

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 09-0773.01 Ed DeCecco

HOUSE BILL 09-1326

HOUSE SPONSORSHIP

Carroll T. and Court, Apuan, Benefield, Casso, Curry, Ferrandino, Fischer, Green, Hullinghorst, Kefalas, Kerr A., Levy, May, McCann, McFadyen, Merrifield, Middleton, Miklosi, Peniston, Pommer, Ryden, Scanlan, Schafer S., Solano, Stephens, Todd, Vigil

SENATE SPONSORSHIP

Shaffer B., Bacon, Boyd, Groff, Heath, Penry, Williams

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE INTEGRITY OF THE STATEWIDE CITIZEN-INITIATED**
102 **PETITION PROCESS, AND MAKING AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

With respect to the form of a ballot question submitted to a vote of the people, requires a ballot issue changing the state constitution to be referred to as an "amendment" and a ballot issue changing the Colorado Revised Statutes to be referred to as a "proposition". Requires notice of such terminology to be printed on the official ballot.

Requires a ballot petition, including any signature addendums, to be filed with the secretary of state 3 weeks earlier. Makes the deadline

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 14, 2009

for the last title board meeting prior to an election one month earlier.

Permits a registered elector who signs a petition to withdraw his or her signature by filing a written request with the secretary of state on or before the date the petition is filed with the secretary.

Adds a notice to the top of each page of an initiative petition that a signature indicates support for the placement of the measure on the ballot as a change to either the state constitution or the Colorado Revised Statutes, as applicable, and that, if a sufficient number of registered electors sign the petition, the measure will appear on the ballot.

With respect to circulators, notaries public, and the notarized affidavit that is attached to a petition:

- ! Requires the circulator to affirm that he or she understands the consequences for violating petition laws and for failing to be available in person or by deposition at a protest.
- ! Prohibits a notary public from notarizing an affidavit unless the circulator is in the physical presence of the notary public, the circulator has dated the affidavit and fully completed all the personal information on the affidavit, and the circulator has presented an acceptable form of identification.
- ! Requires the notary public to specify the form of identification that the circulator presented on a blank line included on the affidavit form.
- ! Requires the date signed by a circulator and the notary public to be the same.
- ! Establishes that the date signed by a notary public will not cure a circulator's failure to sign the affidavit.
- ! Prohibits the secretary of state from accepting any petition section that does not have a valid notarized affidavit that complies with all of the statutory requirements related thereto.
- ! Requires a circulator to appear at any petition protest in person, by telephone, or by any other means permitted under the Colorado rules of civil procedure, and invalidates a petition section if a circulator fails to appear at certain protests.
- ! Requires the proponents of a petition or an issue committee acting on behalf of the proponents to maintain a list of the names and addresses of all their circulators and notaries public and the petition section numbers that each circulated or notarized and to file such list with the secretary of state along with the petition, at which time the list shall be a public record.
- ! Requires the secretary of state to prepare the list if one is not received from the proponents and to charge the

- proponents a fee for such preparation.
- ! Requires a circulator who collects more than 100 signatures for any petition to receive training related to potential fraudulent activities in petition circulation.
- ! Invalidates all petition sections circulated in whole or in part by anyone other than the circulator who signs the affidavit attached to the petition sections.
- ! Permits a circulator who is not present in the state to testify by telephone or any other means permitted under the Colorado rules of civil procedure.
- ! Requires the proponents of a petition or an issue committee acting on behalf of the proponents to file the dates of circulation of all paid circulators, the total hours that each circulator was paid, and the gross amount of wages for such work.

After a statement of sufficiency, requires the secretary of state to make a petition available to the public for copying upon request.

Establishes that a district court shall have jurisdiction to consider a protest challenging the secretary of state's statement of a petition's sufficiency without further agency action. Clarifies that the grounds for challenging individual signatures or petition sections shall include fraud or violations of the laws relating to petitions committed by any person involved in the petition circulation process, the use of a petition form that does not comply with the provisions of the act, and any improprieties related to the statutorily prescribed duties by a circulator or notary public. Permits a district court to consider all signatures in a random sample if a protest is limited to an allegation that there were defects in the secretary of state's statement of sufficiency based on a random sample. Permits attorney fees and costs to be sought if the district court determines that there are invalid signatures or petition sections as a result of fraud. Requires attorney fees and costs to be awarded if a protest or defense is determined to be substantially frivolous, substantially groundless, or substantially vexatious.

Creates new criminal violations for unlawful acts related to initiative petitions.

Establishes that the deadline for a designated representative of the proponents of an initiative petition to withdraw the petition from consideration as a ballot issue is 27 days earlier than under current law.

Requires a petition entity to be licensed by the secretary of state. Prohibits the secretary of state from issuing a license to a petition entity unless:

- ! The secretary of state finds that the petition entity's record of petition circulation is consistent with the prevention of fraud in the state's petition circulation process;
- ! The petition entity agrees that all circulators shall not be

- ! paid on a per signature or petition section basis; and
- ! A current representative of the petition entity has completed training requirements related to potential fraudulent activities in petition circulation.

Requires a petition entity to register with the secretary of state by providing the secretary of state the:

- ! Ballot title of any proposed measure for which a petition will be circulated by circulators coordinated or paid by the petition entity;
- ! Current name, address, telephone number, and electronic mail address of the petition entity; and
- ! Name and signature of the designated agent of the petition entity for the proposed measure.

At the request of the secretary of state, requires the petition entity to provide documentation demonstrating that it is not paying circulators on a per signature or petition section basis. Requires the secretary of state to revoke a license if the petition entity authorized or knowingly permitted certain activities related to ballot petitions. Requires the petition entity to pay a license fee in an amount determined by the secretary of state.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 1-5-407 (5), (5.3), and (5.4), Colorado Revised
3 Statutes, are amended to read:

4 **1-5-407. Form of ballots.** (5) (a) Whenever the approval of a
5 ballot issue or ballot question is submitted to the vote of the people, the
6 ballot issue or question shall be printed upon the ballot following the lists
7 of candidates. ~~Constitutional issues~~ INITIATED AMENDMENTS shall be
8 printed first, followed by ~~statewide issues and questions~~ REFERRED
9 AMENDMENTS, INITIATED PROPOSITIONS, REFERRED PROPOSITIONS, county
10 issues and questions, municipal issues and questions, school district
11 issues and questions, ballot issues and questions for other political
12 subdivisions which are in more than one county, and then ballot issues
13 and questions for other political subdivisions which are wholly
14 within a county. ~~The measures in each category shall be placed in the~~

1 following order: Measures to increase taxes; measures to retain revenues
2 in excess of a district's fiscal year spending limit; measures to increase
3 debt; citizen petitions; and referred measures.

4 (5.3) (a) Commencing with the general election held in November
5 2000 NOVEMBER 2010, each statewide measure initiated by the people
6 THAT IS A PROPOSED CHANGE TO THE STATE CONSTITUTION shall be
7 numbered consecutively in regular numerical order beginning with the
8 number twenty SIXTY. Such consecutive numbering of measures shall
9 continue at any odd-year or general election held after such election at
10 which any such measure is on the ballot beginning with the number
11 following the highest number utilized in the previous election until the
12 number ninety-nine is utilized at an election for any such measure. Such
13 measures shall again be numbered consecutively in regular numerical
14 order beginning with the number one and in accordance with this
15 subsection (5.3) PARAGRAPH (a) following the utilization of the number
16 ninety-nine for any such measure. The secretary of state may promulgate
17 rules as may be necessary to administer this subsection (5.3) including,
18 but not limited to, rules specifying the grouping of such measures for
19 purposes of such numbering or reserving specific sequences of numbers
20 for certain categories of measures PARAGRAPH (a). Such rules shall be
21 promulgated in accordance with article 4 of title 24, C.R.S.

22 (b) COMMENCING WITH THE GENERAL ELECTION HELD IN
23 NOVEMBER 2010, EACH STATEWIDE MEASURE INITIATED BY THE PEOPLE
24 THAT IS A PROPOSED CHANGE TO THE COLORADO REVISED STATUTES
25 SHALL BE NUMBERED CONSECUTIVELY IN REGULAR NUMERICAL ORDER
26 BEGINNING WITH THE NUMBER ONE HUNDRED ONE. SUCH CONSECUTIVE
27 NUMBERING OF MEASURES SHALL CONTINUE AT ANY ODD-YEAR OR

1 GENERAL ELECTION HELD AFTER SUCH ELECTION AT WHICH ANY SUCH
2 MEASURE IS ON THE BALLOT BEGINNING WITH THE NUMBER FOLLOWING
3 THE HIGHEST NUMBER UTILIZED IN THE PREVIOUS ELECTION UNTIL THE
4 NUMBER ONE HUNDRED NINETY-NINE IS UTILIZED AT AN ELECTION FOR
5 ANY SUCH MEASURE. SUCH MEASURES SHALL AGAIN BE NUMBERED
6 CONSECUTIVELY IN REGULAR NUMERICAL ORDER BEGINNING WITH THE
7 NUMBER ONE HUNDRED ONE AND IN ACCORDANCE WITH THIS PARAGRAPH
8 (B) FOLLOWING THE UTILIZATION OF THE NUMBER ONE HUNDRED
9 NINETY-NINE FOR ANY SUCH MEASURE. THE SECRETARY OF STATE MAY
10 PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER THIS
11 PARAGRAPH (b). SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE
12 WITH ARTICLE 4 OF TITLE 24, C.R.S.

13 (5.4) (a) Commencing with the general election held in ~~November~~
14 ~~2004~~ NOVEMBER 2010, each statewide measure referred to the people by
15 the general assembly THAT IS A PROPOSED CHANGE TO THE STATE
16 CONSTITUTION shall be lettered consecutively in regular alphabetical order
17 beginning with the ~~letter A~~ LETTER P. The consecutive lettering of SUCH
18 statewide referred measures shall continue at any odd-year or general
19 election held after the election at which any statewide referred measure
20 is on the ballot beginning with the letter following the last letter utilized
21 in the previous election until the letter Z is utilized at an election for SUCH
22 a statewide referred measure. SUCH statewide referred measures shall
23 again be lettered consecutively in regular alphabetical order beginning
24 with the letter A and in accordance with this ~~subsection (5.4)~~ PARAGRAPH
25 (a) following the utilization of the letter Z for any SUCH statewide referred
26 measure. The secretary of state may promulgate rules as may be
27 necessary to administer this ~~subsection (5.4)~~ including but not limited to

1 rules specifying the grouping of statewide referred measures for purposes
2 of lettering or reserving specific sequences of letters for certain categories
3 of measures PARAGRAPH (a). Any rules shall be promulgated in
4 accordance with article 4 of title 24, C.R.S.

5 (b) COMMENCING WITH THE GENERAL ELECTION HELD IN
6 NOVEMBER 2010, EACH STATEWIDE MEASURE REFERRED TO THE PEOPLE
7 BY THE GENERAL ASSEMBLY THAT IS A PROPOSED CHANGE TO THE
8 COLORADO REVISED STATUTES SHALL BE DOUBLE-LETTERED
9 CONSECUTIVELY IN REGULAR ALPHABETICAL ORDER BEGINNING WITH THE
10 LETTERS AA. THE CONSECUTIVE LETTERING OF SUCH STATEWIDE
11 REFERRED MEASURES SHALL CONTINUE AT ANY ODD-YEAR OR GENERAL
12 ELECTION HELD AFTER THE ELECTION AT WHICH ANY STATEWIDE
13 REFERRED MEASURE IS ON THE BALLOT BEGINNING WITH THE LETTERS
14 FOLLOWING THE LAST LETTERS UTILIZED IN THE PREVIOUS ELECTION UNTIL
15 THE LETTERS ZZ ARE UTILIZED AT AN ELECTION FOR SUCH A STATEWIDE
16 REFERRED MEASURE. SUCH STATEWIDE REFERRED MEASURES SHALL
17 AGAIN BE LETTERED CONSECUTIVELY IN REGULAR ALPHABETICAL ORDER
18 BEGINNING WITH THE LETTERS AA AND IN ACCORDANCE WITH THIS
19 PARAGRAPH (b) FOLLOWING THE UTILIZATION OF THE LETTERS ZZ FOR ANY
20 SUCH STATEWIDE REFERRED MEASURE. THE SECRETARY OF STATE MAY
21 PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER THIS
22 PARAGRAPH (b). ANY RULES SHALL BE PROMULGATED IN ACCORDANCE
23 WITH ARTICLE 4 OF TITLE 24, C.R.S.

24 (b) BEGINNING WITH THE 2010 GENERAL ELECTION:

25 (I) EACH PROPOSED CHANGE TO THE STATE CONSTITUTION,
26 WHETHER INITIATED BY THE PEOPLE OR REFERRED TO THE PEOPLE BY THE
27 GENERAL ASSEMBLY, SHALL BE IDENTIFIED ON THE BALLOT AS AN

1 "AMENDMENT"; AND

2 (II) EACH PROPOSED CHANGE TO THE COLORADO REVISED
3 STATUTES, WHETHER INITIATED BY THE PEOPLE OR REFERRED TO THE
4 PEOPLE BY THE GENERAL ASSEMBLY, SHALL BE IDENTIFIED ON THE BALLOT
5 AS A "PROPOSITION".

6 **SECTION 2.** 1-40-101, Colorado Revised Statutes, is amended
7 to read:

8 **1-40-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 DECLARES THAT it is not the intention of this article to limit or abridge in
10 any manner the powers reserved to the people in the initiative and
11 referendum, but rather to properly safeguard, protect, and preserve
12 inviolate for them these modern instrumentalities of democratic
13 government.

14 (2) (a) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND
15 DECLARES THAT:

16 (I) THE INITIATIVE PROCESS RELIES UPON THE TRUTHFULNESS OF
17 CIRCULATORS WHO OBTAIN THE PETITION SIGNATURES TO QUALIFY A
18 BALLOT ISSUE FOR THE STATEWIDE BALLOT AND THAT DURING THE 2008
19 GENERAL ELECTION, THE HONESTY OF MANY PETITION CIRCULATORS WAS
20 AT ISSUE BECAUSE OF PRACTICES THAT INCLUDED: USING THIRD PARTIES
21 TO CIRCULATE PETITION SECTIONS, EVEN THOUGH THE THIRD PARTIES DID
22 NOT SIGN THE CIRCULATOR'S AFFIDAVIT, WERE NOT OF LEGAL AGE TO ACT
23 AS A CIRCULATOR, AND WERE PAID IN CASH TO CONCEAL THEIR IDENTITIES;
24 PROVIDING FALSE NAMES OR RESIDENTIAL ADDRESSES IN THE
25 CIRCULATOR'S AFFIDAVITS, A PRACTICE THAT PERMITS CIRCULATORS TO
26 EVADE DETECTION BY PERSONS CHALLENGING THE SECRETARY OF STATE'S
27 SUFFICIENCY DETERMINATION; CIRCULATING PETITION SECTIONS WITHOUT

1 EVEN A RUDIMENTARY UNDERSTANDING OF THE LEGAL REQUIREMENTS
2 RELATING TO PETITION CIRCULATION; AND OBTAINING THE SIGNATURES OF
3 PERSONS WHO PURPORTED TO NOTARIZE CIRCULATOR AFFIDAVITS, EVEN
4 THOUGH SUCH PERSONS WERE NOT LEGALLY AUTHORIZED TO ACT AS
5 NOTARIES OR ADMINISTER THE REQUIRED OATH;

6 (II) THE PER SIGNATURE COMPENSATION SYSTEM USED BY MANY
7 PETITION ENTITIES PROVIDES AN INCENTIVE FOR CIRCULATORS TO COLLECT
8 AS MANY SIGNATURES AS POSSIBLE, WITHOUT REGARD FOR WHETHER ALL
9 PETITION SIGNERS ARE REGISTERED ELECTORS; AND

10 (III) MANY PETITION CIRCULATOR AFFIDAVITS ARE THUS
11 EXECUTED WITHOUT REGARD FOR SPECIFIC REQUIREMENTS OF LAW THAT
12 ARE DESIGNED TO ASSIST IN THE PREVENTION OF FRAUD, ABUSE, AND
13 MISTAKE IN THE INITIATIVE PROCESS.

14 (b) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND
15 DECLARES THAT:

16 (I) BECAUSE PETITION CIRCULATORS WHO RESIDE IN OTHER STATES
17 TYPICALLY LEAVE COLORADO IMMEDIATELY AFTER PETITIONS ARE
18 SUBMITTED TO THE SECRETARY OF STATE FOR VERIFICATION, A FULL AND
19 FAIR EXAMINATION OF FRAUD IN THE PETITION CIRCULATION PROCESS IS
20 FRUSTRATED, AND AS A RESULT, THE SECRETARY OF STATE HAS BEEN
21 FORCED TO GIVE EFFECT TO CERTAIN CIRCULATOR AFFIDAVITS THAT WERE
22 NOT PROPERLY VERIFIED AND THUS WERE NOT PRIMA FACIE EVIDENCE OF
23 THE VALIDITY OF PETITION SIGNATURES ON AFFECTED PETITION SECTIONS;
24 AND

25 (II) THE COURTS HAVE NOT HAD AUTHORITY TO EXERCISE
26 JURISDICTION OVER FRAUDULENT ACTS BY CIRCULATORS AND NOTARIES
27 PUBLIC IN CONNECTION WITH PETITION SIGNATURES REVIEWED AS PART OF

1 THE SECRETARY OF STATE'S RANDOM SAMPLE.

2 (c) THEREFORE, THE GENERAL ASSEMBLY FINDS, DETERMINES, AND
3 DECLARES THAT:

4 (I) AS A RESULT OF THE PROBLEMS IDENTIFIED IN PARAGRAPHS (a)
5 AND (b) OF THIS SUBSECTION (2), ONE OR MORE BALLOT MEASURES
6 APPEARED ON STATEWIDE BALLOTS IN ELECTIONS PRIOR TO AND
7 INCLUDING THE 2008 GENERAL ELECTION EVEN THOUGH SIGNIFICANT
8 NUMBERS OF THE UNDERLYING PETITION SIGNATURES WERE OBTAINED IN
9 DIRECT VIOLATION OF COLORADO LAW AND THE ACCURACY OF THE
10 SECRETARY OF STATE'S DETERMINATION OF SUFFICIENCY COULD NOT BE
11 FULLY EVALUATED BY THE DISTRICT COURT; AND

12 (II) FOR THE INITIATIVE PROCESS TO OPERATE AS AN HONEST
13 EXPRESSION OF THE VOTERS' RESERVED LEGISLATIVE POWER, IT IS
14 ESSENTIAL THAT CIRCULATORS TRUTHFULLY VERIFY ALL ELEMENTS OF
15 THEIR CIRCULATOR AFFIDAVITS AND MAKE THEMSELVES AVAILABLE TO
16 PARTICIPATE IN CHALLENGES TO THE SECRETARY OF STATE'S
17 DETERMINATION OF PETITION SUFFICIENCY.

18 **SECTION 3.** 1-40-102, Colorado Revised Statutes, is amended
19 BY THE ADDITION OF A NEW SUBSECTION to read:

20 **1-40-102. Definitions.** As used in this article, unless the context
21 otherwise requires:

22 (3.5) "CIRCULATOR" MEANS A PERSON WHO PRESENTS TO OTHER
23 PERSONS FOR POSSIBLE SIGNATURE A PETITION TO PLACE A MEASURE ON
24 THE BALLOT BY INITIATIVE OR REFERENDUM.

25 **SECTION 4.** 1-40-106 (1), Colorado Revised Statutes, is
26 amended to read:

27 **1-40-106. Title board - meetings - titles and submission clause.**

1 (1) For ballot issues, beginning with the first submission of a draft after
2 an election, the secretary of state shall convene a title board consisting of
3 the secretary of state, the attorney general, and the director of the office
4 of legislative legal services or the director's designee. The title board, by
5 majority vote, shall proceed to designate and fix a proper fair title for
6 each proposed law or constitutional amendment, together with a
7 submission clause, at public meetings to be held at the hour determined
8 by the title board on the first and third Wednesdays of each month in
9 which a draft or a motion for reconsideration has been submitted to the
10 secretary of state. To be considered at such meeting, a draft shall be
11 submitted to the secretary of state no later than 3 p.m. on the twelfth day
12 before the meeting at which the draft is to be considered by the title
13 board. The first meeting of the title board shall be held no sooner than
14 the first Wednesday in December after an election, and the last meeting
15 shall be held no later than the third Wednesday in ~~May~~ APRIL in the year
16 in which the measure is to be voted on.

17 **SECTION 5.** 1-40-107 (1) and (5), Colorado Revised Statutes,
18 are amended to read:

19 **1-40-107. Rehearing - appeal - fees - signing.** (1) Any person
20 presenting an initiative petition or any registered elector who is not
21 satisfied with a decision of the title board with respect to whether a
22 petition contains more than a single subject pursuant to section
23 1-40-106.5, or who is not satisfied with the titles and submission clause
24 provided by the title board and who claims that they are unfair or that they
25 do not fairly express the true meaning and intent of the proposed state law
26 or constitutional amendment may file a motion for a rehearing with the
27 secretary of state within seven days after the decision is made or the titles

1 and submission clause are set. The motion for rehearing shall be heard
2 at the next regularly scheduled meeting of the title board; except that, if
3 the title board is unable to complete action on all matters scheduled for
4 that day, consideration of any motion for rehearing may be continued to
5 the next available day, and except that, if the titles and submission clause
6 protested were set at the last meeting in ~~May~~ APRIL, the motion shall be
7 heard within forty-eight hours after the expiration of the seven-day period
8 for the filing of such motions.

9 (5) In the event a motion for rehearing is filed in accordance with
10 this section, the period for filing a petition in accordance with section
11 1-40-108 shall not begin until a final decision concerning the motion is
12 rendered by the title board or the Colorado supreme court; except that
13 under no circumstances shall the period for filing a petition be extended
14 beyond three months AND THREE WEEKS prior to the election at which the
15 petition is to be voted upon.

16 **SECTION 6.** 1-40-108 (1), Colorado Revised Statutes, is
17 amended to read:

18 **1-40-108. Petition - time of filing.** (1) No petition for any ballot
19 issue shall be of any effect unless filed with the secretary of state within
20 six months from the date that the titles and submission clause have been
21 fixed and determined pursuant to the provisions of sections 1-40-106 and
22 1-40-107 and unless filed with the secretary of state ~~within the time~~
23 ~~required by the state constitution~~ NO LATER THAN THREE MONTHS AND
24 THREE WEEKS before the election at which it is to be voted upon. A
25 petition for a ballot issue for the election to be held in November of
26 odd-numbered years shall be filed with the secretary of state ~~within the~~
27 ~~same time~~ NO LATER THAN THREE MONTHS AND THREE WEEKS before such

1 odd-year election. ~~as is required by the state constitution for issues to be~~
2 ~~voted on at the general election.~~ All filings under this section must be
3 made by 3 p.m. on the day of filing.

4 **SECTION 7.** 1-40-109 (3), Colorado Revised Statutes, is
5 amended to read:

6 **1-40-109. Signatures required - withdrawal.** (3) Any person
7 who is a registered elector may sign a petition for any ballot issue for
8 which the elector is eligible to vote. A REGISTERED ELECTOR WHO SIGNS
9 A PETITION MAY WITHDRAW HIS OR HER SIGNATURE FROM THE PETITION BY
10 FILING A WRITTEN REQUEST FOR SUCH WITHDRAWAL WITH THE SECRETARY
11 OF STATE AT ANY TIME ON OR BEFORE THE DAY THAT THE PETITION IS
12 FILED WITH THE SECRETARY OF STATE.

13 **SECTION 8.** 1-40-110 (1), Colorado Revised Statutes, is
14 amended to read:

15 **1-40-110. Warning - ballot title.** (1) At the top of each page of
16 every initiative or referendum petition section shall be printed, in a form
17 as prescribed by the secretary of state, the following:

18 **"WARNING:**
19 **IT IS AGAINST THE LAW:**
20 **For anyone to sign any initiative or referendum petition**
21 **with any name other than his or her own or to**
22 **knowingly sign his or her name more than once for the**
23 **same measure or to knowingly sign a petition when not**
24 **a registered elector who is eligible to vote on the**
25 **measure.**
26 **DO NOT SIGN THIS PETITION UNLESS YOU ARE**
27 **A REGISTERED ELECTOR AND ELIGIBLE TO**

1 **VOTE ON THIS MEASURE. TO BE A**
2 **REGISTERED ELECTOR, YOU MUST BE A**
3 **CITIZEN OF COLORADO AND REGISTERED TO**
4 **VOTE.**

5 **Before signing this petition, you are encouraged to read**
6 **the text or the title of the proposed initiative or referred**
7 **measure.**

8 **BY SIGNING THIS PETITION, YOU ARE INDICATING THAT**
9 **YOU WANT THIS MEASURE TO BE INCLUDED ON THE**
10 **BALLOT AS A PROPOSED CHANGE TO THE (COLORADO**
11 **CONSTITUTION/COLORADO REVISED STATUTES). IF A**
12 **SUFFICIENT NUMBER OF REGISTERED ELECTORS SIGN**
13 **THIS PETITION, THIS MEASURE WILL APPEAR ON THE**
14 **BALLOT AT THE NOVEMBER (YEAR) ELECTION."**

15 **SECTION 9.** 1-40-111 (2), Colorado Revised Statutes, is
16 amended, and the said 1-40-111 is further amended BY THE ADDITION
17 OF THE FOLLOWING NEW SUBSECTIONS, to read:

18 **1-40-111. Signatures - affidavits - notarization - list of**
19 **circulators and notaries.** (2) (a) To each petition section shall be
20 attached a signed, notarized, and dated affidavit executed by the person
21 who circulated the petition section, which shall include his or her printed
22 name, the address at which he or she resides, including the street name
23 and number, the city or town, the county, and the date he or she signed the
24 affidavit; that he or she has read and understands the laws governing the
25 circulation of petitions; that he or she was a resident of the state, a citizen
26 of the United States, and at least eighteen years of age at the time the
27 section of the petition was circulated and signed by the listed electors;

1 that he or she circulated the section of the petition; that each signature
2 thereon was affixed in the circulator's presence; that each signature
3 thereon is the signature of the person whose name it purports to be; that
4 to the best of the circulator's knowledge and belief each of the persons
5 signing the petition section was, at the time of signing, a registered
6 elector; and that he or she has not paid or will not in the future pay and
7 that he or she believes that no other person has paid or will pay, directly
8 or indirectly, any money or other thing of value to any signer for the
9 purpose of inducing or causing such signer to affix his or her signature to
10 the petition; THAT HE OR SHE UNDERSTANDS THAT HE OR SHE CAN BE
11 PROSECUTED FOR VIOLATING THE LAWS GOVERNING THE CIRCULATION OF
12 PETITIONS, INCLUDING THE REQUIREMENT THAT A CIRCULATOR
13 TRUTHFULLY COMPLETED THE AFFIDAVIT AND THAT EACH SIGNATURE
14 THEREON WAS AFFIXED IN THE CIRCULATOR'S PRESENCE; AND THAT HE OR
15 SHE UNDERSTANDS THAT FAILING TO MAKE HIMSELF OR HERSELF
16 AVAILABLE TO BE DEPOSED AND TO PROVIDE TESTIMONY IN THE EVENT OF
17 A PROTEST SHALL INVALIDATE THE PETITION SECTION IF IT IS CHALLENGED
18 ON THE GROUNDS OF CIRCULATOR FRAUD.

19 (b) (I) A NOTARY PUBLIC SHALL NOT NOTARIZE AN AFFIDAVIT
20 REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), UNLESS:

21 (A) THE CIRCULATOR IS IN THE PHYSICAL PRESENCE OF THE
22 NOTARY PUBLIC;

23 (B) THE CIRCULATOR HAS DATED THE AFFIDAVIT AND FULLY AND
24 ACCURATELY COMPLETED ALL OF THE PERSONAL INFORMATION ON THE
25 AFFIDAVIT REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
26 (2); AND

27 (C) THE CIRCULATOR PRESENTS A FORM OF IDENTIFICATION, AS

1 SUCH TERM IS DEFINED IN SECTION 1-1-104 (19.5). A NOTARY PUBLIC
2 SHALL SPECIFY THE FORM OF IDENTIFICATION PRESENTED TO HIM OR HER
3 ON A BLANK LINE, WHICH SHALL BE PART OF THE AFFIDAVIT FORM.

4 (II) AN AFFIDAVIT THAT IS NOTARIZED IN VIOLATION OF ANY
5 PROVISION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE
6 INVALID.

7 (III) IF THE DATE SIGNED BY A CIRCULATOR ON AN AFFIDAVIT
8 REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IS
9 DIFFERENT FROM THE DATE SIGNED BY THE NOTARY PUBLIC, THE
10 AFFIDAVIT SHALL BE INVALID. IF, NOTWITHSTANDING SUB-SUBPARAGRAPH
11 (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), A NOTARY PUBLIC
12 NOTARIZES AN AFFIDAVIT THAT HAS NOT BEEN DATED BY THE
13 CIRCULATOR, THE NOTARIZATION DATE SHALL NOT CURE THE
14 CIRCULATOR'S FAILURE TO SIGN THE AFFIDAVIT AND THE AFFIDAVIT SHALL
15 BE INVALID.

16 (c) The secretary of state shall ~~not accept for filing~~ REJECT any
17 section of a petition that does not have attached thereto ~~the~~ A VALID
18 notarized affidavit ~~required by this section~~ THAT COMPLIES WITH ALL OF
19 THE REQUIREMENTS SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS
20 SUBSECTION (2). Any signature added to a section of a petition after the
21 affidavit has been executed shall be invalid.

22 (3) (a) AS PART OF ANY COURT PROCEEDING OR HEARING
23 CONDUCTED BY THE SECRETARY OF STATE RELATED TO A PROTEST OF ALL
24 OR PART OF A PETITION SECTION, THE CIRCULATOR OF SUCH PETITION
25 SECTION SHALL BE REQUIRED TO MAKE HIMSELF OR HERSELF AVAILABLE
26 TO BE DEPOSED AND TO TESTIFY IN PERSON, BY TELEPHONE, OR BY ANY
27 OTHER MEANS PERMITTED UNDER THE COLORADO RULES OF CIVIL

1 PROCEDURE. EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS
2 SUBSECTION (3), THE PETITION SECTION THAT IS THE SUBJECT OF THE
3 PROTEST SHALL BE INVALID IF A CIRCULATOR FAILS TO COMPLY WITH THE
4 REQUIREMENT SET FORTH IN THIS PARAGRAPH (a) FOR ANY PROTEST THAT
5 INCLUDES AN ALLEGATION OF CIRCULATOR FRAUD THAT IS PLEAD WITH
6 PARTICULARITY REGARDING:

- 7 (I) FORGERY OF A REGISTERED ELECTOR'S SIGNATURE;
- 8 (II) CIRCULATION OF A PETITION SECTION, IN WHOLE OR PART, BY
9 ANYONE OTHER THAN THE PERSON WHO SIGNS THE AFFIDAVIT ATTACHED
10 TO THE PETITION SECTION;
- 11 (III) USE OF A FALSE CIRCULATOR NAME OR ADDRESS IN THE
12 AFFIDAVIT; OR
- 13 (IV) PAYMENT OF MONEY OR OTHER THINGS OF VALUE TO ANY
14 PERSON FOR THE PURPOSE OF INDUCING THE PERSON TO SIGN THE
15 PETITION.

16 (b) UPON THE FINDING BY A DISTRICT COURT OR THE SECRETARY
17 OF STATE THAT THE CIRCULATOR OF A PETITION SECTION IS UNABLE TO BE
18 DEPOSED OR TO TESTIFY AT TRIAL OR A HEARING CONDUCTED BY THE
19 SECRETARY OF STATE BECAUSE THE CIRCULATOR HAS DIED, BECOME
20 MENTALLY INCOMPETENT, OR BECOME MEDICALLY INCAPACITATED AND
21 PHYSICALLY UNABLE TO TESTIFY BY ANY MEANS WHATSOEVER, THE
22 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL NOT APPLY
23 TO INVALIDATE A PETITION SECTION CIRCULATED BY THE CIRCULATOR.
24 COMPLETING THE TRAINING REQUIRED PURSUANT TO SECTION 1-40-112
25 (3).

26 (4) THE PROPONENTS OF A PETITION OR AN ISSUE COMMITTEE
27 ACTING ON THE PROPONENTS' BEHALF SHALL MAINTAIN A LIST OF THE

1 NAMES AND ADDRESSES OF ALL CIRCULATORS WHO CIRCULATED PETITION
2 SECTIONS ON BEHALF OF THE PROPONENTS AND NOTARIES PUBLIC WHO
3 NOTARIZED PETITION SECTIONS ON BEHALF OF THE PROPONENTS AND THE
4 PETITION SECTION NUMBERS THAT EACH CIRCULATOR CIRCULATED AND
5 THAT EACH NOTARY PUBLIC NOTARIZED. A COPY OF THE LIST SHALL BE
6 FILED WITH THE SECRETARY OF STATE ALONG WITH THE PETITION. IF A
7 COPY OF THE LIST IS NOT FILED, THE SECRETARY OF STATE SHALL PREPARE
8 THE LIST AND CHARGE THE PROPONENTS A FEE, WHICH SHALL BE
9 DETERMINED AND COLLECTED PURSUANT TO SECTION 24-21-104 (3),
10 C.R.S., TO COVER THE COST OF THE PREPARATION. ONCE FILED OR
11 PREPARED BY THE SECRETARY OF STATE, THE LIST SHALL BE A PUBLIC
12 RECORD FOR PURPOSES OF ARTICLE 72 OF TITLE 24, C.R.S.

13 **SECTION 10.** 1-40-112, Colorado Revised Statutes, is amended
14 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
15 read:

16 **1-40-112. Circulators - requirements - training - rules.** (3) No
17 CIRCULATOR SHALL COLLECT MORE THAN ONE HUNDRED SIGNATURES FOR
18 ANY PETITION UNLESS THE CIRCULATOR FIRST SATISFIES THE TRAINING
19 REQUIREMENTS RELATED TO FRAUD, ABUSE, AND MISTAKE IN THE
20 PETITION CIRCULATION PROCESS, AS ESTABLISHED BY THE SECRETARY OF
21 STATE BY RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE
22 24, C.R.S. A CIRCULATOR MAY BE TRAINED EITHER BY THE SECRETARY OF
23 STATE OR BY ANY PERSON WHO HAS COMPLETED THE SECRETARY OF
24 STATE'S TRAINING. THE PROPONENTS OF ANY BALLOT PETITION
25 FOR WHICH CIRCULATORS OF PETITIONS CONTAINING MORE THAN ONE
26 HUNDRED SIGNATURES ARE TRAINED PURSUANT TO THIS SECTION SHALL
27 MAINTAIN, EITHER DIRECTLY OR THROUGH A PETITION ENTITY, RECORDS

1 THAT DOCUMENT THE DATE, TIME, AND PLACE OF EACH CIRCULATOR'S
2 TRAINING, AS WELL AS THE NAME AND ADDRESS OF THE INDIVIDUAL WHO
3 CONDUCTED THE TRAINING. THE SECRETARY OF STATE SHALL PROVIDE
4 TRAINING BY ANY MEANS, INCLUDING ELECTRONIC AND REMOTE ACCESS,
5 THAT ARE DEEMED EFFECTIVE BY THE SECRETARY OF STATE AND THAT
6 FACILITATE THE PROPONENTS' OR A PETITION ENTITY'S RECORD KEEPING
7 RESPONSIBILITIES UNDER THIS SUBSECTION (3). ANY SIGNATURE
8 COLLECTED IN VIOLATION OF THIS SUBSECTION (3) SHALL BE INVALID.

9 (4) IT SHALL BE UNLAWFUL FOR ANY PERSON TO PAY A CIRCULATOR
10 MORE THAN TWENTY PERCENT OF HIS OR HER COMPENSATION FOR
11 CIRCULATING PETITIONS ON A PER SIGNATURE OR PETITION SECTION BASIS.

12 **SECTION 11.** 1-40-113 (1), Colorado Revised Statutes, is
13 amended to read:

14 **1-40-113. Form - representatives of signers.** (1) Each section
15 of a petition shall be printed on a form as prescribed by the secretary of
16 state. No petition shall be printed, published, or otherwise circulated
17 unless the form and the first printer's proof of the petition have been
18 approved by the secretary of state. Each petition section shall designate
19 by name and mailing address two persons who shall represent the signers
20 thereof in all matters affecting the same. The secretary of state shall
21 assure that the petition contains only the matters required by this article
22 and contains no extraneous material. All sections of any petition shall be
23 prenumbered serially, and the circulation of any petition section described
24 by this article other than personally by a circulator is prohibited. ANY
25 PETITION SECTION CIRCULATED IN WHOLE OR IN PART BY ANYONE OTHER
26 THAN THE PERSON WHO SIGNS THE AFFIDAVIT ATTACHED TO THE PETITION
27 SECTION SHALL BE INVALID. Any petition section that fails to conform to

1 the requirements of this article or is circulated in a manner other than that
2 permitted in this article shall be invalid.

3 **SECTION 12.** 1-40-115 (2), Colorado Revised Statutes, is
4 amended to read:

5 **1-40-115. Ballot - voting - publication.** (2) (a) All ballot issues
6 shall be printed on the official ballot in that order, together with their
7 respective letters and numbers prefixed in bold-faced type. Each ballot
8 shall have the following explanation printed one time at the beginning of
9 such ballot issues: "Ballot issues referred by the general assembly or any
10 political subdivision are listed by letter, and ballot issues initiated by the
11 people are listed numerically. A BALLOT ISSUE LISTED AS AN
12 'AMENDMENT' PROPOSES A CHANGE TO THE COLORADO CONSTITUTION,
13 AND A BALLOT ISSUE LISTED AS A 'PROPOSITION' PROPOSES A CHANGE TO
14 THE COLORADO REVISED STATUTES. A 'yes' vote on any ballot issue is a
15 vote in favor of changing current law or existing circumstances, and a 'no'
16 vote on any ballot issue is a vote against changing current law or existing
17 circumstances." Each ballot title shall appear on the official ballot but
18 once. ~~and~~ FOR EACH BALLOT TITLE THAT IS AN AMENDMENT, THE
19 AMENDMENT NUMBER OR LETTER SHALL BE IMMEDIATELY FOLLOWED BY
20 THE DESCRIPTION "(CONSTITUTIONAL)". FOR EACH BALLOT TITLE
21 THAT IS A PROPOSITION, THE PROPOSITION NUMBER OR LETTERS SHALL BE
22 IMMEDIATELY FOLLOWED BY THE DESCRIPTION "(STATUTORY)". EACH
23 BALLOT TITLE shall be separated from the other ballot titles next to it by
24 heavy black lines and shall be followed by the words "yes" and "no" with
25 blank spaces to the right and opposite the same as follows:

26 **(HERE SHALL APPEAR THE**
27 **BALLOT TITLE IN FULL)**

1 YES _____ NO _____

2 (b) FOR PURPOSES OF PREPARING AN AUDIO BALLOT AS PART OF AN
3 ACCESSIBLE VOTING SYSTEM:

4 (I) IN LIEU OF THE PARENTHETICAL DESCRIPTION PRECEDING A
5 BALLOT TITLE THAT IS AN AMENDMENT REQUIRED BY PARAGRAPH (a) OF
6 THIS SUBSECTION (2), THE AUDIO BALLOT SHALL INCLUDE THE FOLLOWING:
7 "THE FOLLOWING BALLOT ISSUE PROPOSES A CHANGE TO THE COLORADO
8 CONSTITUTION."; AND

9 (II) IN LIEU OF THE PARENTHETICAL DESCRIPTION PRECEDING A
10 BALLOT TITLE THAT IS A PROPOSITION REQUIRED BY PARAGRAPH (a) OF
11 THIS SUBSECTION (2), THE AUDIO BALLOT SHALL INCLUDE THE FOLLOWING:
12 "THE FOLLOWING BALLOT ISSUE PROPOSES A CHANGE TO THE COLORADO
13 REVISED STATUTES."

14 **SECTION 13.** 1-40-117 (3) (b), Colorado Revised Statutes, is
15 amended to read:

16 **1-40-117. Statement of sufficiency - statewide issues.** (3) (b) In
17 the event the secretary of state issues a statement declaring that a petition,
18 having first been submitted with the required number of signatures,
19 appears not to have a sufficient number of valid signatures, the
20 representatives designated by the proponents pursuant to section 1-40-104
21 may cure the insufficiency by filing an addendum to the original petition
22 for the purpose of offering such number of additional signatures as will
23 cure the insufficiency. No addendum offered as a cure shall be considered
24 unless the addendum conforms to requirements for petitions outlined in
25 sections 1-40-110, 1-40-111, and 1-40-113, and unless the addendum is
26 filed with the secretary of state within the fifteen-day period after the
27 insufficiency is declared and unless filed with the secretary of state ~~within~~

1 ~~the time required by the state constitution~~ NO LATER THAN THREE MONTHS
2 AND THREE WEEKS before the election at which the initiative petition is to
3 be voted on. All filings under this paragraph (b) shall be made by 3 p.m.
4 on the day of filing. Upon submission of a timely filed addendum, the
5 secretary of state shall order the examination and verification of each
6 signature on the addendum. The addendum shall not be available to the
7 public for a period of up to ten calendar days for such examination. After
8 examining the petition, the secretary of state shall, within ten calendar
9 days, issue a statement as to whether the addendum cures the insufficiency
10 found in the original petition.

11 **SECTION 14.** 1-40-118 (1) and (2), Colorado Revised Statutes,
12 are amended, and the said 1-40-118 is further amended BY THE
13 ADDITION OF A NEW SUBSECTION, to read:

14 **1-40-118. Protest.** (1) A protest in writing, under oath, together
15 with three copies thereof, may be filed in the district court for the county
16 in which the petition has been filed by some registered elector, within
17 thirty days after the secretary of state issues a statement as to whether the
18 petition has a sufficient number of valid signatures, which statement shall
19 be issued no later than thirty calendar days after the petition has been
20 filed. If the secretary of state fails to issue a statement within thirty
21 calendar days, the petition shall be deemed sufficient. REGARDLESS OF
22 WHETHER THE SECRETARY OF STATE HAS ISSUED A STATEMENT OF
23 SUFFICIENCY OR IF THE PETITION IS DEEMED SUFFICIENT BECAUSE THE
24 SECRETARY OF STATE HAS FAILED TO ISSUE A STATEMENT OF SUFFICIENCY
25 WITHIN THIRTY CALENDAR DAYS, NO FURTHER AGENCY ACTION SHALL BE
26 NECESSARY FOR THE DISTRICT COURT TO HAVE JURISDICTION TO CONSIDER
27 THE PROTEST. During the period a petition is being examined by the

1 secretary of state for sufficiency, the petition shall not be available to the
2 public; except that such period shall not exceed thirty calendar days.
3 IMMEDIATELY AFTER THE SECRETARY OF STATE ISSUES A STATEMENT OF
4 SUFFICIENCY OR, IF THE PETITION IS DEEMED SUFFICIENT BECAUSE THE
5 SECRETARY OF STATE HAS FAILED TO ISSUE THE STATEMENT, AFTER THIRTY
6 CALENDAR DAYS, THE SECRETARY OF STATE SHALL MAKE THE PETITION
7 AVAILABLE TO THE PUBLIC FOR COPYING UPON REQUEST.

8 (2) (a) If the secretary of state conducted a random sample of the
9 petitions and did not verify each signature, the protest shall
10 ~~specifically allege~~ SET FORTH WITH PARTICULARITY the defects in the
11 procedure used by the secretary of state in the verification of the petition
12 or the grounds for challenging individual signatures OR PETITION
13 SECTIONS, AS WELL AS INDIVIDUAL SIGNATURES OR PETITIONS SECTIONS
14 PROTESTED. If the secretary of state verified each name on the petition
15 sections, the protest shall set forth with particularity the grounds of the
16 protest and the INDIVIDUAL signatures OR PETITION SECTIONS protested.

17 (b) REGARDLESS OF THE METHOD USED BY THE SECRETARY OF
18 STATE TO VERIFY SIGNATURES, THE GROUNDS FOR CHALLENGING
19 INDIVIDUAL SIGNATURES OR PETITION SECTIONS PURSUANT TO PARAGRAPH
20 (a) OF THIS SUBSECTION (2) SHALL INCLUDE, BUT ARE NOT LIMITED TO,
21 FRAUD OR VIOLATIONS OF THIS ARTICLE COMMITTED BY ANY PERSON
22 INVOLVED IN THE PETITION CIRCULATION PROCESS, THE USE OF A PETITION
23 FORM THAT DOES NOT COMPLY WITH THE PROVISIONS OF THIS ARTICLE,
24 AND ANY IMPROPRIETIES RELATED TO THE STATUTORILY PRESCRIBED
25 DUTIES BY A CIRCULATOR OR NOTARY PUBLIC.

26 (c) IF THE PROTEST IS LIMITED TO AN ALLEGATION THAT THERE
27 WERE DEFECTS IN THE SECRETARY OF STATE'S STATEMENT OF SUFFICIENCY

1 BASED ON A RANDOM SAMPLE TO VERIFY SIGNATURES, THE DISTRICT
2 COURT MAY REVIEW ALL SIGNATURES IN THE RANDOM SAMPLE.

3 (d) No signature may be challenged that is not identified in the
4 protest by section number, line number, name, and reason why the
5 secretary of state is in error. If any party is protesting the finding of the
6 secretary of state regarding the registration of a signer, the protest shall be
7 accompanied by an affidavit of the elector or a copy of the election record
8 of the signer.

9 (2.5) (a) IF A DISTRICT COURT FINDS THAT THERE ARE INVALID
10 SIGNATURES OR PETITION SECTIONS AS A RESULT OF FRAUD COMMITTED BY
11 ANY PERSON INVOLVED IN THE PETITION CIRCULATION PROCESS, THE
12 REGISTERED ELECTOR WHO INSTITUTED THE PROCEEDINGS MAY COMMENCE
13 A CIVIL ACTION TO RECOVER REASONABLE ATTORNEY FEES AND COSTS
14 FROM THE PERSON RESPONSIBLE FOR SUCH INVALID SIGNATURES OR
15 PETITION SECTIONS.

16 (b) A REGISTERED ELECTOR WHO FILES A PROTEST SHALL BE
17 ENTITLED TO THE RECOVERY OF REASONABLE ATTORNEY FEES AND COSTS
18 FROM A PROPONENT OF AN INITIATIVE PETITION WHO DEFENDS THE
19 PETITION AGAINST A PROTEST OR THE PROPONENT'S ATTORNEY, UPON A
20 DETERMINATION BY THE DISTRICT COURT THAT THE DEFENSE, OR ANY PART
21 THEREOF, LACKED SUBSTANTIAL JUSTIFICATION OR THAT THE DEFENSE, OR
22 ANY PART THEREOF, WAS INTERPOSED FOR DELAY OR HARASSMENT. A
23 PROponent WHO DEFENDS A PETITION AGAINST A PROTEST SHALL BE
24 ENTITLED TO THE RECOVERY OF REASONABLE ATTORNEY FEES AND COSTS
25 FROM THE REGISTERED ELECTOR WHO FILES A PROTEST OR THE REGISTERED
26 ELECTOR'S ATTORNEY, UPON A DETERMINATION BY THE DISTRICT COURT
27 THAT THE PROTEST, OR ANY PART THEREOF, LACKED SUBSTANTIAL

1 JUSTIFICATION OR THAT THE PROTEST, OR ANY PART THEREOF, WAS
2 INTERPOSED FOR DELAY OR HARASSMENT. NO ATTORNEY FEES MAY BE
3 AWARDED UNDER THIS PARAGRAPH (b) UNLESS THE DISTRICT COURT HAS
4 FIRST CONSIDERED THE PROVISIONS OF SECTION 13-17-102 (5) AND (6),
5 C.R.S. FOR PURPOSES OF THIS PARAGRAPH (b), "LACKED SUBSTANTIAL
6 JUSTIFICATION" MEANS SUBSTANTIALLY FRIVOLOUS, SUBSTANTIALLY
7 GROUNDLESS, OR SUBSTANTIALLY VEXATIOUS.

8 (c) A DISTRICT COURT CONDUCTING A HEARING PURSUANT TO THIS
9 ARTICLE SHALL PERMIT A CIRCULATOR WHO IS NOT AVAILABLE AT THE
10 TIME OF THE HEARING TO TESTIFY BY TELEPHONE OR BY ANY OTHER MEANS
11 PERMITTED UNDER THE COLORADO RULES OF CIVIL PROCEDURE.

12 **SECTION 15.** 1-40-121 (1), Colorado Revised Statutes, is
13 amended to read:

14 **1-40-121. Receiving money to circulate petitions - filing.**

15 (1) The proponents of the petition OR AN ISSUE COMMITTEE ACTING ON
16 BEHALF OF THE PROPONENTS shall file with the official who receives
17 filings under the "Fair Campaign Practices Act", article 45 of this title, for
18 the election a report stating the ~~total amount paid to all persons~~ DATES OF
19 CIRCULATION BY ALL CIRCULATORS who were paid to circulate a section
20 of the petition, THE TOTAL HOURS FOR WHICH EACH CIRCULATOR WAS PAID
21 TO CIRCULATE A SECTION OF THE PETITION, AND THE GROSS AMOUNT OF
22 WAGES PAID FOR SUCH HOURS. The filing shall be made at the same time
23 the petition is filed with the secretary of state. A payment made to a
24 circulator is an expenditure under article 45 of this title.

25 **SECTION 16.** 1-40-130 (1) (h) and (2), Colorado Revised
26 Statutes, are amended, and the said 1-40-130 (1) is further amended BY
27 THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

1 **1-40-130. Unlawful acts - penalty.** (1) It is unlawful:

2 (h) For any officer or person to violate willfully any provision of
3 this ~~article~~: ARTICLE;

4 (i) FOR ANY PERSON TO PAY MONEY OR OTHER THINGS OF VALUE
5 TO A REGISTERED ELECTOR FOR THE PURPOSE OF INDUCING THE ELECTOR
6 TO WITHDRAW HIS OR HER NAME FROM A PETITION FOR A BALLOT ISSUE;

7 (j) FOR ANY PERSON TO CERTIFY AN AFFIDAVIT ATTACHED TO A
8 PETITION IN VIOLATION OF SECTION 1-40-111 (2) (b) (I);

9 (k) FOR ANY PERSON TO SIGN ANY AFFIDAVIT AS A CIRCULATOR,
10 UNLESS EACH SIGNATURE IN THE PETITION SECTION TO WHICH THE
11 AFFIDAVIT IS ATTACHED WAS AFFIXED IN THE PRESENCE OF THE
12 CIRCULATOR;

13 (l) FOR ANY PERSON TO CIRCULATE IN WHOLE OR IN PART A
14 PETITION SECTION, UNLESS SUCH PERSON IS THE CIRCULATOR WHO SIGNS
15 THE AFFIDAVIT ATTACHED TO THE PETITION SECTION.

16 (2) Any person, upon conviction of a violation of any provision of
17 this section, shall be punished by a fine of not more than ONE THOUSAND
18 five hundred dollars, or by imprisonment for not more than one year in the
19 county jail, or by both such fine and imprisonment.

20 **SECTION 17.** 1-40-134, Colorado Revised Statutes, is amended
21 to read:

22 **1-40-134. Withdrawal of initiative petition.** The designated
23 representatives of the proponents of an initiative petition may withdraw
24 the petition from consideration as a ballot issue by filing a letter with the
25 secretary of state requesting that the petition not be placed on the ballot.
26 The letter shall be signed and acknowledged by both designated
27 representatives before an officer authorized to take acknowledgments and

1 shall be filed no later than ~~thirty-three~~ SIXTY days prior to the election at
2 which the initiative is to be voted upon.

3 **SECTION 18.** Article 40 of title 1, Colorado Revised Statutes, is
4 amended BY THE ADDITION OF A NEW SECTION to read:

5 **1-40-135. Petition entities - requirements - definitions.** (1) AS
6 USED IN THIS SECTION, "PETITION ENTITY" MEANS ANY PERSON OR ISSUE
7 COMMITTEE THAT PROVIDES COMPENSATION TO A CIRCULATOR TO
8 CIRCULATE A BALLOT PETITION.

9 (2) (a) IT IS UNLAWFUL FOR ANY PETITION ENTITY TO PROVIDE
10 COMPENSATION TO A CIRCULATOR TO CIRCULATE A BALLOT ISSUE PETITION
11 WITHOUT FIRST OBTAINING A LICENSE THEREFOR FROM THE
12 SECRETARY OF STATE. THE SECRETARY OF STATE MAY DENY A LICENSE IF
13 HE OR SHE FINDS THAT THE PETITION ENTITY OR ANY OF ITS PRINCIPALS
14 HAVE BEEN FOUND, IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING, TO
15 HAVE VIOLATED THE PETITION LAWS OF COLORADO OR ANY OTHER STATE
16 AND SUCH VIOLATION INVOLVES AUTHORIZING OR KNOWINGLY PERMITTING
17 ANY OF THE ACTS SET FORTH IN PARAGRAPHS (I), (II), (III), (IV), AND (VII)
18 OF SUBSECTION (c) OF THIS SECTION. THE SECRETARY OF STATE SHALL
19 DENY A LICENSE IF:

20 (I) THE PETITION ENTITY FAILS TO AGREE THAT CIRCULATORS
21 SHALL NOT BE PAID ON A PER SIGNATURE OR PER PETITION BASIS; OR

22 (II) NO CURRENT REPRESENTATIVE OF THE PETITION ENTITY HAS
23 COMPLETED THE TRAINING REQUIREMENTS RELATED TO POTENTIAL
24 FRAUDULENT ACTIVITIES IN PETITION CIRCULATION, AS ESTABLISHED BY
25 THE SECRETARY OF STATE, PURSUANT TO SECTION 1-40-112 (3).

26 (b) THE SECRETARY OF STATE MAY AT ANY TIME REQUEST THE
27 PETITION ENTITY TO PROVIDE DOCUMENTATION THAT DEMONSTRATES

1 COMPLIANCE WITH SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS
2 SUBSECTION (2).

3 (c) THE SECRETARY OF STATE SHALL REVOKE THE PETITION ENTITY
4 LICENSE IF, AT ANY TIME AFTER RECEIVING A LICENSE, A PETITION ENTITY
5 IS DETERMINED TO NO LONGER BE IN COMPLIANCE WITH THE
6 REQUIREMENTS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2) OR
7 IF THE PETITION ENTITY AUTHORIZED OR KNOWINGLY PERMITTED:

8 (I) FORGERY OF A REGISTERED ELECTOR'S SIGNATURE;

9 (II) CIRCULATION OF A PETITION SECTION, IN WHOLE OR PART, BY
10 ANYONE OTHER THAN THE CIRCULATOR WHO SIGNS THE AFFIDAVIT
11 ATTACHED TO THE PETITION SECTION;

12 (III) USE OF A FALSE CIRCULATOR NAME OR ADDRESS IN THE
13 AFFIDAVIT;

14 (IV) PAYMENT OF MONEY OR OTHER THINGS OF VALUE TO ANY
15 PERSON FOR THE PURPOSE OF INDUCING THE PERSON TO SIGN OR WITHDRAW
16 HIS OR HER NAME FROM THE PETITION;

17 (V) PAYMENT TO A CIRCULATOR OF MORE THAN TWENTY PERCENT
18 OF HIS OR HER COMPENSATION ON A PER SIGNATURE OR PER PETITION
19 SECTION BASIS;

20 (VI) A CIRCULATOR TO COLLECT MORE THAN ONE HUNDRED
21 SIGNATURES WITHOUT COMPLETING THE TRAINING REQUIRED PURSUANT TO
22 SECTION 1-40-112 (3); OR

23 (VII) A NOTARY PUBLIC'S NOTARIZATION OF A PETITION SECTION
24 OUTSIDE OF THE PRESENCE OF THE CIRCULATOR OR WITHOUT THE
25 PRODUCTION OF THE REQUIRED IDENTIFICATION FOR NOTARIZATION OF A
26 PETITION SECTION.

27 (3) (a) ANY PROCEDURES BY WHICH ALLEGED VIOLATIONS

1 INVOLVING PETITION ENTITIES ARE HEARD AND ADJUDICATED SHALL BE
2 GOVERNED BY THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE
3 4 OF TITLE 24, C.R.S. IF THE SECRETARY FINDS THAT A PETITION ENTITY
4 VIOLATED A PROVISION OF PARAGRAPH (c) OF SUBSECTION (2) OF THIS
5 SECTION, THE SECRETARY SHALL REVOKE THE ENTITY'S LICENSE FOR NOT
6 LESS THAN NINETY DAYS OR MORE THAN ONE HUNDRED EIGHTY DAYS.
7 UPON FINDING ANY SUBSEQUENT VIOLATION OF A PROVISION OF
8 PARAGRAPH (c) OF SUBSECTION (2) OF THIS SECTION, THE SECRETARY
9 SHALL REVOKE THE PETITION ENTITY'S LICENSE FOR NOT LESS THAN ONE
10 HUNDRED EIGHTY DAYS OR MORE THAN ONE YEAR. THE SECRETARY SHALL
11 CONSIDER ALL CIRCUMSTANCES SURROUNDING THE VIOLATIONS IN FIXING
12 THE LENGTH OF THE REVOCATIONS.

13 (b) A PETITION ENTITY WHOSE LICENSE HAS BEEN REVOKED MAY
14 APPLY FOR REINSTATEMENT TO BE EFFECTIVE UPON EXPIRATION OF THE
15 TERM OF REVOCATION.

16 (c) IN DETERMINING WHETHER TO REINSTATE A LICENSE, THE
17 SECRETARY MAY CONSIDER:

18 (I) THE ENTITY'S OWNERSHIP BY, EMPLOYMENT OF, OR CONTRACT
19 WITH ANY PERSON WHO SERVED AS A DIRECTOR, OFFICER, OWNER, OR
20 PRINCIPAL OF A PETITION ENTITY WHOSE LICENSE WAS REVOKED, THE ROLE
21 OF SUCH INDIVIDUAL IN THE FACTS UNDERLYING THE PRIOR LICENSE
22 REVOCATION, AND THE ROLE OF SUCH INDIVIDUAL IN A PETITION ENTITY'S
23 POST-REVOCATION ACTIVITIES; AND

24 (II) ANY OTHER FACTS THE ENTITY CHOOSES TO PRESENT TO THE
25 SECRETARY, INCLUDING BUT NOT LIMITED TO REMEDIAL STEPS, IF ANY,
26 THAT HAVE BEEN IMPLEMENTED TO AVOID FUTURE ACTS THAT WOULD
27 VIOLATE THIS ARTICLE.

1 (4) NO LICENSE SHALL BE ISSUED WITHOUT PAYMENT OF A
2 NONREFUNDABLE LICENSE FEE TO THE SECRETARY OF STATE, WHICH
3 LICENSE FEE SHALL BE DETERMINED AND COLLECTED PURSUANT TO
4 SECTION 24-21-104 (3), C.R.S., TO COVER THE COST OF ADMINISTERING
5 THIS SECTION.

6 (5) (a) A LICENSED PETITION ENTITY SHALL REGISTER WITH THE
7 SECRETARY OF STATE BY PROVIDING TO THE SECRETARY OF STATE:

8 (I) THE BALLOT TITLE OF ANY PROPOSED MEASURE FOR WHICH A
9 PETITION WILL BE CIRCULATED BY CIRCULATORS COORDINATED OR PAID BY
10 THE PETITION ENTITY;

11 (II) THE CURRENT NAME, ADDRESS, TELEPHONE NUMBER, AND
12 ELECTRONIC MAIL ADDRESS OF THE PETITION ENTITY; AND

13 (III) THE NAME AND SIGNATURE OF THE DESIGNATED AGENT OF THE
14 PETITION ENTITY FOR THE PROPOSED MEASURE.

15 (b) A PETITION ENTITY SHALL NOTIFY THE SECRETARY OF STATE
16 WITHIN TWENTY DAYS OF ANY CHANGE IN THE INFORMATION SUBMITTED
17 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).

18 **SECTION 19. Severability.** If any provision of this act or the
19 application thereof to any person or circumstance is held invalid for any
20 reason, such invalidity shall not affect other provisions or applications of
21 the act that can be given effect without the invalid provision or
22 application, and to this end the provisions of the act are declared to be
23 severable.

24 **SECTION 20. Appropriation.** (1) In addition to any other
25 appropriation, there is hereby appropriated, out of any moneys in the
26 department of state cash fund created in section 24-21-104 (3) (b),
27 Colorado Revised Statutes, not otherwise appropriated, to the department

1 of state, for allocation to the information technology division, for the
2 fiscal year beginning July 1, 2009, the sum of one hundred four thousand
3 four hundred dollars (\$104,400) cash funds, or so much thereof as may be
4 necessary, for the implementation of this act.

5 (2) In addition to any other appropriation, there is hereby
6 appropriated to the department of personnel, division of administrative
7 hearings, for the fiscal year beginning July 1, 2009, the sum of two
8 thousand dollars (\$2,000), or so much thereof as may be necessary, for the
9 provision of administrative law judge services to the department of state
10 related to the implementation of this act. Said sum shall be from
11 reappropriated funds received from the department of state out of the
12 appropriation made in subsection (1) of this section.

13 **SECTION 21. Effective date - applicability.** This act shall take
14 effect July 1, 2009, and shall apply to any ballot issue petition that has a
15 ballot title fixed by the title board on or after the applicable effective date
16 of this act; except that section 11 of this act shall take effect on January 1,
17 2010.

18 **SECTION 22. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.