 general. ~~At the same time he returns the statement~~  
 10 ~~explaining the purposes of the issue, the~~ The attorney  
 11 general shall examine each ballot form submitted to his  
 12 office pursuant to 13-27-310 and within 20 days of receipt  
 13 of the ballot form shall notify the secretary of state of  
 14 his approval or ~~disapproval~~ rejection of the ballot form for  
 15 the ~~issue submitted by the secretary~~. If the ballot form is  
 16 not ~~approved~~ rejected, the ~~secretary of state shall~~  
 17 ~~immediately submit a new ballot form and notice of approval~~  
 18 ~~or disapproval must be given by the attorney general~~ shall  
 19 approve or reject a new ballot form submitted by the  
 20 secretary of state pursuant to 13-27-310(3) within 5 days of  
 21 receiving the new form."

22 Section 9. Section 13-27-315, MCA, is amended to read:  
 23 "13-27-315. ~~Statement of vote~~ Statements by attorney  
 24 general on issues referred by legislature. (1) ~~In the case~~  
 25 ~~of an act referred to the people or a constitution~~

1 ~~amendment--proposed--by--the--legislature--the--secretary--of~~  
 2 ~~state--shall--prepare--a--statement--setting--forth--the--vote--by~~  
 3 ~~which--the--issue--passed--each--house--of--the--legislature--The~~  
 4 ~~secretary--of--state--shall--file--an--official--copy--of--his~~  
 5 ~~statement--with--the--attorney--general's--statement--on--the--issue~~  
 6 ~~in--the--official--records--of--his--office-- At the same time the~~  
 7 ~~attorney general, pursuant to 13-27-313, informs the~~  
 8 ~~secretary of state of the approval or rejection of a ballot~~  
 9 ~~form for an issue proposed by the legislature, the attorney~~  
 10 ~~general shall forward to the secretary of state a statement,~~  
 11 ~~not exceeding 100 words, expressing a true and impartial~~  
 12 ~~explanation of the purpose of the measure in plain, easily~~  
 13 ~~understood language. The statement may not intentionally be~~  
 14 ~~an argument and may not intentionally be written to create a~~  
 15 ~~prejudice for or against the issue. The statement prepared~~  
 16 ~~under this section is known as the attorney general's~~  
 17 ~~explanatory statement.~~

18 (2) If statements of the implication of a vote for or  
 19 against a ballot issue have not been provided by the  
 20 legislature, the attorney general shall prepare the  
 21 statements. Requirements for statements of implication for  
 22 ballot issues referred by the legislature are the same as  
 23 those provided in 13-27-312 for other ballot issues.  
 24 Statements of implication prepared by the attorney general  
 25 must be returned to the secretary of state no later than the

1 time specified for approval of the ballot form"

2 NEW SECTION. Section 10. Court review of attorney  
 3 general statements. (1) If the proponents of a ballot  
 4 measure believe that the statement of purpose or the  
 5 statements of implication of a vote formulated by the  
 6 attorney general pursuant to 13-27-312 do not satisfy the  
 7 requirements of 13-27-312, they may, within 10 days of  
 8 receipt of the notice from the secretary of state provided  
 9 for in 13-27-202, file an action in the district court in  
 10 and for the county of Lewis and Clark challenging the  
 11 adequacy of the statement and requesting the court to alter  
 12 the statement.

13 (2) (a) Notice shall be served upon the secretary of  
 14 state and upon the attorney general. The action takes  
 15 precedence over other cases and matters in the district  
 16 court. The court shall examine the proposed measure and the  
 17 challenged statement and shall as soon as possible render a  
 18 decision and certify to the secretary of state a statement  
 19 which the court determines will meet the requirements of  
 20 13-27-312.

21 (b) A statement certified by the court shall be placed  
 22 on the petition for circulation and on the official ballot.

23 (3) A copy of the petition in final form must be filed  
 24 in the office of the secretary of state by the proponents.

25 (4) Any party may appeal the order of the district

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1 court to the Montana supreme court by filing a notice of  
2 appeal within 5 days of the date of the order of the  
3 district court.

4 Section 11. Section 13-27-401, MCA, is amended to  
5 read:

6 "13-27-401. Voter information pamphlet. (1) The  
7 secretary of state shall prepare for printing a voter  
8 information pamphlet containing the following information  
9 for each ballot issue to be voted on at an election, as  
10 applicable:

- 11 (a) ballot title and complete text of the issue;  
12 ~~(b) statement of the secretary of state;~~  
13 ~~(c) statement of the attorney general;~~  
14 ~~(d)~~(b) the form in which the issue will appear on the  
15 ballot; and  
16 ~~(e)~~(c) arguments advocating approval and rejection of  
17 the issue; and  
18 ~~(f) rebuttal arguments.~~

19 (2) Whenever more than one ballot issue is to be voted  
20 on at a single election, the secretary of state may publish  
21 a single pamphlet for all of the ballot issues. The  
22 secretary of state may arrange the information in the order  
23 which seems most appropriate, but the information for all  
24 issues in the pamphlet shall be presented in the same  
25 order."

1 Section 12. Section 13-27-405, MCA, is amended to  
2 read:

3 "13-27-405. Committee expenses. Each committee is  
4 entitled to receive funds for the preparation of arguments  
5 and expenses of members not to exceed ~~\$150~~ \$100 for a  
6 three-member committee and ~~\$250~~ \$200 for a five-member  
7 committee. Itemized claims for actual expenses incurred,  
8 approved by a majority of the committee, shall be submitted  
9 to the secretary of state for payment from funds  
10 appropriated for that purpose."

11 Section 13. Section 13-27-406, MCA, is amended to  
12 read:

13 "13-27-406. Limitation on length of argument -- time  
14 of filing. An argument advocating approval or rejection of a  
15 ballot issue is limited to 500 words and shall be filed, in  
16 typewritten form, with the secretary of state no later than  
17 ~~30 days following the date by which the appointment of the~~  
18 ~~committee was required to be filed with the secretary of~~  
19 ~~state. In no case, however, may an argument be submitted for~~  
20 ~~filing later than~~ 70 days before the election at which the  
21 issue will be voted on by the people. A majority of the  
22 committee responsible for preparation must approve and sign  
23 each argument filed. Separate signed letters of approval of  
24 an argument may be filed with the secretary of state by  
25 members of a committee if necessary to meet the filing



1 deadline."

2 Section 14. Section 13-27-410, MCA, is amended to  
3 read:

4 "13-27-410. Printing and distribution of voter  
5 information pamphlet. (1) The secretary of state shall  
6 arrange with the department of administration by requisition  
7 for the printing and delivery of a voter information  
8 pamphlet for all ballot issues to be submitted to the people  
9 at least 90 days before the election at which they will be  
10 submitted. The requisition shall include a delivery list  
11 providing for shipment of the required number of pamphlets  
12 to each county and to the secretary of state.

13 (2) The secretary of state shall estimate the number  
14 of copies necessary to furnish one copy to ~~every voter in~~  
15 ~~each county each mailing address in the county at which a~~  
16 ~~registered voter resides~~ and provide for an extra supply of  
17 the pamphlets in his office in determining the number of  
18 voter pamphlets to be ordered in the requisition.

19 (3) The department of administration shall call for  
20 bids and contract with the lowest bidder for the printing  
21 and delivery of the voter information pamphlet. The contract  
22 shall require completion of printing and shipment, as  
23 specified on the delivery list, of the voter information  
24 pamphlets by not later than 30 days before the election at  
25 which the ballot issues will be voted on by the people.

1 (4) The county official responsible for voter  
2 registration in each county shall mail one copy of the voter  
3 information pamphlet to each ~~registered voter of the county~~  
4 ~~mailing address in the county at which a registered voter~~  
5 ~~resides~~ no later than 2 weeks after the pamphlets are  
6 received from the printer.

7 (5) Ten copies of the voter information pamphlet shall  
8 be available at each precinct for use by any voter wishing  
9 to read the explanatory information and complete text before  
10 voting on the ballot issues."

11 Section 15. Section 13-27-501, MCA, is amended to  
12 read:

13 "13-27-501. Secretary of state to certify ballot form.  
14 The secretary of state shall furnish to the official of each  
15 county responsible for preparation and printing of the  
16 ballots, at the same time as he certifies the names of the  
17 persons who are candidates for offices to be filled at the  
18 election, a certified copy of the form in which each ballot  
19 issue to be voted on by the people at that election is to  
20 appear on the ballot. Unless otherwise provided in the  
21 legislative act or petition placing the issue on the ballot,  
22 the secretary of state shall list for each issue the number,  
23 the method of placement on the ballot, the title, ~~the~~  
24 ~~attorney general's explanatory statement, if applicable,~~ and  
25 the statements of the implication of a vote for or against

1 the issue that are to be placed beside the diagram for  
 2 marking the ballot. The secretary of state shall use for  
 3 each ballot issue the title of the legislative act, or  
 4 legislative constitutional proposal, or ~~ballot--issue~~  
 5 ~~proposed by any type of initiative petition unless that~~  
 6 ~~title exceeds 100 words~~ the title provided by the attorney  
 7 general or district court. ~~A title of 100 words or less for~~  
 8 ~~the ballot shall be provided by the legislature or the~~  
 9 ~~organization circulating the petition if the official title~~  
 10 ~~exceeds 100 words.~~ Following the number of the ballot issue,  
 11 the secretary of state shall include one of the following  
 12 statements to identify why the issue has been placed on the  
 13 ballot:

- 14 (1) an act referred by the legislature;
- 15 (2) an amendment to the constitution proposed by the  
 16 legislature;
- 17 (3) an act of the legislature referred by referendum  
 18 petition; or
- 19 (4) a law or constitutional amendment proposed by  
 20 initiative petition."

21 Section 16. Section 13-27-502, MCA, is amended to  
 22 read:

23 "13-27-502. Preparation of ballots by county  
 24 officials. Each of the county officials responsible for the  
 25 preparation and printing of the ballots shall print the

1 ballot issues on the official ballot in the form and order  
 2 in which the issues have been certified by the secretary of  
 3 state. All ballot issues shall be placed on the official  
 4 ballot prescribed by 13-12-212, 13-17-205 and 13-17-206, or  
 5 13-18-201 through 13-18-206 unless specific written approval  
 6 by the secretary of state for placing the ballot issues on a  
 7 separate ballot is received by the official responsible for  
 8 printing the ballot. The secretary of state may issue such  
 9 approval only when the number of issues to be voted on at an  
 10 election makes it ~~impossible~~ impractical to print the entire  
 11 ballot, including the ballot issues, on the official ballot  
 12 as prescribed by 13-12-212, 13-17-205 and 13-17-206, or  
 13 13-18-201 through 13-18-206."

14 NEW SECTION. Section 17. Limitation on title of  
 15 referred legislation. All bills referred by the legislature  
 16 to a vote of the people shall have a title of no more than  
 17 100 words.

18 Section 18. Section 85-8-624, MCA, is amended to read.  
 19 "85-8-624. Assessments on improvements -- taxpayers'  
 20 approval, limitations, and election procedures. (1) It shall  
 21 require a vote of the persons on the assessment rolls in any  
 22 existing district to make Chapter 409, Laws of 1973,  
 23 applicable to such districts.

24 (2) Nothing in Chapter 409, Laws of 1973, confers upon  
 25 districts created for drainage purposes only the authority

1 to levy assessments on benefits to improvements.

2 (3) The election provided for by subsection (1) shall  
3 be governed by the following rules:

4 (a) Notice of the election shall be as provided in  
5 85-8-303, except that the form of the ballot shall be as  
6 hereinafter provided.

7 (b) The manner of conducting the election shall be as  
8 provided in 85-8-304.

9 (c) The qualifications of electors shall be as  
10 provided in 85-8-305, except that, in addition to persons  
11 holding title or evidence of title to lands within the  
12 district, any person as therein defined who does not own  
13 land within the district but has been assessed or will have  
14 his improvements assessed under Chapter 409, Laws of 1973,  
15 or who will be assessed for benefits received shall be  
16 entitled to one vote. Commissioners shall prepare a list of  
17 such persons and give them notice as provided in 85-8-303.

18 (d) The commissioners of any district in existence  
19 prior to March 21, 1973, who wish to hold an election to  
20 determine if the district shall be governed by Chapter 409,  
21 Laws of 1973, shall at any regular or special meeting adopt  
22 a resolution calling for an election to determine whether or  
23 not the voters of said district wish to be governed by  
24 Chapter 409, Laws of 1973. The resolution shall contain a  
25 short summary of the changes made by Chapter 409, Laws of

1 1973, and shall include the summary as part of the notice  
2 provided for by 85-8-303. In addition, the commission shall  
3 provide copies of Chapter 409, Laws of 1973, to any person  
4 interested in obtaining a copy of the same and the notice to  
5 the persons in the district calling the election shall  
6 describe where and how copies may be obtained. The  
7 commissioners may authorize a reasonable charge for  
8 providing said copies, not to exceed 20 cents per page.

9 (e) The ballot shall include the summary as provided  
10 for in the preceding subsection and the form of the ballot  
11 shall conform, as closely as possible, to that set forth in  
12 ~~13-27-314 Title 13, chapter 27.~~

13 (f) A simple majority of those who cast valid ballots  
14 shall determine the outcome of the election."

15 Section 19. Repealer. Sections 13-27-314 and  
16 13-27-407, MCA, are repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 504-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received March 26, 19 79, there is hereby submitted a Fiscal Note for SB 256 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## FISCAL NOTE BASED ON REFERENCE COPY

## DESCRIPTION OF PROPOSED LEGISLATION:

Generally revise laws relating to statewide ballot issues.

## ASSUMPTIONS:

Funds needed for committee expenses will be less due to decrease in allowable dollar amount. Average of 18 committees appointed based on number of 1976 & 1978 committee appointments. Number of copies of voter information pamphlets ordered will be approximately the same due to increased voter registration balanced by fewer pamphlets needed since only 1 pamphlet will have to be sent to a residence having more than 1 registered voter with the same last name.

## FISCAL IMPACT:

Expenditures Under Proposed Legislation	
Personal Services	0
Operating Expenses	\$2,400
Capital Outlay	0
	<hr/>
Total Expenditures Under Proposed Legislation	\$2,400
Less: Expenditures Under Current Law	\$3,300
Increased Expenditures Under Proposed Legislation	<u>\$ 900</u>

## LOCAL IMPACT:

Amount of postage expended for mailing of pamphlets (based on method used in each county) could decrease by an approximate  $\frac{1}{4}$ .

## LONG-RANGE EFFECTS:

Better administrative review procedures, more explicit explanation of ballot measures to voters causing fewer possible court cases. Could result in fewer number of pamphlets to be printed upon purging of registration files after presidential election in 1980.

*Richard L. Young*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3/30/79

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4 signature lines are printed on both the front and back of a  
5 petition sheet, the information required above must appear  
6 on both the front and back of the sheet. The complete text  
7 of the measure proposed or referred must be attached to or  
8 contained within each signature sheet if sheets are  
9 circulated separately. The text of the measure must be in  
10 the bill form provided in the most recent issue of the bill  
11 drafting manual furnished by the legislative council. If  
12 sheets are circulated in sections, the complete text of the  
13 measure must be attached to each section."

14 Section 2. Section 13-27-202, MCA, is amended to read:

15 "13-27-202. Approval of form required. (1) Before a  
16 petition may be circulated for signatures, a sample sheet  
17 must be submitted to the secretary of state in the form in  
18 which it will be circulated. The secretary of state shall  
19 refer a copy of the petition sheet to the attorney general  
20 for his approval. The secretary of state and attorney  
21 general must each review the sheet petition for sufficiency  
22 as to form and approve or reject the form of the petition,  
23 stating his the reasons therefor for rejection, if any. The  
24 ~~attorney-general shall return the sheet--together--with--his~~  
25 ~~comments--within--3--working--days--after--receiving--it.~~

1       (2) The secretary of state shall review the comments  
2 and statements of the attorney general received pursuant to  
3 13-27-312 and make a final decision as to the approval or  
4 disapproval rejection of the form of the sheet petition. The  
5 secretary of state must-notify shall send written notice to  
6 the person who submitted the petition sheet of the approval  
7 or rejection together with reasons for rejection~~---if~~  
8 ~~applicable~~ within ~~1--week--of--receiving~~ 28 days after  
9 submission of the petition sheet."

10       Section 3. Section 13-27-301, MCA, is amended to read:

11       "13-27-301. Submission of petition sheets. Signed  
12 sheets or sections of petitions shall be submitted to the  
13 official responsible for registration of electors in the  
14 county in which the signatures were obtained no sooner than  
15 1 year and no later than 2 weeks before the final date for  
16 filing the petition with the secretary of state. ~~In no case~~  
17 ~~however--may--a--person--submit--a--sheet--or--section--of--a~~  
18 ~~petition--to--the--county--official--so--late--as--to--allow--less~~  
19 ~~than--1--working--day--before--the--final--date--for--filing--the~~  
20 ~~petition--with--the--secretary--of--state--for--every--200~~  
21 ~~signatures--on--the--sheets--or--sections--of--the--petition~~  
22 ~~submitted."~~

23       Section 4. Section 13-27-303, MCA, is amended to read:

24       "13-27-303. Verification of signatures by county  
25 official. (1) The county official receiving the sheets or

1 sections of a petition shall check the names of all signers  
2 to verify they are registered electors of the county. In  
3 addition, the official shall randomly select signatures on  
4 each sheet or section and compare them with the signatures  
5 of the electors as they appear in the registration records  
6 of the office. If all the randomly selected signatures  
7 appear to be genuine, the number of signatures of registered  
8 electors on the sheet or section may be certified to the  
9 secretary of state without further comparison of signatures.  
10 If any of the randomly selected signatures do not appear to  
11 be genuine, all signatures on that sheet or section must be  
12 compared with the signatures in the registration records of  
13 the office.

14       ~~(2)--The--county--official--to--whom--the--sheets--or--sections~~  
15 ~~of--the--petition--are--submitted--may--not--retain--a--sheet--or~~  
16 ~~section--for--longer--than--1--working--day--for--each--200~~  
17 ~~signatures--on--the--sheet--or--section--The--secretary--of--state~~  
18 ~~may--extend--this--time--if--he--is--convinced--the--workload~~  
19 ~~involved--requires--extension."~~

20       Section 5. Section 13-27-306, MCA, is amended to read:

21       "13-27-306. Challenge to signatures by elector of  
22 county. A registered elector of a county having reason to  
23 believe that signatures on a petition that were not among  
24 those actually compared with signatures in the registration  
25 records of the county are not genuine may file a sworn

1 statement or affirmation of his belief and request for  
 2 comparison of those signatures he believes are not genuine  
 3 with the county official certifying the sheet or section of  
 4 the petition. If any of the challenged signatures are not  
 5 genuine, the county official must compare all signatures on  
 6 that sheet or section and issue an amended certificate to  
 7 the secretary of state, giving the correct number of valid  
 8 signatures, on or before the deadline, as provided for in  
 9 13-27-104, for filing in the office of the secretary of  
 10 state."

11 Section 6. Section 13-27-310, MCA, is amended to read:

12 "13-27-310. Transmittal of issues referred by the  
 13 legislature and ballot form forms to the attorney general.  
 14 (1) The secretary of state shall transmit a copy of ~~a ballot~~  
 15 ~~issue--proposed--by--any--type--of--initiative--petition--or~~  
 16 ~~referred--to--the--people--by--referendum--petition--and--a--copy--of~~  
 17 the form in which the a ballot issue proposed by petition  
 18 will appear on the ballot to the attorney general on the  
 19 same day ~~he certifies the official filing of~~ the completed  
 20 petition is certified to the governor.

21 (2) The secretary of state shall transmit a copy of an  
 22 act referred to the people or a constitutional amendment  
 23 proposed by the legislature and a copy of the form in which  
 24 the issue will appear on the ballot to the attorney general  
 25 no later than 6 months before the election at which the

1 issue will be voted on by the people.

2 (3) If the ballot form is not approved by the attorney  
 3 general pursuant to 13-27-313, the secretary of state shall  
 4 immediately submit a new ballot form to the attorney  
 5 general."

6 Section 7. Section 13-27-312, MCA, is amended to read:

7 "13-27-312. ~~Attorney--general's--statement~~ Review of  
 8 petition by attorney general -- preparation of statement.  
 9 ~~Within 10 days after receiving a copy of a ballot issue that~~  
 10 ~~will be voted on by the people, the attorney general shall~~  
 11 ~~return to the secretary of state a statement not exceeding~~  
 12 ~~100 words in ordinary plain language explaining the general~~  
 13 ~~purpose of the issue submitted. The statement by the~~  
 14 ~~attorney general shall give a true and impartial statement~~  
 15 ~~of the purposes of the issue in plain, easily understood~~  
 16 ~~language and in a manner that is not an argument or likely~~  
 17 ~~to create prejudice either for or against the issue. (1)~~  
 18 Upon receipt of a petition from the office of the secretary  
 19 of state pursuant to 13-27-202, the attorney general shall  
 20 examine the petition as to form. If the petition form is  
 21 approved, the attorney general shall prepare and transmit to  
 22 the secretary of state a concise statement not exceeding 100  
 23 words. This statement shall express a true and impartial  
 24 explanation of the purpose of the proposed ballot issue in  
 25 plain, easily understood language. The statement may not

1 ~~intentionally be an argument and may not intentionally be~~  
 2 ~~written so as to create prejudice for or against the~~  
 3 ~~measure. The statement prepared pursuant to this subsection,~~  
 4 ~~unless altered by a court under [section 10], is the~~  
 5 ~~petition title for the measure circulated by the petition~~  
 6 ~~and the ballot title if the measure is placed on the ballot.~~

7 ~~(2) At the same time the statement of purpose is~~  
 8 ~~prepared, the attorney general shall prepare statements of~~  
 9 ~~the implication of a vote for or against a ballot issue. The~~  
 10 ~~statements of implication may be no more than 25 words each~~  
 11 ~~and shall be in simple, impartial language clearly~~  
 12 ~~explaining the meaning of a vote for and a vote against the~~  
 13 ~~issue. The statements of implication prepared pursuant to~~  
 14 ~~this section, unless altered by a court under [section 10],~~  
 15 ~~are the statements to be used on the petition and the ballot~~  
 16 ~~if the measure is placed on the ballot. The statements of~~  
 17 ~~implication shall be placed beside the diagram provided for~~  
 18 ~~marking of the ballot in a manner similar to the following~~  
 19 ~~example:~~

20 ~~FOR extending the right to vote to persons 18 years~~  
 21 ~~of age.~~

22 ~~AGAINST extending the right to vote to persons 18~~  
 23 ~~years of age.~~

24 ~~(3) If the petition is rejected as to form, the~~  
 25 ~~attorney general shall forward his comments to the secretary~~

1 ~~of state within 10 days after receipt of the petition by the~~  
 2 ~~attorney general. If the petition is approved as to form,~~  
 3 ~~the attorney general shall forward the statement of purpose~~  
 4 ~~and the statements of implication to the secretary of state~~  
 5 ~~within 21 days after receipt of the petition by the attorney~~  
 6 ~~general."~~

7 Section 8. Section 13-27-313, MCA, is amended to read:

8 "13-27-313. Review of ballot form forms by attorney  
 9 general. ~~At the same time he returns the statement~~  
 10 ~~explaining the purposes of the issue the~~ ~~the~~ attorney  
 11 general shall examine each ballot form submitted to his  
 12 office pursuant to 13-27-310 and within 20 days of receipt  
 13 of the ballot form shall notify the secretary of state of  
 14 his approval or disapproval ~~rejection~~ of the ballot form for  
 15 the ~~issue submitted by the secretary~~. If the ballot form is  
 16 not ~~approved~~ ~~rejected~~, ~~the secretary of state shall~~  
 17 ~~immediately submit a new ballot form and notice of approval~~  
 18 ~~or disapproval must be given by~~ the attorney general shall  
 19 ~~approve or reject a new ballot form submitted by the~~  
 20 ~~secretary of state pursuant to 13-27-310(3)~~ within 5 days of  
 21 receiving the new form."

22 Section 9. Section 13-27-315, MCA, is amended to read:

23 "13-27-315. Statement-of-vote ~~Statements~~ by attorney  
 24 general on issues referred by legislature. (1) ~~in the case~~  
 25 ~~of an act referred to the people or a constitution~~



1 amendment--proposed--by--the--legislature--the--secretary--of  
 2 state--shall--prepare--a--statement--setting--forth--the--vote--by  
 3 which--the--issue--passed--each--house--of--the--legislature--The  
 4 secretary--of--state--shall--file--an--official--copy--of--his  
 5 statement--with--the--attorney--general's--statement--on--the--issue  
 6 in--the--official--records--of--his--office. At the same time the  
 7 attorney general, pursuant to 13-27-313, informs the  
 8 secretary of state of the approval or rejection of a ballot  
 9 form for an issue proposed by the legislature, the attorney  
 10 general shall forward to the secretary of state a statement,  
 11 not exceeding 100 words, expressing a true and impartial  
 12 explanation of the purpose of the measure in plain, easily  
 13 understood language. The statement may not intentionally be  
 14 an argument and may not intentionally be written to create a  
 15 prejudice for or against the issue. The statement prepared  
 16 under this section is known as the attorney general's  
 17 explanatory statement.

18 (2) If statements of the implication of a vote for or  
 19 against a ballot issue have not been provided by the  
 20 legislature, the attorney general shall prepare the  
 21 statements. Requirements for statements of implication for  
 22 ballot issues referred by the legislature are the same as  
 23 those provided in 13-27-312 for other ballot issues.  
 24 Statements of implication prepared by the attorney general  
 25 must be returned to the secretary of state no later than the

1 time specified for approval of the ballot form."

2 **NEW SECTION.** Section 10. Court review of attorney  
 3 general statements. (1) If the proponents of a ballot  
 4 measure believe that the statement of purpose or the  
 5 statements of implication of a vote formulated by the  
 6 attorney general pursuant to 13-27-312 do not satisfy the  
 7 requirements of 13-27-312, they may, within 10 days of  
 8 receipt of the notice from the secretary of state provided  
 9 for in 13-27-202, file an action in the district court in  
 10 and for the county of Lewis and Clark challenging the  
 11 adequacy of the statement and requesting the court to alter  
 12 the statement.

13 (2) (a) Notice shall be served upon the secretary of  
 14 state and upon the attorney general. The action takes  
 15 precedence over other cases and matters in the district  
 16 court. The court shall examine the proposed measure and the  
 17 challenged statement and shall as soon as possible render a  
 18 decision and certify to the secretary of state a statement  
 19 which the court determines will meet the requirements of  
 20 13-27-312.

21 (b) A statement certified by the court shall be placed  
 22 on the petition for circulation and on the official ballot.

23 (3) A copy of the petition in final form must be filed  
 24 in the office of the secretary of state by the proponents.

25 (4) Any party may appeal the order of the district

1 court to the Montana supreme court by filing a notice of  
 2 appeal within 5 days of the date of the order of the  
 3 district court.

4 Section 11. Section 13-27-401, MCA, is amended to  
 5 read:

6 "13-27-401. Voter information pamphlet. (1) The  
 7 secretary of state shall prepare for printing a voter  
 8 information pamphlet containing the following information  
 9 for each ballot issue to be voted on at an election, as  
 10 applicable:

11 (a) ~~ballot~~ title and complete text of the issue;

12 ~~(b)--statement-of-the-secretary-of-state;~~

13 ~~(c)--statement-of-the-attorney-general;~~

14 ~~(d)(b)~~ the form in which the issue will appear on the  
 15 ballot; ~~and~~

16 ~~(e)(c)~~ arguments advocating approval and rejection of  
 17 the issue; ~~and~~ AND

18 ~~(f)--rebuttal-arguments~~ (d) REBUTTAL ARGUMENTS.

19 (2) THE PAMPHLET SHALL ALSO CONTAIN A NOTICE ADVISING  
 20 THE RECIPIENT WHERE ADDITIONAL COPIES OF THE PAMPHLET MAY BE  
 21 OBTAINED.

22 ~~(2)(1)~~ Whenever more than one ballot issue is to be  
 23 voted on at a single election, the secretary of state may  
 24 publish a single pamphlet for all of the ballot issues. The  
 25 secretary of state may arrange the information in the order

1 which seems most appropriate, but the information for all  
 2 issues in the pamphlet shall be presented in the same  
 3 order."

4 Section 12. Section 13-27-405, MCA, is amended to  
 5 read:

6 "13-27-405. Committee expenses. Each committee is  
 7 entitled to receive funds for the preparation of arguments  
 8 and expenses of members not to exceed ~~\$150~~ \$100 for a  
 9 three-member committee and ~~\$250~~ \$200 for a five-member  
 10 committee. Itemized claims for actual expenses incurred,  
 11 approved by a majority of the committee, shall be submitted  
 12 to the secretary of state for payment from funds  
 13 appropriated for that purpose."

14 Section 13. Section 13-27-406, MCA, is amended to  
 15 read:

16 "13-27-406. Limitation on length of argument -- time  
 17 of filing. An argument advocating approval or rejection of a  
 18 ballot issue is limited to 500 words and shall be filed, in  
 19 typewritten form, with the secretary of state no later than  
 20 ~~30--days--following--the--date--by--which--the--appointment--of--the--~~  
 21 ~~committee--was--required--to--be--filed--with--the--secretary--of~~  
 22 ~~state--in--no--case--however--may--an--argument--be--submitted--for~~  
 23 ~~filing--later--than~~ 70 85 days before the election at which  
 24 the issue will be voted on by the people. A majority of the  
 25 committee responsible for preparation must approve and sign

1 each argument filed. Separate signed letters of approval of  
 2 an argument may be filed with the secretary of state by  
 3 members of a committee if necessary to meet the filing  
 4 deadline."

5 Section 14. Section 13-27-410, MCA, is amended to  
 6 read:

7 "13-27-410. Printing and distribution of voter  
 8 information pamphlet. (1) The secretary of state shall  
 9 arrange with the department of administration by requisition  
 10 for the printing and delivery of a voter information  
 11 pamphlet for all ballot issues to be submitted to the people  
 12 at least 90 days before the election at which they will be  
 13 submitted. The requisition shall include a delivery list  
 14 providing for shipment of the required number of pamphlets  
 15 to each county and to the secretary of state.

16 (2) The secretary of state shall estimate the number  
 17 of copies necessary to furnish one copy to every voter in  
 18 each county each mailing address in the county at which a  
 19 registered voter resides and provide for an extra supply of  
 20 the pamphlets ~~in his office~~ in determining the number of  
 21 voter pamphlets to be ordered in the requisition.

22 (3) The department of administration shall call for  
 23 bids and contract with the lowest bidder for the printing  
 24 and delivery of the voter information pamphlet. The contract  
 25 shall require completion of printing and shipment, as

1 specified on the delivery list, of the voter information  
 2 pamphlets by not later than 30 days before the election at  
 3 which the ballot issues will be voted on by the people.

4 (4) The county official responsible for voter  
 5 registration in each county shall mail one copy of the voter  
 6 information pamphlet to each ~~registered voter of the county~~  
 7 mailing address in the county at which a registered voter  
 8 resides no later than 2 weeks after the pamphlets are  
 9 received from the printer.

10 (5) Ten copies of the voter information pamphlet shall  
 11 be available at each precinct for use by any voter wishing  
 12 to read the explanatory information and complete text before  
 13 voting on the ballot issues."

14 Section 15. Section 13-27-501, MCA, is amended to  
 15 read:

16 "13-27-501. Secretary of state to certify ballot form.  
 17 The secretary of state shall furnish to the official of each  
 18 county responsible for preparation and printing of the  
 19 ballots, at the same time as he certifies the names of the  
 20 persons who are candidates for offices to be filled at the  
 21 election, a certified copy of the form in which each ballot  
 22 issue to be voted on by the people at that election is to  
 23 appear on the ballot. Unless otherwise provided in the  
 24 legislative act or petition placing the issue on the ballot,  
 25 the secretary of state shall list for each issue the number,

1 the method of placement on the ballot, the title, ~~the~~  
 2 attorney general's explanatory statement, if applicable, and  
 3 the statements of the implication of a vote for or against  
 4 the issue that are to be placed beside the diagram for  
 5 marking the ballot. The secretary of state shall use for  
 6 each ballot issue the title of the legislative act ~~or~~  
 7 legislative constitutional proposal ~~or ballot--issue~~  
 8 ~~proposed by any type of initiative petition unless that~~  
 9 ~~title exceeds 100 words~~ the title provided by the attorney  
 10 general or district court. ~~A title of 100 words or less for~~  
 11 ~~the ballot shall be provided by the legislature or the~~  
 12 ~~organization circulating the petition if the official title~~  
 13 ~~exceeds 100 words.~~ Following the number of the ballot issue,  
 14 the secretary of state shall include one of the following  
 15 statements to identify why the issue has been placed on the  
 16 ballot:

- 17 (1) an act referred by the legislature;  
 18 (2) an amendment to the constitution proposed by the  
 19 legislature;  
 20 (3) an act of the legislature referred by referendum  
 21 petition; or  
 22 (4) a law or constitutional amendment proposed by  
 23 initiative petition."

24 Section 16. Section 13-27-502, MCA, is amended to  
 25 read:

1 "13-27-502. Preparation of ballots by county  
 2 officials. Each of the county officials responsible for the  
 3 preparation and printing of the ballots shall print the  
 4 ballot issues on the official ballot in the form and order  
 5 in which the issues have been certified by the secretary of  
 6 state. All ballot issues shall be placed on the official  
 7 ballot prescribed by 13-12-212, 13-17-205 and 13-17-206, or  
 8 13-18-201 through 13-18-206 unless specific written approval  
 9 by the secretary of state for placing the ballot issues on a  
 10 separate ballot is received by the official responsible for  
 11 printing the ballot. The secretary of state may issue such  
 12 approval only when the number of issues to be voted on at an  
 13 election makes it ~~impossible~~ impractical to print the entire  
 14 ballot, including the ballot issues, on the official ballot  
 15 as prescribed by 13-12-212, 13-17-205 and 13-17-206, or  
 16 13-18-201 through 13-18-206."

17 NEW SECTION. Section 17. Limitation on title of  
 18 referred legislation. All bills referred by the legislature  
 19 to a vote of the people shall have a title of no more than  
 20 100 words.

21 Section 18. Section 85-8-624, MCA, is amended to read:  
 22 "85-8-624. Assessments on improvements -- taxpayers'  
 23 approval, limitations, and election procedures. (1) It shall  
 24 require a vote of the persons on the assessment rolls in any  
 25 existing district to make Chapter 409, Laws of 1973.

1 applicable to such districts.

2 (2) Nothing in Chapter 409, Laws of 1973, confers upon  
3 districts created for drainage purposes only the authority  
4 to levy assessments on benefits to improvements.

5 (3) The election provided for by subsection (1) shall  
6 be governed by the following rules:

7 (a) Notice of the election shall be as provided in  
8 85-8-303, except that the form of the ballot shall be as  
9 hereinafter provided.

10 (b) The manner of conducting the election shall be as  
11 provided in 85-8-304.

12 (c) The qualifications of electors shall be as  
13 provided in 85-8-305, except that, in addition to persons  
14 holding title or evidence of title to lands within the  
15 district, any person as therein defined who does not own  
16 land within the district but has been assessed or will have  
17 his improvements assessed under Chapter 409, Laws of 1973,  
18 or who will be assessed for benefits received shall be  
19 entitled to one vote. Commissioners shall prepare a list of  
20 such persons and give them notice as provided in 85-8-303.

21 (d) The commissioners of any district in existence  
22 prior to March 21, 1973, who wish to hold an election to  
23 determine if the district shall be governed by Chapter 409,  
24 Laws of 1973, shall at any regular or special meeting adopt  
25 a resolution calling for an election to determine whether or

1 not the voters of said district wish to be governed by  
2 Chapter 409, Laws of 1973. The resolution shall contain a  
3 short summary of the changes made by Chapter 409, Laws of  
4 1973, and shall include the summary as part of the notice  
5 provided for by 85-8-303. In addition, the commission shall  
6 provide copies of Chapter 409, Laws of 1973, to any person  
7 interested in obtaining a copy of the same and the notice to  
8 the persons in the district calling the election shall  
9 describe where and how copies may be obtained. The  
10 commissioners may authorize a reasonable charge for  
11 providing said copies, not to exceed 20 cents per page.

12 (e) The ballot shall include the summary as provided  
13 for in the preceding subsection and the form of the ballot  
14 shall conform, as closely as possible, to that set forth in  
15 ~~13-27-314 Title 13, Chapter 27.~~

16 (f) A simple majority of those who cast valid ballots  
17 shall determine the outcome of the election."

18 Section 19. Repealer. Sections SECTION 13-27-314 and  
19 ~~13-27-407, MCA, are IS repealed.~~

-End-

1                   SENATE BILL NO. 256  
 2                   INTRODUCED BY LENSINK  
 3                   BY REQUEST OF THE SECRETARY OF STATE AND  
 4                   THE ATTORNEY GENERAL

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 7 LAWS RELATING TO STATEWIDE BALLOT ISSUES; AMENDING SECTIONS  
 8 13-27-201, 13-27-202, 13-27-301, 13-27-303, 13-27-306,  
 9 13-27-310, 13-27-312, 13-27-313, 13-27-315, 13-27-401,  
 10 13-27-405, 13-27-406, 13-27-410, 13-27-501, 13-27-502, AND  
 11 85-8-624, MCA; AND REPEALING SECTIONS SECTION 13-27-314 AND  
 12 13-27-407, MCA."

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15       Section 1. Section 13-27-201, MCA, is amended to read:

16       "13-27-201. Form of petition generally. (1) A petition  
 17 for the initiative, the referendum, or to call a  
 18 constitutional convention must be substantially in the form  
 19 provided by this chapter. Clerical or technical errors that  
 20 do not interfere with the ability to judge the sufficiency  
 21 of signatures on the petition do not render a petition void.

22       (2) Petition sheets may not exceed 8 1/2 x 14 inches  
 23 in size. Separate sheets of a petition may be fastened in  
 24 sections of not more than 25 sheets. Near the top of each  
 25 sheet containing signature lines must be printed the title

1 of the statute or constitutional amendment proposed or the  
 2 measure to be referred or a statement that the petition is  
 3 for the purpose of calling a constitutional convention. If  
 4 signature lines are printed on both the front and back of a  
 5 petition sheet, the information required above must appear  
 6 on both the front and back of the sheet. The complete text  
 7 of the measure proposed or referred must be attached to or  
 8 contained within each signature sheet if sheets are  
 9 circulated separately. The text of the measure must be in  
 10 the bill form provided in the most recent issue of the bill  
 11 drafting manual furnished by the legislative council. If  
 12 sheets are circulated in sections, the complete text of the  
 13 measure must be attached to each section."

14       Section 2. Section 13-27-202, MCA, is amended to read:

15       "13-27-202. Approval of form required. (1) Before a  
 16 petition may be circulated for signatures, a sample sheet  
 17 must be submitted to the secretary of state in the form in  
 18 which it will be circulated. ~~THE SAMPLE PETITION MAY NOT BE~~  
 19 ~~SUBMITTED TO THE SECRETARY OF STATE MORE THAN 1 YEAR PRIOR~~  
 20 ~~TO THE FINAL DATE FOR FILING THE SIGNED PETITION WITH THE~~  
 21 ~~SECRETARY OF STATE.~~ The secretary of state shall refer a  
 22 copy of the petition sheet to the attorney general for his  
 23 approval. The secretary of state and attorney general must  
 24 each review the sheet petition for sufficiency as to form  
 25 and approve or reject the form of the petition, stating his

1 the reasons therefor for rejection, if any. The attorney  
2 general shall return the sheet together with his comments  
3 within 3 working days after receiving it.

4 (2) The secretary of state shall review the comments  
5 and statements of the attorney general received pursuant to  
6 13-27-312 and make a final decision as to the approval or  
7 disapproval rejection of the form of the sheet petition. The  
8 secretary of state must notify shall send written notice to  
9 the person who submitted the petition sheet of the approval  
10 or rejection together with reasons for rejection, if  
11 applicable, within 1 week of receiving 28 days after  
12 submission of the petition sheet. THE SECRETARY OF STATE  
13 SHALL SEND WRITTEN NOTICE IF THE PETITION HAS BEEN REJECTED  
14 TOGETHER WITH REASONS FOR REJECTION WITHIN 14 DAYS AFTER  
15 SUBMISSION OF THE PETITION SHEET."

16 Section 3. Section 13-27-301, MCA, is amended to read:  
17 "13-27-301. Submission of petition sheets. Signed  
18 sheets or sections of petitions shall be submitted to the  
19 official responsible for registration of electors in the  
20 county in which the signatures were obtained no sooner than  
21 1 year 9 MONTHS and no later than 2 weeks before the final  
22 date for filing the petition with the secretary of state. In  
23 no case, however, may a person submit a sheet or section of  
24 a petition to the county official so late as to allow less  
25 than 1 working day before the final date for filing the

1 petition with the secretary of state for every 200  
2 signatures on the sheets or sections of the petition  
3 submitted."

4 Section 4. Section 13-27-303, MCA, is amended to read:  
5 "13-27-303. Verification of signatures by county  
6 official. (1) The county official receiving the sheets or  
7 sections of a petition shall check the names of all signers  
8 to verify they are registered electors of the county. In  
9 addition, the official shall randomly select signatures on  
10 each sheet or section and compare them with the signatures  
11 of the electors as they appear in the registration records  
12 of the office. If all the randomly selected signatures  
13 appear to be genuine, the number of signatures of registered  
14 electors on the sheet or section may be certified to the  
15 secretary of state without further comparison of signatures.  
16 If any of the randomly selected signatures do not appear to  
17 be genuine, all signatures on that sheet or section must be  
18 compared with the signatures in the registration records of  
19 the office.

20 (2) The county official to whom the sheets or sections  
21 of the petition are submitted may not retain a sheet or  
22 section for longer than 1 working day for each 200  
23 signatures on the sheet or section. The secretary of state  
24 may extend this time if he is convinced the workload  
25 involved requires extensions."

1 Section 5. Section 13-27-306, MCA, is amended to read:

2 "13-27-306. Challenge to signatures by elector of  
3 county. A registered elector of a county having reason to  
4 believe that signatures on a petition that were not among  
5 those actually compared with signatures in the registration  
6 records of the county are not genuine may file a sworn  
7 statement or affirmation of his belief and request for  
8 comparison of those signatures he believes are not genuine  
9 with the county official certifying the sheet or section of  
10 the petition. If any of the challenged signatures are not  
11 genuine, the county official must compare all signatures on  
12 that sheet or section and issue an amended certificate to  
13 the secretary of state, giving the correct number of valid  
14 signatures, on or before the deadline, as provided for in  
15 13-27-104, for filing in the office of the secretary of  
16 state."

17 Section 6. Section 13-27-310, MCA, is amended to read:

18 "13-27-310. Transmittal of issues referred by the  
19 legislature and ballot form forms to the attorney general.  
20 (1) The secretary of state shall transmit a copy of a ballot  
21 issue proposed by any type of initiative petition or  
22 referred to the people by referendum petition and a copy of  
23 the form in which the a ballot issue proposed by petition  
24 will appear on the ballot to the attorney general on the  
25 same day he certifies the official fitting of the completed

1 petition is certified to the governor.

2 (2) The secretary of state shall transmit a copy of an  
3 act referred to the people or a constitutional amendment  
4 proposed by the legislature and a copy of the form in which  
5 the issue will appear on the ballot to the attorney general  
6 no later than 6 months before the election at which the  
7 issue will be voted on by the people.

8 (3) If the ballot form is not approved by the attorney  
9 general pursuant to 13-27-313, the secretary of state shall  
10 immediately submit a new ballot form to the attorney  
11 general."

12 Section 7. Section 13-27-312, MCA, is amended to read:

13 "13-27-312. Attorney--general's--statement Review of  
14 petition by attorney general -- preparation of statement.  
15 Within 10 days after receiving a copy of a ballot issue that  
16 will be voted on by the people, the attorney general shall  
17 return to the secretary of state a statement not exceeding  
18 100 words in ordinary plain language explaining the general  
19 purpose of the issue submitted. The statement by the  
20 attorney general shall give a true and impartial statement  
21 of the purposes of the issue in plain, easily understood  
22 language and in a manner that is not an argument or likely  
23 to create prejudice either for or against the issue. (1)  
24 Upon receipt of a petition from the office of the secretary  
25 of state pursuant to 13-27-202, the attorney general shall



1 examine the petition as to form. If the petition form is  
 2 approved, the attorney general shall prepare and transmit to  
 3 the secretary of state a concise statement not exceeding 100  
 4 words. This statement shall express a true and impartial  
 5 explanation of the purpose of the proposed ballot issue in  
 6 plain, easily understood language. The statement may not  
 7 intentionally be an argument and may not intentionally be  
 8 written so as to create prejudice for or against the  
 9 measure. The statement prepared pursuant to this subsection,  
 10 unless altered by a court under [section 10], is the  
 11 petition title for the measure circulated by the petition  
 12 and the ballot title if the measure is placed on the ballot.

13 (2) At the same time the statement of purpose is  
 14 prepared, the attorney general shall prepare statements of  
 15 the implication of a vote for or against a ballot issue. The  
 16 statements of implication may be no more than 25 words each  
 17 and shall be in simple, impartial language clearly  
 18 explaining the meaning of a vote for and a vote against the  
 19 issue. The statements of implication prepared pursuant to  
 20 this section unless altered by a court under [section 10],  
 21 are the statements to be used on the petition and the ballot  
 22 if the measure is placed on the ballot. The statements of  
 23 implication shall be placed beside the diagram provided for  
 24 marking of the ballot in a manner similar to the following  
 25 example:

1  FOR extending the right to vote to persons 18 years  
 2 of age.

3  AGAINST extending the right to vote to persons 19  
 4 years of age.

5 (3) If the petition is rejected as to form, the  
 6 attorney general shall forward his comments to the secretary  
 7 of state within 10 days after receipt of the petition by the  
 8 attorney general. If the petition is approved as to form,  
 9 the attorney general shall forward the statement of purpose  
 10 and the statements of implication to the secretary of state  
 11 within 21 days after receipt of the petition by the attorney  
 12 general."

13 Section 8. Section 13-27-313, MCA, is amended to read:  
 14 "13-27-313. Review of ballot form forms by attorney  
 15 general. At--the--same--time--he--returns--the--statement  
 16 explaining--the--purposes--of--the--issue--the Ing attorney  
 17 general shall examine each ballot form submitted to his  
 18 office pursuant to 13-27-310 and within 20 days of receipt  
 19 of the ballot form shall notify the secretary of state of  
 20 his approval or disapproval rejection of the ballot form for  
 21 the--issue--submitted--by--the--secretary. If the ballot form is  
 22 not--approved rejected, the--secretary--of--state--shall  
 23 immediately--submit--a--new--ballot--form--and--notice--of--approval  
 24 or--disapproval--must--be--given--by the attorney general shall  
 25 approve or reject a new ballot form submitted by the

1 secretary of state pursuant to 13-27-310(3) within 5 days of  
 2 receiving the new form."

3 Section 9. Section 13-27-315, MCA, is amended to read:

4 "13-27-315. Statement-of-vote Statements by attorney  
 5 general on issues referred by legislature. In the case  
 6 of an act referred to the people or a constitutional  
 7 amendment proposed by the legislature, the secretary of  
 8 state shall prepare a statement setting forth the vote by  
 9 which the issue passed each house of the legislature. The  
 10 secretary of state shall file an official copy of his  
 11 statement with the attorney general's statement on the issue  
 12 in the official records of his office. At the same time the  
 13 attorney general pursuant to 13-27-313, informs the  
 14 secretary of state of the approval or rejection of a ballot  
 15 form for an issue proposed by the legislature, the attorney  
 16 general shall forward to the secretary of state a statement,  
 17 not exceeding 100 words, expressing a true and impartial  
 18 explanation of the purpose of the measure in plain, easily  
 19 understood language. The statement may not intentionally be  
 20 an argument and may not intentionally be written to create a  
 21 prejudice for or against the issue. The statement prepared  
 22 under this section is known as the attorney general's  
 23 explanatory statement.

24 (2) If statements of the implication of a vote for or  
 25 against a ballot issue have not been provided by the

1 legislature, the attorney general shall prepare the  
 2 statements. Requirements for statements of implication for  
 3 ballot issues referred by the legislature are the same as  
 4 those provided in 13-27-312 for other ballot issues.  
 5 Statements of implication prepared by the attorney general  
 6 must be returned to the secretary of state no later than the  
 7 time specified for approval of the ballot form."

8 NEW SECTION. Section 10. Court review of attorney  
 9 general statements. (1) If the proponents of a ballot  
 10 measure believe that the statement of purpose or the  
 11 statements of implication of a vote formulated by the  
 12 attorney general pursuant to 13-27-312 do not satisfy the  
 13 requirements of 13-27-312, they may, within 10 days of  
 14 receipt of the notice from the secretary of state provided  
 15 for in 13-27-202, file an action in the district court in  
 16 and for the county of Lewis and Clark challenging the  
 17 adequacy of the statement and requesting the court to alter  
 18 the statement.

19 (2) IF THE OPPONENTS OF A BALLOT MEASURE BELIEVE THAT  
 20 THE STATEMENT OF PURPOSE OR THE STATEMENTS OF IMPLICATION OF  
 21 A VOTE FORMULATED BY THE ATTORNEY GENERAL PURSUANT TO  
 22 13-27-312 DO NOT SATISFY THE REQUIREMENTS OF 13-27-312, THEY  
 23 MAY, WITHIN 10 DAYS OF THE DATE OF CERTIFICATION TO THE  
 24 GOVERNOR THAT THE COMPLETED PETITION HAS BEEN OFFICIALLY  
 25 FILED, FILE AN ACTION IN THE DISTRICT COURT IN AND FOR THE

1 COUNTY OF LEWIS AND CLARK CHALLENGING THE ADEQUACY OF THE  
 2 STATEMENT AND REQUESTING THE COURT TO ALTER THE STATEMENT.

3 ~~(2)(3)~~ (a) Notice shall be served upon the secretary  
 4 of state and upon the attorney general. The action takes  
 5 precedence over other cases and matters in the district  
 6 court. The court shall examine the proposed measure and the  
 7 challenged statement and shall as soon as possible render a  
 8 decision and certify to the secretary of state a statement  
 9 which the court determines will meet the requirements of  
 10 13-27-312.

11 (b) A statement certified by the court shall be placed  
 12 on the petition for circulation and on the official ballot.

13 ~~(3)(4)~~ A copy of the petition in final form must be  
 14 filed in the office of the secretary of state by the  
 15 proponents.

16 ~~(4)(5)~~ Any party may appeal the order of the district  
 17 court to the Montana supreme court by filing a notice of  
 18 appeal within 5 days of the date of the order of the  
 19 district court.

20 Section 11. Section 13-27-401, MCA, is amended to  
 21 read:

22 "13-27-401. Voter information pamphlet. (1) The  
 23 secretary of state shall prepare for printing a voter  
 24 information pamphlet containing the following information  
 25 for each ballot issue to be voted on at an election, as

1 applicable:

2 (a) ballot title and complete text of the issue;

3 ~~(b)--statement-of-the-secretary-of-state~~

4 ~~(c)--statement-of-the-attorney-general~~

5 ~~(d)(b)~~ the form in which the issue will appear on the  
 6 ballot; and

7 ~~(e)(c)~~ arguments advocating approval and rejection of  
 8 the issue; and; AND

9 ~~(f)--rebuttal-arguments~~ (D) REBUTTAL ARGUMENTS.

10 (2) THE PAMPHLET SHALL ALSO CONTAIN A NOTICE ADVISING  
 11 THE RECIPIENT WHERE ADDITIONAL COPIES OF THE PAMPHLET MAY BE  
 12 OBTAINED.

13 ~~(2)(3)~~ Whenever more than one ballot issue is to be  
 14 voted on at a single election, the secretary of state may  
 15 publish a single pamphlet for all of the ballot issues. The  
 16 secretary of state may arrange the information in the order  
 17 which seems most appropriate, but the information for all  
 18 issues in the pamphlet shall be presented in the same  
 19 order."

20 Section 12. Section 13-27-405, MCA, is amended to  
 21 read:

22 "13-27-405. Committee expenses. Each committee is  
 23 entitled to receive funds for the preparation of arguments  
 24 and expenses of members not to exceed \$150 \$100 for a  
 25 three-member committee and \$250 \$200 for a five-member

1 committee. Itemized claims for actual expenses incurred,  
2 approved by a majority of the committee, shall be submitted  
3 to the secretary of state for payment from funds  
4 appropriated for that purpose."

5 Section 13. Section 13-27-406, MCA, is amended to  
6 read:

7 "13-27-406. Limitation on length of argument -- time  
8 of filing. An argument advocating approval or rejection of a  
9 ballot issue is limited to 500 words and shall be filed, in  
10 typewritten form, with the secretary of state no later than  
11 ~~30--days--following-the-date-by-which-the-appointment-of-the~~  
12 ~~committee-was-required-to-be-filed--with--the--secretary--of~~  
13 ~~state--in-no-case--however--may-an-argument-be-submitted-for~~  
14 ~~filing--later--than 70 85~~ days before the election at which  
15 the issue will be voted on by the people. A majority of the  
16 committee responsible for preparation must approve and sign  
17 each argument filed. Separate signed letters of approval of  
18 an argument may be filed with the secretary of state by  
19 members of a committee if necessary to meet the filing  
20 deadline."

21 Section 14. Section 13-27-410, MCA, is amended to  
22 read:

23 "13-27-410. Printing and distribution of voter  
24 information pamphlet. (1) The secretary of state shall  
25 arrange with the department of administration by requisition

1 for the printing and delivery of a voter information  
2 pamphlet for all ballot issues to be submitted to the people  
3 at least 90 days before the election at which they will be  
4 submitted. The requisition shall include a delivery list  
5 providing for shipment of the required number of pamphlets  
6 to each county and to the secretary of state.

7 (2) The secretary of state shall estimate the number  
8 of copies necessary to furnish one copy to every voter in  
9 ~~each county each mailing address in the county at which a~~  
10 ~~registered voter resides--and~~ EVERY VOTER IN EACH COUNTY,  
11 ~~EXCEPT THAT TWO OR MORE VOTERS WITH THE SAME MAILING ADDRESS~~  
12 ~~AND THE SAME LAST NAME MAY BE COUNTED AS ONE VOTER. THE~~  
13 ~~SECRETARY OF STATE SHALL~~ provide for an extra supply of the  
14 pamphlets in his office in determining the number of voter  
15 pamphlets to be ordered in the requisition.

16 (3) The department of administration shall call for  
17 bids and contract with the lowest bidder for the printing  
18 and delivery of the voter information pamphlet. The contract  
19 shall require completion of printing and shipment, as  
20 specified on the delivery list, of the voter information  
21 pamphlets by not later than 30 days before the election at  
22 which the ballot issues will be voted on by the people.

23 (4) The county official responsible for voter  
24 registration in each county shall mail one copy of the voter  
25 information pamphlet to each registered voter of the county

1 ~~mailing address in the county at which a registered voter~~  
 2 ~~resides~~ REGISTERED VOTER IN THE COUNTY, EXCEPT THAT TWO OR  
 3 MORE VOTERS WITH THE SAME MAILING ADDRESS AND THE SAME LAST  
 4 NAME MAY BE COUNTED AS ONE VOTER. THE MAILING SHALL TAKE  
 5 PLACE no later than 2 weeks after the pamphlets are received  
 6 from the printer.

7 (5) Ten copies of the voter information pamphlet shall  
 8 be available at each precinct for use by any voter wishing  
 9 to read the explanatory information and complete text before  
 10 voting on the ballot issues."

11 Section 15. Section 13-27-501, MCA, is amended to  
 12 read:

13 "13-27-501. Secretary of state to certify ballot form.  
 14 The secretary of state shall furnish to the official of each  
 15 county responsible for preparation and printing of the  
 16 ballots, at the same time as he certifies the names of the  
 17 persons who are candidates for offices to be filled at the  
 18 election, a certified copy of the form in which each ballot  
 19 issue to be voted on by the people at that election is to  
 20 appear on the ballot. Unless otherwise provided in the  
 21 legislative act or petition placing the issue on the ballot,  
 22 the secretary of state shall list for each issue the number,  
 23 the method of placement on the ballot, the title, ~~the~~  
 24 ~~attorney general's explanatory statements, if applicable,~~ and  
 25 the statements of the implication of a vote for or against

1 the issue that are to be placed beside the diagram for  
 2 marking the ballot. The secretary of state shall use for  
 3 each ballot issue the title of the legislative act or  
 4 legislative constitutional proposal or ~~ballot issue~~  
 5 ~~proposed by any type of initiative petition unless that~~  
 6 ~~title exceeds 100 words~~ the title provided by the attorney  
 7 ~~general or district court.~~ A title of 100 words or less for  
 8 the ballot shall be provided by the legislature or the  
 9 organization circulating the petition if the official title  
 10 exceeds 100 words. Following the number of the ballot issue,  
 11 the secretary of state shall include one of the following  
 12 statements to identify why the issue has been placed on the  
 13 ballot:

- 14 (1) an act referred by the legislature;
- 15 (2) an amendment to the constitution proposed by the  
 16 legislature;
- 17 (3) an act of the legislature referred by referendum  
 18 petition; or
- 19 (4) a law or constitutional amendment proposed by  
 20 initiative petition."

21 Section 16. Section 13-27-502, MCA, is amended to  
 22 read:

23 "13-27-502. Preparation of ballots by county  
 24 officials. Each of the county officials responsible for the  
 25 preparation and printing of the ballots shall print the

1 ballot issues on the official ballot in the form and order  
 2 in which the issues have been certified by the secretary of  
 3 state. All ballot issues shall be placed on the official  
 4 ballot prescribed by 13-12-212, 13-17-205 and 13-17-206, or  
 5 13-18-201 through 13-18-206 unless specific written approval  
 6 by the secretary of state for placing the ballot issues on a  
 7 separate ballot is received by the official responsible for  
 8 printing the ballot. The secretary of state may issue such  
 9 approval only when the number of issues to be voted on at an  
 10 election makes it impossible impractical to print the entire  
 11 ballot, including the ballot issues, on the official ballot  
 12 as prescribed by 13-12-212, 13-17-205 and 13-17-206, or  
 13 13-18-201 through 13-18-206."

14 NEW SECTION. Section 17. Limitation on title of  
 15 referred legislation. All bills referred by the legislature  
 16 to a vote of the people shall have a title of no more than  
 17 100 words.

18 Section 18. Section 85-8-624, MCA, is amended to read:

19 "85-8-624. Assessments on improvements -- taxpayers'  
 20 approval, limitations, and election procedures. (1) It shall  
 21 require a vote of the persons on the assessment rolls in any  
 22 existing district to make Chapter 409, Laws of 1973,  
 23 applicable to such districts.

24 (2) Nothing in Chapter 409, Laws of 1973, confers upon  
 25 districts created for drainage purposes only the authority

1 to levy assessments on benefits to improvements.

2 (3) The election provided for by subsection (1) shall  
 3 be governed by the following rules:

4 (a) Notice of the election shall be as provided in  
 5 85-8-303, except that the form of the ballot shall be as  
 6 hereinafter provided.

7 (b) The manner of conducting the election shall be as  
 8 provided in 85-8-304.

9 (c) The qualifications of electors shall be as  
 10 provided in 85-8-305, except that, in addition to persons  
 11 holding title or evidence of title to lands within the  
 12 district, any person as therein defined who does not own  
 13 land within the district but has been assessed or will have  
 14 his improvements assessed under Chapter 409, Laws of 1973,  
 15 or who will be assessed for benefits received shall be  
 16 entitled to one vote. Commissioners shall prepare a list of  
 17 such persons and give them notice as provided in 85-8-303.

18 (d) The commissioners of any district in existence  
 19 prior to March 21, 1973, who wish to hold an election to  
 20 determine if the district shall be governed by Chapter 409,  
 21 Laws of 1973, shall at any regular or special meeting adopt  
 22 a resolution calling for an election to determine whether or  
 23 not the voters of said district wish to be governed by  
 24 Chapter 409, Laws of 1973. The resolution shall contain a  
 25 short summary of the changes made by Chapter 409, Laws of

1 1973, and shall include the summary as part of the notice  
2 provided for by 85-8-303. In addition, the commission shall  
3 provide copies of Chapter 409, Laws of 1973, to any person  
4 interested in obtaining a copy of the same and the notice to  
5 the persons in the district calling the election shall  
6 describe where and how copies may be obtained. The  
7 commissioners may authorize a reasonable charge for  
8 providing said copies, not to exceed 20 cents per page.

9 (e) The ballot shall include the summary as provided  
10 for in the preceding subsection and the form of the ballot  
11 shall conform, as closely as possible, to that set forth in  
12 ~~13-27-314~~ Title 13, Chapter 27.

13 (f) A simple majority of those who cast valid ballots  
14 shall determine the outcome of the election."

15 Section 19. Repealer. Sections SECTION 13-27-314 and  
16 ~~13-27-407~~, MCA, are IS repealed.

-End-

March 15, 1979

HOUSE OF REPRESENTATIVES

Judiciary Committee amendments to SENATE BILL NO. 256,  
third reading copy, as follows:

1. Page 2, line 18.

Following: "circulated."

Insert: "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 secretary of state."

2. Page 3, line 7.

Strike: "or rejection together with reasons for rejection"

3. Page 3, line 9.

Following: "sheet."

Insert: "The secretary of state shall send written notice if  
the petition has been rejected together with reasons for rejection  
within 14 days after submission of the petition sheet."

4. Page 3, line 15.

Following: line 14

Strike: "1 year"

Insert: "9 months"

5. Page 10, line 13.

Following: line 12

Insert: "(2) If the opponents of a ballot measure believe  
that the statement of purpose or the statements of implication  
of a vote formulated by the attorney general pursuant to 13-27-312  
do not satisfy the requirements of 13-27-312, 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 challenging the adequacy of the statement and requesting  
the court to alter the statement."

Renumber: subsequent subsections

6. Page 13, line 18 and 19.

Following: "~~each-county~~"

Strike: "each mailing address in the county at which a registered  
voter resides and"

Insert: "every voter in each county, except that two or more  
voters with the same mailing address and the same last name  
may be counted as one voter. The secretary of state shall"

7. Page 14, lines 7 and 8.

Following: line 6

Strike: "mailing address in the county at which a registered  
voter resides"

Insert: "registered voter in the county, except that two or  
more voters with the same mailing address and the same last  
name may be counted as one voter. The mailing shall take place"