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VOTER INFORMATION FOR PROPOSED CONSTITUTIONAL AMENDMENTS

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REFERENDUMS

INITIATIVES

General Election
November 4, 1980

Prepared by FRANK MURRAY, Secretary of State,
pursuant to Section 13-27-401,
Montana Code Annotated

Livingston Enterprise, Livingston, Mont.

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CONSTITUTIONAL AMENDMENTS, REFERENDUMS AND INITIATIVES

General Election Ballot, November 4, 1980

Additional copies of the voter information pamphlet may be obtained upon request from your county election administrator (clerk and recorder) and/or the secretary of state.

CONSTITUTIONAL AMENDMENT NO. 9

The following is a copy of the title and text of the proposed Constitutional Amendment as it appears in the official files of the Secretary of State:

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 11, OF THE MONTANA CONSTITUTION TO ALLOW STATUTORY EXCEPTIONS TO THE CONFIDENTIALITY OF THE DOCUMENTS OF THE JUDICIAL STANDARDS COMMISSION.

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

Section 1. Article VII, section 11 of the Montana constitution is amended to read:

"Section 11. Removal and discipline. (1) The legislature shall create a judicial standards commission consisting of five persons and provide for the appointment thereto of two district judges, one attorney, and two citizens who are neither judges nor attorneys.

(2) The commission shall investigate complaints and make rules implementing this section. It may subpoena witnesses and documents.

(3) Upon recommendation of the commission, the supreme court may:

(a) Retire any justice or judge for disability that seriously interferes with the performance of his duties and is or may become permanent; or

(b) Censure, suspend, or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, or habitual intemperance.

(4) The proceedings of the commission are confidential except as provided by statute."

Section 2. Effective date. If approved by the electorate, this amendment is effective January 1, 1981.

Section 3. Submission to electors. This amendment shall be submitted to the electors of the state of Montana at the general election to be held in November, 1980, by printing on the ballot the full title of this act and the following:

☐ FOR allowing statutory exceptions to the confidentiality of the documents of the judicial standards commission.

☐ AGAINST allowing statutory exceptions to the confidentiality of the documents of the judicial standards commission.

ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

The Judicial Standards Commission investigates charges of misconduct by judges. The Commission may hold hearings and recommend to the Montana Supreme Court that a judge be censored, suspended, removed or retired. Montana's Constitution now states that all proceedings of the Judicial Standards Commission are confidential. Constitutional Amendment 9 would allow the Legislature to open the proceedings of the Commission to public scrutiny. This change in Montana's Constitution is consistent with the public's right to know about the actions of public bodies.

At present, the Commission only reveals the number of complaints filed with it each year. No other information is available to evaluate the Commission's performance. Neither the public nor the Legislature know the general nature of the complaints handled by the Commission, how long complaints have been pending or the Commission's final decision on each complaint. This lack of information makes it impossible for the public or the Legislature to monitor the performance of the Commission and engenders distrust of the judicial disciplinary process.

Constitutional Amendment 9 is also necessary to give the Judicial Standards Commission the authority to release information to the public. The present Constitutional language totally prohibits the Commission from releasing any information to the public or the Legislature. The Commission should have the flexibility to release certain information. That is the only way the Commission can instill public confidence in the judicial disciplinary process.

Constitutional Amendment 9 will not result in all proceedings of the Judicial Standards Commission being opened to the public. Judges, like other persons, must be protected

against unfounded and unsubstantiated charges. Constitutional Amendment 9 will enable the Montana Legislature to strike a balance between the privacy of judges who have been wrongly accused and the right of Montana's citizens to know about the operations of their government.

The judicial branch of government has long been the most secretive branch of government. Much of the secrecy surrounding the judicial process is justified. However, when it comes to disciplining judges, total secrecy cannot be tolerated. Judges exercise vast powers which affect the lives and property of Montana's citizens. A judge who acts improperly must be disciplined or our system of justice will crumble. Limited public scrutiny of the disciplining of judges is necessary to insure confidence in our legal system.

Constitutional Amendment 9 should be passed.

S/ Steve Brown, Chairman
Daniel Kemmis
Harold G. Stearns

ARGUMENT ADVOCATING REJECTION OF THE ISSUE

The Judicial Standards Commission is established by Article VII, Sec. 11, of the Montana Constitution. The duties of the Commission are to investigate complaints relative to disabilities or conduct of judges. Recommendations are made to the Montana Supreme Court, who in turn make the decision to remove or censure a judge.

Under the Constitution, the Commission may hold hearings, subpoena witnesses and documents, and keep its proceedings confidential. This amendment would permit the Legislature to enact statutes making certain of the Commission proceedings public.

In order to obtain a free flow of information for its investigations of judges, it is necessary for the Commission to keep certain of its proceedings confidential, including the names of informants and witnesses. This amendment could adversely affect deliberations of the Commission where sensitive matters are involved. The Commission is only advisory, and there is nothing in the law that precludes the Supreme Court, when acting on recommendations made by the Commission, to make its own findings and decisions public. It is therefore apparent that the proposed amendment is unnecessary, and does little to benefit the public in its right to know.

S/ Sen. Pat M. Goodover, Chairman
Rep. Dan Yardley
Rep. Jack K. Moore

ARGUMENT REBUTTING THE ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

The Judicial Standards Commission must retain its constitutional right to keep its proceedings confidential. To be effective in its investigation of complaints relative to judicial performance, disability, or conduct, the Commission must fully protect the judge and the complainant(s) or witness(es).

Publicizing any part of the proceedings could deny to the Commission the co-operation of the people best able to provide testimony during investigations resulting from complaints. The Montana Constitution now requires that the Commission keep secret all complaints by informants or witnesses. This is beneficial to the Commission in obtaining more freely from those testifying, the information and documents necessary for a complete, fair and impartial investigation.

Constitutional Amendment 9 could adversely affect the proceedings of the Judicial Standards Commission. It is basic human nature that persons speak more freely under the safeguards of confidentiality. To protect the rights and privacy of judges, complainants, informants or witnesses, we must retain the constitutional secrecy provided in existing law.

Lawyers in particular, who can provide testimony affecting the performance of a judge, would hesitate to appear before the Commission if the Legislature could, through this amendment, decide to publicize the Commissions proceedings.

The Judicial Standards Commission is an investigative and advisory body which makes its recommendation to the Montana Supreme Court. The court makes its own findings and decisions. The performance of the Commission is monitored by the Supreme Court and the Constitution now allows the court to publicize the findings of the Commission, and any of its proceedings.

Constitutional Amendment 9 should not be passed.

S/ Sen. Pat M. Goodover, Chairman
Rep. Dan Yardley
Rep. Jack K. Moore

ARGUMENT REBUTTING THE ARGUMENT
ADVOCATING REJECTION OF THE ISSUE

The need for Constitutional Amendment 9 arises out of the total lack of information now available to the public about the activities of the Judicial Standards Commission. No public body should be permitted to operate without some public scrutiny. Constitutional Amendment 9 will permit the Legislature to specify when the Commission's proceedings will be open to public review.

The opponents argue that Constitutional Amendment 9 could jeopardize the activities of the Judicial Standards Commission by requiring the release of sensitive information. The Legislature has passed numerous laws authorizing various professions to discipline their members. None of these laws require a professional licensing board to release sensitive information that should remain confidential. Doctors, dentists, plumbers, and other professions are required to provide limited information to the public and the Legislature. Constitutional Amendment 9 will enable the Legislature to require similar information about the Judicial Standards Commission to be disclosed.

Constitutional Amendment 9 should be passed.

S/ Steve Brown, Chairman
Daniel Kemmis
Harold G. Stearns

The form in which the issue will be printed on the Official Ballot at the General Election, November 4, 1980, is as follows:

CONSTITUTIONAL AMENDMENT NO. 9

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

Attorney General's Explanatory Statement

The constitution requires the judicial standards commission to keep its proceedings confidential. This proposed constitutional amendment would allow the legislature to pass laws to make the proceedings of the judicial standards commission public. The judicial standards commission has the responsibility to investigate complaints about the conduct of all judges within the State of Montana. This amendment has been proposed by the legislature.

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 11, OF THE MONTANA CONSTITUTION TO ALLOW STATUTORY EXCEPTIONS TO THE CONFIDENTIALITY OF THE DOCUMENTS OF THE JUDICIAL STANDARDS COMMISSION.

☐ FOR allowing statutory exceptions to the confidentiality of the documents of the judicial standards commission.

☐ AGAINST allowing statutory exceptions to the confidentiality of the documents of the judicial standards commission.

INITIATIVE NO. 84

The following is a copy of the title and text of the proposed Initiative as it appears in the official files of the Secretary of State:

THIS PROPOSED INITIATIVE WOULD FORBID THE DISPOSAL OF RADIOACTIVE WASTE MATERIAL WITHIN THE STATE OF MONTANA. THE PROPOSAL DOES NOT SPECIFICALLY PROHIBIT THE MINING OF MINERALS SUCH AS URANIUM, BUT DOES FORBID THE DISPOSAL OF RADIOACTIVE WASTE PRODUCED BY MILLING OR OTHER PROCESSING OF ORE. SOME RADIOACTIVE MATERIAL USED FOR MEDICAL, EDUCATIONAL, AND SCIENTIFIC PURPOSES MAY BE DEPOSITED IN MONTANA. CRIMINAL PENALTIES WOULD BE IMPOSED FOR VIOLATIONS OF THESE PROVISIONS.

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

New Section 1. There is a new MCA section that reads as follows:
"Policy. It is the policy of the state of Montana, in furtherance of its responsibility to protect the public health and safety, under the police powers of the state and for protection of the constitutional right to a healthy environment, to prohibit the disposal of certain radioactive material."

Section 2. Section 75-3-103(1), MCA is amended to read as follows:
"(1) "Byproduct material" means ~~a~~ (1) any radioactive material (except special nuclear material) yielded in, or made radioactive by exposure to the radiation incident to, the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content."

Section 3. Section 75-3-302, MCA is amended to read as follows:
"75-3-302. Disposal of large quantities of radioactive material prohibited—exceptions and exclusion.
(1) No person may dispose of ~~in Montana~~ large quantity radioactive material, byproduct material, or special nuclear material within the state of Montana ~~produced in other states~~.
(2) Byproduct material (except large quantity radioactive material) possessed, used, and transported for educational purposes, scientific research and development, medical research, diagnosis, and treatment, geophysical surveying, and similar uses ~~other purposes~~ licensed by the United States nuclear regulatory commission shall be excepted from this part, provided that such material is being or has been lawfully disposed of within Montana upon the effective date of this Act ~~during the period of possession, use, and transportation prior to disposal~~.
(3) Nothing in this part precludes the construction of a nuclear facility approved under the requirements of the Major Facility Siting Act, or the mining of any raw ore, provided that such activity is not inconsistent with this part."

Section 4. Section 75-3-303, MCA is amended to read as follows:
"75-3-303. Penalty. A person ~~convicted of violating this part is guilty of a misdemeanor and~~ who knowingly or purposely disposes of large quantity radioactive material, byproduct material, or special nuclear material within Montana shall be fined an amount not ~~less~~ more than ~~$250~~ $5,000 or be imprisoned for not more than two years, or both, for each offense. A person who negligently disposes of large quantity radioactive material, byproduct material, or special nuclear material within Montana shall be fined not more than $1,000 for each offense. In this part, each day of violation constitutes a separate offense."

Section 5. Severability. If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

Section 6. Codification. New section 1 is intended to be codified as an integral part of Title 75, Chapter 3, Part 3, and the provisions contained in Title 75, Chapter 3, Part 3 apply to new section 1.

Section 7. Effective date. This Act shall become effective December 1, 1980.

ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

Initiative 84 is an amendment to existing law. We think this amendment is necessary for the following reasons. First, our present radioactive waste law discriminates against out-of-state producers and producers of "large quantity" wastes. Such discrimination makes our present law vulnerable to court challenge under constitutional provisions of equal protection. Second, our present law does not cover the waste produced by uranium mills, called tailings. Federal law now includes such tailings in the definition of radioactive "byproduct material". These tailings are a significant health hazard with no long-term solution in sight. Third, the uranium mills which produce tailings are not subject to regulation or popular vote under the nuclear provisions of the Major Facility Siting Act (Initiative 80).

The changes proposed by Initiative 84 appear as underlined (added) or lined through (removed) language in the first four sections of the initiative. The rest of the wording in the first four sections is language in the existing law which remains unchanged. Section 1 is a new policy statement, and its proper placement is identified in Section 6. Section 2 is an adoption of the federal definition of "byproduct material" found in the U. S. Code at 42 USC 2014(e). Section 3 comprises three sub-parts. Sub-part 1 expands the law's coverage to eliminate discrimination against out-of-state and "large quantity" producers. Sub-part 2 provides exceptions for bona fide existing activity, such as disposal of medical isotopes. Sub-part 3 makes clear that the construction of nuclear power plants and the mining of ore are not prohibited under this initiative. Section 4 provides criminal penalties and the power to seek extradition, if necessary, for willful violation; misdemeanor penalties are provided for negligence.

Nuclear Regulatory Commissioner Victor Gilinsky has called uranium mill tailings "the dominant contribution to radiation exposure from the nuclear fuel cycle". Since 85% of the original radioactivity remains in the tailings, we must isolate uranium mill tailings in as few locations and as far from human habitation as possible. Existing sites, such as in Wyoming, could be expanded, but the number of new sites should be strictly limited.

The initiative prohibits disposal of tailings produced only by the primary processing of ore for uranium or thorium. Disposal of copper tailings, for example, is not prohibited. In fact, disposal of copper tailings reprocessed for uranium, or of tailings from copper milling where uranium is recovered as a byproduct, are not prohibited. Therefore, secondary recovery of uranium from the mining and milling of other minerals is encouraged under the initiative in order to reduce total residual radioactivity in places such as Butte.

Although both stripmining and deepmining of uranium would be allowed, in situ extraction, which is actually a process of solution milling in the ground, would be prohibited, unless complete recovery of the disolved ore could be guaranteed. An in situ uranium operation in Wyoming has caused significant groundwater pollution, and another in Texas has been shut down. The initiative would prohibit this threat to groundwater.

S/Sally Jordan
Steven J. Perlmutter
Edward M. Dobson, Chairman

ARGUMENT ADVOCATING REJECTION OF THE ISSUE

Initiative 84 will prohibit the mining of uranium by making it economically impractical.

Under present Montana statutes, radioactive materials cannot be disposed of in the state. Therefore, Initiative 84 is unnecessary and is a direct attack on the mining industry.

Montana's initiative is part of a national movement to stop the mining of uranium. The cumulative effect will be to reduce the source of cancer treatment and energy production and to subvert our national defense capabilities.

It will seriously impair the property rights of individuals and the state of Montana to market their resources. This will deny the people of Montana the opportunity for economic growth, increased tax base and jobs.

This initiative would prohibit the disposal of Montana's present medical and research wastes now being shipped out of state.

Montana has the most stringent environmental laws in the nation which protects the public's health and safety. The mining and processing of uranium is already covered by these statutes and strict rules and regulations.

Initiative 84 is totally unnecessary and, in reality, is an outright ban on uranium mining.

S/ Duane Reber
Thomas A. Dale
Cindy Price
Lloyd C. Lockrem, Chairman
Thomas R. Conroy

ARGUMENT REBUTTING THE ARGUMENT
ADVOCATING APPROVAL OF THE ISSUE

People who are willing to listen patiently to sense and nonsense and who then learn how to distinguish between them -- these are the ones we need. Because not to know what to do is the greatest hazard of all.

The proponents of this issue are appealing to the emotions of the electorate with little regard to facts. The facts are:

1. Tailings are an integral part of most mining operations, including copper, zinc, lead, and uranium. All these tailings have low levels of radiation.
2. The handling of low-level waste does not represent an unprecedented, long-lived hazard.
3. Initiative 84 is a ban on the mining of uranium.

S/ Duane Reber
Lloyd C. Lockrem, Chairman
Thomas R. Conroy
Cindy Price

ARGUMENT REBUTTING THE ARGUMENT
ADVOCATING REJECTION OF THE ISSUE

1. Initiative 84 would not ban uranium mining any more than Montana's reclamation laws and 30 percent severance tax ban coal mining.

2. Some radioactive materials are being disposed of in Montana, all of which can continue under Initiative 84. All higher level medical and research waste being disposed of out of state would thus continue, even without Initiative 84, since Montana has no federal nuclear waste repository.

3. There appears to be no evidence that the cost of shipping Montana uranium ore to an out-of-state mill will have any effect on the cost or availability of cancer treatment, nuclear energy, or national defense. In fact, some Colorado uranium ore is being trucked 300 miles to New Mexico for milling, and some existing Colorado mill tailings are about to be shipped to Utah at taxpayer expense to reduce a health hazard.

4. As to property rights and jobs, national consumption rates indicate that Montana uranium will eventually be in demand whether or not the ore is milled out of state.

5. Under Montana law uranium companies have the power to condemn private land (eminent domain). Uranium mills are not subject to popular vote or any other nuclear provision (Initiative 80) of the Major Facility Siting Act. And Montana's radioactive waste disposal law is apparently discriminatory and unconstitutional. Initiative 84 could be amended by the Legislature or popular vote when safe disposal is found acceptable by Montanans.

6. Initiative 84 simply puts Montanans in the driver's seat on the problem of radioactive waste.

S/ Sally Jordan
Edward M. Dobson, Chairman
Steven J. Perlmutter

The form in which the issue will be printed on the Official Ballot at the General Election, November 4, 1980, is as follows:

INITIATIVE NO. 84

A LAW PROPOSED BY INITIATIVE PETITION

THIS PROPOSED INITIATIVE WOULD FORBID THE DISPOSAL OF RADIOACTIVE WASTE MATERIAL WITHIN THE STATE OF MONTANA. THE PROPOSAL DOES NOT SPECIFICALLY PROHIBIT THE MINING OF MINERALS SUCH AS URANIUM, BUT DOES FORBID THE DISPOSAL OF RADIOACTIVE WASTE PRODUCED BY MILLING OR OTHER PROCESSING OF ORE. SOME RADIOACTIVE MATERIAL USED FOR MEDICAL, EDUCATIONAL, AND SCIENTIFIC PURPOSES MAY BE DEPOSITED IN MONTANA. CRIMINAL PENALTIES WOULD BE IMPOSED FOR VIOLATIONS OF THESE PROVISIONS.

☐ FOR forbidding the disposal of most radioactive waste in Montana.

☐ AGAINST forbidding the disposal of most radioactive waste in Montana.

INITIATIVE NO. 85

The following is a copy of the title and text of the proposed Initiative as it appears in the official files of the Secretary of State:

THIS PROPOSED INITIATIVE REQUIRES PUBLIC DISCLOSURE OF MONEY SPENT TO INFLUENCE ACTION OF A PUBLIC OFFICIAL. ALL INDIVIDUALS OR BUSINESSES WHO EMPLOY LOBBYISTS AND SPEND MORE THAN $1000 A YEAR TO PROMOTE OR OPPOSE OFFICIAL ACTION OF A PUBLIC OFFICIAL MUST GIVE A COMPLETE ACCOUNTING OF ALL MONEY SPENT. THE PROPOSAL DOES NOT APPLY TO INDIVIDUAL CITIZENS LOBBYING ON THEIR OWN BEHALF. ELECTED OFFICIALS ARE REQUIRED TO PUBLICLY DISCLOSE THEIR BUSINESS INTERESTS. CRIMINAL AND CIVIL PENALTIES ARE PROVIDED FOR VIOLATIONS OF THE PROVISIONS OF THIS INITIATIVE.

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

Section 1. §5-7-101, MCA is amended to read:

"5-7-101. Purposes of chapter.

(1) The purposes of this chapter are to promote a high standard of ethics in the practice of lobbying, to prevent unfair and unethical lobbying practices, ~~and~~ to provide for the licensing of lobbyists and the suspension of revocation of the licenses, to require elected officials to make public their business interests, and to require disclosure of the amounts of money spent for lobbying.

(2) Nothing in this chapter subjects any Montana citizen lobbying on his/her own behalf to any reporting requirements nor deprives any such citizen of the constitutional right to communicate with public officials."

Section 2. §5-7-102, MCA is amended to read:

"5-7-102. Definitions. The following ~~words and phrases shall have the meanings respectively ascribed to them~~ definitions apply in this chapter:

(1) "Individual" means a human being.

(2) "Person" means an individual, corporation, association, firm, partnership, state or local government or subdivision thereof, or other organization or group of persons.

(3) "Public official" means any individual, elected or appointed, acting in his official capacity for the state or local government or any political subdivision thereof, but does not include those acting in a judicial or quasi-judicial capacity.

(4)~~(1)~~ "Lobbying" ~~means~~ includes:

(a) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members thereof by any person other than a member of the legislature or a public official acting in his official capacity; and

(b) the practice of promoting or opposing official action by any public official in the event the person engaged in such practice expends $1,000 per calendar year or more exclusive of personal travel and living expenses.

(5)(a) ~~(2)~~ "Lobbyist" means any person who engages in the practice of lobbying for hire ~~except in the manner authorized by 5-7-304~~.

(b) "Lobbyist" does not include

(i) any individual Montana citizen acting solely on his/her own behalf, or

(ii) any individual working for the same principal as a licensed lobbyist, such individual having no personal contact with any public official on behalf of his/her principal.

(c) Nothing in this section ~~shall be construed to deprive~~ deprives any citizen not lobbying for hire of ~~his~~ the constitutional right to communicate with ~~members of the legislature~~ public officials.

(6) "Lobbying for hire" ~~shall include~~ includes activities of any officers, agents, attorneys, or employees of any principal who are paid, reimbursed, ~~a regular salary~~ or retained by such principal and whose duties include lobbying. When ~~a person~~ an individual is reimbursed only for his personal living and travel expenses, which together do not exceed $1,000 per calendar year, ~~he~~ that individual shall not be considered to be lobbying for hire.

(7)~~(3)~~ "Unprofessional conduct" means:

(a) a violation of any of the provisions of this chapter;

~~(b) soliciting employment from any principal;~~

(b)~~(c)~~ instigating ~~the introduction of legislation~~ action by any public official for the purpose of obtaining employment in opposition thereto;

(c)~~(d)~~ attempting to influence the ~~vote of legislators~~ action of any public official on any measure pending or to be proposed by

(i) the promise of support or opposition at any future election, ~~by any means other than argument on the merits thereof, or~~

(ii) promise of financial support,

(iii) ~~by~~ making public any unsubstantiated charges of improper conduct on the part of any other lobbyist, any principal, or ~~of~~ any legislator,

(iv) any improper economic reprisal or other unlawful retaliation against any public official, or

(v) any means other than argument on the merits thereof;

(d) attempting to influence a decision or vote by a hearing examiner or quasi-judicial officer in any contested case proceeding under Part 6, Chapter 4, Title 2, MCA except as provided therein;

(e) attempting to knowingly deceive any public official with regard to the pertinent facts of an official matter or attempt to knowingly misrepresent pertinent facts of an official matter to any public official; or

(f)~~(e)~~ engaging in practices which reflect discredit on the practice of lobbying ~~or the legislature~~.

(8)~~(4)~~ "Principal" means any person who makes payments in excess of $1,000 per calendar year for any of the following

(a) to engage a lobbyist, or ~~any person, corporation or association which engage a lobbyist or other person in connection with any legislation pending before the legislature or to be proposed affecting the pecuniary interest of such person, corporation or association; or~~

(b) in the case of a person other than an individual, to solicit, directly, indirectly or by an advertising campaign, the lobbying efforts of another person ~~any board, department, commission, or other agency of the state, any county, or municipal corporation which engages a lobbyist or other person in connection with any legislation pending or to be proposed affecting the statutory powers, duties, or appropriation of such agency, county, or municipal corporation~~.

(9)~~(5)~~ "Docket" means the register and reports of ~~licensed~~ lobbyists and principals maintained by the ~~secretary of state~~ commissioner pursuant to 5-7-201.

~~(6) "Pecuniary interest" includes without limitation any legislation which creates, alters, or repeals any statutory charge by way of tax, license fee, registration fee or otherwise; which creates, alters, or repeals any statutory privilege, power, restriction, or obligation of any principal; or which creates, alters, or repeals the powers or duties of any court or governmental agency before which the principal does business.~~

(10) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be made of money, property, or anything of value.

(11) "Payment to influence official action" means any of the following types of payment:

(a) direct or indirect payment to a lobbyist by a principal, as salary, fee, or compensation for expenses or for any other purpose;

(b) payment in support of or assistance to a lobbyist or lobbying activities, including, but not limited to, the direct payment of expenses incurred at the request or suggestion of the lobbyist.

(12) "Business" means any holding or interest whose fair market value is greater than $1,000, in any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed individual, holding company, joint stock company, receivership, trust or other entity or property held in anticipation of profit, but does not include non-profit organizations.

(13) "Commissioner" means the commissioner of campaign finances and practices, created by 13-37-102, renamed in [Section 19] the commissioner of political practices.

(14) "Elected official" means a public official holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including, but not limited to legislators, public service commissioners and district court judges. The term "official-elect" shall also apply only to such offices."

Section 3, §5-7-103, MCA is amended to read:

"5-7-103. Licenses -- fees -- eligibility.

(1) Any adult of good moral character who is a citizen of the United States and who is otherwise qualified under this chapter may be licensed as a lobbyist. The ~~secretary of state~~ commissioner shall provide a license application form. The application form may be ob-

tained in the office of the ~~secretary of state~~ commissioner and filed therein. Upon approval of the application by the ~~secretary of state and payment~~ and receipt of the license fee of $10 ~~to~~ by the ~~secretary of state~~ commissioner, a license shall be issued which entitles the licensee to practice lobbying on behalf of one or more enumerated principals. Each license shall expire on December 31 of each ~~odd-numbered~~ even-numbered year or may be terminated at the request of the lobbyist.

(2) No application may be disapproved without affording the applicant a hearing. The hearing shall be held and the decision entered within 10 days of the date of the filing of the application.

(3) The fines and license fees collected ~~by the secretary of state~~ under this chapter shall be deposited ~~by him~~ in the state treasury."

Section 4. §5-7-105, MCA is amended to read:

"5-7-105. Suspension of lobbying privileges. No lobbyist whose license has been suspended ~~or revoked~~ and no person who has been ~~convicted~~ adjudged guilty of a violation of any provision of this chapter may engage in lobbying for hire until that person ~~he~~ has been reinstated to the practice ~~of lobbying~~ and duly licensed."

Section 5. §5-7-201, MCA is amended to read:

"5-7-201. Docket -- contents. The ~~secretary of state~~ commissioner shall ~~prepare and keep a docket in which shall be entered~~ make available to the public the information required by this chapter, including but not limited to the name and business address of each lobbyist, the name and business address of his/her principal, and the subject or subjects ~~of legislation~~ to which the employment relates or a statement that the employment relates to all matters in which the principal has an interest. The docket entry for each principal shall also indicate the principal's required reports of payments to influence official action by a public official."

Section 6. §5-7-202, MCA is amended to read:

"5-7-202. Docket -- public record. Such docket shall be a public record and open to the inspection of any ~~citizen~~ individual upon demand at any time during the regular business hours of the office of the commissioner ~~secretary of state~~."

Section 7. §5-7-207, MCA is amended to read:

"5-7-207. Report to legislature. Beginning with the first ~~week~~ Tuesday following the beginning of any regular or special session of the legislature and on ~~every~~ the first Tuesday ~~thereafter for the duration of such session~~ of every month thereafter during which the legislature is in session, the ~~secretary of state~~ commissioner shall from his/her records report to each member of each house of the legislature the names of lobbyists registered under this chapter, not previously reported, the names of the ~~persons~~ principals whom they represent as ~~such lobbyist~~ lobbyists and the ~~subject~~ subjects of legislation in which ~~they are~~ each principal is interested."

Section 8. §5-7-301, MCA is amended to read:

"5-7-301. Prohibition of practice without license and registration.

(1) No ~~person~~ individual may practice as a lobbyist unless ~~he~~ that individual has been licensed under 5-7-103 and ~~unless he is~~ listed on the docket as employed in respect to all the ~~such~~ matters ~~as~~ he/she is promoting or opposing.

(2) No principal may directly or indirectly authorize or permit any lobbyist employed by that principal ~~him~~ to practice lobbying ~~in respect to any legislation affecting the pecuniary interest of the principal~~ until the lobbyist is duly licensed and the ~~name~~ names of the lobbyist and the principal are ~~is~~ duly entered on the docket."

Section 9. §5-7-302, MCA is amended to read:

"5-7-302. Prohibited compensation. No person may be employed as a lobbyist for a compensation dependent in any manner upon the passage or defeat of any proposed or pending ~~legislation~~ official action by a public official or upon any other contingency connected with ~~the~~ such action ~~of the legislature, of either branch thereof, or of any committee thereof.~~

NEW SECTION. Section 10. Ethical conduct. No lobbyist or principal shall engage in, or directly or indirectly authorize, any unprofessional conduct.

NEW SECTION. Section 11. Principals to file accountings.

(1) A principal subject to this chapter shall file with the commissioner an accounting of payments made to influence the official action of a public official.

(2) If such payments are made soley to influence legislative action, such accounting shall be made:

(a) before February 16th of any year the legislature is in session and shall include all payments made in that calendar year prior to February 1st;

(b) before the 16th day of the calendar month following any calendar month in which the principal spent $5,000 or more and shall include all payments made during the prior calendar month; and

(c) within 60 days following adjournment of such session and shall include all payments made during such session, except as has previously been reported.

(3) If such payments are made to influence any other official action by a public official or made to influence such other action and legislative action, such accounting shall be made:

(a) before February 16th of the calendar year following such payments and shall include all payments made during the prior calendar year; and

(b) before the 16th day of the calendar month following any calendar month in which the principal spent $5,000 or more and shall include all payments made during the prior calendar month.

(4) If no such payments are made during the reporting periods provided in subsections (2)(a), (2)(c), and (3)(a) above, the principal shall file a report stating such.

(5) Each accounting filed under this section shall:

(a) list all payments for lobbying in each of the following categories:

(i) original and derivative research (for which the cost may be estimated if necessary) done to support a lobbying argument or presentation;

(ii) publication and distribution of each publication, except that the cost of a newsletter or leaflet distributed to the membership of a principal need not be reported unless over one-half of that newsletter or leaflet is devoted to lobbying matters;

(iii) other printing;

(iv) news media;

(v) advertising, including production costs;

(vi) postage;

(vii) travel and personal living expenses;

(viii) salaries and fees, including allowances, rewards, and contingency fees;

(ix) entertainment, including all foods and refreshments;

(x) telephone and telegraph; and

(xi) other office expenses;

(b) itemize, identifying the payee and the beneficiary,

(i) each separate payment conferring $10 or more benefit to any public official and

(ii) each separate payment conferring $100 or more benefit to more than one public official, regardless of individual benefit, except that in regard to a dinner or other function to which all senators or all representatives have been invited, the beneficiary may be listed as all members of that group without listing separately each person who attended;

(c) list each contribution and membership fee which amounts to $250 or more when aggregated over the period of one calendar year paid to the principal, regardless of whether it was paid solely for the purpose of lobbying, with the full address of each payer and the issue area, if any, for which such payment was earmarked;

(d) list each political contribution, including anything of value, paid to any candidate for elective public office, to any committee established to support or oppose a candidate for elective public office, or to any committee to support or oppose any initiative, referendum, or other ballot issue, whether such payment is made directly or indirectly by the principal or any lobbyist who received compensation or reimbursement for such payment from the principal.

(e) list each official action which the principal or his agents exerted a major effort to support, oppose, or modify, together with a statement of the principal's position for or against such action; and

(f) be kept by the commissioner for a period of ten years.

NEW SECTION. Section 12. Principals required to report - penalty for failure to report or for false statement. A principal may not make payments to influence official action by any public official unless that principal files the reports required under this chapter. A principal who fails to file a required report is subject to the penalty provided in 5-7-305 as well as any civil action provided for in this chapter. A principal who knowingly files a false, erroneous, or incomplete statement commits the offense of unsworn falsification to authorities.

NEW SECTION. Section 13. Reimbursement. Whenever a lobbyist invites a public official to attend a function which the lobbyist or his/her principal have fully or partially funded or sponsored, or whenever a lobbyist offers a public official a gift, the lobbyist must, upon request, supply the recipient public official with the benefit's true or estimated cost and allow the public official to reimburse. Such expenditures must be itemized in the principal's reports with a notation "reimbursed by benefactee".

NEW SECTION. Section 14. Governmental reporting. Budget preparation or response to requests of a house or committee of the legislature by any governmental entity shall not be considered lobbying payments for the purposes of this chapter.

NEW SECTION. Section 15. Audit of final accounting statements. The commissioner shall examine and may audit the accountings filed under [Section 11] and shall investigate any irregularities and report any apparent violations of this chapter to the attorneys having authority to prosecute. The lobbyist is required to provide and the principal is required to obtain and keep for a period of seven years from the date of filing all records supporting the accountings filed under [Section 11]. All such records shall be open to inspection on request of the commissioner or an attorney having authority to prosecute violations of this chapter. The commissioner and such attorneys are given the power to subpoena and compel attendance; issue enforceable civil investigative demands; take evidence; and require the production of any books, correspondence, memoranda, bank account statements, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of this chapter.

NEW SECTION. Section 16. Disclosure by elected officials.

(1) Prior to December 15 of each even-numbered year, each elected official or official-elect shall file with the commissioner a business disclosure statement on a form provided by the commissioner. The statement shall provide the following information: The name, address, and type of business of such individual and each member of such individual's immediate family. For this purpose "immediate family" includes the individual's spouse and minor children only.

(2) No such individual may assume or continue to exercrise the powers and duties of the office to which that individual has been elected or appointed until such statement has been filed.

(3) The commissioner shall make such business disclosure statements available to any individual upon request.

NEW SECTION. Section 17. Commissioner to make rules -- statement of intent.

(1) The commissioner shall promulgate and publish rules necessary to carry out the provisions of [this act] in conformance with the Montana Administrative Procedure Act and, in particular, shall provide rules necessary to allocate salary, expenses, and any other payments between lobbying activities and other activities not connected with lobbying for any person whose activities are not solely limited to lobbying.

(2) Such rules shall be designed to effect and promote the purposes of this act, express or implied. Such rules shall be as simple and easily complied with as possible.

NEW SECTION. Section 18. Civil penalties and enforcement.

(1) Any person who violates any of the provisions of this chapter shall be subject to civil penalties of not less than $250 and not more than $7,500 according to the discretion of the district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter shall have his/her license suspended or revoked according to the discretion of the court. Any public official holding elective office adjudged in violation of the provisions of this act is additionally subject to recall under Montana Recall Act, § 2-16-601, MCA et seq, and such violation shall constitute an additional basis for recall to those mentioned in § 2-16-603(3), MCA.

(2) The attorney general, commissioner, or the county attorney of the county in which the violation takes place may bring criminal or civil actions in the name of the state for any appropriate criminal or civil remedy.

(3) If a prosecution is undertaken by the commissioner or any county attorney, all costs associated with the prosecution shall be paid by the state of Montana.

(4)(a) Any individual who has notified the commissioner, the attorney general and the appropriate county attorney in writing that there is reason to believe that some portion of this chapter is being violated may himself/herself bring in the name of the state an action (hereinafter referred to as a citizen's action) authorized under this chapter if:

(i) the attorney general and the appropriate county attorney have failed to commence an action hereunder within 40 days after such notice, and

(ii) said attorneys then fail to commence an action within 10 days after a written notice delivered to them advising them that a citizen's action will be brought if they do not bring an action.

(b) Each notification shall toll the statute of limitations applicable until the expiration of the waiting period.

(c) If the individual who brings the citizen's action prevails, he/she shall be entitled to be reimbursed by the state of Montana for costs and attorney's fees incurred: Provided that in the case of a citizen's action which is dismissed and which the court also finds was brought without reasonable cause, the court may order the individual commencing the action to pay all costs of trial and reasonable attorney's fees incurred by the defendant.

(5) No civil action may be brought under this section more than seven years after the occurrence of the facts which give rise to the action.

(6) All civil penalties imposed pursuant to this section shall be deposited in the state general fund.

(7) A hearing under this chapter shall be held by the court unless the defendant-licensee demands a jury trial. The trial shall be held as soon as possible but at least 20 days after the filing of the charges and shall take precedence over all other matters pending before the court.

(8) If the court finds for the plaintiff, judgement shall be rendered revoking or suspending the license and the clerk of court shall file a certified copy of the judgement with the commissioner.

NEW SECTION. Section 19. Recodification. The office of the commissioner of campaign finances and practices, created by 13-37-102, shall be known as the office of the commissioner of political practices.

NEW SECTION. Section 20. Repealer. Sections 5-7-104, 5-7-205, 5-7-206, 5-7-303, and 5-7-304, MCA are repealed.

NEW SECTION. Section 21. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 22. Effective date. This act shall be effective upon passage and approval by the voters of the state of Montana.

ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

The Lobbyist Disclosure Initiative will do three things:

1) Lobbying groups - including government agencies - will have to make public where they get their money and how they spend it to influence public officials.

2) Those elected to state offices must make public the names, addresses and types of businesses they own.

3) Loopholes in the present code of ethics for lobbyists will be closed.

No Montanan should have less clout with our elected officials than the lobbyists - but that is the case.

Many lobbyists are highly paid professionals. They are experts in their field; backed up by paid, trained staffs. They are extremely persuasive and highly effective in forwarding the interests of the party who pays them and who gives them the money to use.

Lobbyists have become known as the "third house" of the Montana Legislature, and are sometimes regarded as the most powerful of the three. They have made themselves at home within our governmental system and hold considerable sway over the decision-making process.

The decisions that lobbyists influence directly affect our day-to-day lives and how our tax dollars are spent. We have every right as citizens and tax-payers to know how the public business - our business - is being done, and to know how our officials reach decisions.

Hired lobbyists provide useful information to state officials. But they do this to get favorable decisions for their employers' interests, without regard for the public interest.

The individual citizen cannot match the power of the lobbyists in the legislature or the state bureaucracy. We can't afford the time nor the money that huge special interests are willing to pay to influence decisions about our land, water, and air, not to mention the 500 million dollars per year in Montana's budget.

But -- once we know what special interests have influenced an elected officials' decisions -- we will have a better view of whom the official truly represents.

Once we know how much is being spent to influence a decision we will know how much it is worth, and to whom.

Once we know what an officials' business interests are, we will know whether that official best represents our interests or his/her own.

Lobbyists are not elected. They are accountable only to their employers, and we can't even find out who their employers really are. But with Initiative 85 we can. Initiative 85 will allow us to hold our elected officials more accountable for their decisions; decisions that have been heavily influence by lobbyists.

S/ Kelly Jenkins, Chairman
Mark Mackin
Mark Nicholson

ARGUMENT ADVOCATING REJECTION OF THE ISSUE

This initiative is vague, badly worded, inconsistent and mechanically unsound.

It will also lead to the invasion of privacy of many individuals or groups - farmers, union members, merchants, ranchers, professional groups, newspapers, trade associations and many others.

This measure is another regulatory scheme that sounds good on the surface but, on the contrary, requires a host of regulations and reports. It will inevitably lead to harassment of people and organizations all across Montana who are interested in good government, and who take the time and effort to make their views known.

But the great majority of the money spent in lobbying is by representatives of governmental bureaus and agencies.

This initiative does not require reporting or disclosure of such expenditures by government. Governmental employees could continue to lobby for their bureaus and agencies without reporting their expenditures as is required of private individuals and groups.

If the public has a right to know how much money is spent by private individuals and groups to influence legislation and public officials, it should also know how many tax dollars are so used by government bureaucracy. The proposed initiative will not require such disclosure.

Another objectional feature of the Initiative is that it would allow anyone to substitute his or her opinion for the judgment of the duly elected county attorney and prosecute an action at taxpayers' expense for alleged violations of the act.

People who love the law and who demand clarity and logic in the statutes will vote against Initiative # 85.

S/ Pete Story, Chairman
Ken Byerly
Mons Teigen
Robert Marks

ARGUMENT REBUTTING THE ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

It is a crime in Montana for a person to offer, or a Legislator to accept, anything of value in return for his or her vote. This bill doesn't address that issue. It will require extensive reports from citizens. These reports will not contain evidence of illegal payments (which would never be reported anyway) but will require listing of such expenses as research, advertising, printing, postage, telephone and entertainment. The figures will tell the public nothing of value. The bill adds another layer of useless and expensive paperwork.

The bill provides that "lobbying" does not mean elected or appointed officials of state or local government acting in their official capacity. Thus, contrary to proponents' statement, the bill will not require that the huge sums spent for lobbying by these "special interests" be revealed.

The bill would remove control of lobbying from an elected official. It would broaden the definition of lobbying thus vastly increasing its regulatory scope. All lobbyists must now register with the Secretary of State and reveal the identity of the persons or organizations by whom they are employed. This is not a simple bill which will force people to be honest. It is another example of heavy handed governmental interference into the lives of private citizens which is allegedly justified by the "public interest".

The public's legitimate interest in honesty and openness in government is not well-served by this Initiative.

S/ Pete Story, Chairman
Robert Marks
Joe Quilici

ARGUMENT REBUTTING THE ARGUMENT
ADVOCATING REJECTION OF THE ISSUE

Unlike current law, Initiative 85 will treat governmental agencies that hire lobbyists like any other lobbying group. Despite what opponents say, agencies that lobby will not only have to report how many of our tax dollars they spend to lobby, but also exactly how they spend it.

Initiative 85 guarantees the right of every individual Montana citizen to personally express his/her views to public officials and to personally spend whatever it takes without having to file a single report. Only lobbying groups that hire professional lobbyists and spend $1,000/year to lobby will have to report.

Initiative 85 allows citizens to bring action against violators of the initiative when legal authorities refuse to act, but frivolous actions will not be tried at state expense. Only if a citizen's action results in a guilty verdict will the citizen's cost be reimbursed by the state. If the court dismisses a citizen's action, the citizen pays at least his own court costs, and can be ordered to pay the defendant's.

Our opponents say Initiative 85 has good ideas, but it is poorly written and unworkable -- exactly what opponents have said about the six lobbyist disclosure bills proposed in the legislature since 1975. Before the final version, hundreds of Montanans examined the initiative. Two months were spent writing their comments into the initiative. Those who have actually read Initiative 85 believe it will be an efficient and effective law. It will encourage legislators to listen when people talk, not when money talks.

S/ Mark Nicholson
Mark Mackin
Kelly Jenkins, Chairman

The form in which the issue will be printed on the Official Ballot at the General Election, November 4, 1980, is as follows:

INITIATIVE NO. 85

A LAW PROPOSED BY INITIATIVE PETITION

THIS PROPOSED INITIATIVE REQUIRES PUBLIC DISCLOSURE OF MONEY SPENT TO INFLUENCE ACTION OF A PUBLIC OFFICIAL. ALL INDIVIDUALS OR BUSINESSES WHO EMPLOY LOBBYISTS AND SPEND MORE THAN $1000 A YEAR TO PROMOTE OR OPPOSE OFFICIAL ACTION OF A PUBLIC OFFICIAL MUST GIVE A COMPLETE ACCOUNTING OF ALL MONEY SPENT. THE PROPOSAL DOES NOT APPLY TO INDIVIDUAL CITIZENS LOBBYING ON THEIR OWN BEHALF. ELECTED OFFICIALS ARE REQUIRED TO PUBLICLY DISCLOSE THEIR BUSINESS INTERESTS. CRIMINAL AND CIVIL PENALTIES ARE PROVIDED FOR VIOLATIONS OF THE PROVISIONS OF THIS INITIATIVE.

☐ FOR requiring disclosure of money spent to influence public officials and requiring elected officials to disclose their business interests.

☐ AGAINST requiring disclosure of money spent to influence public officials and requiring elected officials to disclose their business interests.

INITIATIVE NO. 86

The following is a copy of the title and text of the proposed Initiative as it appears in the official files of the Secretary of State:

THIS INITIATIVE PROPOSES TO CHANGE THE MONTANA INCOME TAX STRUCTURE TO REQUIRE THAT TAX BRACKETS, EXEMPTIONS, STANDARD DEDUCTIONS, AND MINIMUM FILING REQUIREMENTS BE ADJUSTED EACH YEAR TO PREVENT TAX INCREASES DUE SOLELY TO INFLATION. IF THIS INITIATIVE IS ENACTED IT WILL BE EFFECTIVE IN 1981.

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

Section 1. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103 in effect on January 1, 1980;

(b) the exemptions contained in 15-30-112 in effect on January 1, 1980;

(c) the maximum standard deduction provided in 15-30-122 in effect on January 1, 1980.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

~~(1)~~ (3) "Department" means the department of revenue.

~~(2)~~ (4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

~~(3)~~ (5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(4)~~ (6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

~~(5)~~ (7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1980.

~~(6)~~ (9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~(7)~~ (10) "Knowingly" is as defined in 45-2-101.

~~(8)~~ (11) "Net income" means the adjusted gross income of a taxpayer less the deductions is allowed by this chapter.

~~(9)~~ (12) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(10)~~ (13) "Purposely" is as defined in 45-2-101.

~~(11)~~ (14) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(12)~~ (15) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(13)~~ (16) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(14)~~ (17) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(15)~~ (18) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Section 2. Section 15-30-103, MCA, is amended to read:

"15-30-103. Rate of tax. (1) There shall be levied, collected, and paid for each taxable year commencing on or after December 31, 1968, upon the taxable income of every taxpayer subject to this tax, after making allowance for exemptions and deductions as hereinafter provided, a tax on the following brackets of taxable income as adjusted under subsection (2) at the following rates:

~~(1)~~ (a) on the first $1,000 of taxable income or any part thereof, 2%;

~~(2)~~ (b) on the next $1,000 of taxable income or any part thereof, 3%;

~~(3)~~ (c) on the next $2,000 of taxable income or any part thereof, 4%;

~~(4)~~ (d) on the next $2,000 of taxable income or any part thereof, 5%;

~~(5)~~ (e) on the next $2,000 of taxable income or any part thereof, 6%;

~~(6)~~ (f) on the next $2,000 of taxable income or any part thereof, 7%;

~~(7)~~ (g) on the next $4,000 of taxable income or any part thereof, 8%;

~~(8)~~ (h) on the next $6,000 of taxable income or any part thereof, 9%;

~~(9)~~ (i) on the next $15,000 of taxable income or any part thereof, 10%;

~~(10)~~ (j) on any taxable income in excess of $35,000 or any part thereof, 11%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that taxable year and round the cummulative brackets to the nearest $100. The resulting adjusted brackets are effective for that year and shall be used as the basis for imposition of the tax in subsection (1) of this section."

Section 3. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) Except as provided in subsections (7) and (8), in the case of an individual, the exemptions provided by subsections (2) through (6) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4) (b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $800; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5) (a) (ii), the term "child" means an individual who is son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5) (a) (ii) (B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5) (d) (ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979.

(8) For taxable years beginning after December 31, 1980, the department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted exemption are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 4. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) In the case of a resident individual, a standard deduction equal to 15% of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be $1,000, as adjusted under the provisions of subsection (2), except in the case of a single joint return of husband and wife the maximum standard deduction shall be $2,000, as adjusted under the provisions of subsection (2). The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.

(2) By November 1 of each year, the department shall multiply the maximum standard deduction for single returns and joint returns by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 5. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than $940, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than $1,880, as adjusted under the provisions of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by $800, as adjusted under the provisions of 15-30-112 (7) and (8), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112 (3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112 (2), (3), and (4), as prorated according to 15-30-112 (6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither

gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by $1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than $1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return."

NEW SECTION. Section 6. Adjusted base year structure to appear on tax forms. Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

Section 7. Applicability. This act applies to taxable years beginning after December 31, 1980.

ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

Initiative 86 seeks to change Montana's income tax system to prevent inflation from causing increased income tax payments. Everyone is aware of the impact which inflation has on the price of goods, services, savings and earnings. The impact which inflation has on taxes - particularly Montana's income tax - is just as significant.

For example, consider the impact of recent salary increases on two representative state employees. Effective July 1, 1980, Montana state employees received an income increase of seven percent, the major portion of which was intended to compensate employees for inflation. However, the increase in state income tax withholding was inflated by a greater percentage. To a clerical worker, a seven percent payroll increase resulted in a twelve percent state income tax withholding increase. To an administrative level state employee, a seven percent payroll increase resulted in a sixteen percent increase in state income tax withholding. This is NOT the way our income tax system is supposed to work!

Inflation's effect on people in lower income brackets, even those who do not receive pay increases is also very significant. Those who receive no pay increase pay a greater percentage of their incomes in taxes simply because inflation has devalued or lowered their incomes.

Between 1969 and 1979, personal income in Montana was up 129%. Percentage of tax increases should have been about the same but because workers went into higher paying tax brackets, taxes were up 300%.

Initiative 86 will modify several of the features of the Montana income tax to permit individuals to deduct inflation from their taxes. Tax brackets, personal exemptions, standard deductions and minimum filing requirements will all reflect the impact of inflation on the dollar.

Taxpayers in all tax brackets will benefit from Initiative 86. The average family will realize an average of $200 a year in tax relief over each of the next five years. The impact of

Initiative 86 on the state budget is less than one-half of one percent of the total state budget the first year of enactment. A study recently completed by the Iowa State Department of Revenue revealed that those taxpayers in the lower tax brackets will receive a significant benefit from the enactment of legislation such as Initiative 86. The Iowa study was done on Iowa's state income tax system which is very similar to the Montana state income tax system.

The bill on which Initiative 86 is based was widely supported by the 1979 Montana Legislature where it passed the House of Representatives by a vote of 92-2 and the Senate 39-10, only to be vetoed by the Governor after the legislators had gone home.

Inflation is taxing you. This tax is not imposed by any legislature. It effects anyone who receives income in excess of $1,000 in the State of Montana. In order to make government and politicians more responsible to the taxpayers, we must rid ourselves of this inflation tax. Vote for Initiative 86 and abolish the inflation tax!

S/ Larry Williams, Chr.
John W. Larson
Kenneth Nordvedt

ARGUMENT ADVOCATING REJECTION OF THE ISSUE

Initiative 86, which would establish a system of tax indexing in this state, should be rejected by Montana voters for the following reasons:

1. Programs enacted by the last legislature will provide Montanans with approximately $75 million in property and income tax relief in the current biennium. These programs provide help where it is needed the most -- to homeowners and low and middle income taxpayers. The passage of Initiative 86 will threaten the continuation of these effective and equitable tax relief programs.

2. The relief provided under existing programs was structured to assist the majority of Montana homeowners and taxpayers. Under these programs, a homeowning family with an income of $20,000 will receive $222 in tax relief in 1980. Under Initiative 86, the same family would receive only $32 and the largest advantages would go to taxpayers in the higher income tax brackets. For example, at an annual rate of inflation of 8% a taxpayer with an income of $6,000 would receive only $5 in relief from Initiative 86. A person earning $45,000 would receive $60 and the real beneficiaries of the program would be the privileged minority in the highest brackets.

3. The pay as you go system of tax relief in Montana guarantees the financial stability of the state. Under these programs, tax relief is provided only when revenue is available, which assures a balanced budget in accordance with the state constitution. It would be extremely difficult to determine the impact of an indexing program on state revenues for a two year period. Essentially, the state would be preparing the budget in the dark, which would expose Montana to the possibility of substantial deficits. This state has had experience with deficit spending in the past and the proposed solution to this problem has always been a sales tax. It is therefore critically important to reject experiments like Initiative 86 to assure that state government is not exposed to budget deficits and the need for alternative sources of revenue such as a sales tax.

4. Initiative 86 would commit Montana to a tax relief program based on a mathematical formula rather than the actual financial requirements of government and the taxpayers in Montana. If this measure becomes law, the elected representatives of the public will be relieved of the responsibility of adjusting tax rates to meet the revenue requirements of state government. This will substantially limit the discretion of the legislature in managing emergencies, funding essential programs and developing more equitable and effective tax relief measures.

In conclusion, Initiative 86 will provide insignificant tax relief to the great majority of Montanans while providing substantial benefits to those people in the upper brackets. It could nullify existing, more equitable tax relief programs. It will force Montana to abandon effective budgeting procedures and protection against deficit spending. And it will commit Montana to a tax experiment that could become totally inconsistent with economic conditions and the revenue requirements of state government in the immediate future.

S/ Robert D. Watt, Chairman
Herb Huennekens
Bill Groff
R. Nadlean Jensen

ARGUMENT REBUTTING THE ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

The above statement by the proponents of Initiative 86 is extremely confusing and misleading. It makes repeated univerified statements and argues the self-contradictory idea that the average family will save $200 a year while the impact on the state general fund will be negligible. They can't have it both ways. 250,000 families at $200 means $50,000,000 per year, a figure which would be disastrous to the services which all responsible Montanans want the State to provide.

In fact the long term effect of Proposition 86 will be so great that new and more inequitable taxes are inevitable, or- unbearable local property taxes will occur through shifting.

Certainly inflation hurts most everyone, but we cannot negate its effects upon ourselves at the expense of reasonable state services. It is an avoidance of our responsibility to the unfortunate people in our institutions and to our student population to favor such action.

We need to reduce local property taxes, which is where the real burden and inequities lie. It is proposed that the state begin to support much of the welfare and criminal trial costs now borne by counties. Proposition 86 will make this impossible. We should reduce local property taxes before reducing state taxes.

Finally it should be noted that only seven states have any type of income tax indexing, and that this Proposition 86 provides a more severe cutback in state revenue than any of these.

S/ Robert D. Watt, Chairman
R. Nadiean Jensen
Bill Groff

ARGUMENT REBUTTING THE ARGUMENT ADVOCATING REJECTION OF THE ISSUE

The arguments that you have just read against I-86 are absolutely incorrect.

The last Legislature studied, debated and finally enacted a complete tax relief package with both short term and permanent tax relief. What is now known as I-86, was part of that total tax relief package which was studied and overwhelmingly approved by the 1979 Legislature, only to be vetoed by Governor Judge, after they went home.

Basically the 75 million dollars in tax relief mentioned by the opponents of I-86, was short term tax relief. I-86 is part of this package that provides permanent protection against the effects of inflation.

Passage of I-86 will provide for the complete tax relief package invisioned by the 1979 Legislature which gave it's strong support. Opponents of I-86 are using the "big lie" technique by arguing that I-86 will provide more tax relief to the wealthy, than to the ordinary wage earner, for example:

For the average Montana family of four with a $30,000.00 a year income, a 10% cost of living increase in wages would result in a 17% tax increase. For the family of four with a $10,000.00 income, a 10% wage increase would result in a 26% hike in their tax payments.

Obviously, State Government has and will continue to receive an unjustified, unauthorized, windfall profit from the effects of inflation on our tax structure, unless I-86 is passed.

It is not surprising that politicians who support Government growing at a rate faster than the private sector, oppose I-86.

S/Larry Williams, Chairman
John W. Larson
Kenneth Nordvedt

The form in which the issue will be printed on the Official Ballot at the General Election, November 4, 1980, is as follows:

INITIATIVE NO. 86

A LAW PROPOSED BY INITIATIVE PETITION

THIS INITIATIVE PROPOSES TO CHANGE THE MONTANA INCOME TAX STRUCTURE TO REQUIRE THAT TAX BRACKETS, EXEMPTIONS, STANDARD DEDUCTIONS, AND MINIMUM FILING REQUIREMENTS BE ADJUSTED EACH YEAR TO PREVENT TAX INCREASES DUE SOLELY TO INFLATION. IF THIS INITIATIVE IS ENACTED IT WILL BE EFFECTIVE IN 1981.

☐ FOR adjusting the income tax structure to prevent tax increases due solely to inflation.

☐ AGAINST adjusting the income tax structure to prevent tax increases due solely to inflation.

INITIATIVE NO. 87

The following is a copy of the title and text of the proposed Initiative as it appears in the official files of the Secretary of State:

THIS INITIATIVE:

(1) PROVIDES THAT A VOLUNTARY PROGRAM TO RECYCLE BEVERAGE CONTAINERS MAY BE ESTABLISHED BY BEVERAGE AND RECYCLING BUSINESSES;

(2) PLACES A MINIMUM 5 ¢ REFUNDABLE DEPOSIT ON ALL BEVERAGE CONTAINERS IF THE VOLUNTARY RECYCLING PROGRAM FAILS TO RECYCLE 60% OF ALL BEVERAGE CONTAINERS BY 1982, 75 % by 1983, AND 85 % AFTER 1983;

(3) PROHIBITS THE SALE OF ANY NON-REFILLABLE GLASS OR PLASTIC BEVERAGE BOTTLES AND NON-RECYCLABLE BEVERAGE CANS AFTER MARCH, 1983, AND THE SALE OF DETACHABLE PULL-TABS AND USE OF PLASTIC CONNECTORS AFTER MARCH, 1982;

(4) ALLOWS PRIVATE RECYCLING CENTERS TO REDEEM AND RECYCLE BEVERAGE CONTAINERS.

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

Section 1. Short title. [This act] may be cited as "The Montana Litter Control and Recycling Act".

Section 2. Purpose - Statement of Intent. The purpose of [this act] is to:

(1) encourage the refilling and recycling of beverage containers;

(2) reduce the wasteful use of energy and material resources;

(3) reduce beverage container litter and disposal costs; and

(4) encourage the affected industries to implement an effective system for the voluntary recycling of beverage containers, but if the affected industries fail to promptly implement such a system, to institute a refund system for all beverage containers.

Section 3. Definitions. As used in [this act], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Affected industries" means any combination of bottlers, distributors, retailers, recycling industries, and other persons, that can jointly provide the information required for a voluntary plan under [section 4(2) of this act].

(2) "Beverage" means beer or other malt beverage, mineral water, tea, soda water, and carbonated soft drink in liquid form for human consumption.

(3) "Beverage container" means each airtight glass, metal, or plastic bottle or can that contains or contained a beverage.

(4) "Bottler" means a person who bottles, cans, or otherwise fills a beverage container for sale to a distributor or retailer in this state.

(5) "Consumer" means a person who buys a beverage in a beverage container for consumption.

(6) "Department" means the Department of Health and Environmental Sciences.

(7) "Distributor" means a person who sells a beverage in a beverage container to a distributor or retailer in this state.

(8) "Person" means any individual, corporation, partnership, association, governmental subdivision, business, or other organization of any kind.

(9) "Recycled" means reused as a material to manufacture new beverage containers or other salable products.

(10) "Redemption center" means an operation provided for in [section 10 of this act] that accepts from a consumer, and pays in cash the refund value for, a beverage container.

(11) "Refilled" means refilled with a beverage for resale.

(12) "Retailer" means a person who sells a beverage in a beverage container to a consumer.

(13) "Throwaway beverage container" means:

(a) a glass, plastic, or other nonmetal beverage container that cannot be refilled at least five times; or

(b) a metal beverage container that cannot be marketed in at least five counties in this state for recycling. The recycling or refilling itself need not take place in this state.

Section 4. Voluntary plan. (1) The affected industries may establish a voluntary system to recycle and refill beverage containers. If successful, according to the standards set forth in this section, the voluntary system will substitute for the alternate refund system provided for in [sections 5, 6, 7, 8, and 9 of this act]. The department shall determine the success of the voluntary system by means of reports filed in compliance with a voluntary plan as provided in this section. The department may not spend substantially more to administer this section than the department estimates it would cost to administer the alternate refund system.

(2) On or before March 1, 1981, any affected industries may submit a comprehensive "voluntary plan" to the department. Each voluntary plan shall specify the method by which the department shall be given and can verify the following information: For each fiscal year, beginning with Fiscal Year July 1, 1981, to June 30, 1982, a written estimate, which is accurate to within 5% of the actual total number,

(a) of the number of beverage containers sold to consumers in this state, and

(b) of these beverage containers, the number which are refilled or recycled.

(3) The department, before June 1, 1981, shall:

(a) in consultation with the affected industries, accept such voluntary plan (which may be a combination of submitted plans) as will be adequate for the reporting purposes of this section, will provide information readily verifiable by the department with a minimal expenditure of time and money, and which is agreed upon in writing by the affected industries; or

(b) if no such plan is agreed upon, reject all voluntary plans.

(4) If the department and the affected industries agree on a voluntary plan, the department shall, before September 1 of each year following 1981, using the information submitted in compliance with the plan, compile a report for the immediately preceding fiscal year which states:

(a) the total number of beverage containers sold to consumers in this state;

(b) the number of these beverage containers which have been or are being refilled or recycled; and

(c) a conclusion that the following standards either have or have not been met:

(i) that, for the fiscal year July 1, 1981, to June 30, 1982, not fewer than 60% of the total number of beverage containers sold to consumers in this state have been or are being refilled or recycled;

(ii) that, for the fiscal year July 1, 1982, to June 30, 1983, not fewer than 75% of the total number of beverage containers sold to consumers in this state have been or are being refilled or recycled; or

(iii) that, for any 2 consecutive fiscal years thereafter, not fewer than 85% of the total number of beverage containers sold to consumers in this state during those 2 years have been or are being refilled or recycled.

(5) If the department and the affected industries fail to agree on a voluntary plan by June 1, 1981, or if the department fails to report by September 1 of any subsequent year that the standards specified in subsection (4) have been met, [sections 5, 6, 7, 8, and 9 of this act] shall become effective on March 1 of the following calendar year. If no voluntary plan is submitted to the department by March 1, 1981, [sections 5, 6, 7, 8, and 9 of this act] shall become effective December 1, 1981. Those sections shall not otherwise become effective.

Section 5. Refund value. Each beverage container sold or offered for sale in this state shall have a refund value of not less than 5 cents. A metal beverage container retains its refund value even if crushed, torn, or otherwise bent, if the whole label required by [section 6] is visible.

Section 6. Labeling. (1) Except as provided in subsection (2), the words "Montana Refund Value" and the refund value must be clearly and conspicuously indicated on every beverage container sold or offered for sale in this state in letters and numerals not less than one-fourth inch in height. The label required by this section must be firmly affixed to the beverage container, may not be indicated on the bottom of the container, and shall be stamped in contrasting color on the top of each metal beverage container.

(2) Any type of refillable glass beverage container having a refund value of not less than 5 cents prior to the effective date of this section and having a brand name permanently marked on it is not required to indicate the refund value as provided in this section.

Section 7. Retailer requirements. (1) Except as provided in subsections (2), (3) and (4), a retailer shall accept from any consumer, and shall pay in cash the refund value for, any beverage container that is:

(a) empty, reasonably clean, and unbroken;

(b) labeled as required in [section 6];

(c) of the kind, size, and brand sold by the retailer; and

(d) presented to the retailer at the retailer's place of business.

(2) A retailer selling a beverage solely for consumption on the retailer's premises may choose not to charge a deposit for the container and, if so choosing, is not required to pay a refund for accepting the container back.

(3) (a) If a retailer's place of business is located within a 2-mile radius of a redemption center that, in a manner convenient to the public, accepts, and pays in cash the refund value for each kind, size, and brand of beverage container sold by that retailer, the retailer is not required to accept and to pay the refund value for a beverage container.

(b) A retailer served by a redemption center in the manner provided for in subsection (3)(a) shall prominently display the location and hours of each redemption center serving the retailer.

(4) A retailer may limit the total refund paid to any one consumer in any one transaction to a maximum of 10 dollars.

Section 8. Distributor requirements. (1) A distributor shall accept from any retailer or redemption center, and shall pay in cash the refund value for, any beverage container that is:

(a) empty, reasonably clean, and unbroken;

(b) labeled as required in [section 6];

(c) of the kind, size, and brand sold by the distributor; and

(d) accounted for and presented at the retailer's, redemption center's, or distributor's place of business.

(2)(a) In addition to the payment of the refund value, the distributor shall reimburse the retailer or redemption center for the cost of handling beverage containers. Except as provided in subsection (2) (b), such reimbursement must be at least 20% of the refund value of each beverage container accounted for and presented to the distributor by the retailer or redemption center as provided in subsection (1).

(b) A distributor or group of distributors may sign an agreement with a retailer or redemption center designed to reduce counting, sorting, and other handling requirements associated with returned beverage containers. The agreement may specify a mutually agreeable handling reimbursement which is different from that required by subsection (2)(a).

(3) A distributor shall, within 10 days of receiving written billing from a redemption center, fulfill all of the distributor's obligations under subsections (1) and (2) to that redemption center.

(4) A distributor may:

(a) retain unclaimed deposits for beverage containers that are not returned; and

(b) establish reasonable procedures to prevent multiple redemption of beverage containers which a redemption center chooses to retain.

Section 9. Notice of refund on vending machines. Every owner of a vending machine that sells beverages in beverage containers shall, as a substitute for complying with the requirements of [section 7] with respect to that vending machine, post a conspicuous notice on the vending machine stating that a refund of not less than 5 cents is available for each beverage container sold and stating the nearest location where the refund may be obtained.

Section 10. Redemption centers. (1) Any person may establish a redemption center after registering in writing with the department.

(2) A redemption center may retain possession of any nonrefillable beverage container even after the distributor has paid the refund and handling reimbursement.

Section 11. Prohibited containers. A beverage may not be sold in this state:

(1) after March 1, 1982, in a metal container any metal part of which becomes detached when the container is opened, or in a container assembly connected by a plastic ring; or

(2) after March 1, 1983, in a throwaway beverage container.

Section 12. Department duties. (1) The department shall adopt any rules necessary to administer the following sections, respectively, of [this act] not later than:

(a) February 1, 1981, for [sections 1, 2, 3, 4, 10, and 11]; and

(b) 60 days before the effective date of [sections 5, 6, 7, 8, and 9] for [sections 5, 6, 7, 8, and 9].

(2) The department shall maintain a register of redemption centers.

Section 13. Enforcement. (1) The department may, through the attorney general or appropriate county attorney, file an action:

(a) to collect a civil penalty as provided in [section 14 of this act] for a violation of this part or a rule adopted under this part; and

(b) to abate, prevent, restrain, or enjoin a violation of this part or a rule adopted under this part.

(2) If, in an action brought under subsection (1), a violation of this part or a rule adopted under this part is found, the court shall assess in favor of the department and against the defendant the costs of the action and reasonable attorney's fees. Monies recovered pursuant to this section shall be deposited:

(a) with the county treasurer for deposit in the county general fund if the action was brought by the county attorney on behalf of the department; or

(b) in the state treasury in an earmarked revenue fund to defray the department's costs of the administration of this part and the rules adopted under this part.

Section 14. Penalties. (1) A person who violates this part or any rule adopted under this part:

(a) is guilty of a misdemeanor and upon conviction shall be fined not more than $500 or be imprisoned in the county jail for a term no longer than 6 months, or both; or

(b) is subject to a civil penalty of not more than $250.

(2) Each day of violation of this part or a rule adopted under this part shall constitute a separate violation.

(3) Fines and penalties collected pursuant to this section shall be deposited in the state treasury in an earmarked revenue fund to defray the costs of the department's administration of this part and the rules adopted under this part.

Section 15. Appropriation. The voters, by their passage of this act, express their intent that the Montana legislature appropriate the necessary funding for the department to effectively administer and enforce this act and the rules to be adopted under this part.

Section 16. Codification instruction. The code commissioner shall codify this act in Title 75, Chapter 10, Part 3, MCA.

Section 17. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, all valid applications that are severable from the invalid application remain in effect.

Section 18. Effective date. This act is effective upon passage and approval by Montana voters, except as provided in section 4(5) of this act.

ARGUMENT ADVOCATING APPROVAL OF THE ISSUE

The Montana Litter Control and Recycling Initiative is a unique approach to reducing beverage container litter and waste. It combines a proven means of promoting recycling with the flexibility to allow private industry to do the job.

The Recycling Initiative allows beverage and recycling industries the chance to design an effective, voluntary program to get beer and pop containers out of streams, roadsides, and dumps and into recycling centers -- a program the beverage industry has promised since 1973 but never established.

With cooperation, we believe Montana citizens and businesses will help make the voluntary program work to meet the initiative's goals: recycling of 30% of all beverage containers by 1982, 75% by 1983, and 85% after 1983.

If the industries failed to establish such an effective recycling program on their own, a 5¢ refundable deposit would be placed on beer and pop bottles and cans. Private recycling centers would be allowed to redeem containers. Experience in Oregon, Maine, Vermont, and Iowa shows such a system leads to recycling over 90% of all beverage containers while economic studies show beverage prices are unaffected.

The initiative also prohibits detachable pull-tabs after 1982 and throwaway (non-recyclable and non-refillable beverage containers after 1983.

The Recycling Initiative's tough standards and flexible approach will:

(1) REDUCE LITTER. Beverage containers are half of all litter by volume and 90% of permanent/hazardous litter. Montana's bi-partisan legislative study showed taxpayers pay more than $500,000 annually to clean up litter here. Additionally, Montana citizens pay millions of dollars each year for injuries to people and livestock and damage to equipment from metal and glass litter.

The Montana Farmers Union, with agreement from the general ranch and farm community and its organizations, says: "The Recycling Initiative, by prohibiting dangerous pull-tabs and throwaway containers, will save farmers and ranchers from the expense of litter-related 'hardware disease' and damage."

The Recycling Initiative will reduce beverage container litter by 80% and total litter by 40%.

(2) CONSERVE ENERGY AND MATERIALS. Even with present recycling, Montanans throw out 2,500 tons of valuable aluminum cans each year -- enough to build thirty Boeing 747 airplanes -- and discard 18,000 tons of steel and glass beverage containers. The energy wasted by throwaways equals the annual household power use of Bozeman, Butte, Browning, and Broadus put together.

Montana's bi-partisan legislative study found that measures such as the Recycling Initiative cause "increases in the recycling rate, averaging around 90% by return" -- more than double today's recycling rate.

(3) CREATE JOBS. Montana's United Food and Commercial Clerks, AFL-CIO, supports the Recycling Initiative because "it will help preserve jobs" -- about 200 new jobs would be created, mostly in recycling.

(4) LOWER GOVERNMENTAL COSTS. The Recycling Initiative will "reduce taxes for litter cleanup and disposal," declares Republican gubernatorial candidate Jack Ramirez.

Powerful national packaging and beverage industries have budgeted $450,000 to fight this initiative. While their campaign will be large and loud, we know Montana voters will decide for themselves. We urge your vote FOR Recycling Initiative 87.

S/ Joyce Robinson, Chairman
Bill McColley
Tom Rasmussen

ARGUMENT ADVOCATING REJECTION OF THE ISSUE

"Bottle bill", or forced deposit proposals are shortsighted attempts to deal with problems of litter and solid waste. While Initiative 87 masquerades as "recycling" legislation, in reality, it's just another forced deposit proposal. 87's highly unrealistic recycling goals would result in a mandatory minimum five cent deposit on all soft drink and beer cans and bottles sold in Montana.

We contend:

- Forced deposit legislation is a piecemeal approach to a very complex problem that needs to be dealt with in a more comprehensive manner.

- Bottles and cans for soft drinks and beer generally make up only 20% of litter and 5% of solid waste. Even if the so-called "bottle bill" worked, the vast majority of litter and solid waste would remain.

- Eight states have enacted comprehensive litter/recycling legislation that has dramaticaly reduced total litter, helped recycling and created new jobs. Washington's litter/recycling law has reduced total litter by 66%. Oregon's "bottle bill" has reduced litter by only 10.6%!

- Recyclers generally oppose forced deposits because the impede multi-product recycling.

- Many national groups such as the Council of State Governments, American Automobile Association, and Consumer Alert have rejected problem-ridden forced deposits and endorsed more comprehensive litter/recycling laws.

- Only six states have forced deposit laws. They have cost the consumer a fortune!

Michigan grocers spent $300 million last year to cope with deposit legislation! Consumer prices for beverages have sky-rocketed!

- "Bottle bills" actually result in a massive waste of energy!
A recent survey shows that Coca Cola had to use twice as much fuel in Oregon, a "bottle bill" state, as in Washington to ship the same amount of product.

A Michigan survey shows that under a "bottle bill" gasoline and diesel fuel consumption increased 25% per case for beer and 32% per case for soft drinks.

- Forced deposits have created havoc for retail grocers who must store, handle and transport contaminated, used cans and bottles. Most retailers don't have the space or help to contend with this massive public health problem.

- Since 1976, no state has enacted forced deposits at the ballot box. The Montana legislature has consistently rejected forced deposit proposals.

87 is just the wrong approach. It would be highly inflationary, have little effect on our state's litter problem and could mean the end of free-enterprise recycling, particularly among the centers employing the handicapped. Montanans today can make a free choice about the kind of package they wish to purchase: both refillable and non-refillable containers are widely and readily available.

Comprehensive litter/recycling laws, encompassing education, enforcement and recycling of all materials, not just bottles and cans, make sense.

What Montana needs is a solution, not another symbol.

Vote against Initiative 87, the forced deposit.

S/Allen C, Kolstad, Chairman
R. Budd Gould
Earl L. Sherron, Jr.
Elton M. Andrew
Jay Gifford

ARGUMENT REBUTTING THE ARGUMENT
ADVOCATING APPROVAL OF THE ISSUE

Initiative 87 is neither a Litter Control nor a Recycling Act.

It does not require beverage container recycling.

It is a "bottle bill" in disguise. The so-called goals are unattainable in Montana. Therefore, a "forced deposit" will result.

The beverage industry in Montana is responsible for most existing recycling centers. Time and money has gone into their establishment. This Act may hurt the volunteer - operated centers.

The Montana Legislature has consistently rejected restrictive container legislation since 1959 as not being in the best interests of Montana.

Why?

Initiative 87 will not stop litter. It may reduce beverage container litter. If ALL beverage containers were eliminated, 80 % of litter remains.

Initiative 87 will increase prices. In the six states having forced deposits the price has escalated faster than inflation.

Initiative 87 has a built-in price increase, due to extra handling, storage, labor, and transportation costs. Handling charges alone in the Act will add 24¢ per case. How much more? 15¢ to 60¢ or more per six-pack.

Initiative 87 will not save energy in Montana. The back-haul of empties will mean an increase in gasoline and diesel fuel consumption. The increase? Michigan, 25% per case on beer, 32 %per case on soft drinks; Connecticut, 40 % more trucks needed.

Montanans are clean, practical and fair.

Vote AGAINST Initiative No. 87 on November 4, 1980.

S/ Earl Sherron
Elton M. Andrew
R. Budd Gould

ARGUMENT REBUTTING THE ARGUMENT
ADVOCATING REJECTION OF THE ISSUE

We agree: Montana has too much litter and too little recycling. In 1979, Montana's bipartisan legislative study, after hearing both sides, unanimously concluded measures like Initiative 87 (I-87):

-- reduce litter,

-- recycle 90% of all beverage containers,

-- conserve energy and resources.

Despite this evidence, I-87's out-of-state opponents are spending $450,000 on big advertisements and mailings to make false and irrelevant statements:

-- Is I-87 a "forced-deposit law"? No. I-87 provides a unique "voluntary plan" which allows industry to establish its own recycling program to substitute for deposits.

-- Are I-87's recycling goals unrealistic? No. If the beverage/packaging industries spent $450,000 promoting recycling instead of fighting I-87, I-87's recycling goals could easily be met.

-- Will I-87 eliminate recycling centers? Ridiculous! I-87 will double can recycling, strengthening current recyclers and encouraging new ones. Oregon, with a less flexible law, has 400 recycling centers.

-- Will I-87 raise beverage prices? No. Returnables cost less than throwaways (check your grocery).

--Is the opposition's proposed "litter/recycling law" better? Only if you think new taxes and bureaucracy are better, because that's what "litter/recycling laws" are. Litter taxes are costly (Washington residents have paid $7,000,000 since 1974), ineffective (Washington officials can't show any real litter decline and have disowned industry's fabricated "66% reduction" figure), and burden small businesses. Montana's legislative study voted unanimously against litter taxes.

--Will I-87 increase fuel consumption? No. Every study, including industry's, show returnable containers save massive amounts of energy, including gasoline.

I-87 means less litter and more recycling without more taxes and bureaucracy.

S/ Joyce Robinson
Tom Rasmussen
Bill McColley

The form in which the issue will be printed on the Official Ballot at the General Election, November 4, 1980, is as follows:

INITIATIVE NO. 87

A LAW PROPOSED BY INITIATIVE PETITION

THIS INITIATIVE:

(1) PROVIDES THAT A VOLUNTARY PROGRAM TO RECYCLE BEVERAGE CONTAINERS MAY BE ESTABLISHED BY BEVERAGE AND RECYCLING BUSINESSES;

(2) PLACES A MINIMUM 5¢ REFUNDABLE DEPOSIT ON ALL BEVERAGE CONTAINERS IF THE VOLUNTARY RECYCLING PROGRAM FAILS TO RECYCLE 60% OF ALL BEVERAGE CONTAINERS BY 1982, 75% by 1983, AND 85% AFTER 1983;

(3) PROHIBITS THE SALE OF ANY NON-REFILLABLE GLASS OR PLASTIC BEVERAGE BOTTLES AND NON-RECYCLABLE BEVERAGE CANS AFTER MARCH, 1983, AND THE SALE OF DETACHABLE PULL-TABS AND USE OF PLASTIC CONNECTORS AFTER MARCH, 1982;

(4) ALLOWS PRIVATE RECYCLING CENTERS TO REDEEM AND RECYCLE BEVERAGE CONTAINERS.

☐ FOR refundable deposits on beverage containers unless private voluntary programs recycle most beverage containers, and prohibiting non-refillable beverage bottles, non-recyclable beverage cans, and detachable pull-tabs.

☐ AGAINST refundable deposits on beverage containers unless private voluntary programs recycle most beverage containers, and prohibiting non-refillable beverage bottles, non-recyclable beverage cans, and detachable pull-tabs.

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