

# HB0195S01 compared with HB0195

~~{deleted text}~~ shows text that was in HB0195 but was deleted in HB0195S01.

Inserted text shows text that was not in HB0195 but was inserted into HB0195S01.

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Representative Stephen G. Handy proposes the following substitute bill:

## INITIATIVE AND REFERENDUM AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill amends provisions relating to a statewide initiative or referendum.

#### Highlighted Provisions:

This bill:

- ▶ modifies signature thresholds for statewide initiatives and referenda and bases the thresholds on a percentage of active voters rather than the number of voters in a previous presidential election;
- ▶ clarifies that an initiative that is identical or substantially similar to a previous initiative is barred if signatures for the preceding initiative were submitted within the preceding two years;
- ▶ modifies deadlines relating to statewide initiative petitions;

~~{ → makes the deadline for submission of initiative signature packets and for submission~~

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~~of requests to remove signatures the same day;~~

- ‡ ▶ requires county clerks to process signature removal requests for initiatives;
- ▶ removes the provision that legal challenges for initiative signatures declared insufficient may only be filed in the Utah Supreme Court;
- ▶ establishes procedures for the lieutenant governor to follow if an argument relating to an initiative or referendum petition mischaracterizes the position of a state agency; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**20A-7-201**, as last amended by Laws of Utah 2011, Chapter 17

**20A-7-202**, as last amended by Laws of Utah 2017, Chapter 291

**20A-7-205**, as last amended by Laws of Utah 2011, Chapter 17

**20A-7-206**, as last amended by Laws of Utah 2013, Chapter 231

**20A-7-207**, as last amended by Laws of Utah 2011, Chapter 17

**20A-7-301**, as last amended by Laws of Utah 2011, Chapter 17

**20A-7-704**, as last amended by Laws of Utah 2017, Chapter 147

**20A-7-705**, as last amended by Laws of Utah 2017, Chapter 147

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **20A-7-201** is amended to read:

**20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the Legislature or to a vote of the people.**

(1) (a) A person seeking to have an initiative submitted to the Legislature for approval or rejection shall obtain:

~~[(i) legal signatures equal to 5% of the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election~~

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~~at which a President of the United States was elected; and]~~

~~[(ii) from each of at least 26 Utah State Senate districts, legal signatures equal to 5% of the total of all votes cast in that district for all candidates for President of the United States at the last regular general election at which a President of the United States was elected;]~~

(i) legal signatures equal to 4% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 4% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If, at any time not less than 10 days before the beginning of the next annual general session of the Legislature, immediately after the application is filed under Section 20A-7-202 and specified on the petition under Section 20A-7-203 the lieutenant governor declares sufficient any initiative petition that is signed by enough voters to meet the requirements of this Subsection (1), the lieutenant governor shall deliver a copy of the petition and the cover sheet required by Subsection (1)(c) to the president of the Senate, the speaker of the House, and the director of the Office of Legislative Research and General Counsel.

(c) In delivering a copy of the petition, the lieutenant governor shall include a cover sheet that contains:

~~[(i) the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election at which a President of the United States was elected;]~~

~~[(ii) the total of all votes cast in each Utah State Senate district for all candidates for President of the United States at the last regular general election at which a President of the United States was elected;]~~

(i) the number of active voters in the state on January 1 immediately following the last regular general election;

(ii) the number of active voters in each Utah State Senate district on January 1 immediately following the last regular general election;

(iii) the total number of certified signatures received for the submitted initiative; and

(iv) the total number of certified signatures received from each Utah State Senate district for the submitted initiative.

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(2) (a) A person seeking to have an initiative submitted to a vote of the people for approval or rejection shall obtain:

~~[(i) legal signatures equal to 10% of the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election at which a President of the United States was elected; and]~~

~~[(ii) from each of at least 26 Utah State Senate districts, legal signatures equal to 10% of the total of all votes cast in that district for all candidates for President of the United States at the last regular general election at which a President of the United States was elected.]~~

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 8% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If an initiative petition meets the requirements of this part and the lieutenant governor declares the initiative petition to be sufficient, the lieutenant governor shall submit the proposed law to a vote of the people at the next regular general election:

(i) immediately after the application is filed under Section 20A-7-202; and

(ii) specified on the petition under Section 20A-7-203.

~~[(3) The lieutenant governor shall provide the following information from the official canvass of the last regular general election at which a President of the United States was elected to any interested person:]~~

~~[(a) the cumulative total of all votes cast by voters in this state for all candidates for President of the United States; and]~~

~~[(b) for each Utah State Senate district, the total of all votes cast in that district for all candidates for President of the United States.]~~

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each Utah State Senate district, the number of active voters in that district on January 1 immediately following the last regular general election.

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Section 2. Section **20A-7-202** is amended to read:

**20A-7-202. Statewide initiative process -- Application procedures -- Time to gather signatures -- Grounds for rejection.**

(1) Persons wishing to circulate an initiative petition shall file an application with the lieutenant governor.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors:

(i) is a resident of Utah; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public;

(d) a copy of the proposed law that includes:

(i) the title of the proposed law, which clearly expresses the subject of the law; and

(ii) the text of the proposed law;

(e) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(f) a statement indicating whether persons gathering signatures for the petition may be paid for doing so.

(3) The application and its contents are public when filed with the lieutenant governor.

(4) If the petition fails to qualify for the ballot of the election described in Subsection 20A-7-201(2)(b), the sponsors shall:

(a) submit a new application;

(b) obtain new signature sheets; and

(c) collect signatures again.

(5) The lieutenant governor shall reject the application or application addendum filed under Subsection 20A-7-204.1(5) and not issue circulation sheets if:

(a) the law proposed by the initiative is patently unconstitutional;

(b) the law proposed by the initiative is nonsensical;

(c) the proposed law could not become law if passed;

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(d) the proposed law contains more than one subject as evaluated in accordance with Subsection (6);

(e) the subject of the proposed law is not clearly expressed in the law's title; or

(f) the law proposed by the initiative is identical or substantially similar to a law proposed by an initiative [~~that was~~] for which signatures were submitted to the county clerks and lieutenant governor for certification [~~and evaluation~~] within two years preceding the date on which the application for [~~this~~] the new initiative [~~was~~] is filed.

(6) To evaluate whether the proposed law contains more than one subject under Subsection (5)(d), the lieutenant governor shall apply the same standard provided in Utah Constitution, Article VI, Section 22, which prohibits a bill from passing that contains more than one subject.

Section 3. Section **20A-7-205** is amended to read:

### **20A-7-205. Obtaining signatures -- Verification -- Removal of signature.**

(1) A Utah voter may sign an initiative petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the person in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet.

(b) A person may not sign the verification printed on the last page of the initiative packet if the person signed a signature sheet in the initiative packet.

(3) (a) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the last four digits of the voter's [~~Social Security~~] social security number;

(iv) the driver license or identification card number; and

(v) the signature of the voter.

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(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the statement must be received by the county clerk ~~{on or }~~ before ~~{ }~~ May 15. ~~{ } the earlier of:~~

~~— (i) 316 days after the day on which the application for the initiative petition is filed; or~~

~~— (ii) February 15 immediately before the next regular election after the application for the initiative petition is filed. }~~

~~[(e) The county clerk shall deliver all statements received under this Subsection (3):]~~

~~[(i) with the initiative petition packets delivered to the lieutenant governor; or]~~

~~[(ii) in a supplemental delivery to the lieutenant governor for a statement submitted after the county clerk delivered the initiative packets.]~~

~~[(f)]~~ (e) A person may only remove a signature from an initiative petition in accordance with this Subsection (3).

Section 4. Section **20A-7-206** is amended to read:

**20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.**

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated on or before the sooner of:

(i) 316 days after the day on which the application for the initiative petition is filed; or

(ii) the ~~[April]~~ February 15 immediately before the next regular general election ~~[immediately]~~ after the application is filed under Section 20A-7-202.

(b) A sponsor may not submit an initiative packet after the deadline established in this Subsection (1).

(2) ~~[(a)]~~ No later than ~~[May 1]~~ March 15 before the regular general election, the county clerk shall:

~~[(i)]~~ (a) check the names of all persons completing the verification for the initiative packet to determine whether those persons are residents of Utah and are at least 18 years old; ~~[and]~~

~~[(ii)]~~ (b) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney~~[-];~~

~~[(b) The county clerk may not certify a signature under Subsection (3) on an initiative~~

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~~packet that is not verified in accordance with Section 20A-7-205.]~~

~~[(3) No later than May 15 before the regular general election, the county clerk shall:]~~

~~(c) remove signatures in accordance with Subsection (4);~~

~~[(a)] (d) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;~~

~~[(b)] (e) certify on the petition whether each name is that of a registered voter; and~~

~~[(c)] (f) deliver all of the verified initiative packets to the lieutenant governor.~~

(3) The county clerk may not certify a signature under Subsection (2) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(4) Upon receipt of an initiative packet under Subsection ~~[(3)]~~ (1) and any statement submitted under Subsection 20A-7-205(3), the ~~[lieutenant governor shall]~~ county clerk shall, before complying with Subsections (2)(d) through (f), remove from the initiative petition a voter's signature if the voter has requested the removal in accordance with Subsection 20A-7-205(3).

(5) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated by the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(6) (a) No later than December 1 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (5):

(i) check the names of all persons completing the verification for the initiative packet to determine whether those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (7) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(7) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (5):

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

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(c) deliver all of the verified initiative packets to the lieutenant governor.

~~[(8) The sponsor or their representatives may not retrieve initiative packets from the county clerks once they have submitted them.]~~

(8) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.

Section 5. Section **20A-7-207** is amended to read:

### **20A-7-207. Evaluation by the lieutenant governor.**

(1) When each initiative packet is received from a county clerk, the lieutenant governor shall check off from the record the number of each initiative packet filed.

(2) (a) After all of the initiative packets have been received by the lieutenant governor and the ~~[lieutenant governor]~~ county clerk has removed the signatures as required by Section 20A-7-206, the lieutenant governor shall:

(i) count the number of the names certified by the county clerks that remain on each verified signature sheet; and

(ii) declare the petition to be sufficient or insufficient ~~[by June 1]~~ no later than April 15 before the regular general election described in Subsection 20A-7-201(2)(b).

(b) If the total number of names counted under Subsection (2)(a)(i) equals or exceeds the number of names required by Section 20A-7-201 and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

(c) If the total number of names counted under Subsection (2)(a)(i) does not equal or exceed the number of names required by Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

(d) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(3) ~~[Once]~~ After a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.

(4) (a) If the lieutenant governor refuses to accept and file ~~[any]~~ an initiative petition that a sponsor believes is legally sufficient, any voter may, ~~[by June 15]~~ no later than April 30, apply to the ~~[supreme]~~ appropriate court for an extraordinary writ to compel the lieutenant governor to ~~[do so]~~ accept and file the initiative petition.

(b) The ~~[supreme]~~ court shall:

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(i) determine whether ~~[or not]~~ the initiative petition is legally sufficient; and

(ii) certify ~~[its]~~ the court's findings to the lieutenant governor.

(c) If the ~~[supreme]~~ court certifies that the initiative petition is legally sufficient, the lieutenant governor shall file ~~[it]~~ the initiative petition, with a verified copy of the judgment attached to ~~[it]~~ the initiative petition, as of the date on which ~~[it]~~ the initiative petition was originally offered for filing in the lieutenant governor's office.

(d) If the ~~[supreme]~~ court determines that ~~[any]~~ a petition filed is not legally sufficient, the ~~[supreme]~~ court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 6. Section **20A-7-301** is amended to read:

### **20A-7-301. Referendum -- Signature requirements -- Submission to voters.**

(1) (a) A person seeking to have a law passed by the Legislature submitted to a vote of the people shall obtain:

~~[(i) legal signatures equal to 10% of the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election at which a President of the United States was elected; and]~~

~~[(ii) from each of at least 15 counties, legal signatures equal to 10% of the total of all votes cast in that county for all candidates for President of the United States at the last regular general election at which a President of the United States was elected;]~~

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 15 counties, legal signatures equal to 8% of the number of active voters in that county on January 1 immediately following the last regular general election.

(b) When the lieutenant governor declares a referendum petition sufficient under this part, the governor shall issue an executive order that:

(i) directs that the referendum be submitted to the voters at the next regular general election; or

(ii) calls a special election according to the requirements of Section 20A-1-203 and directs that the referendum be submitted to the voters at that special election.

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(2) When a referendum petition has been declared sufficient, the law that is the subject of the petition does not take effect unless and until it is approved by a vote of the people at a regular general election or a statewide special election.

~~[(3) The lieutenant governor shall provide to any interested person from the official canvass of the last regular general election at which a President of the United States was elected:]~~

~~[(a) the cumulative total of all votes cast by voters of this state for all candidates for President of the United States; and]~~

~~[(b) for each county, the total of all votes cast in that county for all candidates for President of the United States:]~~

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each county, the number of active voters in that county on January 1 immediately following the last regular general election.

Section 7. Section **20A-7-704** is amended to read:

**20A-7-704. Initiative measures -- Arguments for and against -- Voters' requests for argument -- Ballot arguments.**

(1) (a) (i) (A) By July 10 of the regular general election year, the sponsors of any initiative petition that has been declared sufficient by the lieutenant governor may deliver to the lieutenant governor an argument for the adoption of the measure.

(B) If two or more sponsors wish to submit arguments for the measure, the lieutenant governor shall designate one of the sponsors to submit the argument for the sponsor's side of the measure.

(ii) (A) Any member of the Legislature may request permission to submit an argument against the adoption of the measure.

(B) If two or more legislators wish to submit an argument against the measure, the presiding officers of the Senate and House of Representatives shall jointly designate one of the legislators to submit the argument to the lieutenant governor.

(b) The sponsors and the legislators submitting arguments shall ensure that each

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argument:

(i) does not exceed 500 words in length; and

(ii) is delivered by July 10.

(2) (a) If an argument for or against a measure to be submitted to the voters by initiative petition has not been filed within the time required under Subsection (1):

(i) the Office of the Lieutenant Governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection (2)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection (2)(b) on the home page of the lieutenant governor's website;

(ii) any voter may request the lieutenant governor for permission to prepare an argument for the side on which no argument has been filed; and

(iii) if two or more voters request permission to submit arguments on the same side of a measure, the lieutenant governor shall designate one of the voters to write the argument.

(b) A notice described in Subsection (2)(a)(i) shall contain:

(i) the ballot title for the measure;

(ii) instructions on how to submit a request under Subsection (2)(a)(ii); and

(iii) the deadline described in Subsection (2)(c).

(c) Any argument prepared under this Subsection (2) shall be submitted to the lieutenant governor by July 20.

(3) The lieutenant governor may not accept a ballot argument submitted under this section unless it is accompanied by:

(a) the name and address of the person submitting it, if it is submitted by an individual voter; or

(b) the name and address of the organization and the names and addresses of at least two of its principal officers, if it is submitted on behalf of an organization.

(4) (a) Except as provided in Subsection (4)(c) or (d), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(b) Except as provided in Subsection (4)(c) or (d), the lieutenant governor may not alter the arguments in any way.

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(c) The lieutenant governor and the authors of an argument described in this section may jointly modify [~~an~~] the argument after [~~it~~] the argument is submitted if:

(i) [~~they~~] the lieutenant governor and the authors jointly agree that changes to the argument must be made to:

(A) correct spelling or grammatical errors; [~~and~~] or

(B) properly characterize the position of a state entity, if the argument mischaracterizes the position of a state entity; and

(ii) the argument has not yet been submitted for typesetting.

(d) If, after the lieutenant governor determines that an argument described in this section mischaracterizes the position of a state entity, the lieutenant governor and the authors of the argument cannot jointly agree on a change to the argument, the lieutenant governor:

(i) shall publish the argument with the mischaracterization; and

(ii) may, immediately following the argument, publish a brief description of the position of the state entity.

Section 8. Section **20A-7-705** is amended to read:

**20A-7-705. Measures to be submitted to voters and referendum measures --**

### **Preparation of argument of adoption.**

(1) (a) Whenever the Legislature submits any measure to the voters or whenever an act of the Legislature is referred to the voters by referendum petition, the presiding officer of the house of origin of the measure shall appoint the sponsor of the measure or act and one member of either house who voted with the majority to pass the act or submit the measure to draft an argument for the adoption of the measure.

(b) (i) The argument may not exceed 500 words in length.

(ii) If the sponsor of the measure or act desires separate arguments to be written in favor by each person appointed, separate arguments may be written but the combined length of the two arguments may not exceed 500 words.

(2) (a) If a measure or act submitted to the voters by the Legislature or by referendum petition was not adopted unanimously by the Legislature, the presiding officer of each house shall, at the same time as appointments to an argument in its favor are made, appoint one member who voted against the measure or act from their house to write an argument against the measure or act.

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(b) (i) The argument may not exceed 500 words.

(ii) If those members appointed to write an argument against the measure or act desire separate arguments to be written in opposition to the measure or act by each person appointed, separate arguments may be written, but the combined length of the two arguments may not exceed 500 words.

(3) (a) The legislators appointed by the presiding officer of the Senate or House of Representatives to submit arguments shall submit [~~them~~] the arguments to the lieutenant governor not later than the day that falls 150 days before the date of the election.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

(4) (a) If an argument for or an argument against a measure submitted to the voters by the Legislature or by referendum petition has not been filed by a member of the Legislature within the time required by this section:

(i) the [~~Office of the Lieutenant Governor~~] lieutenant governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection (4)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection (4)(b) on the home page of the lieutenant governor's website; and

(ii) any voter may request the presiding officer of the house in which the measure originated for permission to prepare and file an argument for the side on which no argument has been filed by a member of the Legislature.

(b) A notice described in Subsection (4)(a)(i) shall contain:

(i) the ballot title for the measure;

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- (ii) instructions on how to submit a request under Subsection (4)(a)(ii); and
- (iii) the deadline described in Subsection (4)(d).

(c) (i) The presiding officer of the house of origin shall grant permission unless two or more voters request permission to submit arguments on the same side of a measure.

(ii) If two or more voters request permission to submit arguments on the same side of a measure, the presiding officer shall designate one of the voters to write the argument.

(d) Any argument prepared under this Subsection (4) shall be submitted to the lieutenant governor not later than 135 days before the date of the election.

(e) The lieutenant governor may not accept a ballot argument submitted under this section unless ~~[it]~~ the ballot argument is accompanied by:

(i) the name and address of the ~~[person submitting it, if it]~~ individual submitting the argument, if the argument is submitted by an individual voter; or

(ii) the name and address of the organization and the names and addresses of at least two of ~~[its]~~ the organization's principal officers, if ~~[it]~~ the argument is submitted on behalf of an organization.

(f) Except as provided in Subsection (4)(h), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(g) Except as provided in Subsection (4)(h), the lieutenant governor may not alter the arguments in any way.

(h) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to:

(A) correct spelling or grammatical errors; ~~[and]~~ or

(B) properly characterize the position of a state entity, if the argument mischaracterizes the position of a state entity; and

(ii) the argument has not yet been submitted for typesetting.

(i) If, after the lieutenant governor determines that an argument described in this section mischaracterizes the position of a state entity, the lieutenant governor and the authors of the argument cannot jointly agree on a change to the argument, the lieutenant governor:

(i) shall publish the argument with the mischaracterization; and

(ii) may, immediately following the argument, publish a brief description of the

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position of the state entity.