

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP _____

TRANSPARENT ELECTION INITIATIVE,

Petitioner,

v.

AUSTIN KNUDSEN, in his official capacity as MONTANA
ATTORNEY GENERAL; and CHRISTI JACOBSEN, in her official
capacity as MONTANA SECRETARY OF STATE,

Respondents.

**PETITION FOR DECLARATORY RELIEF ON
ORIGINAL JURISDICTION**

EXPEDITED CONSIDERATION REQUESTED

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RELIEF REQUESTED

Transparent Election Initiative and Jeff Mangan (collectively, TEI) bring this original action under § 13-27-605, MCA, seeking a declaration that Ballot Issue #4 (Ex. 1, “BI-4”), which proposes to amend the Montana Constitution, does not violate the separate-vote requirement of Mont. Const. art. XIV, § 11. TEI challenges the Attorney General’s contrary legal sufficiency determination. (Ex. 2.)

TEI asks this Court to declare that the Attorney General erred in finding BI-4 legally insufficient and direct the Attorney General to either approve TEI’s ballot statement or prepare and forward a ballot statement to the Secretary of State (Secretary) within five days. Additionally, TEI asks this Court to strike the Attorney General’s fiscal statement, which he lacked authority to prepare, and the statement of material harm based on its inaccuracies.

JURISDICTION

This Court has original jurisdiction to review the Attorney General’s legal sufficiency determinations in an action brought under § 13-27-605, MCA. Section 3-2-202(3), MCA. A ballot issue proponent may file an original proceeding challenging the Attorney General’s legal

sufficiency determination. Section 13-27-605(1), MCA. These original actions take priority over other matters. Mont. Const. art. IV, § 7(2); § 13-27-605(3)(c), MCA.

FACTS

1. TEI certifies there are no factual issues affecting this Court's consideration of this matter. Section § 3-2-202(3)(b)(1), MCA.

2. Transparent Election Initiative is registered with the Montana Commissioner of Political Practices.

3. Jeff Mangan is the sole incorporator and president of Transparent Election Initiative and is designated as the lead petitioner for BI-4.

4. On August 1, 2025, Jeff Mangan personally submitted to the Secretary (1) the text of a proposed constitutional initiative for the 2026 ballot, and (2) a proposed ballot statement. The same day, TEI's counsel submitted the documents electronically. (Ex. 3.)

5. The Secretary designated the proposed initiative as BI-4 and referred the ballot issue and ballot statement to the Legislative Services Division (LSD).

6. On August 15, 2025, LSD provided TEI with its recommended changes. (Ex. 4.)

7. On September 5, 2025, after responding to LSD (Ex. 5), TEI submitted BI-4's finalized initiative text and ballot statement to the Secretary. (BI-4.)

8. The Secretary accepted the final text and referred BI-4 to the Attorney General and the Budget Director's Office of Budget and Program Planning (OBPP) on September 8, 2025. (Ex. 6.)

9. Stringent timing requirements apply to OBPP's and the Attorney General's review of ballot initiatives.

10. Section 13-27-218(5), MCA, requires that OBPP "shall determine whether a fiscal note is necessary, prepare the fiscal note, notify the attorney general of the necessity of the fiscal note, and provide a copy of the fiscal note" within 10 days of the Secretary's referral.

11. Following OBPP's notification within this 10-day timeframe, the Attorney General has a maximum of 30 days to complete a legal sufficiency review. Sections 13-27-218(5), (7), MCA.

12. As the Secretary referred BI-4 on September 8, 2025, OBPP had until September 18, 2025, to determine whether a fiscal note was necessary for BI-4 and, if so, to prepare and provide the fiscal note.

13. OBPP did not make a fiscal note determination within the statutory timeframe.

14. Instead, on September 24, 2025, 16 days after the Secretary's referral, OBPP provided a purported fiscal note for BI-4. (Ex. 7.)

15. Rather than initiating his legal sufficiency review of BI-4 when OBPP's time frame expired, the Attorney General delayed the start of the 30-day review period until receiving OBPP's purported fiscal note.

16. On October 24, 2025, 46 days after the Secretary's referral, the Attorney General issued an opinion that BI-4 is legally insufficient under the separate-vote requirement. (Ex. 2.)

17. The Attorney General also prepared a fiscal statement.

18. Because of the legal sufficiency determination, the Secretary has not delivered for signature gathering a petition form for BI-4.

19. The Secretary provided notice of the Attorney General's determination on October 27, 2025.

ANTICIPATED LEGAL ISSUES

This Petition raises the following issues:

1. Whether BI-4 would make two or more changes to the Montana Constitution that are substantive and not closely related.
2. Whether the document OBPP transmitted after the statutory deadline had legal effect to authorize the Attorney General to prepare a fiscal statement.
3. Whether this Court should strike the Attorney General's statement of material harm because it inaccurately characterizes BI-4.

PURPOSE OF BI-4

BI-4 expresses the will of the people of Montana that the state no longer grants artificial persons—corporations and other entities created under state law—the power to spend money or anything of value on election or ballot-issue activity. To give effect to that will, BI-4 revokes all existing grants of power and regrants only those necessary or convenient to lawful business or charitable purposes, expressly stating that this list does not include political-spending power.

ARGUMENT

I. BI-4 does not violate the Constitution’s separate-vote requirement.

Every provision of BI-4 flows from one constitutional question: whether the people will direct that the state’s grant of powers to artificial persons excludes political-spending power. It establishes the premise in subsection (1), answers that question in subsection (2), implements that answer through subsections (3)–(5), and defines its terms in subsection (6).

The Attorney General wrongly concluded that BI-4 would amend more than a dozen constitutional provisions, including fundamental rights in Article II such as the rights to dignity and reproductive autonomy. His opinion rests on faulty interpretation and an overbroad reading of the separate-vote requirement. Because every provision of BI-4 is integral and closely related, it satisfies the separate-vote test. This Court should reverse the Attorney General’s legal-sufficiency determination.

A. BI-4 proposes a single amendment.

Article XIV, Section 11 of the Montana Constitution provides that if “more than one amendment is submitted at the same election, each

shall be so prepared and distinguished that it can be voted upon separately.” This separate-vote requirement serves two objectives. First, it ensures voters understand what they are deciding by preventing confusion or deception and by requiring that proposed initiatives be understandable and not conceal their effects. *Mont. Ass’n of Counties v. State (MACo)*, 2017 MT 267, ¶ 15, 389 Mont. 183, 404 P.3d 733. Second, it prevents logrolling—combining unrelated measures that might not pass on their own. *Id.*

In applying this requirement, the Court asks whether a proposal “would make two or more changes to the Constitution that are substantive and not closely related.” *Montanans for Election Reform Action Fund v. Knudsen (MER)*, 2023 MT 226, ¶ 7, 414 Mont. 135, 545 P.3d 618 (quoting *Monforton v. Knudsen*, 2023 MT 179, ¶ 12, 413 Mont. 367, 539 P.3d 1078). “Substantive” means “an essential part or constituent or relating to what is essential.” *Id.* (quoting *Monforton*, ¶ 12.) A substantive change alters something fundamental rather than incidental.

To determine relatedness, the Court considers whether the provisions are facially connected, address a single constitutional

section, have traditionally been treated as one subject, and are qualitatively similar in effect on procedural or substantive law. *MER*, ¶ 7; *Monforton*, ¶ 12. When a proposal does not implicate a separate constitutional provision, “there is no separate amendment that would require a separate vote.” *Montanans Securing Reprod. Rights v. Knudsen (MSRR I)*, 2024 MT 54, ¶ 22, 415 Mont. 416, 545 P.3d 45. The rule must be applied so as not to frustrate the people’s right to amend their Constitution. *Id.*, ¶ 23.

The Court has consistently described the separate-vote requirement as protecting voters’ ability to express their opinions on each constitutional change separately. *Monforton*, ¶ 12; *MACo*, ¶ 27. But where a measure’s subparts have no operative meaning apart from the amendment they implement, voters have no meaningful opinion they can separately express on those parts. The separate-vote rule seeks to preserve meaningful choice, not to require an empty one. Here, because each subpart derives meaning from BI-4’s redefinition of artificial person powers, separating them would render the subparts unintelligible and leave the main question functionally incoherent—stripped of the provisions that make it workable.

The Court’s decision in *MER* is illustrative. There, the Court rejected the Attorney General’s claim that creating a top-four primary was a distinct amendment from specifying which offices it would cover. The Court “could not envision” how the system “could be accomplished without specifying the offices to which it would apply.” *MER*, ¶ 12. The designation of covered offices was not a separate question voters could decide independently; it had meaning only within the amendment creating the top-four primary.

Under these standards, BI-4 satisfies the separate-vote requirement. It adds one new section to Article XIII, and every part of that section implements the same constitutional decision: the people’s direction that the state no longer grant corporations and similar entities the power to spend in politics. Subsection (1) states the premise that artificial persons exist only by state grant and may exercise only powers expressly provided; subsection (2) directs that the Legislature act consistently with that principle and specifies the people’s intent regarding election-related activity; subsection (3) revokes prior grants of power and provides a transitional safe harbor to protect existing contracts and obligations; subsection (4) regrants powers and defines

their scope and the parameters critical to implementation; subsection (5) confirms that election activity and ballot issue activity are ultra vires; and subsection (6) defines the amendment's terms. Each provision is qualitatively similar in effect and integral to the amendment's unified framework.

The way BI-4's subparts function shows that it is a single amendment. While this Court does not require subparts to be "so interdependent that they constitute a whole and cannot be separated" (*MACo*, ¶ 26), the subparts here are both interdependent and integral to the amendment, and it would make no sense for voters to consider each provision separately because none stands alone. A forfeiture mechanism without a boundary on artificial-person powers would have nothing to enforce; a transitional safe harbor without a revocation and regrant would have nothing to transition; a foreign-entity parity clause without a new definition of powers would have nothing to equalize; and definitions would serve no purpose without the framework they explain. In short, each clause has operative meaning only through its relationship to the amendment redefining the powers of artificial

persons. As in *MER*, these interdependent provisions present voters with one coherent constitutional choice, not multiple ones.

That BI-4 is longer or more detailed than some initiatives does not make it multiple amendments. A proposal may be “comprehensive, specific, and detailed” without violating Article XIV, Section 11 so long as its provisions are closely related. *MSRR I*, ¶ 48 (McKinnon, J., concurring). BI-4 constitutes a single amendment to the Montana Constitution.

B. The Attorney General incorrectly decided that BI-4 violated the separate-vote requirement.

The Attorney General’s authority in reviewing ballot initiatives is narrowly confined. He may determine only whether a petition meets the procedural requirements for submission to the voters, including the separate-vote requirement. *Monforton*, ¶¶ 7, 11. He has no power to assess the substantive legality of a measure, to interpret how it might operate, or to predict litigation outcomes. *MSRR I*, ¶ 15. His role is limited to identifying non-substantive statutory or constitutional defects. *Monforton*, ¶ 7.

The Attorney General exceeded that authority and misapplied the separate-vote test. His determinations—that BI-4 would amend Articles

II and IX, alter Article XIII § 1, and create a separate “regrant” amendment—all rest on legal interpretations he lacks authority to make and that are wrong under constitutional interpretive principles.

1. BI-4 does not amend Articles II or IX.

The Attorney General claims that revoking artificial person powers under Section 8(3)(a) would amend nearly one-third of Article II’s fundamental rights and water rights in Article IX. (Ex. 2 at 2.) The Attorney General provides no rationale for how an amendment targeting *artificial*-person powers could be understood as amending provisions that apply to only *natural* persons, such as Article II, § 3 (“[a]ll persons are born free and have certain inalienable rights”); Article II, § 4 (“dignity of the human being is inviolable”); Article II, § 36 (providing “right to make and carry out decisions about one’s own pregnancy”). Artificial persons can do many things, but they are not “born,” are not “human being[s],” and do not experience their “own pregnancy.”

More fundamentally, the Attorney General’s contention blurs the line between the powers of natural persons and those of artificial ones. Human beings possess their own powers independent of

government; the State does not grant them. Artificial persons, by contrast, exist only through state creation, and the powers they exercise arise from that grant. When the people adjust the scope of those state-conferred powers, they alter only the framework the State has established for artificial entities, not the inherent powers or constitutional rights of natural persons. While a proposed amendment can implicate the separate-vote requirement if it implicitly makes substantive, unrelated changes to the Constitution (*MACo*, ¶ 28), BI-4 effects no such change.

BI-4 also preserves existing contracts and obligations through its safe-harbor provisions. The simultaneous revocation and regrant of corporate powers ensure that no entity loses its legal existence or previously acquired obligations or approvals. *See* BI-4, §§ 8(3)(b), 8(4)(a). These subsections underscore that the measure operates prospectively, not retroactively, and reinforce how its provisions are closely related and essential to its unified purpose.

The Attorney General's expansive reading of Article II and BI-4 disregards this Court's interpretive principles. Constitutional interpretation follows the same rules as statutory interpretation: look

first to the plain language, consider the context, harmonize related provisions, and avoid absurd results. *Brown v. Gianforte*, 2021 MT 149, ¶ 33, 404 Mont. 269, 488 P.3d 548; *Oster v. Valley County*, 2006 MT 180, ¶ 17, 333 Mont. 76, 140 P.3d 1079. The Attorney General’s approach violates each of these principles—leading to the absurd conclusion that revoking corporate powers somehow amends an individual’s constitutional right to make decisions about pregnancy.

2. BI-4 does not amend Article XIII, § 1.

Sections 8(4)(b) and 8(4)(d) of BI-4, which void charter language authorizing political spending, do not amend Article XIII, § 1, which governs how corporate charters are granted, modified, or dissolved. Under this Court’s decision in *MER*, a constitutional amendment that leaves the Legislature’s authority to act by “general law” intact does not create a separate amendment requiring a separate vote. *MER*, ¶ 19.

BI-4 leaves Article XIII, § 1 untouched. It concerns the *powers* the state grants to artificial persons, not the *procedures* by which charters are issued or altered. The Attorney General’s suggestion that BI-4 “voids” charters ignores explicit language preserving corporate existence and prior obligations. *See* BI-4, § 8(3)(b). Further, the purpose

of Article XIII, § 1, was to prohibit the Legislature from issuing special charter grants and instead to require general charters. BI-4 does not contravene this intention. Indeed, it states that the Legislature may create artificial persons by statute and it directs the Legislature to supply implementing procedures. *See*, BI-4, §§ 8(2), (4), (5). BI-4 thus operates consistently with, not as an amendment to, Article XIII, § 1.

3. The “regrant” of powers is not a separate amendment.

The Attorney General’s assertion that Section 8(4)(a)’s regranting of powers is a separate amendment misconstrues BI-4’s structure.

(Ex. 2 at 3.) The sequence of revocation and regrant are not separate decision points, but the mechanism to implement a single decision: the revocation and regrant work simultaneously together to redefine the scope of granted powers. The two provisions are necessary because a new, narrower constitutional grant would not automatically extinguish broader, pre-existing authority unless the prior grant were also revoked. Thus, without the revocation clause, earlier provisions conferring corporate powers would remain in force unless they were contradicted, leaving the new language uncertain in scope.

BI-4's explicit revocation therefore performs a mechanical function: it resets the baseline so that the single, unified regrant of powers takes full effect and leaves no residual authority in place. The revocation and regrant thus operate together as one legal act—the only way to make the amendment effective and unambiguous. They are complementary components, not distinct constitutional changes.

4. All provisions of BI-4 are closely related.

The Attorney General incorrectly asserts that BI-4's provisions are not closely related because they touch multiple areas of law. (Ex. 2 at 3.) Constitutional amendments often have broad effects, but BI-4's focus is singular: defining the powers of entities that exist only by state authorization. Its definitions and enforcement mechanisms are internally consistent and necessary to give effect to that framework.

The measure's definitions of "artificial person," "election activity," and related terms are tailored to its purpose and consistent with Montana's tradition of defining "person" differently depending on context, which even the Attorney General's memorandum acknowledges. *Compare* § 27-8-104, MCA, *with* § 26-1-702, MCA. Thus, concerns that the "artificial person" definition is "at odds" with other

definitions are misplaced. Similarly, even if the definition encompassed municipal corporations, that merely aligns with § 2-1-122, MCA, which already prohibits public resources for political purposes, ensuring consistency and uniform treatment of state-created entities. Likewise, the Attorney General's claim that BI-4 affects "government functions" in different statutory subsections is inapt. (Ex. 2 at 3.) That artificial persons, like corporations, operate in diverse sectors does not convert a single, coherent amendment into several unrelated ones.

Applying the factors from *MER* and *Monforton*, all provisions of BI-4 are facially related, contained within one new constitutional section, address a subject historically treated as unified, and are qualitatively similar in their effect. Each provision defines, circumscribes, or enforces the powers of artificial persons. BI-4's provisions form an integrated whole that answers one constitutional question of what powers the people grant to artificial persons. The Attorney General's contrary determination rests on an expansive interpretation of the separate-vote requirement that impermissibly restricts the people's right to amend their Constitution.

II. This Court should strike the Attorney General's fiscal statement because OBPP failed to issue a lawful fiscal determination.

Under § 13-27-218(5), MCA, OBPP must, “within 10 days” after the Secretary’s ballot-issue referral, determine whether a fiscal note is necessary, prepare the fiscal note, notify the Attorney General, and provide a fiscal note. OBPP has a mandatory duty to make the determination, and if it determines a note is required, then it must complete the remaining steps within the ten-day deadline. Section 13-27-218(5), MCA.

OBPP had until September 18 to act. No fiscal note was transmitted by the deadline. OBPP instead sent a purported fiscal note on September 24. But once September 18 had passed, both agencies lacked power to act: OBPP could no longer issue a fiscal note, and without a fiscal note, the Attorney General lacked authority to prepare a fiscal statement. Section 13-27-226(4), MCA, expressly ties the Attorney General’s fiscal-statement authority to a fiscal note indicating a fiscal impact. Because no such note existed, the Attorney General never acquired authority to prepare a fiscal statement.

Agencies have only those powers the Legislature confers, and any action exceeding that authority is void. *Montana Independent Living Project v. State*, 2019 MT 298, ¶ 31, 398 Mont. 204, 454 P.3d 1216. In *MSRR I*, the Court held that because OBPP’s fiscal note “did not indicate a fiscal impact, the Attorney General lacked the statutory authority to append a fiscal statement.” *MSRR I*, ¶ 32. Here, OBPP did not merely omit an impact; its “fiscal note” never legally existed.

TEI recognizes that fiscal information helps voters make informed decisions, and TEI does not object to the fiscal note’s substance. But deadlines exist for a reason. Agencies must act within the authority the Legislature conferred, and that authority ends when the statute says it does. The deadlines in § 13-27-218(5), MCA, provide predictability in the initiative process. If a proponent missed a deadline by six days, the Attorney General would no doubt assert that the lapse carried legal consequences. The same standard should apply to the State.

If the Court declines to strike the fiscal statement, it should order the Attorney General to revise the statement to match the fiscal note’s language estimating litigation costs from \$50,000 to \$500,000 “if litigation were to occur.” The Attorney General ignored the range,

instead stating that BI-4 would “cost taxpayers up to \$500,000 to litigate in court—if challenged.” By quoting only the highest number, the fiscal statement provides an incomplete picture. The only accurate presentation is the full range OBPP identified.

III. This Court should strike the Statement of Material Harm because it inaccurately characterizes BI-4.

The Attorney General’s statement of material harm misreads BI-4. He claims the measure “restricts, if not outright eliminates, the ability of artificial persons to participate on legislative and regulatory matters affecting them” and “revokes this right” for businesses to “appear before state and local bodies on legislative and regulatory matters.” (Ex. 2 at 4.) These claims are contradicted by BI-4’s text, and the statement should be stricken.

BI-4 specifically defines “election activity” and “ballot issue activity” as “paying, contributing, or expending money or anything of value to support or oppose a candidate, a political party, or a political committee,” or a ballot issue or initiative. BI-4, §§ 8(6)(c), (e). Nothing limits testimony before legislative or regulatory bodies, rulemaking participation, or traditional lobbying that does not involve campaign spending. Nor does BI-4 prevent artificial persons from petitioning the

government for redress. The suggestion that corporations could forfeit their charters merely for appearing before government bodies or advocating on legislation is unsupported.

The Attorney General further overstates the implications of the forfeiture provisions in §§ 8(4)(d) and (5). (Ex. 2 at 5.) Those provisions apply only when an artificial person acts ultra vires by spending money or anything of value on election or ballot-issue activity. Forfeiture of charter privileges is a traditional consequence for failing to act within state-provided grants. *See, e.g., State ex re. Rankin v. Martin*, 68 Mont. 392, 396-97, 219 P. 632 (1923). Further, BI-4 expressly contemplates possible reinstatement, confirming that forfeiture is a correctable consequence, subject to legislative process. *See* BI-4, § 8(4)(d). BI-4 also exempts political committees created for campaign activity, allowing artificial persons that wish to spend in politics to do so through that established framework. *See* BI-4, § 8(4)(c). Far from imposing “material harm,” BI-4 enforces the settled rule that artificial persons may exercise only those powers conferred by the people.

Justice Nelson’s dissent in *Montanans Opposed to I-166 v. Bullock*, 2012 MT 168, ¶ 17, 365 Mont. 520, 285 P.3d 435, does not

support the Attorney General's claim that BI-4 will disadvantage Montana corporations. Justice Nelson warned against a measure that restricted only the rights of Montana corporations while leaving others free to act. BI-4 does not do that: it redefines the powers the State grants and applies the same limitation to all entities operating in Montana. That evenhanded rule does not create the kind of competitive disparity Justice Nelson described.

IV. This Court should order an expedited response.

Challenges to the Attorney General's legal-sufficiency determinations take precedence over other matters. Section 13-27-605(3)(c), MCA. If this Court determines that a response is appropriate, TEI asks that the Court order an expedited response.

The Attorney General has already impeded BI-4's progress by delaying the legal sufficiency review for nearly a week until OBPP submitted its inoperative fiscal note, rather than starting when OBPP's deadline expired. These agency delays have consumed valuable time and, with each additional week lost, the timeframe for petition approval, signature collection, and ballot qualification grows smaller.

Expedition is therefore not a matter of convenience but of necessity. Due to governmental delay, time is running against the people's constitutional right to place their measure before the voters. Prompt briefing will prevent further prejudice and allow for timely resolution.

CONCLUSION

Montanans have a fundamental right to amend their Constitution. *MACo*, ¶ 25. The Attorney General has adopted an overbroad application of the separate-vote requirement that encumbers that right. BI-4 presents a single, coherent amendment to Montana's Constitution. This Court should reverse the Attorney General's legal-sufficiency determination on an expedited schedule.

Respectfully submitted this 3rd day of November 2025.

/s/ Matthew T. Cochenour
MATTHEW T. COCHENOUR
Attorney for Transparent
Election Initiative

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this brief is printed with a proportionately spaced Century Schoolbook text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count excluding caption, tables, certificates, and signature blocks is 3,976 as calculated by Microsoft Word.

Dated this 3rd day of November 2025.

/s/ Matthew T. Cochenour

Matthew T. Cochenour
Attorney for Transparent
Election Initiative

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EXHIBITS

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EXHIBIT 1

Text and Ballot Statement for Ballot Issue #4

1 THE COMPLETE TEXT OF CONSTITUTIONAL INITIATIVE NO. *** (CI-***)

2 ***

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

4
5 NEW SECTION. **Section 1.** Article XIII of The Constitution of the State of Montana is amended by
6 adding a new section 8 that reads:

7 **Section 8. Powers of artificial person.** (1) An artificial person exists only by grant of the state and
8 may not have powers or privileges except those this constitution expressly provides.

9 (2) (a) The legislature may by statute create an artificial person consistent with subsection (1).

10 (b) The people never did, and do not, intend the powers of an artificial person to include election
11 activity or ballot issue activity. This section revokes all powers granted to an artificial person and regrants only
12 those powers that the people consider necessary or convenient to carry out an artificial person's lawful
13 business or charitable purposes as described in subsection (6)(b). Powers related to election activity or ballot
14 issue activity may not be considered necessary or convenient to those purposes under any circumstances.

15 (3) (a) The creation and continued existence of an artificial person is not a right but a conditional
16 grant of legal status by the state and remains subject to complete withdrawal at any time. All powers previously
17 granted to an artificial person under Montana law are revoked in their entirety. An artificial person operating
18 under the jurisdiction of this state may not possess any power unless specifically granted by this constitution. A
19 power revoked by this subsection (3)(a) may not be revived except by a constitutional provision that expressly
20 reauthorizes that power in clear and specific terms.

21 (b) Nothing in subsection (3)(a) may be construed to invalidate, impair, or modify any existing
22 contract, debt instrument, security, or other legal obligation validly entered into before January 1, 2027,
23 provided, however, that nothing herein authorizes election activity or ballot issue activity after January 1, 2027.

24 Nothing in subsection (3)(a) may be construed to impair the continued existence or legal personhood of an
25 artificial person, or to affect its ability to initiate, defend, or participate in legal actions or to maintain or remain
26 eligible for licenses, permits, or approvals previously granted under state or federal law.

27 (4) (a) An artificial person possesses the powers defined in subsection (6)(b), unless its
28 organizational documents limit the exercise of these powers, and does not possess powers beyond those

1 expressly granted by the constitution. The constitution does not grant or recognize any power of an artificial
2 person to engage in election activity or ballot issue activity, except as provided in subsection (4)(c). The regrant
3 of powers under this subsection (4)(a) takes legal effect simultaneously with the revocation described in
4 subsection (3)(a).

5 (b) Any language in the articles of incorporation, articles of organization, articles of association, or
6 other organizational documents purporting to directly or indirectly confer election activity authority or ballot issue
7 activity authority to an artificial person is void.

8 (c) Political committees registered under Montana law or federal law are entities created for the
9 purpose of engaging in election activity and ballot issue activity. Political committees may be granted the power
10 to engage in those activities provided they exist solely for that purpose and claim no charter privilege other than
11 limited liability. This constitution does not grant any other artificial person the power to engage in election
12 activity or ballot issue activity.

13 (d) A charter privilege may not be construed to authorize election activity or ballot issue activity. An
14 artificial person that exercises election activity authority or ballot issue activity authority, unless expressly
15 permitted to do so under subsection (4)(c), initially forfeits all charter privileges as a matter of law. The
16 legislature shall, during its first regular session following January 1, 2027, enact procedures that allow
17 reinstatement on full disgorgement, certification of future compliance, and any additional conditions it considers
18 appropriate.

19 (5) Any election activity or ballot issue activity conducted by an artificial person that is not a
20 political committee is ultra vires and void and results in the forfeiture of charter privileges as provided in
21 subsection (4)(d). An artificial person that conducts election activity or ballot issue activity is also subject to civil
22 action by a member, shareholder, or the attorney general for injunctive relief, disgorgement, and confirmation or
23 enforcement of the forfeiture. The legislature shall, during its first regular session following January 1, 2027,
24 enact procedures to enforce this subsection.

25 (6) As used in this section, unless the context requires otherwise, the following definitions apply:

26 (a) "Artificial person" means an entity whose existence or limited liability shield is conferred by
27 Montana law, including, without limitation:

28 (i) business corporations;

(ii) nonprofit corporations, such as public-benefit, mutual-benefit, and religious organizations;

(iii) limited liability companies;

(iv) unincorporated associations, limited liability partnerships, statutory trusts, professional corporations, cooperatives, and any successor form; and

(v) foreign entities that are authorized to transact business, are otherwise transacting business, or hold property in Montana. A foreign entity that directly or indirectly undertakes, finances, or directs election activity or ballot issue activity in the state of Montana is conclusively considered to be transacting business in this state.

(b) "Artificial person powers" means powers necessary or convenient to carry out lawful business or charitable purposes, as the legislature may provide, excluding any power to directly or indirectly engage in election activity or ballot issue activity.

(c) (i) "Ballot issue activity" means paying, contributing, or expending money or anything of value to support or oppose a ballot issue or initiative.

(ii) The term does not include any bona fide news story, commentary, or editorial distributed through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a political party, a political committee, or a candidate.

(d) "Charter privilege" means any benefit to an artificial person that exists only because the state of Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate name, and tax credits and abatements.

(e) (i) "Election activity" means paying, contributing, or expending money or anything of value to support or oppose a candidate, a political party, or a political committee.

(ii) The term does not include any bona fide news story, commentary, or editorial distributed through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a political party, a political committee, or a candidate.

(f) "Foreign entity" means an artificial person that is organized or exists under the laws of a jurisdiction other than the state of Montana.

NEW SECTION. Section 2 Severability. If any provision of [this act], or its application to any person or circumstance, is invalid, the remaining provisions and applications that are severable remain in effect. In such event, no prior grant of corporate powers may be revived or reinstated, nor shall any court construe [this act] to authorize broader powers than are expressly conferred in [this act].

NEW SECTION. **Section 3 Effective date.** If approved by the electorate, [this act] is effective January 1, 2027.

- END -

BALLOT LANGUAGE FOR CONSTITUTIONAL INITIATIVE NO. * (CI-***)**

CONSTITUTIONAL INITIATIVE NO. ***

A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

CI ____ would add a new section to Article XIII of the Montana Constitution to define the powers of artificial persons, including corporations, as only those the constitution expressly grants and provide that artificial persons have no power to spend money or anything of value on elections or ballot issues. The initiative affirms that the people of Montana did not intend for artificial persons to have the power to spend on elections or ballot issues. CI ____ provides that actions beyond those expressly granted powers are void. The initiative provides that political committees may be granted the power to spend on elections and ballot issues. It allows enforcement through forfeiture of state-conferred privileges. The initiative includes a severability clause that ensures that valid portions of the initiative remain effective if other parts are invalidated.

☐ YES on Constitutional Initiative CI ____

☐ NO on Constitutional Initiative CI ____

EXHIBIT 2

Attorney General's Legal Sufficiency Determination



MEMORANDUM

To: The Office of the Montana Secretary of State
From: The Office of the Montana Attorney General
Date: October 24, 2025
Re: Legal sufficiency review of Proposed Ballot Measure No. 4

Ballot Measure No. 4, a constitutional initiative, proposes an amendment to Article XIII of the Montana Constitution to create a new Section 8. The proposed measure purports to define the constitutional rights, powers, and privileges held by an “artificial person.”

The Attorney General determines Ballot Measure No. 4 is not legally sufficient under Mont. Code Ann. § 13-27-226(1)–(2).

Because the Attorney General determines Ballot Measure No. 4 is not legally sufficient, he does not review the proposed ballot statements unless a court finds his legal sufficiency determination in error. *Montanans Securing Reprod. Rights v. Knudsen*, 2024 MT 54, ¶¶ 34–37, 415 Mont. 416, 545 P.3d 45.

The budget director determined that Ballot Measure No. 4 will affect the State’s revenues, expenditures, and fiscal liabilities. The Attorney General, therefore, includes a statement of fiscal impact.

The Attorney General, pursuant to Mont. Code Ann. § 13-27-218(6), determines that, if passed, Ballot Measure No. 4 will result in significant material harm to one or more business interests.

Finally, under Mont. Code Ann. § 13-27-226(5), the Attorney General determines Ballot Measure No. 4 does not conflict with any other proposed ballot measure.

DEPARTMENT OF JUSTICE

215 North Sanders
PO Box 201401
Helena, MT 59620-1401

(406) 444-2026
Contactdoj@mt.gov
mtdoj.gov

Ballot Measure No. 4 is not legally sufficient.

“If more than one amendment is submitted at the same election, each shall be so prepared and distinguished that it can be voted upon separately.” Mont. Const. art. XIV, § 11. “The plain language of the provision conveys an anticipatory, pre-election purpose—to ensure that constitutional ballot issues are prepared and submitted so they ‘can be voted upon’ separately.” *Monforton v. Knudsen*, 2023 MT 179, ¶ 10, 413 Mont. 367, 539 P.3d 1078. “If a proposed constitutional amendment adds new matter to the Constitution, that proposition is at least one change in and of itself. Then, if a measure has the effect of modifying an existing constitutional provision, it proposes at least one additional change to the constitution, whether that effect is express or implicit.” *Mont. Ass’n of Counties (“MACo”) v. State*, 2017 MT 267, ¶ 28, 389 Mont. 183, 404 P.3d 733.

“The separate-vote requirement has two well-recognized objectives. The first is to avoid voter confusion and deceit of the public by ensuring proposals are not misleading or the effects of which are concealed or not readily understandable. The second is to avoid ‘logrolling’ or combining unrelated amendments into a single measure which might not otherwise command majority support. By combining unrelated amendments, approval of the measure may be secured by different groups, each of which will support the entire proposal in order to secure some part, even though not approving all parts of a multifarious amendment.” *Monforton*, ¶ 10. The “separate-vote” requirement guarantees “the people have complete control over Montana’s fundamental law.” *MACo*, ¶ 18.

Ballot Measure No. 4 fails this test.

Ballot Measure No. 4 “adds new matter to the Constitution,” which constitutes at least one amendment. *MACo*, ¶ 28. Ballot Measure No. 4 also revokes “[a]ll powers previously granted to an artificial person under Montana law....” See Ballot Measure No. 4 § 1(3)(a). This would amend several sections of the Montana Constitution by limiting their scope to individuals, rather than all persons. See, e.g., Mont. Const. art. II, §§ 3, 4, 5, 6, 7, 9, 11, 17, 29, 31, 36.¹ This same provision amends other sections by prohibiting “artificial persons” from exercising rights contained therein. See, e.g., Mont. Const. art. IX, § 3 (water rights). Ballot Measure No. 4, Section 1(4)(b) and (d) appear to modify, or outright void, existing charters. This amends Article XIII, Section 1 of the Montana Constitution which provides “corporate charters shall be granted, modified, or dissolved only pursuant to general law.”

¹ Ballot Measure No. 4 appears to save Article II, Section 16 of the Montana Constitution from amendment. See Ballot Measure No. 4 § 1(3)(b).

Ballot Measure No. 4 then purports to “regrant” those provisions which the Constitution “expressly” grants to artificial persons. *See* Ballot Measure No. 4 § 1(4)(a). Even if any of the constitutional provisions in the preceding paragraph expressly confer powers on artificial persons, the “regrant” of those powers is a separate amendment.

Ballot Measure No. 4's changes offend the closely-related prong discussed in *Monforton*. *See Monforton*, ¶ 12. Part of that prong's analysis is whether “voters or the legislature has treated the matters addressed as one subject, and whether the various provisions are qualitatively similar in their effect on either procedural or substantive law.” *Id.*

Starting with the definition of “artificial person,” Ballot Measure No. 4's list appears at odds with various definitions of non-natural persons in the Montana Code. *Compare, e.g.,* Ballot Measure No. 4 § 1(6)(a)(i)–(v) (defining “artificial person”) to Mont. Code Ann. §§ 1-1-201(1)(d) (“Person includes a corporation or other entity as well as a natural person.”); 26-1-702 (Person “includes any individual, partnership, joint venture, unincorporated association, private or municipal corporation, the state and its political subdivisions”); 27-8-104 (Person means “any person, partnership, joint-stock company, unincorporated association, or society or municipal or other corporation of any character whatsoever.”) Measure No. 4's definition of “artificial person” seemingly includes trade unions, municipalities, or the state itself.

Next, Ballot Measure No. 4 affects diverse government functions across disparate areas of law. For example, the prohibitions in Section 1(2)(b) necessarily implicate Title 13 (elections). Section 1(3)(a)'s revocation provisions also affect areas like Title 15 (taxation), Title 30 (Trade and Commerce), Title 35 (Corporations, Partnerships, and Associations), and Title 85 (water rights). At a minimum, the legislature historically regulates Title 13 differently than it would Title 85. Ballot Measure No. 4 implicates both.

Statement of Fiscal Impact

Montana's Commissioner of Political Practices (COPP) believes, if passed, Ballot Measure No. 4 will require that agency to hire an additional government employee exclusively to enforce the measure at a cost of \$96,000 in FY2027 that will increase with inflation.

And, if litigated, COPP believes Ballot Measure No. 4's litigation will cost taxpayers between \$50,000 and \$500,000 to defend—based on past challenges to similar issues.

The fiscal note's concerns regarding litigation appear well-grounded. The First Amendment's freedom of speech clause is incorporated against the States. *Thornhill v. Alabama*, 310 U.S. 88, 95 (1940). "A corporation is a 'person' within the meaning of the equal protection and due process of law clauses" of the Fourteenth Amendment. *Grosjean v. Am. Press Co.*, 297 U.S. 233, 244 (1936). Speakers do not "shed their First Amendment protections by employing the corporate form to disseminate their speech. This fact underlies ... cases involving everything from movie producers to book publishers to newspapers." *303 Creative LLC v. Elenis*, 600 U.S. 570, 594 (2023). In short, "[t]hat a corporation is a person, within the meaning of the Fourteenth Amendment, is no longer open to discussion." *S. Ry. Co. v. Greene*, 216 U.S. 400, 412 (1910). A colorable case against Ballot Measure No. 4 exists.

The Attorney General therefore includes the following 31-word statement of fiscal impact under Mont. Code Ann. 13-27-226(4):

CI-XXX, if passed, will result in an additional government worker at a cost of \$96,000 to enforce, as well as cost taxpayers up to \$500,000 to litigate in court—if challenged.

Statement of Material Harm

"[T]he attorney general shall review [a] proposed constitutional initiative as to whether the proposal ... will likely cause significant material harm to one or more business interests in the state if approved by voters." Mont. Code Ann. § 13-27-218.

The Attorney General determines Ballot Measure No. 4 will likely cause significant material harm to one or more business interests if approved.

Ballot Measure No. 4 restricts, if not outright eliminates, the ability of artificial persons to participate on legislative and regulatory matters affecting them. Businesses, non-profits, trade unions, and other associations regularly appear before state and local bodies on legislative and regulatory matters. In other words, they petition their government for redress. Ballot Measure No. 4 revokes this right. Ballot Measure No. 4 goes further and prohibits these associations from lobbying via participation in ballot issues. As an example, the I-186 campaign in 2018 had artificial persons like Trout Unlimited and the National Wildlife Federation in support and artificial persons like the Montana AFL-CIO and Montana Mining Association in opposition. Ballot Measure No. 4 prohibits this activity going forward. A business suffers significant material harm to its interests when it can no longer directly engage on issues affecting its interests or financially support other organizations that engage on such issues.

This harm is magnified by Ballot Measure No. 4 Section 1(4)(d) and 1(5), which require forfeiture of charter privileges as a mandatory punishment for engaging in ballot issue activity contrary to the Measure's provisions. The loss of ability to transact commerce in Montana as a mandatory punishment—regardless of the nature of the violation—inflicts an obvious significant material harm.

Finally, as Justice Nelson noted in his dissent in *Montanans Opposed to I-166 v. Bullock*, 2012 MT 168, ¶ 17, 365 Mont. 520, 285 P.3d 435, the effect of a measure like Ballot Measure No. 4 is that “Montana corporations” will be “at a distinct disadvantage in interstate commerce” this will likely “cause Montana businesses to incorporate elsewhere.”

Sincerely,

A handwritten signature in blue ink, appearing to read "Brent Mead", is written over the typed name.

Brent Mead
Deputy Solicitor General

EXHIBIT 3

Initial Ballot Initiative Submission

(Internally referenced duplicative documents omitted)

Matthew Cochenour

From: Matthew Cochenour
Sent: Friday, August 1, 2025 2:31 PM
To: Dagnall, Ray; SOS Elections
Subject: RE: ballot initiative
Attachments: 2025-08-01 Ballot Statement.pdf; 2025-08-01 Ballot Statement.docx; 2025-08-01 CI_Transparent Election Initiative.docx; 2025-08-01 CI_Transparent Election Initiative.pdf

Good afternoon,

Attached for filing is the constitutional initiative and ballot statement related to transparent elections. I'm attaching a pdf and word version of each. We dropped off a hard copy today around 1:00 pm. Please let me know if there is any additional information you need from me. Thank you for all your assistance—very much appreciated.

Have a good weekend.
Matt

Matthew T. Cochenour
Cochenour Law Office, PLLC
7 West 6th Avenue, Suite 4F
PO Box 1914, Helena, MT 59624
406-422-8716
matt@cochenourlawoffice.com

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THE COMPLETE TEXT OF CONSTITUTIONAL INITIATIVE NO. * (CI-***)**

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

NEW SECTION. **Section 1.** Article XIII of The Constitution of the State of Montana is amended by adding a new section 8 that reads:

Section 8. Powers of Artificial Persons.

(1) Artificial Persons exist only by grant of the state and shall have no powers or privileges except those this constitution expressly provides.

(2) (a) The legislature may by statute create Artificial Persons consistent with (1).

(b) The people never did, and do not, intend the powers of Artificial Persons to include Election Activity or Ballot-Issue Activity. This section retracts all Artificial Persons' powers and re-grants only those powers that the people deem necessary or convenient to carry out an Artificial Person's lawful business or charitable purposes, as described in (3)(e). Powers related to Election Activity or Ballot-Issue Activity shall not be deemed necessary or convenient to those purposes under any circumstance.

(3) Definitions.

(a) "Artificial Person" means every entity whose existence or limited-liability shield is conferred by Montana law, including, without limitation:

(i) business corporations;

(ii) nonprofit corporations (public-benefit, mutual-benefit, religious);

(iii) limited-liability companies;

(iv) unincorporated associations, limited-liability partnerships, statutory trusts, professional corporations, cooperatives, and any successor form;

(v) Foreign Entities that are authorized to transact business, are otherwise transacting business, or hold property in Montana. Any Foreign Entity that directly or indirectly undertakes, finances, or directs Election Activity or Ballot-Issue Activity in the state of Montana is conclusively deemed to be transacting business in this state.

(b) "Election Activity" means paying, contributing, or expending money or anything of value to support or oppose a candidate, political party, or political committee.

(c) "Ballot-Issue Activity" means paying, contributing, or expending money or anything of value to support or oppose a ballot question or initiative.

(d) Election Activity and Ballot-Issue Activity do not include any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, or of any

print, online, or digital newspaper, magazine, blog, or other periodical publication, unless such broadcasting, print, online, or digital facilities are owned or controlled by a political party, political committee, or candidate.

(e) “Artificial Person Powers” means powers necessary or convenient to carry out lawful business or charitable purposes, excluding any power to directly or indirectly engage in Election Activity or Ballot-Issue Activity.

(f) “Charter Privilege” means any benefit to Artificial Persons that exists only because the state of Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate name, and tax credits and abatements.

(g) “Foreign Entity” means an Artificial Person organized or existing under the laws of any jurisdiction other than the state of Montana.

(4) Total Revocation of Previous Power Grants. (a) The creation and continued existence of an Artificial Person is not a right but a conditional grant of legal status by the state and remains subject to complete withdrawal at any time. All powers previously granted to any Artificial Person under Montana law are revoked in their entirety. No Artificial Person operating under the jurisdiction of this state shall possess any power unless specifically granted by this constitution. No power revoked by this subsection shall be revived except by a constitutional provision that expressly re-authorizes such power in clear and specific terms.

(b) Transitional Safe Harbor. Nothing in (4)(a) shall be construed to invalidate, impair, or modify any existing contract, debt instrument, security, or other legal obligation validly entered into before the effective date of [this act]; provided, however, that nothing herein authorizes any Election Activity or Ballot-Issue Activity after the effective date. Nothing in (4)(a) shall be construed to impair the continued existence or legal personhood of any Artificial Person, or to affect its ability to initiate, defend, or participate in legal actions or to maintain or remain eligible for licenses, permits, or approvals previously granted under state or federal law.

(5) Selective Re-Grant of Artificial Person Powers. (a) Each Artificial Person possesses the powers defined in (3)(e), unless its organizational documents limit the exercise of such powers, and no powers beyond those expressly granted. No provision of this constitution grants or recognizes any power of an Artificial Person to engage in Election Activity or Ballot-Issue Activity, except as provided in (5)(c). The re-grant of powers under this subsection shall take legal effect simultaneously with the revocation described in (4)(a).

(b) Any language in articles of incorporation, organization, association, or other organizational documents purporting to directly or indirectly confer Election-Activity authority or Ballot-Issue-Activity authority to Artificial Persons is void.

(c) Political committees registered under Montana or federal law are entities created for the purpose of engaging in Election Activity and Ballot-Issue Activity. Such committees may be

granted the power to engage in those activities provided that they exist solely for that purpose and claim no Charter Privilege other than limited liability. This constitution does not grant any other Artificial Person the power to engage in Election Activity or Ballot-Issue Activity.

(d) No Charter Privilege shall be construed to authorize Election Activity or Ballot-Issue Activity. An Artificial Person that exercises Election-Activity authority or Ballot-Issue-Activity authority, unless expressly permitted to do so under (5)(c), initially forfeits all Charter Privileges as a matter of law. The legislature shall, during its first regular session following the effective date of [this act], enact procedures that allow reinstatement upon full disgorgement, certification of future compliance, and any additional conditions it deems appropriate.

(6) Ultra Vires Actions. Any Election Activity or Ballot-Issue Activity conducted by an Artificial Person is ultra vires and void. Such conduct results in the forfeiture of Charter Privileges as provided in (5)(d) and shall also be subject to civil action by a member, shareholder, or the attorney general for injunctive relief, disgorgement, and confirmation or enforcement of the forfeiture. The legislature shall, during its first regular session following the effective date of [this act], enact implementing procedures to enforce this subsection.

(7) Severability. If any provision of [this act], or its application to any person or circumstance, is held invalid, the remaining provisions and applications that are severable shall remain in effect. In such event, no prior grant of corporate powers shall be revived or reinstated, nor shall any court construe [this act] to authorize broader powers than are expressly conferred in [this act].

NEW SECTION. **Section 2. Effective date.** [This act] is effective January 1, 2027.

– END –

BALLOT LANGUAGE FOR CONSTITUTIONAL INITIATIVE NO. * (CI-***)**

CONSTITUTIONAL INITIATIVE NO. ***

A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

CI ____ would amend Article XIII of the Montana Constitution to redefine the powers of artificial “persons,” including corporations. It defines their powers as only those the constitution expressly grants and provides that artificial persons have no power to spend money or anything of value on elections or ballot issues. It affirms that the people of Montana never intended for artificial persons to have the power to spend on elections or ballot issues. CI ____ provides that actions beyond those expressly granted powers are void. The initiative permits political committees to be granted the power to spend on elections and ballot issues. It allows enforcement through forfeiture of state-conferred privileges. The initiative includes a clause that ensures that valid portions of the initiative remain effective even if other parts are invalidated.

☐ YES on Constitutional Initiative CI ____

☐ No on Constitutional Initiative CI ____

EXHIBIT 4

Legislative Services Division Recommendations



Montana Legislative Services Division

Legal Services Office

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

August 15, 2025

Matthew T. Cochenour
Cochenour Law Offices, PLLC
7 West 6th Ave., Ste. 4F
PO Box 1914
Helena, MT 59624

SENT VIA EMAIL: matt@cochenourlawoffice.com

Re: Constitutional Initiative Regarding Redefining the Powers of an Artificial Person

Dear Mr. Cochenour,

On August 4, 2025, the Legislative Services Division received the text of your proposed initiative to amend Montana's Constitution.

The text of the initiative and the ballot issue statements were reviewed pursuant to section 13-27-225, MCA, for clarity, consistency, and other factors normally considered when drafting proposed legislation. This letter constitutes the Legislative Services Division's review of your proposed constitutional initiative.

I. Style Issues

Section 13-27-236(2), MCA, requires the text of an initiative to be in the bill form provided in the most recent issue of the Bill Drafting Manual published by the Legislative Services Division. Section 13-27-225(1), MCA, requires both the text of the initiative and the ballot statements to conform to the Bill Drafting Manual, which is available on the Legislative Branch website at <https://leg.mt.gov/content/Publications/2024-Bill-Drafting-Manual.pdf>.

A. Ballot Issue Text

The text of the proposed initiative is not in compliance with the Bill Drafting Manual. We made a variety of stylistic changes to conform to the requirements of the Bill Drafting Manual. Also, please note two of the changes were rearranging the definitions in alphabetical order pursuant to section 9-9(3) of the Bill Drafting Manual and relocating the definition subsection to the end of the text pursuant to section 4-9(9) of the Bill Drafting Manual.

The changes that were made are in Appendix A (multi-color track changes). If you agree with the changes, you will find a finalized version in Appendix B (track changes accepted). I recommend that you use the text in Appendix B for your proposed changes to the text of the Montana Constitution.

B. Statement of Purpose and Implication

The text of the proposed constitutional initiative and the draft ballot issue statements must comply with sections 13-27-212, 13-27-213, 13-27-218, and 13-27-236(2), MCA. Ballot statements include the following: (1) the statement of purpose and implication, which may not exceed 135 words, and (2) the yes and no statements. Pursuant to section 13-27-212(1), MCA, the statement of purpose “expresses the true and impartial explanation of the proposal in plain, easily understood language.” In addition, the statement of purpose may not be argumentative or written in a manner that creates prejudice for or against the issue. While it is not always feasible to include a complete explanation of each part of a ballot issue in the statement of purpose, the statement must at least explain both the purpose and the implication of the ballot issue in easily understood, nonargumentative language. *See Mont. Consumer Fin. Ass’n v. State*, 2010 MT 185, ¶ 12.

Unless altered by a court pursuant to section 13-27-605, MCA, the statement of purpose becomes the title for the ballot issue that is circulated to the electorate and the ballot title if the ballot issue is placed on the ballot. However, proponents of a ballot issue are not entitled to the ballot statements of their choosing, and the Attorney General and, if necessary, the Supreme Court may alter proposed statements of purpose and implication to comply with sections 13-27-212, 13-27-213, and 13-27-218, MCA. *See Mont. Consumer Fin. Ass’n v. State*, 2010 MT 185, ¶ 11.

We made some stylistic changes to conform to the requirements of the Bill Drafting Manual. We also changed "never intended" to "did not intend" to make it less argumentative. The changes that were made can be found in Appendix C (multi-color track changes). If you agree with the change, you will find a finalized version in Appendix D (track changes accepted).

II. Substantive Considerations

A. Clarifying the Artificial Person Powers

The proposed initiative as written defines "artificial person powers" as " powers necessary or convenient to carry out lawful business or charitable purposes, excluding any power to directly or indirectly engage in election activity or ballot issue activity." What constitutes lawful business or charitable purposes may be vague. We suggest either including in the text a clearer definition of the powers being conferred or providing the legislature the authority to enact legislation to define these powers, similar to the language used in subsections (4)(d) and (5) (in the edited version) of the proposed initiative.

B. Separate Vote Requirement

Please note that Article XIV, section 11, of the Montana Constitution provides:

If more than one amendment is submitted at the same election, each shall be so prepared and distinguished that it can be voted upon separately.

The separate vote requirement for constitutional initiatives prohibits a proposal that makes two or more changes to the Montana Constitution that are substantive and not closely related. Furthermore, if a proposed constitutional amendment adds new matter to the constitution, that proposition is at least one change in and of itself. Modifying an existing constitutional provision is considered at least one change, whether that effect is express or implicit. *See Mont. Ass'n of Counties v. State.*, 2017 MT 267, 389 Mont. 183, 404 P.3d 733.

The Montana Supreme Court has stated that the factors that may be considered in determining whether the provisions of a proposed constitutional amendment are "closely related" may include:

[W]hether various provisions are facially related, whether all the matters addressed by [the proposition] concern a single section of the constitution, whether the voters or the legislature historically has treated the matters addressed as one subject, and whether the various provisions are qualitatively similar in their effect on either procedural or substantive law.

Mont. Ass'n of Counties, ¶ 29 (citing *McLaughlin v. Bennett*, 225 Ariz. 351, 238 P.3d 619, 622 (Ariz. 2010) (quoting *Ariz. Together v. Brewer*, 214 Ariz. 118, 149 P.3d 742, 746 (Ariz. 2007))).

Because of this constitutional prohibition, you may wish to review your proposal to ensure any provision that may be construed as not being "closely related" is prepared and distinguished so that citizens may vote on each one separately. This letter does not analyze whether the provisions of the proposed initiative are closely related or not. Rather, I point the law out for your consideration.

Please note that the attached text does not contain revisions addressing the substantive considerations that I have raised.

III. Conclusion

I recommend that you accept the recommended changes to the text of the initiative and the ballot issue statements as outlined in this letter.

Please note that pursuant to section 13-27-225(2), MCA, you are required to respond in writing to this office accepting, rejecting, or modifying the recommended changes before submitting the final text of the proposed ballot issue and ballot statements to the Secretary of State. Your response will terminate the role of this office in this process. After responding to this office, further correspondence should be submitted to the Secretary of State.

Sincerely,

/s/ Andria Hardin

Andria Hardin
Staff Attorney

cc: Christi Jacobsen, Secretary of State

Attachments: 2025 Ballot Issue No. 4 – Ballot Text (Appendix A & B)
2025 Ballot Issue No. 4 – Statement of Purpose & Implication (Appendix C & D)

**** BILL NO. ****

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

NEW SECTION. Section 1. Article XIII of The Constitution of the State of Montana is amended by adding a new section 8 that reads:

Section 8. Powers of ~~Artificial Persons~~ an artificial person. (1) ~~Artificial Persons exist~~ An artificial person exists only by grant of the state and ~~shall have no~~ may not have powers or privileges except those this constitution expressly provides.

(2) (a) The legislature may by statute create ~~Artificial Persons~~ an artificial person consistent with subsection (1).

(b) The people never did, and do not, intend the powers of ~~Artificial Persons~~ an artificial person ~~person~~ to include ~~Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity. This section ~~retracts-revokes~~ all ~~Artificial Persons'~~ powers granted to an artificial person's ~~powers and re-grants person and~~ regrants only those powers that the people ~~deem-consider~~ necessary or convenient to carry out an ~~Artificial Person's~~ artificial person's lawful business or charitable purposes, as described in ~~subsection (3)(e)~~ (7)(e)(6)(b). Powers related to ~~Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity ~~shall not be deemed-may not be considered~~ necessary or convenient to those purposes under any ~~circumstance~~ circumstances.

(3) Definitions. ~~As used in this section, unless the context requires otherwise, the following definitions apply:~~

(a) "Artificial ~~Person~~ person" means ~~every an~~ entity whose existence or ~~limited-liability~~ limited liability shield is conferred by Montana law, including, without limitation:

- (i) business corporations;
- (ii) nonprofit corporations. ~~(such as~~ public-benefit, mutual-benefit, and religious) organizations;
- (iii) ~~limited-liability~~ limited liability companies;
- (iv) unincorporated associations, ~~limited-liability~~ limited liability partnerships, statutory trusts,

professional corporations, cooperatives, and any successor form; and

(v) ~~Foreign Entities~~ foreign entities that are authorized to transact business, are otherwise transacting business, or hold property in Montana. ~~Any Foreign Entity~~ A foreign entity that directly or indirectly undertakes, finances, or directs ~~Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity in the state of Montana is conclusively ~~deemed~~ considered to be transacting business in this state.

(b) "Artificial person powers" means powers necessary or convenient to carry out lawful business or charitable purposes, excluding any power to directly or indirectly engage in election activity or ballot issue activity. "Election Activity" means paying, contributing, or expending money or anything of value to support or oppose a candidate, political party, or political committee.

(c) (i) ~~Ballot Issue Activity~~ Ballot issue activity means paying, contributing, or expending money or anything of value to support or oppose a ballot ~~question~~ issue or initiative.

(ii) The term does not include any bona fide news story, commentary, or editorial distributed through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a political party, a political committee, or a candidate.

(d) "Charter privilege" means any benefit to an artificial person that exists only because the state of Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate name, and tax credits and abatements. Election Activity and Ballot Issue Activity do not include any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, or of any print, online, or digital newspaper, magazine, blog, or other periodical publication, unless such broadcasting, print, online, or digital facilities are owned or controlled by a political party, political committee, or candidate.

(e) ~~"Artificial Person Powers" means powers necessary or convenient to carry out lawful business or charitable purposes, excluding any power to directly or indirectly engage in Election Activity or Ballot Issue Activity.~~ (i) "Election activity" means paying, contributing, or expending money or anything of value to support or oppose a candidate, a political party, or a political committee.

(ii) The term does not include any bona fide news story, commentary, or editorial distributed

through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a political party, a political committee, or a candidate.

(f) ~~"Charter Privilege"~~ privilege means ~~any benefit to Artificial Persons~~ an artificial person that exists only because the state of Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate name, and tax credits and abate ments. ~~"Foreign entity"~~ means an artificial person that is organized or exists under the laws of a jurisdiction other than the state of Montana.

(g) ~~"Foreign Entity"~~ entity means ~~an Artificial Person~~ artificial person organized or existing under the laws of any jurisdiction other than the state of Montana.

~~(4)(3) Total Revocation of Previous Power Grants.~~ (a) The creation and continued existence of an ~~Artificial Person~~ artificial person is not a right but a conditional grant of legal status by the state and remains subject to complete withdrawal at any time. All powers previously granted to ~~any Artificial Person~~ an artificial person under Montana law are revoked in their entirety. ~~No Artificial Person~~ An artificial person operating under the jurisdiction of this state ~~shall~~ may not possess any power unless specifically granted by this constitution. ~~No~~ A power revoked by this subsection ~~(3)(a) shall~~ may not be revived except by a constitutional provision that expressly ~~re-authorizes such~~ reauthorizes that power in clear and specific terms.

(b) ~~Transitional Safe Harbor.~~ Nothing in ~~subsection (4)(a)(3)(a) shall~~ may be construed to invalidate, impair, or modify any existing contract, debt instrument, security, or other legal obligation validly entered into before ~~the effective date of [this act amendment]~~ January 1, 2027; provided, however, that nothing herein authorizes ~~any Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity after ~~the effective date~~ January 1, 2027. Nothing in ~~subsection (4)(a)(3)(a) shall~~ may be construed to impair the continued existence or legal personhood of ~~any Artificial Person~~ an artificial person, or to affect its ability to initiate, defend, or participate in legal actions or to maintain or remain eligible for licenses, permits, or approvals previously granted under state or federal law.

~~(5)(4) Selective Re-Grant of Artificial Person Powers.~~ (a) ~~Each Artificial Person~~ An artificial person possesses the powers defined in ~~(3)(e)(7)(e)~~ subsection (6)(b), unless its organizational documents limit the exercise of ~~such~~ these powers, and ~~no~~ does not possess powers beyond those expressly granted by the constitution. ~~No provision of this constitution grants or recognizes~~ The constitution does not grant or recognize

any power of an ~~Artificial Person~~ artificial person to engage in ~~Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity, except as provided in ~~subsection (5)(c)(4)(c)~~. The ~~re-grant~~ regrant of powers under this subsection ~~(4)(a)~~ shall take ~~takes~~ legal effect simultaneously with the revocation described in ~~subsection (4)(a)(3)(a)~~.

(b) Any language in ~~the~~ articles of incorporation, articles of organization, articles of association, or other organizational documents purporting to directly or indirectly confer ~~Election Activity~~ election activity authority or ~~Ballot Issue Activity~~ ballot issue activity authority to ~~Artificial Persons~~ an artificial person is void.

(c) Political committees registered under Montana law or federal law are entities created for the purpose of engaging in ~~Election Activity~~ election activity and ~~Ballot Issue Activity~~ ballot issue activity. ~~Such Political~~ committees may be granted the power to engage in those activities provided ~~that~~ they exist solely for that purpose and claim no ~~Charter Privilege~~ charter privilege other than limited liability. This constitution does not grant any other ~~Artificial Person~~ artificial person the power to engage in ~~Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity.

(d) ~~No Charter Privilege shall~~ A charter privilege may not be construed to authorize ~~Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity. An ~~Artificial Person~~ artificial person that exercises ~~Election Activity~~ election activity authority or ~~Ballot Issue Activity~~ ballot issue activity authority, unless expressly permitted to do so under ~~subsection (5)(c)(4)(c)~~, initially forfeits all ~~Charter Privileges~~ charter privileges as a matter of law. The legislature shall, during its first regular session following ~~the effective date of [this act amendment]~~ January 1, 2027, enact procedures that allow reinstatement ~~upon on~~ full disgorgement, certification of future compliance, and any additional conditions it ~~deems~~ considers appropriate.

~~(6)(5) Ultra Vires Actions.~~ Any ~~Election Activity~~ election activity or ~~Ballot Issue Activity~~ ballot issue activity conducted by an ~~Artificial Person~~ artificial person that is not a political committee is ~~ultra vires and void.~~ ~~Such conduct and~~ results in the forfeiture of ~~Charter Privileges~~ charter privileges as provided in ~~subsection (5)(d)(4)(d)~~ and An artificial person that conducts election activity or ballot issue activity shall ~~is~~ also ~~be~~ subject to civil action by a member, shareholder, or the attorney general for injunctive relief, disgorgement, and confirmation or enforcement of the forfeiture. The legislature shall, during its first regular session following ~~the effective date of [this act amendment]~~ January 1, 2027, enact ~~implementing~~ procedures to enforce this subsection.

(6) As used in this section, unless the context requires otherwise, the following definitions apply:

(a) "Artificial person" means an entity whose existence or limited liability shield is conferred by Montana law, including, without limitation:

(i) business corporations;

(ii) nonprofit corporations, such as public-benefit, mutual-benefit, and religious organizations;

(iii) limited liability companies;

(iv) unincorporated associations, limited liability partnerships, statutory trusts, professional corporations, cooperatives, and any successor form; and

(v) foreign entities that are authorized to transact business, are otherwise transacting business, or hold property in Montana. A foreign entity that directly or indirectly undertakes, finances, or directs election activity or ballot issue activity in the state of Montana is conclusively considered to be transacting business in this state.

(b) "Artificial person powers" means powers necessary or convenient to carry out lawful business or charitable purposes, excluding any power to directly or indirectly engage in election activity or ballot issue activity.

(c) (i) "Ballot issue activity" means paying, contributing, or expending money or anything of value to support or oppose a ballot issue or initiative.

(ii) The term does not include any bona fide news story, commentary, or editorial distributed through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a political party, a political committee, or a candidate.

(d) "Charter privilege" means any benefit to an artificial person that exists only because the state of Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate name, and tax credits and abatements.

(e) (i) "Election activity" means paying, contributing, or expending money or anything of value to support or oppose a candidate, a political party, or a political committee.

(ii) The term does not include any bona fide news story, commentary, or editorial distributed through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or

1 other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a
2 political party, a political committee, or a candidate.

3 (f) "Foreign entity" means an artificial person that is organized or exists under the laws of a
4 jurisdiction other than the state of Montana.

5
6 NEW SECTION. **Section 2 Severability.** If any provision of [this act], or its application to any person
7 or circumstance, is ~~held~~ invalid, the remaining provisions and applications that are severable ~~shall~~ remain in
8 effect. In such event, no prior grant of corporate powers ~~shall~~ may be revived or reinstated, nor shall any court
9 construe [this act] to authorize broader powers than are expressly conferred in [this act].

10
11 NEW SECTION. **Section 3 Effective date.** If approved by the electorate, ~~[This this act]~~ is effective
12 January 1, 2027.

13 - END -

**** BILL NO. ****

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

NEW SECTION. **Section 1.** Article XIII of The Constitution of the State of Montana is amended by adding a new section 8 that reads:

Section 8. Powers of artificial person. (1) An artificial person exists only by grant of the state and may not have powers or privileges except those this constitution expressly provides.

(2) (a) The legislature may by statute create an artificial person consistent with subsection (1).

(b) The people never did, and do not, intend the powers of an artificial person to include election activity or ballot issue activity. This section revokes all powers granted to an artificial person and regrants only those powers that the people consider necessary or convenient to carry out an artificial person's lawful business or charitable purposes as described in subsection (6)(b). Powers related to election activity or ballot issue activity may not be considered necessary or convenient to those purposes under any circumstances.

(3) As used in this section, unless the context requires otherwise, the following definitions apply:

(a) "Artificial person" means an entity whose existence or limited liability shield is conferred by Montana law, including, without limitation:

(i) business corporations;

(ii) nonprofit corporations, such as public-benefit, mutual-benefit, and religious organizations;

(iii) limited liability companies;

(iv) unincorporated associations, limited liability partnerships, statutory trusts, professional corporations, cooperatives, and any successor form; and

(v) foreign entities that are authorized to transact business, are otherwise transacting business, or hold property in Montana. A foreign entity that directly or indirectly undertakes, finances, or directs election activity or ballot issue activity in the state of Montana is conclusively considered to be transacting business in this state.

(b) "Artificial person powers" means powers necessary or convenient to carry out lawful business

1 or charitable purposes, excluding any power to directly or indirectly engage in election activity or ballot issue
2 activity.

3 (c) (i) "Ballot issue activity" means paying, contributing, or expending money or anything of value
4 to support or oppose a ballot issue or initiative.

5 (ii) The term does not include any bona fide news story, commentary, or editorial distributed
6 through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or
7 other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a
8 political party, a political committee, or a candidate.

9 (d) "Charter privilege" means any benefit to an artificial person that exists only because the state of
10 Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate
11 name, and tax credits and abatements.

12 (e) (i) "Election activity" means paying, contributing, or expending money or anything of value to
13 support or oppose a candidate, a political party, or a political committee.

14 (ii) The term does not include any bona fide news story, commentary, or editorial distributed
15 through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or
16 other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a
17 political party, a political committee, or a candidate.

18 (f) "Foreign entity" means an artificial person that is organized or exists under the laws of a
19 jurisdiction other than the state of Montana.

20 (3) (a) The creation and continued existence of an artificial person is not a right but a conditional
21 grant of legal status by the state and remains subject to complete withdrawal at any time. All powers previously
22 granted to an artificial person under Montana law are revoked in their entirety. An artificial person operating
23 under the jurisdiction of this state may not possess any power unless specifically granted by this constitution. A
24 power revoked by this subsection (3)(a) may not be revived except by a constitutional provision that expressly
25 reauthorizes that power in clear and specific terms.

26 (b) Nothing in subsection (3)(a) may be construed to invalidate, impair, or modify any existing
27 contract, debt instrument, security, or other legal obligation validly entered into before January 1, 2027,
28 provided, however, that nothing herein authorizes election activity or ballot issue activity after January 1, 2027.

1 Nothing in subsection (3)(a) may be construed to impair the continued existence or legal personhood of an
2 artificial person, or to affect its ability to initiate, defend, or participate in legal actions or to maintain or remain
3 eligible for licenses, permits, or approvals previously granted under state or federal law.

4 (4) (a) An artificial person possesses the powers defined in subsection (6)(b), unless its
5 organizational documents limit the exercise of these powers, and does not possess powers beyond those
6 expressly granted by the constitution. The constitution does not grant or recognize any power of an artificial
7 person to engage in election activity or ballot issue activity, except as provided in subsection (4)(c). The grant
8 of powers under this subsection (4)(a) takes legal effect simultaneously with the revocation described in
9 subsection (3)(a).

10 (b) Any language in the articles of incorporation, articles of organization, articles of association, or
11 other organizational documents purporting to directly or indirectly confer election activity authority or ballot issue
12 activity authority to an artificial person is void.

13 (c) Political committees registered under Montana law or federal law are entities created for the
14 purpose of engaging in election activity and ballot issue activity. Political committees may be granted the power
15 to engage in those activities provided they exist solely for that purpose and claim no charter privilege other than
16 limited liability. This constitution does not grant any other artificial person the power to engage in election
17 activity or ballot issue activity.

18 (d) A charter privilege may not be construed to authorize election activity or ballot issue activity. An
19 artificial person that exercises election activity authority or ballot issue activity authority, unless expressly
20 permitted to do so under subsection (4)(c), initially forfeits all charter privileges as a matter of law. The
21 legislature shall, during its first regular session following January 1, 2027, enact procedures that allow
22 reinstatement on full disgorgement, certification of future compliance, and any additional conditions it considers
23 appropriate.

24 (5) Any election activity or ballot issue activity conducted by an artificial person that is not a
25 political committee is void and results in the forfeiture of charter privileges as provided in subsection (4)(d). An
26 artificial person that conducts election activity or ballot issue activity is also subject to civil action by a member,
27 shareholder, or the attorney general for injunctive relief, disgorgement, and confirmation or enforcement of the
28 forfeiture. The legislature shall, during its first regular session following January 1, 2027, enact procedures to

1 enforce this subsection.

2 (6) As used in this section, unless the context requires otherwise, the following definitions apply:

3 (a) "Artificial person" means an entity whose existence or limited liability shield is conferred by

4 Montana law, including, without limitation:

5 (i) business corporations;

6 (ii) nonprofit corporations, such as public-benefit, mutual-benefit, and religious organizations;

7 (iii) limited liability companies;

8 (iv) unincorporated associations, limited liability partnerships, statutory trusts, professional

9 corporations, cooperatives, and any successor form; and

10 (v) foreign entities that are authorized to transact business, are otherwise transacting business, or

11 hold property in Montana. A foreign entity that directly or indirectly undertakes, finances, or directs election

12 activity or ballot issue activity in the state of Montana is conclusively considered to be transacting business in

13 this state.

14 (b) "Artificial person powers" means powers necessary or convenient to carry out lawful business

15 or charitable purposes, excluding any power to directly or indirectly engage in election activity or ballot issue

16 activity.

17 (c) (i) "Ballot issue activity" means paying, contributing, or expending money or anything of value

18 to support or oppose a ballot issue or initiative.

19 (ii) The term does not include any bona fide news story, commentary, or editorial distributed

20 through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or

21 other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a

22 political party, a political committee, or a candidate.

23 (d) "Charter privilege" means any benefit to an artificial person that exists only because the state of

24 Montana confers it, such as, without limitation, limited liability, perpetual duration, succession in its corporate

25 name, and tax credits and abatements.

26 (e) (i) "Election activity" means paying, contributing, or expending money or anything of value to

27 support or oppose a candidate, a political party, or a political committee.

28 (ii) The term does not include any bona fide news story, commentary, or editorial distributed

1 through the facilities of a broadcasting station or of any print, online, or digital newspaper, magazine, blog, or
2 other periodical publication, unless the broadcasting, print, online, or digital facility is owned or controlled by a
3 political party, a political committee, or a candidate.

4 (f) "Foreign entity" means an artificial person that is organized or exists under the laws of a
5 jurisdiction other than the state of Montana.

6
7 **NEW SECTION. Section 2 Severability.** If any provision of [this act], or its application to any person
8 or circumstance, is invalid, the remaining provisions and applications that are severable remain in effect. In
9 such event, no prior grant of corporate powers may be revived or reinstated, nor shall any court construe [this
10 act] to authorize broader powers than are expressly conferred in [this act].

11
12 **NEW SECTION. Section 3 Effective date.** If approved by the electorate, [this act] is effective
13 January 1, 2027.

14 - END -

APPENDIX C
PROPOSED TEXT EDITS

BALLOT LANGUAGE FOR CONSTITUTIONAL INITIATIVE NO. *** (CI-***)

CONSTITUTIONAL INITIATIVE NO. ***

A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

CI ____ would ~~amend~~add a new section to Article XIII of the Montana Constitution to ~~redefine~~define the powers of artificial ~~“persons,”~~persons, including corporations.~~.- It defines their powers as to~~ only those the constitution expressly grants and ~~provides~~provide that artificial persons have no power to spend money or anything of value on elections or ballot issues. ~~It-~~The initiative affirms that the people of Montana ~~never intended~~did not intend for artificial persons to have the power to spend on elections or ballot issues. CI ____ provides that actions beyond those expressly granted powers are void. The initiative ~~permits~~ provides that political committees may be granted the power to spend on elections and ballot issues. It allows enforcement through forfeiture of state-conferred privileges. The initiative includes a severability clause that ensures that valid portions of the initiative remain effective even if other parts are invalidated.

☐ YES on Constitutional Initiative CI ____

☐ ~~No~~NO on Constitutional Initiative CI ____

APPENDIX D
CHANGES ACCEPTED

BALLOT LANGUAGE FOR CONSTITUTIONAL INITIATIVE NO. * (CI-***)**

CONSTITUTIONAL INITIATIVE NO. ***

A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

CI ____ would add a new section to Article XIII of the Montana Constitution to define the powers of artificial persons, including corporations, to only those the constitution expressly grants and provide that artificial persons have no power to spend money or anything of value on elections or ballot issues. The initiative affirms that the people of Montana did not intend for artificial persons to have the power to spend on elections or ballot issues. CI ____ provides that actions beyond those expressly granted powers are void. The initiative provides that political committees may be granted the power to spend on elections and ballot issues. It allows enforcement through forfeiture of state-conferred privileges. The initiative includes a severability clause that ensures that valid portions of the initiative remain effective even if other parts are invalidated.

☐ YES on Constitutional Initiative CI ____

☐ NO on Constitutional Initiative CI ____

EXHIBIT 5

Transparent Election Initiative's Response to
Legislative Services Division

Cochenour Law Office, PLLC

September 5, 2025

Andria Hardin
Legislative Attorney
Montana Legislature, Legislative Services Division
PO Box 201706
Helena, MT 59620-1706

SENT VIA EMAIL: andria.hardin@legmt.gov

Re: Legislative Services Division Review of Ballot Issue #4, a Constitutional Initiative Defining the Powers of an Artificial Person

Dear Ms. Hardin:

Thank you for your August 15, 2025, letter reviewing the proposed constitutional initiative regarding the powers of an artificial person. The initiative proponents have reviewed the Legislative Services Division's (Division) recommendations, and we are providing this written response in accordance with § 13-27-225(2), MCA, to notify the Division whether the suggestions are being accepted, rejected, or modified.

I. Stylistic and drafting suggestions.

We are accepting most of the Division's stylistic edits and reformatting recommendations to the text of the initiative, including the reorganization of definitions and revisions made to conform with the Bill Drafting Manual.

The one suggested change to the initiative text that the proponents are rejecting is the suggested deletion of the language "ultra vires and" from subsection (5). We believe this change alters the substantive meaning of the initiative rather than serving a purely stylistic function. For that reason, the original wording in that portion of the text is being retained.

As for the Statement of Purpose and Implication, we are accepting all the Division's suggestions with one exception, which is to retain the word "as" instead of the suggested word "to" in the first sentence of the Statement. We also intend to modify

the last sentence of the Statement by deleting the word “even” from the last sentence. This is stylistic modification only. Here is the text with the updated language:

The initiative includes a severability clause that ensures that valid portions of the initiative remain effective ~~even~~ if other parts are invalidated.

II. Modification based on substantive considerations.

Thank you for highlighting potential substantive concerns. The first issue the Division raised was a potential vagueness concern about what constitutes lawful business or charitable purposes under Montana law. The Division suggested adding text that authorizes the Legislature to define necessary powers.

The phrase “powers necessary or convenient to carry out lawful business or charitable purposes” is drawn from § 35-14-302, MCA, which already defines corporate powers in those terms and then provides a non-exhaustive list of examples. The initiative’s use of the same phrase was intended to refer to this familiar statutory framework, with the critical difference that it constitutionalizes an exclusion for election and ballot-issue spending. In that sense, the measure narrows rather than broadens existing law and does so in a form voters and courts will recognize as structurally consistent with Montana practice.

To add clarity, however, we are following the Division’s suggestion and are adding the language “as the legislature may provide” to subsection 6(b). Here is the text with the updated language:

(b) “Artificial person powers” means powers necessary or convenient to carry out lawful business or charitable purposes, as the legislature may provide, excluding any power to directly or indirectly engage in election activity or ballot issue activity.

The second issue raised was the “separate vote” requirement for constitutional initiatives. The Division suggested reviewing the proposed initiative to ensure that the provisions are “closely related” as that term has been interpreted by the Montana Supreme Court.

We appreciate the Division flagging the separate-vote requirement in Article XIV, section 11, and we have drafted the initiative carefully with that concern in mind. Under *Mont. Ass’n of Counties v. State*, 2017 MT 267, 389 Mont. 183, 404 P.3d 733, the test is whether the provisions are closely related in four respects. First, they are facially related: each clause concerns the definition of corporate powers. Second, they all amend a single constitutional section—a new Section 8 of Article XIII. Third, the historical treatment of corporate powers has been as a unified subject, with revocation, regrant, and limitations all arising under the same statutory and constitutional framework. Fourth, the provisions are qualitatively similar in effect,

each operating on corporate capacity and none altering other substantive or procedural law. The revocation of existing powers and their selective regrant are structurally important to make the exclusion of election and ballot-issue powers effective and unambiguous. Following additional review, we do not believe the initiative violates the separate-vote requirement.

I trust this response satisfies the requirements of § 13-27-225(2), MCA. Please let me know if any further clarification or action is needed on my part. Thank you again for your assistance and for the valuable input provided during this process.

Sincerely,



Matthew T. Cochenour
Cochenour Law Office, PLLC

EXHIBIT 6

Secretary of State's Referral to Attorney General
and Budget Director

(Internally referenced correspondence and
duplicative exhibits (Exs. 1 and 4) omitted)

Matthew Cochenour

From: Dagnall, Ray <RDagnall@mt.gov>
Sent: Monday, September 8, 2025 1:16 PM
To: Mead, Brent; Sassano, Amy
Cc: Itzel, Brandy; Standish, Rochell; Davis, Evelyn; Osmundson, Ryan; Matthew Cochenour
Subject: Ballot Issue #4
Attachments: 3b. Submitter response to SOS.msg; [EXTERNAL] Ballot Issue #4 -- Legislative Services Division Response; Referral Letter from SOS.pdf

Good afternoon, OBPP and AG offices:

It is the Montana Secretary of State's Office's responsibility to refer to you, as prescribed in 13-27-218(4) MCA, copies of the proposed ballot initiatives that are submitted to our office.

Attached is the email provided by the submitter of **Ballot Issues #4** following Legislative Services Division's review. Also attached is the Legislative Services Division's review (second attached email) and a referral letter from our office. Please let us know if you have any questions.

Regards



Ray Dagnall | Elections & Voter Services Specialist
Montana Secretary of State, Christi Jacobsen
State Capitol Building
Helena, MT 59601
PHONE 406.444.9009

[website](#) | [email](#) | [map](#)



CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE



September 8, 2025,

Honorable Austin Knudsen
Justice Building
Helena, MT 59620

Dear Attorney General Knudsen:

The Secretary of State's office has the official responsibility to refer to you, as prescribed in § 13-27-218(4), MCA, the proposed issue and statements that are submitted to this office. Enclosed for your review are Ballot Issue #4, submitted by:

Matthew T Cochenour
7 W 6th Ave. Ste #4F, Helena, MT 59624
(406) 422-8716
matt@cochenourlawoffice.com

Ballot Issue #4: "An act that would add a new section to Article XIII of the Montana Constitution to define the powers of artificial persons, including corporations, as only those the constitution expressly grants and provide that artificial persons have no power to spend money or anything of value on elections or ballot issues. The initiative affirms that the people of Montana did not intend for artificial persons to have the power to spend on elections or ballot issues. This act provides that actions beyond those expressly granted powers are void. The initiative provides that political committees may be granted the power to spend on elections and ballot issues. It allows enforcement through forfeiture of state-conferred privileges. The initiative includes a severability clause that ensures that valid portions of the initiative remain effective if other parts are invalidated."

Also enclosed are copies of the Legislative Services recommendations and related correspondence. Pursuant to § 13-27-218, MCA, (7) Within 30 days after receipt of the fiscal note determination from the budget director, the attorney general shall forward to the secretary of state an opinion as to the issue's legal sufficiency and other items required by 13-27-226. If you have any questions, please contact the Secretary of State's office at (406) 444-9608 or soselections@mt.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Dagnall".

Ray Dagnall
Elections Specialist, Elections and Voter Services Division

Sent by electronic mail

EXHIBIT 7

Budget Director's Purported Fiscal Note

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA




GREG GIANFORTE
GOVERNOR

PO Box 200802
HELENA, MONTANA 59620-0802

M E M O R A N D U M

TO: Brent Mead, Deputy Solicitor General
Office of Montana Attorney General Austin Knudsen

FROM: Ryan Osmundson, Director
Office of Budget and Program Planning 

RE: Fiscal note for initiative Ballot Issue #4

DATE: September 24, 2025

In accordance with section 13-27-312, MCA, we are submitting the attached fiscal note for an initiative Ballot Issue #4.

Please contact Amy Sassano if you have questions regarding the fiscal note.

c: Dana Corson, Director
Elections & Voter Services
Secretary of State



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill information:

Ballot Issue No.4 – New Section Redefining the Powers of Artificial Persons

Status: Proposal for a Constitutional Initiative

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$96,000 *	\$97,440	\$98,902
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>(\$96,000)</u>	<u>(\$97,440)</u>	<u>(\$98,902)</u>

Description of fiscal impact: This ballot initiative defines the powers of artificial persons, including corporations, as only those the constitution expressly grants and defines that artificial persons have no power to spend money or anything of value on elections or ballot issues. The costs would primarily be for personnel costs to enforce the issue. *If litigation were to occur, costs are estimated at \$50,000 to \$500,000 based on past litigation issues.

FISCAL ANALYSIS

Assumptions:

- Montana's Commissioner of Political Practices (COPP) presumes that enforcement authority for the provisions contained within Ballot Issue #4 would be delegated, in whole or significant part, to COPP. It is assumed that Ballot Issue #4 would take effect on January 1, 2027 and so would likely affect COPP fiscally beginning in FY 2027.
- COPP assumes it would need to hire an additional .50 FTE or more employees or the contract equivalent, to assist with reviewing, determining, and resolving formal complaints including agency-initiated enforcement specific to Ballot Issue #4. COPP initially estimates these costs to be \$96,000.00 for a 0.50 Lawyer 2 position

Fiscal Note Request – As Introduced*(continued)*

for salary and benefits. For FY 2027, office and computer package would be \$3,000. A 1.5% inflation rate is assumed for the 2029 Biennium costs.

3. COPP also assumes that the constitutionality of Ballot Issue #4 would be challenged in court and that the agency would be defendant in any such legal challenge. Based on past challenges related to complex constitutional litigation, COPP assumes costs would range from \$50,000 to \$500,000.00. The agency may require an additional, large appropriation depending on the length and complexity of any potential litigation.
4. If enforcement authority is not delegated to COPP but is instead granted to other authorities, Ballot Issue #4 would be unlikely to have any fiscal impact on the agency. While it may require some minor changes to COPP's existing training materials and programs, the agency expects these could be handled under existing staff and budget.

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	0.50	0.50	0.50
<u>Expenditures:</u>				
Personal Services	\$0	\$75,000	\$76,125	\$77,267
Operating Expenses	\$0	\$3,000	\$0	\$0
Equipment	\$0	\$0	\$0	\$0
Benefits	\$0	\$21,000	\$21,315	\$21,635
TOTAL Expenditures	<u>\$0</u>	<u>\$99,000</u>	<u>\$97,440</u>	<u>\$98,902</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	<u>\$0</u>	<u>\$99,000</u>	<u>\$97,440</u>	<u>\$98,902</u>
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$99,000</u>	<u>\$97,440</u>	<u>\$98,902</u>
<u>Revenues:</u>				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	(\$99,000)	(\$97,440)	(\$98,902)

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date

CERTIFICATE OF SERVICE

I, Matthew Thompson Cochenour, hereby certify that I have served true and accurate copies of the foregoing Petition - Writ to the following on 11-03-2025:

Brent A. Mead (Govt Attorney)
215 North Sanders
Helena MT 59601
Representing: Montana Attorney General
Service Method: eService

Austin Miles Knudsen (Govt Attorney)
215 N. Sanders
Helena MT 59620
Representing: Montana Attorney General, Montana Secretary of State
Service Method: eService

Austin Markus James (Govt Attorney)
1301 E 6th Ave
Helena MT 59601
Representing: Montana Secretary of State
Service Method: eService

Electronically Signed By: Matthew Thompson Cochenour
Dated: 11-03-2025