

# STATE OF WYOMING GENERAL SESSION 2015

## Chapter 6

### INITIATIVE AND REFERENDUM-REVISIONS

Original Senate File No. 49

AN ACT relating to initiatives and referendums; repealing prior initiative and referendum provisions; creating separate initiative and referendum provisions; revising initiative and referendum procedures and language; removing restrictions on circulator qualifications and pay as specified; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 22-24-301 through 22-24-323 and 22-24-401 through 22-24-420 are created to read:

#### ARTICLE 3 INITIATIVE

##### **22-24-301. Right of initiative; limitations.**

The people may propose and enact laws by the initiative. However, the initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, enact local or special legislation, enact anything prohibited by the constitution for enactment by the legislature, or enact anything that is substantially the same as that defeated by an initiative election within five (5) years preceding the time of filing of the petition.

##### **22-24-302. Application; filing and fee.**

An initiative shall be proposed by filing an application with the secretary of state. A fee of five hundred dollars (\$500.00) shall accompany the application. This fee shall be deposited in the general fund.

##### **22-24-303. Application; contents.**

(a) The application shall be on a form prescribed by the secretary of state and shall include:

(i) The proposed bill to be initiated;

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(ii) The designation of a committee of three (3) applicants who shall represent all sponsors and subscribers in matters relating to the initiative; and

(iii) A statement that the committee of applicants are qualified registered voters who signed the application with the proposed bill attached.

### **22-24-304. Requirements as to proposed bill.**

(a) In an initiative, the proposed bill shall be confined to one (1) subject, the entire subject of the bill shall be expressed in the title, the enacting clause shall be: "Be it enacted by the people of the state of Wyoming;" and the bill shall not include subjects restricted by W.S. 22-24-301.

(b) In an initiative, concurrently with the filing of the application, the proposed bill shall be submitted by the committee of applicants to the secretary of state for review and comment. Upon request of the secretary of state, the legislative service office or any agency in the executive department shall render assistance in reviewing and preparing comments on the proposed bill. No later than fourteen (14) calendar days after the date of submission, at a conference scheduled by the secretary of state, the secretary shall render to the committee of applicants comments on any problems encountered concerning the format or contents of the proposed bill. The comments shall not be disclosed prior to the conference with the committee of applicants but, at such time as the application is certified, the comments shall become a public record. After the conference but before certification the committee of applicants may amend the proposed bill in response to some or all of the comments of the secretary of state and resubmit the proposed bill in accordance with this subsection, or they may disregard the comments entirely. The committee of applicants shall notify the secretary of state in writing within five (5) calendar days after the conference whether the proposed bill will be amended. If the proposed bill is to be amended it shall be resubmitted for review and comment in accordance with this subsection. At any time the committee of applicants chooses not to amend or further amend a proposed bill, the committee of applicants may submit the proposed bill to the secretary of state for certification.

(c) No later than thirty (30) days after a proposed bill is submitted for certification, the committee of applicants shall submit to the secretary of state the names, signatures, addresses and the date of signing of one hundred (100) qualified registered voters who will act as sponsors supporting the application and proposed bill in their final form. The committee of applicants may act as sponsors if duly qualified.

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### **22-24-305. Notice to committee.**

Notice to the committee of applicants on any matter pertaining to the application and petition shall be served on any member of the committee in person, by mail, or electronically, addressed to a committee member at the address indicated on the application.

### **22-24-306. Sponsors and circulators.**

(a) The one hundred (100) qualified registered voters who subscribe to the application are designated as sponsors. The committee of applicants may designate additional qualified individuals to act as circulators of the petitions by giving written notice to the secretary of state signed by one (1) member of the committee of applicants verifying under oath the names, qualifications and addresses of those so designated. An individual shall not be qualified to act as a circulator unless he is a citizen of the United States and is at least eighteen (18) years of age. A member of the committee of applicants may act as a circulator if duly qualified.

(b) The committee of sponsors shall file receipt and expenditure reports as required by W.S. 22-25-106.

### **22-24-307. Review by secretary of state; conditional certification.**

Within seven (7) calendar days after receiving a final proposed bill, the secretary of state shall review the proposed bill and its associated application and shall either conditionally certify it, pending submission of the qualified signatures required by W.S. 22-24-304(e), or notify the committee of applicants in writing of the grounds for denial.

### **22-24-308. Grounds for denying certification of initiative application.**

(a) The secretary of state shall deny final certification of an initiative application if he determines that:

- (i) The proposed bill to be initiated is not in the required form;
- (ii) The application is not in the required form;

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- (iii) The committee of applicants failed to submit a sufficient number of qualified registered voters as sponsors within thirty (30) days after submitting its final proposed bill and application for certification; or
- (iv) The proposed bill was not submitted for review and comment in accordance with W.S. 22-24-304.

### **22-24-309. Fiscal impact.**

(a) Upon the certification or conditional certification of any initiative application, if in the opinion of the secretary of state the proposed bill will have a fiscal impact on the state, the secretary of state shall prepare an estimate and explanation of the fiscal impact. The explanation shall include a statement that it is an estimate of fiscal impact to the state only and does not include an estimate of any impact upon political subdivisions. Upon request of the secretary of state, any agency in the executive department shall render assistance in preparing the estimate and explanation of fiscal impact.

(b) No later than fourteen (14) days after final certification of an initiative application, the secretary of state shall render to the committee of applicants its fiscal impact estimate and explanation. If the committee believes that the secretary of state's estimate is inaccurate, within fourteen (14) days after receiving the secretary of state's estimate and explanation, the committee of applicants may submit to the secretary of state its own estimate and explanation of fiscal impact. Upon receiving the committee of applicants' estimate and explanation, the secretary of state may revise its estimate if in the opinion of the secretary of state the committee demonstrates that the secretary of state's estimate is inaccurate. If the final estimated fiscal impact by the secretary of state and the final estimated fiscal impact by the committee of applicants differ by more than twenty-five thousand dollars (\$25,000.00), the secretary of state's comments under the ballot proposition shall contain an estimated range of fiscal impact reflecting both estimates.

### **22-24-310. Petitions; generally.**

(a) Upon final certification of an initiative application and the finalization of any fiscal estimate pursuant to W.S. 22-24-309, the secretary of state shall prescribe the form of and prepare petitions containing:

- (i) A copy of the proposed bill;

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- (ii) An impartial summary of the subject matter of the bill;
  - (iii) The warning required by W.S. 22-24-311;
  - (iv) Sufficient space for printed names, signatures and addresses;
  - (v) If a circulator will be paid to solicit signatures on a petition, each signature page circulated by that circulator shall contain, in twelve (12) point or larger black boldface type, the following statement: "This circulator is being paid to solicit signatures for this ballot proposition." The statement shall be prominently displayed and made visible to the petition signer by the circulator; and
  - (vi) Other specifications necessary to assure proper handling and control.
- (b) Pursuant to rules adopted by the secretary of state, petitions, for purposes of circulation, shall be prepared by the secretary of state at the sponsor's expense. Petitions shall be printed in a number reasonably calculated to allow full circulation throughout the state. A paid circulator shall solicit signatures on a petition only if each signature page circulated by that circulator contains the statement required under paragraph (a)(v) of this section.
- (c) The secretary of state shall number each petition and shall keep a record of the petitions.
- (d) Upon request of the committee of applicants, the secretary of state shall report the number of persons who voted in the preceding general election.
- (e) The secretary of state, on any printed material circulated by the secretary of state describing the proposition, shall include notice whether any paid circulator was used to gather signatures as required by paragraph (a)(v) of this section.

### **22-24-311. Petitions; statement of warning.**

Each petition shall include a statement of warning that a person who signs a name other than his own on the petition, or who knowingly signs his name more than once for the same proposition at one (1) election, or who signs the petition knowing that he is not a qualified registered voter, upon conviction, is

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punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year or both.

### **22-24-312. Petitions; circulation; contests.**

(a) The petitions shall be circulated throughout the state only by a sponsor or an individual designated in accordance with W.S. 22-24-306 as a circulator and only in person.

(b) Any person may contest the qualifications of an individual designated as a circulator by filing a petition in the district court within ten (10) days of the solicitation activity. The court shall hear and decide any such action within five (5) days from the date the petition is filed.

(c) Any party prevailing in any action filed pursuant to subsection (b) of this section may be awarded costs and reasonable attorney's fees by the court. The court shall notify the secretary of state of its findings as to the qualifications of a circulator within five (5) days of the determination.

### **22-24-313. Petitions; subscribing to and withdrawing name.**

Any qualified registered voter may subscribe to the petition by signing his name and listing his address. A person who has signed the petition may withdraw his name only by giving written notice of his printed name, residence and contact information to the secretary of state before the time that the petition is filed.

### **22-24-314. Petitions; verification.**

(a) Before a petition is filed, it shall be verified by the sponsor or circulator who personally circulated it. The verification shall be in affidavit form and shall state in substance that:

(i) The person signing the affidavit is a sponsor or an individual designated and qualified in accordance with W.S. 22-24-306 and is the only circulator of that petition;

(ii) The signatures on the petition were made in his presence; and

(iii) To the best of his knowledge, such signatures are those of the persons

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whose names they purport to be.

(b) In determining the sufficiency of the petition, the secretary of state shall not:

(i) Count signatures on petitions not properly verified;

(ii) Count signatures on a petition circulated by an individual who has been determined not to be a qualified circulator pursuant to W.S. 22-24-312 or by the secretary of state in accordance with rules of his office.

### **22-24-315. Petitions; filing by sponsors.**

(a) Petitions may be filed with the secretary of state if signed by a sufficient number of qualified registered voters as required by the Wyoming constitution.

(b) Petitions for an initiative shall be submitted to the secretary of state for verification within the eighteen (18) month period following the date the first set of petition forms are provided to the sponsors. Any petition not submitted within the eighteen (18) month period is void for all purposes.

### **22-24-316. Petitions; review by secretary of state.**

(a) Within not more than sixty (60) days of the date all petitions are filed, the secretary of state shall review the petitions and shall notify the committee of applicants whether the petitions were properly or improperly filed. The petitions shall be determined to be improperly filed if:

(i) There is an insufficient total number of signatures of qualified registered voters; or

(ii) There is an insufficient number of signatures of qualified registered voters in at least two-thirds (2/3) of the counties of the state.

### **22-24-317. Ballot proposition; preparation and contents.**

(a) If a sufficient number of qualified petitions are filed, the secretary of state, with the assistance of the attorney general, shall prepare a ballot proposition.

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The ballot proposition shall give a true and impartial summary of the proposed law, including the estimated fiscal impact or range of estimated fiscal impact on the state and explanation of the impact prepared in accordance with W.S. 22-24-309, and shall make provision for approval and for disapproval thereof.

(b) When any proposal relating to the investment of the permanent funds of the state of Wyoming is placed on the ballot, the secretary of state shall include in the ballot statement an estimate from the state treasurer of the estimated loss or gain in revenue from the proposal. If the final estimated loss or gain by the state treasurer and the final estimated loss or gain by the committee of sponsors of the ballot proposition differ by more than twenty-five thousand dollars (\$25,000.00), the ballot statement shall contain the range of estimated loss or gain reflecting both estimates.

### **22-24-318. Ballot proposition; procedure for placing on ballot; publication requirements.**

(a) Except as required under subsection (b) of this section, the same procedure for placing constitutional amendment questions on the ballot shall be used to place the initiative ballot proposition on the ballot.

(b) The ballot proposition for an initiative shall be published by the secretary of state in a newspaper of general circulation in the state in the newspaper edition immediately preceding the general election. Publication under this subsection shall contain the text of the initiative ballot and shall identify both a physical location and a web site address or other electronic location where the entire text of the initiative can be viewed.

### **22-24-319. Ballot proposition; when placed on ballot.**

(a) The ballot proposition for an initiative shall be placed on the election ballot of the first statewide general election that is held after:

(i) A sufficient number of qualified petitions were filed;

(ii) A legislative session has convened and adjourned; and

(iii) A period of one hundred twenty (120) days has expired since the adjournment of the legislative session. If the attorney general determines that an act of the legislature enacted after the petition is filed is substantially the



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same as the proposed law, the petition shall be void and the ballot proposition shall not be placed on the election ballot, and the secretary of state shall so notify the committee of applicants.

### **22-24-320. Insufficiency of application or petition.**

An initiative submitted to the voters shall not be void because of the insufficiency of the application or petitions by which the submission was procured.

### **22-24-321. Action for review of determination.**

Any person aggrieved by any determination made under this article, by the secretary of state or by the attorney general, may bring an action in the district court of Laramie county to have the determination reviewed by filing application within thirty (30) days of the date on which notice of the determination was given.

### **22-24-322. Penalties.**

(a) Any person who signs a name other than his own on a petition for initiative, or who knowingly signs his name more than once for the same proposition at one (1) election, upon conviction, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both.

(b) Any member of the committee of applicants, sponsor or circulator who knowingly and willfully makes a false verification of the qualifications of a circulator pursuant to W.S. 22-24-306(a) or knowingly and willfully makes a false verification under W.S. 22-24-314, shall be guilty of false swearing and subject to the penalties provided by W.S. 22-26-101.

### **22-24-323. Petitions; payment for signatures; misrepresentation of petition; prohibition; penalty.**

(a) A circulator of an initiative petition or a person who causes the circulation of an initiative petition may not pay or offer to pay any compensation to another person for that person's signature on the initiative petition.

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(b) A circulator of an initiative petition or a person who causes the circulation of an initiative petition shall not collect another person's signature on the petition by knowingly making a false statement with respect to or otherwise misrepresenting the proposed law contained within the initiative petition. A violation of this subsection is subject to the penalty imposed under W.S. 22-24-322(a).

### ARTICLE 4 REFERENDUM

#### **22-24-401. Right of referendum; limitations.**

The people may approve or reject acts of the legislature by the referendum. However, the referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health or safety.

#### **22-24-402. Application; filing and fee.**

A referendum shall be proposed by filing an application with the secretary of state. A fee of five hundred dollars (\$500.00) shall accompany the application. This fee shall be deposited in the general fund.

#### **22-24-403. Application; contents.**

(a) The application shall be on a form prescribed by the secretary of state and shall include:

- (i) The act to be referred;
- (ii) The designation of a committee of three (3) applicants who shall represent all sponsors and subscribers in matters relating to the referendum;
- (iii) The signatures and addresses of not less than one hundred (100) sponsors who shall be qualified registered voters; and
- (iv) A statement that the committee of applicants are qualified registered voters who signed the application with the proposed act attached.

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### **22-24-404. Notice to committee.**

Notice to the committee of applicants on any matter pertaining to the application and petition shall be served on any member of the committee in person, by mail or electronically addressed to a committee member at the address indicated on the application.

### **22-24-405. Sponsors and circulators.**

(a) The one hundred (100) qualified registered voters who subscribe to the application are designated as sponsors. The committee of applicants may designate additional qualified individuals to act as circulators of the petitions by giving written notice, signed by one (1) member of the committee of applicants, to the secretary of state verifying under oath the names, qualifications and addresses of those so designated. An individual shall not be qualified to act as a circulator unless he is a citizen of the United States and is at least eighteen (18) years of age. A member of the committee of applicants may act as a circulator if duly qualified.

(b) The committee of applicants shall file receipt and expenditure reports as required by W.S. 22-25-106.

### **22-24-406. Grounds for denying certification of initiative or referendum application.**

(a) The secretary of state shall deny certification of a referendum application if he determines that:

(i) The committee of applicants failed to submit a sufficient number of qualified registered voters as sponsors;

(ii) The application is not substantially in the required form; or

(iii) More than ninety (90) days have expired since the adjournment of the legislative session at which the act being referred was passed.

### **22-24-407. Petitions; generally.**

(a) If the application is certified, the secretary of state shall prescribe the form

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of and prepare petitions containing:

- (i) A copy of the act to be referred;
  - (ii) An impartial summary of the subject matter of the act to be referred;
  - (iii) The warning required by W.S. 22-24-408;
  - (iv) Sufficient space for printed names, signatures and addresses;
  - (v) If a circulator will be paid to solicit signatures on a petition, each signature page circulated by that circulator shall contain, in twelve (12) point or larger black boldface type, the following statement: "This circulator is being paid to solicit signatures for this ballot proposition." The statement shall be prominently displayed and made visible to the petition signer by the circulator; and
  - (vi) Other specifications necessary to assure proper handling and control.
- (b) Pursuant to rules adopted by the secretary of state, petitions, for purposes of circulation, shall be prepared by the secretary of state at the sponsor's expense. Petitions shall be printed in a number reasonably calculated to allow full circulation throughout the state. A paid circulator shall solicit signatures on a petition only if each signature page circulated by that circulator contains the statement required under paragraph (a)(v) of this section.
- (c) The secretary of state shall number each petition and shall keep a record of the petitions.
- (d) Upon request of the committee of applicants, the secretary of state shall report the number of persons who voted in the preceding general election.
- (e) The secretary of state, on any printed material circulated by the secretary of state describing the proposition, shall include notice whether any paid circulator was used to gather signatures as required by paragraph (a)(v) of this section.

### **22-24-408. Petitions; statement of warning.**

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Each petition shall include a statement of warning that a person who signs a name other than his own on the petition, or who knowingly signs his name more than once for the same proposition at one (1) election, or who signs the petition knowing that he is not a qualified registered voter, upon conviction, is punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or both.

### **22-24-409. Petitions; circulation; contests.**

(a) The petitions shall be circulated throughout the state only by a sponsor or an individual designated in accordance with W.S. 22-24-405 as a circulator and only in person.

(b) Any person may contest the qualifications of an individual designated as a circulator by filing a petition in the district court within ten (10) days of the solicitation activity. The court shall hear and decide any such action within five (5) days from the date the petition is filed.

(c) Any party prevailing in any action filed pursuant to subsection (b) of this section may be awarded costs and reasonable attorney's fees by the court. The court shall notify the secretary of state of its findings as to the qualifications of a circulator within five (5) days of the determination.

### **22-24-410. Petitions; subscribing to and withdrawing name.**

Any qualified registered voter may subscribe to the petition by signing his name and listing his address. A person who has signed the petition may withdraw his name only by giving written notice of his printed name, residence and contact information to the secretary of state before the time that the petition is filed.

### **22-24-411. Petitions; verification.**

(a) Before a petition is filed, it shall be verified by the sponsor or circulator who personally circulated it. The verification shall be in affidavit form and shall state in substance that:

(i) The person signing the affidavit is a sponsor or an individual designated and qualified in accordance with W.S. 22-24-405 and is the only circulator of that petition;

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- (ii) The signatures on the petition were made in his presence; and
  - (iii) To the best of his knowledge, such signatures are those of the persons whose names they purport to be.
- (b) In determining the sufficiency of the petition, the secretary of state shall not:
- (i) Count signatures on petitions not properly verified;
  - (ii) Count signatures on a petition circulated by an individual who has been determined not to be a qualified circulator pursuant to W.S. 22-24-409 or by the secretary of state in accordance with rules of his office.

### **22-24-412. Petitions; filing by sponsors.**

Petitions may be filed with the secretary of state if signed by a sufficient number of qualified registered voters as required by the Wyoming constitution. Petitions may be filed only within ninety (90) days after the adjournment of the legislative session at which the act was passed.

### **22-24-413. Petitions; review by secretary of state.**

(a) Within not more than sixty (60) days of the date all petitions are filed, the secretary of state shall review the petitions and shall notify the committee of applicants whether the petitions were properly or improperly filed. The petitions shall be determined to be improperly filed if:

- (i) There is an insufficient total number of signatures of qualified registered voters;
- (ii) There is an insufficient number of signatures of qualified registered voters in at least two-thirds (2/3) of the counties of the state; or
- (iii) The petitions for referendum were not filed within ninety (90) days after the adjournment of the legislative session at which the act was passed.

### **22-24-414. Ballot proposition; preparation and contents.**

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If a sufficient number of qualified petitions are filed, the secretary of state, with the assistance of the attorney general, shall prepare a ballot proposition. The ballot proposition shall give a true and impartial summary of the referred act and shall make provision for approval and for disapproval thereof.

### **22-24-415. Ballot proposition; procedure for placing on ballot; publication requirements.**

(a) Except as required under subsection (b) of this section, the same procedure for placing constitutional amendment questions on the ballot shall be used to place the referendum ballot proposition on the ballot.

(b) The ballot proposition for a referendum shall be published by the secretary of state in a newspaper of general circulation in the state in the newspaper edition immediately preceding the general election. Publication under this subsection shall contain the text of the referendum ballot and shall identify both a physical location and a web site address or other electronic location where the entire text of the referendum can be viewed.

### **22-24-416. Ballot proposition; when placed on ballot.**

The ballot proposition for a referendum shall be placed on the election ballot of the first statewide general election held more than one hundred eighty (180) days after adjournment of the legislative session at which the act was passed.

### **22-24-417. Insufficiency of application or petition.**

A referendum submitted to the voters shall not be void because of the insufficiency of the application or petitions by which the submission was procured.

### **22-24-418. Action for review of determination.**

Any person aggrieved by any determination made under this article, by the secretary of state or by the attorney general, may bring an action in the district court of Laramie county to have the determination reviewed by filing application within thirty (30) days of the date on which notice of the determination was given.

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### **22-24-419. Penalties.**

(a) Any person who signs a name other than his own on a petition for referendum, or who knowingly signs his name more than once for the same proposition at one (1) election, upon conviction, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both.

(b) Any member of the committee of applicants, sponsor or circulator who knowingly and willfully makes a false verification of the qualifications of a circulator pursuant to W.S. 22-24-405(a) or knowingly and willfully makes a false verification under W.S. 22-24-411, shall be guilty of false swearing and subject to the penalties provided by W.S. 22-26-101.

### **22-24-420. Petitions; payment for signatures; misrepresentation of petition; prohibition; penalty.**

(a) A circulator of a referendum petition or a person who causes the circulation of a referendum petition may not receive payment for the collection of signatures if that payment is based upon the number of signatures collected. Nothing in this section prohibits a circulator of a referendum petition or a person who causes the circulation of a referendum petition from being paid a salary that is not based upon the number of signatures collected.

(b) A circulator of a referendum petition or a person who causes the circulation of a referendum petition may not pay or offer to pay any compensation to another person for that person's signature on the referendum petition.

(c) A circulator of a referendum petition or a person who causes the circulation of a referendum petition shall not collect another person's signature on the petition by knowingly making a false statement with respect to or otherwise misrepresenting the referred act contained within the referendum petition. A violation of this subsection is subject to the penalty imposed under W.S. 22-24-419(a).

**Section 2.** W.S. 22-24-101 through 22-24-125 are repealed.

**Section 3.** This act is effective immediately upon completion of all acts



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necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved February 25, 2015.