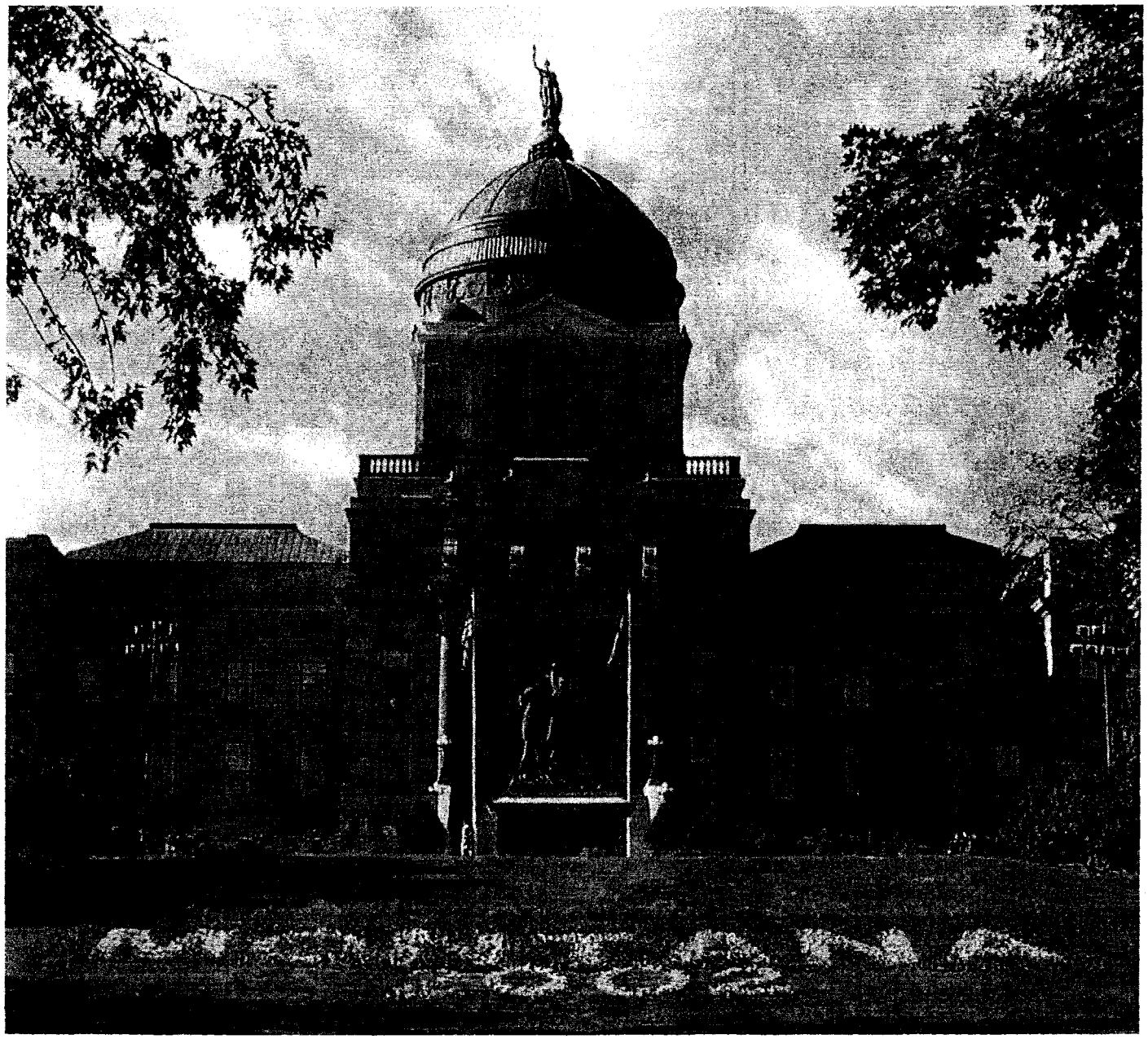
2002

Voter Information Pamphlet, 2002

Montana. Secretary of State

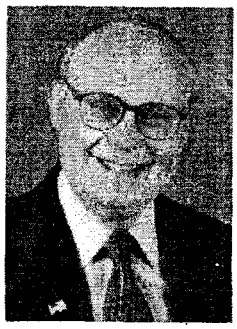
2002 Voter Information Pamphlet



Vote November 5

An official publication of
Montana Secretary of State
Bob Brown

A Message from Secretary of State Bob Brown



Dear Montana Voter,

On a single day one year ago, our lives changed forever. The cold-blooded act of September 11 shocked and outraged Americans. But it also unified us in support of our great nation.

We can show our unity on November 5 by exercising the fundamental right of a free people: We can vote in the general election.

Why take the time and trouble to vote? Because a democracy is only as strong as the voice of its people. When we mark our ballots on Election Day, we make sure our voice is heard. We become soldiers for democracy.

This Voter Information Pamphlet is intended to help you make informed decisions when you vote November 5. It contains information both in support of and opposition to each of the seven initiatives and referenda that will appear on the ballot. Please feel free to mark up your VIP and take it with you to the polls on Election Day.

Of course, there will be many other important races on the general-election ballot, including seats in Congress and the state legislature and on the Montana Supreme Court and Public Service Commission. Please let your voice be heard. Please join me in voting on November 5. Your vote is important. Your vote—your voice—*does* make a difference.

If you would like more information about the upcoming election, visit my web site at sos.state.mt.us. Or call my office toll-free at 1-888-884-VOTE (8683).

See you at the polls!

Bob Brown

Bob Brown, Secretary of State

Published in 2002 by the Office of the Montana Secretary of State.

Additional copies of this Voter Information Pamphlet are available upon request from your county elections office or from the Secretary of State's Office, P.O. Box 202801, Helena MT 59620-2801; 1-888-884-VOTE (8683); soselection@state.mt.us.

Visit the Secretary of State's Office online at www.sos.state.mt.us.

Cover photo by Gayle C. Shirley/Secretary of State's Office. The year 2002 marks the centennial anniversary of the dedication of the State Capitol Building in Helena. Construction spanned the years 1896-1902 and cost about $540,000. The east and west wings were added a decade later at a cost of about $650,000.

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How to Contact Your County Election Office

Area Code 406

COUNTY	NAME	ADDRESS	PHONE	FAX	E-MAIL
Beaverhead	Rosalee B Richardson	2 South Pacific St. #3, Dillon 59725	683-2642	683-5776	
Big Horn	Cyndy R Maxwell	P.O. Box 908, Hardin 59034	665-9730	665-9738	bhcextcr@mcn.net
Blaine	Sandra L Boardman	P.O. Box 278, Chinook 59523	357-3240	357-2199	cr_blaine@hotmail.com
Broadwater	Judy R Gillespie	515 Broadway St., Townsend 59644	266-3443	266-3674	
Carbon	Jo-Ann Croft	P.O. Box 887, Red Lodge 59068	446-1220	446-2640	elections@co.carbon.mt.us
Carter	Pamela Castleberry	P.O. Box 315, Ekalaka 59324	775-8749	775-8750	cccnrc@midrivers.com
Cascade	Peggy Carrico	P.O. Box 2305, Great Falls 59403	454-6803	454-6725	elections@co.cascade.mt.us
Chouteau	JoAnn L Johnson	P.O. Box 459, Fort Benton 59442	622-5151	622-3012	
Custer	Kathy Pawlowski	1010 Main, Miles City 59301	874-3343	874-3452	
Daniels	Carol Malone	P.O. Box 247, Scobey 59263	487-5561	487-5583	
Dawson	Maurine Lenhardt	207 West Bell, Glendive 59330	377-3058	377-2022	tjhelmuth@hotmail.com
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Fergus	Kathy Fleharty	712 West Main, Lewistown 59457	538-5242	538-9023	clerkrecorder@tein.net
Flathead	Susan Haverfield	800 South Main, Kalispell 59901	758-5536	758-5865	sueh@co.flathead.mt.us
Gallatin	Shelley Vance	311 West Main, Rm. 204, Bozeman 59715	582-3060	582-3037	svance@co.gallatin.mt.us
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Jefferson	Bonnie Ramey	P.O. Box H, Boulder 59632	225-4020	225-4149	bramey@co.jefferson.mt.us
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Lake	Kathie Newgard	106 4th Ave. East, Polson 59860	883-7268	883-7283	kathie.elections@lakecounty-mt.org
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Liberty	Maureen Cicon	P.O. Box 459, Chester 59522	759-5365	759-5395	clerk@co.liberty.mt.us
Lincoln	Coral M Cummings	512 California, Libby 59923	293-7781x200	293-8577	lcclerk@libby.org
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McCone	Leanne K Switzer	P.O. Box 199, Circle 59215	485-3505	485-2689	clerk@midrivers.com
Meagher	Joyce S Wofford	P.O. Box 309, White Sulphur Springs 59645	547-3612 x2	547-3388	
Mineral	Katherine Jasper	P.O. Box 550, Superior 59872	822-3521	822-3579	
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Musselshell	Jane E Mang	506 Main, Roundup 59072	323-1104	323-3303	mshlcocr@midrivers.com
Park	Denise Nelson	P.O. Box 1037, Livingston 59047	222-4110	222-4117	clerkrecorder@parkcounty.org
Petroleum	Mary L Brindley	P.O. Box 226, Winnett 59087	429-5311	429-6328	mbrindley@state.mt.us
Phillips	Laurel N Hines	P.O. Box 360, Malta 59538	654-2423	654-2429	phillipscoclerk-rec@yahoo.com
Pondera	Janice Hoppes	20 Fourth Ave. SW, Conrad 59425	271-4000	271-4070	clerkrec@3rivers.net
Powder River	Karen D Amende	P.O. Box 270, Broadus 59317	436-2361	436-2151	kamende@co.powder-river.mt.us
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Rosebud	Geraldine Custer	P.O. Box 47, Forsyth 59327	356-7318	356-7551	
Sanders	Pat Ingraham	P.O. Box 519, Thompson Falls 59873	827-6922	827-4388	pingraham@metnet.state.mt.us
Sheridan	Milt Hovland	100 West Laurel Ave., Plentywood 59254	765-3403	765-2609	mhovland@co.sheridan.mt.us
Silver Bow	Mary McMahon	155 West Granite, Room 208, Butte 59701	497-6335	497-6328	clk&rec@co.silverbow.mt.us
Stillwater	Janet R Parkins	P.O. Box 149, Columbus 59019	322-8000	322-8007	jparkins@co.stillwater.mt.us
Sweet Grass	Sherry Bjorndal	P.O. Box 888, Big Timber 59011	932-5152	932-4777	
Teton	Emile Kimmet	P.O. Box 487, Choteau 59422	466-2909	466-2910	ekimmet@state.mt.us
Toole	Mary Ann Harwood	226 1st St South, Shelby 59474	434-2232	434-2467	clerk@shelby.mt.us
Treasure	Ruth L Baker	P.O. Box 392, Hysham 59038	342-5547	342-5445	clerkrecorder@rangeweb.net
Valley	Lynne Nyquist	501 Court Square, Box 2, Glasgow 59230	228-6226	228-9027	lnyquist@co.valley.mt.us
Wheatland	Mary E Miller	P.O. Box 1903, Harlowton 59036	632-4891	632-4880	
Wibaux	Marlene J Blome	P.O. Box 199, Wibaux 59353	796-2481	796-2625	
Yellowstone	Duane Winslow	P.O. Box 35002, Billings 59107	256-2740	256-2736	dwinslow@co.yellowstone.mt.us

What Is the Voter Information Pamphlet?

The Voter Information Pamphlet (or VIP) is published by the Secretary of State to provide Montana voters with information on statewide ballot measures. The Secretary of State distributes the pamphlets to the county election officials, who mail a VIP to each household with a registered voter.

Who writes the information in the VIP?

The Attorney General writes an explanatory statement for each ballot measure. The statement, not to exceed 100 words, is a true and impartial explanation of the purpose of each measure in easy-to-understand language. The Attorney General also prepares the fiscal statement, if necessary, and "for" and "against" statements for each issue.

Pro and con arguments and rebuttals are written by committees appointed by the sponsors of the measures and by state officials. Arguments are limited to one page and rebuttals to a half page. All arguments and rebuttals are printed as filed by the committees and do not necessarily represent the views of the Secretary of State or the State of Montana.

Who can vote by absentee ballot?

Any voter may request an absentee ballot. A reason to vote absentee, such as expecting to be absent from the county, is not required.

An absentee ballot may be requested from your county election office no later than noon the day before the election (or by noon on Election Day if you have a sudden health emergency). The request (or application) for a ballot must be in writing.

How can I find out if I am registered?

If you are not sure whether or where you are registered, you should contact your county election office. See the opposite page for contact information. *The registration deadline for the general election is October 7.*

Who is eligible to register?

Anyone who is a citizen of the United States, at least 18 years of age on or before Election Day, and a resident of Montana and the county for at least 30 days prior to Election Day may register to vote.

Can I get the VIP in a different format?

If you would like the VIP in large print or some other alternative format, please contact the Secretary of State's Office. The Secretary of State has a telecommunications device for the deaf (TDD) at (406) 444-9068. Audio and large-print versions of the VIP are available at local libraries throughout the state.

For more information on elections, visit the Secretary of State's web site at www.sos.state.mt.us. You also may contact the office directly on a toll-free hotline set up to answer questions on registering and voting; that number is 1-888-884-VOTE (8683).

Political Parties of Montana

These statements have been prepared by the political parties. They do not necessarily represent the views of the State of Montana or the Secretary of State's Office, but are included to provide information to the voters on the political parties that have qualified for the ballot.

CONSTITUTION PARTY

The Constitution Party believes the purpose of government is to protect the individual citizen's right to life, liberty and property. It is not government's role to burden citizens with unjust or unneeded laws; or to act as "nursemaid" by instituting countless social programs. We further believe that we must:

- Restore this country to "One Nation Under God."
- Return to Constitutional, Limited Government.
- Protect the Inalienable Right to Life of All, including the Unborn and Infirm.
- Protect the Individual Right to Keep and Bear Arms.
- Restore National Sovereignty, including withdrawal from the U.N.
- Maintain a Strong National Defense.
- Repeal the Income Tax and replace it with Tariffs, Duties & Excise Taxes.
- Abolish the Federal Reserve.
- End Federal Subsidies for and Control of Education and Welfare.
- Return Control over Elections to the People.
- Abolish Special Interest Entitlements (corporate welfare).

We oppose the use of Social Security numbers as a means of personal identification. We oppose the Children's Health Insurance Plan. It is socialized medicine on the "installment plan," and will eventually cost us dearly.

We invite all who love liberty and justice to join with us in our pursuit of restoring our civil government to our country's founding principles.

Constitution Party of Montana
Jonathan D. Martin, State Chairman
2212 2nd Avenue South
Great Falls, MT 59405-2804
(406) 727-5924
E-mail: 5martins@in-tch.com

DEMOCRATIC PARTY

The Montana Democratic Party puts people first. Our statement of beliefs begins with this: "As Montana Democrats, we believe that 'We the People' are the government and that good government is the way free people assure justice, promote economic growth, educate their children and build communities."

These are tough economic times for Montana's working families, agriculture producers, teachers, students and small businesses. The Montana Democratic Party has common sense ideas that will make Montana better for everyone:

- **Jobs and the Economy:** Developing decent wage jobs; job training; reasonable and fair tax policies with homeowners given first priority; jobs in new technology and in traditional basic industries; clean and healthy communities

- **Education.** Ensuring quality education and stable funding; competitive wages for teachers; research and development to help Montana's industries; ensuring Montana's colleges and universities are affordable

- **Energy.** Re-regulation of energy prices; consumer protection through sensible energy policies for affordable, predictable energy for all consumers, small business owners, farmers, and ranchers; conservation and development of alternative energy supplies

- **Health Care.** Improving access to quality, affordable health care; helping small business offer health insurance; supporting the Children's Health Care Insurance Program (CHIP) and making prescription drugs affordable

Montana Democratic Party
P.O. Box 802
Helena, MT 59624
(406) 442-9520
Fax: (406) 442-9534
E-mail: mdp@montanademocrats.org, Website: www.montanademocrats.org

GREEN PARTY
No Statement Submitted by Party

Green Party
Scott N. Proctor, Interim Coordinator
Janet Knowles, Interim Secretary
624 North 32nd Street
Billings, MT 59101
(406) 248-3378
E-mail: lukejwalker@yahoo.com

LIBERTARIAN PARTY

The Montana Libertarian Party is the real choice for less government, lower taxes, and more freedom. The Libertarian Party believes in economic and personal freedom. People should be free to make their own choices, provided they don't infringe on the equal right of others to do the same. Government's only role should be to protect people's right to make their own choices in life, so they can reap the rewards of their successes and bear personal responsibility for their own mistakes.

The Montana Libertarian Party is dedicated to:

* Living wages for Montana's families by reducing the tax burden and reducing the size and scope of government.

* Improving education by empowering parents not bureaucrats, to make important decisions for our children.

* Protecting the right to keep and bear arms, and elimination of Victim Disarmament laws.

* Safer neighborhoods by punishing violent criminals rather than wasting resources prosecuting victimless crimes.

* A cleaner environment through innovative property rights solutions.

* Compassionate private charity that provides short-term assistance, rather than long-term dependence.

If you're tired of the promises of the majority, we invite you to join us, as we fight for everyone's liberty on every issue, all the time.

Montana Libertarian Party
Mike Fellows, Chair
P.O. Box 4803
Missoula, MT 59806
(406) 721-9020, 1-800-Elect-Us
E-mail: mfellows@usa.net, Website: www.lp.org / www.mtlp.org

NATURAL LAW PARTY

The Natural Law Party was founded to create a new, mainstream political party to offer voters forward-looking, prevention-oriented, scientifically proven solutions to America's problems. Our principles and programs harness the most up-to-date scientific knowledge of natural law – the intelligence of nature that governs our complex universe – and apply it to public policy.

Currently America's fastest growing political party, the Natural Law Party stands for prevention-oriented government, conflict-free politics, and proven solutions, including:

- Natural health care programs shown to prevent disease and cut costs
- Education that develops students' full potential through programs that increase intelligence and creativity
- Effective, field-tested crime prevention and rehabilitation programs
- Lowering taxes through cost-effective solutions, not reduced services
- Protecting the environment through energy efficiency and use of nonpolluting energy sources
- Safeguarding America's food supply through sustainable, organic agriculture practices
- Mandatory labeling and safety testing of genetically engineered foods
- Ensuring a strong economy by harnessing the creativity of our citizens and implementing pro-growth fiscal policies
- Promoting more prosperous, harmonious international relations by increasing the export of U.S. know-how, rather than weapons
- Ending special interest control of politics by eliminating PACs, soft money, and lobbying by former public servants

Natural Law Party of Montana
Phone and fax: (406) 453-0083
E-mail: mtprairie@attbi.net, Website: http://www.natural-law.org

REFORM PARTY

The foundation of our Party is the activity of grassroots citizen volunteers. The Montana Reform Party will make our candidates, party officials and elected officials accountable to our grassroots members who are their principle support. Our Party is open to participation by all who wish to join us to work toward our goals.

We shall restore integrity, accountability and fiscal responsibility to government and its leadership.

We reaffirm the rights of all individuals to life, liberty and the pursuit of happiness.

We support the individual's second amendment Constitutional right to keep and bear arms.

We recognize that legitimate governing authority is based upon the God given sovereignty of the individual. We also support the State of Montana exercising its full sovereignty in all dealings with the Federal Government.

The Montana Reform Party affirms its commitment to uphold the U.S. Declaration of Independence, Constitution and Bill of Rights.

MT QUALIFIED BALLOT MEASURES 2002
WE OPPOSE: C-36, C-37, C-38, C-39.
WE SUPPORT: IR-117, I-145, I-146.

The Montana Reform Party
J.R. Myers, Chairman
P.O. Box 81
Libby, MT 59923
(406) 293-2525
Website: http://www.geocities.com/johricmye/

REPUBLICAN PARTY

Republican leadership has had a significant impact on the greatness of our country. Abraham Lincoln, the first Republican President, fought to protect the freedoms and future of every American. Teddy Roosevelt helped our nation recognize and preserve the vast natural treasures of our land. President Ronald Reagan brought our nation to victory in the Cold War and renewed our faith in the spirit of freedom. George W. Bush is continuing the tradition of great Republican leadership and leading the free world in its war against terrorism.

Today, our Montana Republican Party continues the commitment to protect individual rights and freedoms and empower all citizens with the opportunity to enjoy the great American dream.

Montana Republicans are working for:

- Economic Development to maintain and create better paying jobs, now and into the future for every Montanan.
- Better schools to ensure that Montana children remain among the best educated in America.
- Accountable, efficient and limited government responsive to taxpayers.

Republicans are committed to maintaining our Montana heritage and ensuring that every Montanan has an equal opportunity to pursue success. Join us as we work together to build a brighter tomorrow for our children, our communities and our country.

Montana Republican Party
Sen. Ken Miller, Chairman
1419B Helena Avenue
Helena, MT 59601
(406) 442-6469
Fax: (406) 442-3293
E-mail: exec@mtgop.org, Website: www.mtgop.org

CONSTITUTIONAL AMENDMENT 36

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION PROVIDING FOR THE INVESTMENT OF THE ASSETS OF A LOCAL GOVERNMENT GROUP SELF-INSURANCE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

The legislature submitted this proposal for a vote. Currently, the Montana Constitution prohibits the investment of public funds in private corporate capital stocks, except for public retirement system and state compensation insurance fund assets. This proposal would create a new exception. This exception would allow for the investment of assets of a local government group self-insurance plan in private corporate capital stock, up to a maximum of 25% of the program's total assets. Recognized standards of financial management would apply in making such investments. If approved, this amendment is effective January 1, 2003.

If the Montana Board of Investments had the option of investing local government self-insurance funds in common stock, the total return on these funds would increase. The Montana Common Stock Pool twenty-four year average annual total rate of return is 15.8 percent compared to 10.1 percent on the Bond Pool. The actual total return increase will depend on the portion of funds invested in corporate stock and the relative performance of stocks and bonds.

☐ FOR allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

☐ AGAINST allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Senator Royal Johnson, Representative Bob Lawson, and Dorothy Bradley.

The OPPONENT argument and rebuttal for this measure were prepared by Representative Jeff Pattison, Representative John Esp, and Steve Vick.

ARGUMENT FOR C-36

In the mid-1980s the Legislature authorized local governments – including school districts, cities and towns, and counties – to create group self-insurance pools as an alternative to the purchase of workers' compensation, general liability, property and other forms of insurance from the commercial insurance market. The success of this prudent decision is well documented by the saving of millions of taxpayer dollars.

The money to pay claims, submitted to these self-insurance programs, comes from three sources: premiums paid from plan participant, reserves accumulated to pay current claims, and earnings on these reserves. If revenues from these sources are insufficient to pay claims, then premiums must increase – an additional burden to the participant and eventually to the taxpayers of the State. Maximizing the return on the investment of the funds held in reserve, the government pools, will often offset premium increases.

C-36 will permit the investment managers to allocate up to a maximum of 25% of the assets in corporate stocks. Other prudent investments will be in government bonds and other government backed investments. Historically, the stock market has, over time, out-performed any other type of investments. The professional investment managers and the local government officials will decide the percentage of stock investments, ranging from 0% up to 25% of the total portfolio.

By permitting a mix of investments, C-36 allows for asset diversification, reduces the risks that exist in a portfolio comprised of only one type of investment, and provides the opportunity to earn greater returns for the reserves which will be used to pay claims that occur over a long period of time.

In the spirit of equal opportunity and fairness, Montanans should vote for C-36, and provide the local governments self-insurance pools; this financial tool to be competitive in the insurance market.

ARGUMENT AGAINST C-36

Montana has prohibited the use of public funds invested in the stock market for a very good reason. Enron, WorldCom, Greed, Corporate Fraud, and Insider Trading. These are more than words and statements. We are facing ever-increasing uncertainties in the financial world since 9/11, and the instability it has left behind. Corporate investments bring a great potential for loss as well as gain. Private investments for those daring the risk are available for most of us. Public funds should be invested in the most secure investments possible. After all, a bird in the hand is worth two in the bush.

PROPONENTS' REBUTTAL OF ARGUMENT AGAINST C-36

Contrary to the opponents' contention, Montana does allow the investment of public funds in corporate stocks in retirement and insurance reserve funds through the State Board of Investments. This is just good business. It is also an excellent hedge against the inevitable erosion of inflation and normal cost-of-living increases that devalue bonds.

To condemn all publicly traded companies because of the excesses of a fraction of one percent is tantamount to condemning all humanity for the excesses of a few criminals.

Such overreaction robs future generations of the potential growth of this country. In any 20-year period in modern history, including the Depression, investments in the stock market have had superior returns compared to bonds. A prudent balance is the key.

In the interest of good business practice and tax savings, we urge support for C-36.

OPPONENTS' REBUTTAL OF ARGUMENT FOR C-36

Prior to the stock market crash of 1929, financially, the world looked pretty optimistic. Then "Black Tuesday" hit and hit hard. For many, life was forever changed and sadly fortunes were lost in a brief moment in time.

Spin the clock ahead. September 11, 2001. Again our world changed in a brief moment of time. The false perception of a stable and growing stock market was challenged, and again sadly found lacking.

Should we let the professionals invest for the public sector? One would think with all the insider information they could consistently pick a few stocks to outperform the market and provide a higher rate of return on investments. Sadly corporate greed, illegal trades, and snake oil sales tactics have resulted in much confusion and a greater chance of loss in the market.

To let the professional investment managers, maybe the same type that recommended Enron's or WorldCom's stock, decide where to invest our public funds would not be a wise decision. As for fairness and equal opportunity, ask the poor investors of Enron or WorldCom about the money they lost and about the possibility that they will get any of it back. The lesson we should learn from history is that it repeats itself because we fail to heed its lessons. The prudent decision is to once again reject the temptation of investing these public funds in the stock market.

Vote no on C-36

CONSTITUTIONAL AMENDMENT 37

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTION 7, AND ARTICLE XIV, SECTION 9, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO HAVE A CONSTITUTIONAL AMENDMENT PLACED ON THE BALLOT FROM AT LEAST 10 PERCENT IN TWO-FIFTHS OF THE LEGISLATIVE DISTRICTS TO AT LEAST 10 PERCENT IN ONE-HALF OF THE COUNTIES AND TO CHANGE THE BASIS FOR DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE ELECTORS IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE ELECTORS IN A COUNTY LAST VOTING FOR GOVERNOR.

The legislature submitted this proposal for a vote. This proposal would amend the Montana Constitution by changing the signature gathering requirements for placing a constitutional amendment on the ballot. People proposing constitutional amendments will be required to gather signatures from at least 10% of the qualified electors in at least one-half of Montana's counties, rather than in two-fifths of the legislative house districts. Qualified electors would be the number of registered voters last voting for governor in a county. If approved, this measure would take effect July 1, 2003.

☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Senator Lorents Grosfield, Representative Jeff Mangan, and Representative Alan Olson.

The OPPONENT argument and rebuttal for this measure were prepared by Senator Steve Doherty, Representative Joan Hurdle, and Rob Natelson.

ARGUMENT FOR C-37

We Montanans take very seriously our right to make laws using the initiative process. This is doubly true when we consider changing our Constitution. If the initiative process needs to be modified, it must be done carefully and with full public debate. That's why the Legislature voted to place C-37 and C-38 on the ballot.

The Legislature put them on the ballot together, because they work in tandem. Both are designed to involve more Montanans in the initiative process. While C-37 deals with initiatives that change the Montana Constitution, C-38 addresses initiatives that enact laws.

Both C-37 and C-38 bring involvement by a broader cross-section of Montanans to the initiative process by changing the geographical requirements of signature gathering. The current system is unfair because it is possible to obtain enough signatures to put an initiative on the ballot without the proponents having to set foot in 53 of Montana's 56 counties.

As the Great Falls Tribune noted, "The setup tilts the process toward the urban areas. For example, it is possible to qualify a ballot issue by obtaining signatures in just 3 counties – Cascade, Yellowstone, and Missoula."

This isn't just a hypothetical possibility. More than 93% of the required total number of signatures for the most recent constitutional initiative were gathered in only five counties – and more than the required total number were gathered in only six counties. And constitutional initiatives require twice the number of signatures that initiatives enacting laws require.

C-37 does not increase the number of signatures required to place a constitutional initiative on the ballot. It simply changes the minimum requirement from 10% of the voters in 40 House Districts to 10% of the voters in half the counties. This change would require initiative sponsors to gather signatures from a broader cross-section of Montanans.

It's been said that this change would make a signature in Petroleum County worth more than one in Missoula County. That's not true. Because the total number of signatures required is not changed, most of the signatures will still come from urban areas. C-37 simply requires that those groups that propose ballot initiatives reach out to a broader segment of Montana for a small number of the signatures.

C-37 represents a confirmation that a proposed ballot initiative has broad appeal and that people from varying geographic regions, economic bases and realities agree that an idea merits debate and placement on the ballot.

It is discriminatory that the current system allows a small group of people in very few areas of the state to subject all Montanans to a ballot issue battle. The initiative process, which can have an immediate, direct and profound effect on many lives, must be fair and equitable.

Please join us in enabling a broader cross-section of Montanans to set the initiative agenda. This will not affect voting. It will not change the total number of signatures required – only their distribution. Vote FOR C-37 and C-38.

ARGUMENT AGAINST C-37

Don't Cancel Democracy – Vote "NO" on C-37!

C-37 is an unfair proposal that would use legal technicalities to make it harder for you to control your own government.

The Montana Constitution says that the people are the source of all political power. Thus, the people have the right to amend the constitution through a legal petition, followed by a public vote. This way of amending the constitution is called a "constitutional initiative."

The constitutional initiative process already is quite a difficult one. But C-37 would make it even more difficult. In fact, C-37 would take away entirely your right to vote on many constitutional initiatives. It would do this by enabling a relatively small number of people in a few counties to keep a measure off the ballot.

C-37 is obviously unfair. In fact, it is so unfair, a federal court in Idaho recently ruled that a proposal similar to C-37 violated the U.S. Constitution. In a democratic republic, decisions should be made by the majority, not by tiny minorities.

C-37 will not block measures proposed by wealthy special interests or politicians who have the organization and money to overcome C-37's legal technicalities. (For example, the wealthy can pay petition signature-gatherers.) But C-37 will make it harder for grass roots volunteers to participate in government. Thus, C-37 strikes right at the heart of the initiative process, which was designed for ordinary people, not for politicians or special interests.

Most laws quite properly come from the legislature. But the petition-initiative process is an important way for the people to check the legislature and occasionally get to vote on proposals blocked by the politicians and lobbyists. Of course, sometimes we disagree with particular initiatives – just as we sometimes disagree with proposals in the legislature. But that's no reason to cancel democracy.

Protect your right to participate in government. Vote "No" on C-37.

PROPONENTS' REBUTTAL OF ARGUMENT AGAINST C-37

Cancel democracy?

Absolutely False. C-37 allows more Montanans a voice in what is placed on the ballot. Frankly, saying it would "Cancel Democracy" is the kind of "sound-bite politics" that does not serve reasoned democracy.

A similar law was declared unconstitutional in Idaho?

"Similar?" The Idaho law had different provisions and was a statute adopted by the legislature, not a constitutional provision adopted by the voters.

Take away your right to vote?

Absolutely False. C-37 doesn't address voting at all. Everyone can still vote on all initiatives that are placed on future ballots.

Would C-37 be too difficult for average Montanans to deal with in gathering signatures?

Certainly Not. Several recent initiatives have qualified with plenty of signatures to meet the C-37 standards. Special interest groups' pet initiatives that focus on getting most of their signatures in their own back yards may face a little more difficulty. But we maintain that if signatures cannot be gathered from a broad spectrum of Montanans, then the issue probably doesn't deserve to be on the ballot in the first place.

PROTECT YOUR RIGHT to fully participate in this process. Vote "Yes" on C-37 and C-38.

OPPONENTS' REBUTTAL OF ARGUMENT FOR C-37

As the proponents claim, C-37 and C-38 do work "in tandem," but they work to make it tougher for ordinary citizens to put measures on the ballot. C-37 and C-38 are not minor adjustments that improve Montanans' initiative process. They are an assault on your powers of self-government.

The current process already insures that a large number of Montana voters must be involved in signature gathering. By requiring signatures to be gathered in sparsely populated areas of Montana, both measures drastically increase the resources required to place an issue on the ballot. Make no mistake, these changes would make it almost impossible for grass roots Montanans to take on special interests or challenge bad laws by qualifying issues for the ballot. That's exactly what the special interests and lobbyists who convinced the legislature to put C-37 and C-38 on the ballot intended.

Adding barriers does not stop special interest groups with professional organizers and paid signature gatherers – it stops the grass roots people the initiative process was designed for. These changes do not fine-tune a good initiative process...they take a wrecking ball to it.

Real reform would empower citizens, not shut them out. Vote for representative democracy by voting AGAINST C-37.

CONSTITUTIONAL AMENDMENT 38

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTIONS 4 AND 7, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO PLACE A STATUTORY INITIATIVE ON THE BALLOT FROM 5 PERCENT IN AT LEAST ONE-THIRD OF THE LEGISLATIVE REPRESENTATIVE DISTRICTS TO 5 PERCENT IN AT LEAST ONE-HALF OF THE COUNTIES AND TO CHANGE THE METHOD OF DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE IN A COUNTY LAST VOTING FOR GOVERNOR.

The legislature submitted this proposal for a vote. This proposal would amend the Montana Constitution by changing the signature gathering requirements for placing a statutory initiative on the ballot. People proposing statutory initiatives will be required to gather signatures from at least 5% of the qualified electors in at least one-half of Montana's counties, rather than in one-third of the legislative house districts. Qualified electors would be the number of registered voters last voting for governor in a county. If approved, this measure would take effect July 1, 2003.

☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Senator Lorents Grosfield, Representative Cindy Younkin, and Representative Alan Olson.

The OPPONENT argument and rebuttal for this measure were prepared by Senator Steve Doherty, Representative George Golie, and Rob Natelson.

ARGUMENT FOR C-38

Great Falls Tribune - Editorial - March 9, 2001:

"Fooling with the people's right to make laws directly through the initiative process is akin to fooling with Mother Nature. If tweaking has got to be done, it's got to be done carefully and right out there in front of everyone. Based on the track record of some high-profile initiatives in recent years, we'd say a good case can be made that some tweaking is needed."

C-38 is Montana's opportunity to do just that.

The Legislature placed C-37 and C-38 on the ballot together, because they work in tandem. Like C-37, C-38 is designed to involve more Montanans in the initiative process. While C-37 deals with initiatives that change the Montana Constitution, C-38 addresses initiatives that enact laws.

The current process does not ensure that a broad cross-section of Montanans are represented in the signature gathering process. In fact, signatures could be gathered in only three specific counties to qualify an initiative for the ballot, leaving 53 counties out of the process.

C-38 changes the demographic requirements so that the signatures must come from 5% of the voters in one-half of the counties in Montana, instead of in 34 House Districts. It makes no changes to the total number of signatures required statewide.

As it is now:

A special interest group could qualify an initiative for the ballot without gathering one signature in rural Montana, including on Indian reservations. C-38 doesn't make this mandatory, but much more likely.

A special interest group could sponsor an initiative that would force Great Falls to build an expensive water treatment facility – and no one would have to set foot in Cascade County to gather signatures.

A special interest group could put an initiative on the ballot that would double, triple, even quadruple the coal severance tax – and signature gatherers would not have to go near any coal counties.

Grassroots initiatives changing state law that have broad, statewide appeal will have no trouble gathering signatures in all areas of Montana. Granted, it may be more difficult for special interest groups to place initiatives on the ballot that negatively affect large portions of the state, but the people of Montana and our state's economy deserve no less. Recent high-profile initiatives have shown how costly it is for Montanans to defend their businesses and their way of life from special interest attacks. If there isn't support for an initiative in at least one-half of Montana's counties, Montanans should not be forced to spend scarce dollars defending themselves.

By requiring signatures from half the counties we will ensure that a proposed initiative law has broad appeal and that people from varying geographic regions and economic bases agree that the idea merits debate and placement on the ballot.

Please join us in enabling a broader cross-section of Montanans to set the initiative agenda. This will not affect voting. It will not change the total number of signatures required – only their distribution. Vote FOR C-37 and C-38.

ARGUMENT AGAINST C-38

Don't Cancel Democracy – Vote "NO" on C-38!

C-38 is still another unfair proposal that would use legal technicalities to make it harder for you to control your own government.

The Montana Constitution says that the people are the source of all political power. Thus, the people have the right to pass laws through a legal petition, followed by a public vote. This way of adopting laws is called a "statutory initiative."

The statutory initiative process already is difficult. But C-38 would make it much more difficult. In fact, C-38 would take away entirely your right to vote on many statutory initiatives. It would do this by enabling a relatively small number of people in a few counties to keep a measure off the ballot.

C-38 is obviously unfair. In fact, it is so unfair, a federal court in Idaho recently ruled that a proposal similar to C-38 violated the U.S. Constitution. In a democratic republic, decisions should be made by the majority, not by tiny minorities.

C-38 will not block measures proposed by wealthy special interests or politicians who have the organization and money to overcome C-38's legal technicalities. (For example, the wealthy can pay petition signature-gatherers.) But C-38 will make it harder for grass roots volunteers to participate in government. Thus, C-38 strikes right at the heart of the initiative process, which was designed for ordinary people, not for politicians or special interests.

Most laws quite properly come from the legislature. But the petition-initiative process is an important way for the people to check the legislature and occasionally get to vote on proposals that are blocked up by the politicians and lobbyists. Of course, sometimes we disagree with particular initiatives – just as we sometimes disagree with proposals in the legislature. But that's no reason to cancel democracy.

Protect your right to participate in government. Vote "No" on C-38.

PROPONENTS' REBUTTAL OF ARGUMENT AGAINST C-38

Destroying a "democratic republic" seems an odd argument for the opponents to make on this issue. A democratic republic is by definition a government where the people are governed by their elected representatives– not a government where well-funded fringe groups can inflict their will on the rest of us. That being said, Montana has a long history with the initiative process. C-37 and C-38 will not destroy democracy but rather will enable more Montanans to participate in the initiative form of changing our laws and constitution.

Whose interests are we protecting with the current system that results in excluding so many Montanans from the signature gathering process? Certainly not the interests of most Montanans.

The opponents claim that C-37 and C-38 will take away your right to vote on many initiatives. This is simply not true. C-37 and C-38 do not address voting on initiatives in any way. Everyone will still vote on all initiatives that are placed on the ballot.

PROTECT ALL MONTANANS' RIGHTS to participate in this process. Vote "Yes" on C-37 and C-38.

OPPONENTS' REBUTTAL OF ARGUMENT FOR C-38

As the proponents claim, C-37 and C-38 do work "in tandem," but they work to make it tougher for ordinary citizens to put measures on the ballot. C-37 and C-38 are not minor adjustments that improve Montanans' initiative process. They are an assault on your powers of self-government.

The current process already insures that a large number of Montana voters must be involved in signature gathering. By requiring signatures to be gathered in sparsely populated areas of Montana, both measures drastically increase the resources required to place an issue on the ballot. Make no mistake, these changes would make it almost impossible for grass roots Montanans to take on special interests or challenge bad laws by qualifying issues for the ballot. That's exactly what the special interests and lobbyists who convinced the legislature to put C-37 and C-38 on the ballot intended.

Adding barriers does not stop special interest groups with professional organizers and paid signature gatherers – it stops the grass roots people the initiative process was designed for. These changes do not fine-tune a good initiative process...they take a wrecking ball to it.

Real reform would empower citizens, not shut them out. Vote for representative democracy by voting AGAINST C-38.

CONSTITUTIONAL AMENDMENT 39

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT REQUIRING THAT ALL PUBLIC FUNDS BE INVESTED IN ACCORDANCE WITH PRUDENT EXPERT PRINCIPLES BY REMOVING THE RESTRICTION ON INVESTMENT IN PRIVATE CORPORATE CAPITAL STOCK; SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION; AND PROVIDING AN EFFECTIVE DATE.

The legislature submitted this proposal for a vote. Currently, the Constitution allows pension fund and state compensation insurance fund investments in private corporate capital stock. This proposal would amend the Constitution to allow any public funds to be invested in private corporate capital stock, including any funds from the permanent public school trust, permanent funds of the university system and all other state institutions of learning. All of these investments would be subject to recognized standards of financial management. If approved, this amendment is effective January 1, 2003.

If the Montana Board of Investments had the option of investing public funds in common stock, the total return on public funds invested would increase. The Montana Common Stock Pool twenty-four year average annual total rate of return is 15.8 percent compared to 10.1 percent on the Bond Pool. The actual total return increase will depend on the portion of funds invested in corporate stock and the relative performance of stocks and bonds.

☐ FOR allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

☐ AGAINST allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Senator Bea McCarthy, Representative Dave Lewis, and Rob Natelson.

The OPPONENT argument and rebuttal for this measure were prepared by Representative Matt McCann and Ray Peck.

ARGUMENT FOR C-39

C-39 would repair an outdated and risky part of Montana's constitution that may be costing our state millions of dollars a year.

As you may know, your state investment managers have a legal duty to invest public funds wisely to reduce risk and raise income. But our state investment managers are hampered in their efforts by a rule that says that they are forced to put all state money in bonds. They are not allowed to diversify into other investments – specifically into high quality corporate stock. This restriction may have seemed like a good idea when the constitution was written years ago, but experience has shown that it is risky and dangerous – a form of gambling on interest rates. C-39 would correct the problem.

You see, bond values can drop drastically because of changes in interest rates and other factors. If all your money is in bonds and you have to sell something, you have to take a loss. Of course, stocks go up and down, too. But when bonds are low, stocks are often high – and vice-versa. C-39 will allow our investment managers to sell whatever is high and buy whatever is low. This helps protect against risk.

Recently, Montana lost a tremendous opportunity because C-39 was not yet in the constitution. When the stock market dropped after several years of high prices, the state couldn't take advantage of the buying opportunity. Instead, it had to continue to put all its money into over-priced bonds. We need to pass C-39 to make sure that this disaster doesn't happen again.

There's also a positive reason your lawmakers have asked you to vote for C-39: Over the long term, a balanced portfolio of high-quality stocks and bonds produces a lot more income than a portfolio of bonds alone. In fact, since 1930 the Stock Market has been down only 19 years and up 52 years. Stocks on average have increased more than 10% per year over the past 75 years. In other words, C-39 would give us more money from state investments. *More investment money with C-39 means lower taxes and better funding for crucial programs, such as schools, law enforcement, social services, and highways!*

It's time to give the education trust the same flexibility that benefits the Montana state employee and teachers retirement funds, the same flexibility used in investing the Workers Compensation Fund. It's time for Montana to recognize what Washington, Idaho, Utah, North Dakota and Alaska already do: allow equity investments for all state trust funds.

Montana taxpayers, citizens, and children deserve better. So Vote "Yes" on C-39! It's good for our schools, our public services, and our taxpayers!

ARGUMENT AGAINST C-39

C-39 would remove the present constitutional restriction on investment of public funds, including school trust and other education funds, in private corporate capital stock (SB493 – 2001 Legislative Session). The performance of the stock market in 2002 is the best evidence why C-39 should be voted against.

Investors have every right to gamble with their own money in the stock market, but public officials should never have the right to gamble with public funds for a number of reasons. Investing in the stock market does not simply mean buying and selling stocks. There is a wide array of ways to lose large amounts of money in a short time in the stock market (options, futures, selling short, etc.).

Investing funds in any stock ALWAYS has some degree of risk. When the investors invest their own funds, due caution is usually exercised due to that risk. When people are investing someone else's money they are not as sensitive to that risk that is always present. This factor is real and is called "emotional comfort of the investor" in the literature. Make no mistake, investment in corporate stocks has an inherent risk and no guarantee against loss.

Nearly everyone agrees that the so-called institutional investors (mutual funds, insurance companies, etc.) really exert a great deal of control over the stock markets in the United States because they control huge amounts of money. There is sometimes an information lag on what large investors and officers of corporations are doing in terms of stocks in their own corporations. It has become clear that recent financial statements issued by some corporations are false. To believe all investors are equal in the market is obviously incorrect.

In making claims about "average gain," proponents fail to mention that one would have to invest in over 3,000 stocks on the New York Stock Exchange alone to achieve this average. No one is assured of making an "average gain." Recent information would suggest that some stocks have been strongly influenced by what is called "insider trading."

According to Business Week Magazine in partnership with Standard & Poors, "there have been periods of even five years and longer when stocks have declined in value and the returns from safer, or less volatile, kinds of investments would have been significantly better."

C-39 could impact the school trust account and revenue generated from it. Taxpayers would feel good about enhanced earnings that would benefit the public schools, but C-39 in a bear market will reduce revenue needed to support our school system. C-39 can clearly endanger revenue that supports our public school system.

A large majority of hardworking Montana taxpayers value the revenue derived from education resources/trust, and C-39 clearly places this Montana value at risk. Many investors are wishing something had stopped them from gambling on the stock market this year.

PROPONENTS' REBUTTAL OF ARGUMENT AGAINST C-39

It is the present system, not C-39, that is risky. The opponents' argument fails to understand that the system under C-39 (already followed in some Montana state funds) is actually safer than what we have now. The present system requires our state investment managers to put all trust money into one kind of investment – all our eggs in one basket. Private investment officers would not even be allowed to do that because it just doesn't make sense!

C-39 would permit our investment managers to diversify. Diversification is safer because the short-term ups and downs in different kinds of investments – stocks, bonds, and others – somewhat cancel each other out. This is proving true in the present market, also. Without C-39, our managers are having to gamble on interest rates with our money.

C-39 also means more income for our trusts, and therefore lower taxes and more money for our schools and for other services. The opponents' claim that the state would have to buy 3,000 stocks also shows misunderstanding. Experience shows that you can receive both market gains and wide diversification by purchasing only a handful of selected stocks or a few mutual funds. You don't have to buy the whole market.

It's time to let our investment managers follow safe and sound investment policy. It's time to stop forcing them to gamble on interest rates. Please vote for C-39!

OPPONENTS' REBUTTAL OF ARGUMENT FOR C-39

Proponents overstate their claims and ignore important information. There really are no "high quality corporate stocks," as they claim, and claiming that there has been a "disaster" in Montana investments is coloring way beyond fairness.

The Board of Investments most current report states that education trusts have $ 1.2 billion in them. They can NOT be invested in stocks now. Retirement funds contain $ 5.5 billion. ALL of this amount COULD be invested in stocks. Approximately two-thirds – $ 3.6 billion – is commonly invested in the stock market. (Current value may be significantly less now.) Should we not maintain the $ 1.2 billion in the education trusts and not gamble with these trust dollars?

Claiming that the current restriction on investments in the Montana Constitution is "risky" when all experts agree that stocks are more risky than bonds is silly. Good financial management requires a stable source of revenue, and bonds are much more stable than stocks.

Education revenues are placed in danger if C-39 passes because it abandons secure investments in bonds and other securities for a much more risky investment in stocks. This action also decreases the liquidity of funds because people don't want to sell when stocks are below the purchase price and demand on the funds can vary. There is a basic principle of investing that says the greater your potential return, the greater your risk, which applies fully in this question. Don't endanger the education trusts. Vote "No" on C-39.

INITIATIVE REFERENDUM NO. 117

AN ACT OF THE LEGISLATURE REFERRED BY REFERENDUM PETITION

This proposal seeks a public vote on House Bill 474, passed by the 2001 Legislature. HB 474, among other things, changes provisions regarding the deregulation of the electricity industry. It extends the transition to full consumer choice of electricity providers to 2007. It directs the Public Service Commission to set consumer rates to ensure full recovery of all prudently incurred costs by power suppliers. It creates a public Power Authority to construct, finance, and operate electrical facilities funded by state bonds. The bill creates, but does not fund, a consumer support program to ensure the availability of affordable power.

It is not possible to determine the financial impact of this proposal due to the uncertainties in the electricity and bond markets.

☐ APPROVE House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.

☐ REJECT House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Senator Tom Beck and Representative Doug Mood.

The OPPONENT argument and rebuttal for this measure were prepared by Representative Michelle Lee, Lloyd D. Bender, and Caryl V. Miller.

ARGUMENT FOR HOUSE BILL 474
(Referred to voters by IR-117)

The voters of Montana are encouraged to vote to APPROVE House Bill 474.

House Bill 474 has already proven its value in protecting Montana consumers, as demonstrated in the recent Public Service Commission hearings.

The Public Service Commission (PSC) issued a ruling in June of this year that was widely regarded by Montana citizens and Montana editorial writers as being a landmark decision. The PSC denied the approval of five out of seven contracts that NorthWestern Energy Co. (the former Montana Power Co.) had presented to the PSC for inclusion in the default supply portfolio. The makeup of the default supply portfolio will determine the price that NorthWestern's customers will pay for electricity. The PSC decided that the five contracts that were rejected had not been "prudently incurred" and told NorthWestern that the contracts had to be redone. That decision has the potential to save the electricity ratepayers of Montana over $50 million over the next five years. The language that gave the PSC the authority for that decision is contained in House Bill 474. It would be absolutely foolish to deny this protection to electricity consumers by eliminating this language from Montana statute. Vote for approval of 474 so we can retain this protection.

The opponents of House Bill 474 say that the bill did not have an adequate public hearing. That is not true.

Over fifty bills dealing with energy policy were heard by various committees of the 2001 Legislature. Those committee hearings were advertised throughout the state, and the public was invited to participate and comment on each of these proposals. House Bill 474 was the result of work that was done by a conference committee in the last weeks of the 2001 legislative session. The conference committee analyzed those fifty bills. They took the best ideas from those fifty bills and amended them into HB 474 in order to create a cohesive energy policy for the state. As each bill was amended into HB 474, the conference committee again opened up the discussion to the public and asked for comments. HB 474 was also debated extensively in the Montana Senate and in the House of Representatives. There was adequate opportunity for public comment.

What does House Bill 474 actually do?

HB 474 includes eight different changes or additions to Montana energy policy. The most pertinent policy changes are as follows:

- Clarifies who the electricity "default supplier" is for all Montana consumers.
- Requires all public utilities to offer separately marketed "green energy" to consumers who choose to purchase energy that has been produced from renewable resources.
- Extends the Universal Systems Benefit Programs for two more years and requires that 6% of USBP money be spent to improve irrigation efficiency. The USBP also helps low-income families with their power bills.
- Provides the PSC with guidelines for allowing electricity suppliers to recover "prudently incurred" costs.

HB 474 makes important and effective changes to Montana's energy policy. Vote for APPROVAL of HB 474.

ARGUMENT AGAINST HOUSE BILL 474
(Referred to voters by IR-117)

- **HB 474 should be rejected** because it has adverse consequences for every Montanan by shifting the financial risk from private investors to Montana taxpayers and ratepayers.

- HB 474 authorizes the state to make loans to build **highly speculative** electricity generating facilities and also **forces taxpayers to pay off those loans if any fail!**

- HB 474 authorizes a State Power Authority to get into the risky and volatile business of buying and reselling electricity, as well as building and running state-owned power plants and transmission lines, **similar to the multi-billon dollar California Plan that failed.**

- **HB 474 strips consumer protections for electricity rates**. Formerly, the Montana Public Service Commission regulated electricity rates.

- **HB 474 holds hostage residential and small business consumers** as a party to power contracts, which are based on an unstable market. Unregulated wholesale electricity suppliers now control supplies and prices in an unregulated monopoly.

- This Act risks putting the state and taxpayers into the energy business. It creates an independent Power Authority to construct, finance, and operate electrical facilities funded by the state.

- Prices have already increased, even though generation costs remain the same as before. The Flathead area already has been hit hard. **As of July 1, 2002, NorthWestern Energy has announced a typical residential bill increase of 9.96%.** That increase is a result of a 43% increase in supply rates.

- HB 474 will eventually affect almost every consumer of electricity as the deregulation process extends to more electricity utilities. Utilities such as Montana-Dakota Utilities have a longer time to begin the deregulation process.

- Montana prematurely passed deregulation legislation without adequate hearings or debate. Deregulation makes little sense in Montana. Montanans should be able to buy energy produced in this state at the most favorable price. **Under the current deregulation scheme, Montana consumers must bid against Californians and others for electricity generated in Montana, and at higher prices.**

- **Wiping the slate clean by rejecting HB 474, then passing a consumer-friendly, Montana-focused energy policy will benefit all Montana consumers.**

PROPONENTS' REBUTTAL OF ARGUMENT AGAINST HOUSE BILL 474

House Bill 474 authorizes the creation of a state Power Authority, but that is hardly a reason to reject the bill. HB 474 also authorizes the Power Authority to issue revenue bonds for financing the construction of new electricity generation and transmission lines.

These **revenue bonds do not put the Montana taxpayer at any risk.** The risk of revenue bonds is entirely borne by the revenue bond purchasers and investors, not the ratepayers or the taxpayers.

The Power Authority has never been activated and probably never will be activated. The Power Authority was created to assure the Montana electricity consumer that there would be competition in the electricity markets here in Montana. **Since HB 474 was passed by the legislature, power markets have stabilized** at rates that are more reflective of historic averages and competitive markets.

Residential electricity users are far better protected by competitive markets than they would be by increased regulations. HB 474 assures Montanans that competitive markets will exist.

Electricity produced in Montana will always be cheaper when sold in Montana than it would be if it has to be sent across hundreds of miles of transmission lines.

If voters reject HB 474, that does not "wipe the slate clean." It would return us to previously existing energy policies that do not give Montana residents the same level of protections.

Vote to approve House Bill 474.

OPPONENTS' REBUTTAL OF ARGUMENT FOR HOUSE BILL 474

- **FACT – HB474 weakened the position of the Public Service Commission to fully regulate and oversee a consumer-friendly energy market.** The PSC does not have the power to deny contracts that were not put out for bids or that involve monopolistic prices. HB 474 requires the PSC to pass on to consumers the cost of energy bought by default suppliers via the "prudently incurred" costs mechanism – even if the energy is contracted in a monopolistic market.
- **FACT – HB474 never had a public hearing in its final, cobbled-together form.** Instead, 50 other legislative bills were merged into HB474 and it passed on the last day of the legislative session. **Consumer voices were never heard.** For an issue as important as energy, Montanans deserve better! **Reject HB 474. Wipe the slate clean,** and then pass a Montana-focused, consumer-friendly energy policy.
- **FACT** – The Universal Systems Benefit Program (USBP) must be revised and extended, as the **Transition Advisory Committee has already recommended to the 58th legislature. Before expiring July 31, 2003, the next legislature should renew the USBP.** The next legislature should pass separate alternative energy sources legislation and address the concerns of low income, alternative energy programs and irrigator funding separately; after all, energy is too important of an issue to continue to cobble together.
- **FACT – HB 474 puts the taxpayers at risk** for state loans and bonding for new electricity plants and should be rejected.

INITIATIVE NO. 145

A LAW PROPOSED BY INITIATIVE PETITION

This initiative creates an elected public power commission to determine whether purchasing hydroelectric dams in Montana is in the public interest and repeals the Montana Power Authority created by the 2001 legislature. The commission could negotiate to purchase the dams or, if necessary, use the power of condemnation to acquire the dams at fair market value. To pay for the dams, the state could issue $500 million in bonds to be repaid by the sale of generated electricity. Montana's small consumers would get priority to purchase the electricity. The commission also may invest in renewable energy and conservation projects.

Costs for assessing if acquisition of one or more hydroelectric facilities is in the public interest could be from $6 to $12 million. Purchase price and other costs are undeterminable now.

☐ FOR creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.

☐ AGAINST creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Senator Ken Toole, Don Judge, and Thomas E. Towe.

The OPPONENT argument and rebuttal for this measure were prepared by Representative Roy Brown, Jerome Anderson, Tom Ebzery, Joe Mazurek, and Stan I. Dupree.

ARGUMENT FOR I-145

Electric Deregulation is a disaster. With deregulation, unstable energy prices and corrupt business practices now permeate the electric utility industry. California's energy crisis and the Enron scandal expose an industry out of control. Pennsylvania Power and Light (PP&L), the current owner of many of the dams on our rivers, is no exception. PP&L is now being investigated for price fixing by the Pennsylvania Power Commission. Further, it may be targeted for takeover by a huge German conglomerate.

What's the solution? A vote for I-145 will create an elected Public Power Commission to study whether the State should buy any of the dams. The Commission is authorized to buy them, using the power of eminent domain if necessary, and **Montanans could again be in control of our power and the water rights** that go with it.

How does I-145 help? It provides a stable and dependable power supply. Just like government-owned TVA, Bonneville Power and the State of Nebraska's publicly owned power, our power would be dependable once again, no longer subject to huge fluctuations of the market place where we compete with the enormous California power appetite.

But, how does it help me? A special preference is provided in I-145 to residential and small commercial users in Montana. Homeowners and Main Street businesses would not have to compete with big industries that can afford to pay more for their power.

How will local communities and workers be affected? I-145 specifically provides for reimbursement to local governments for any lost revenue. A special provision protecting existing dam employees is also included.

Are you sure the price of power will be cheaper? Without I-145, the market will drive prices for electricity higher and higher. Montanans will have to compete with Californians to buy power. Californians have more money and are used to paying more for power. With I-145, **we can recapture and retain the cheapest -- or nearly the cheapest – power in the United States.** We believe we can produce power for Montana residences and Montana businesses for nearly half of what it is costing us right now (check our web site at www.damcheapower.com).

What about the water rights and lands that were sold with the dams? The rights to use Montana's water and riverside lands are now controlled by a huge energy giant headquartered back east. They have no obligation to Montanans. That prospect is frightening, but **I-145 will recapture those water rights and lands**.

Stop the drain on Montana's economy. Hydro power from dams is historically cheaper and more reliable. It's one reason Montanans have always enjoyed nearly the cheapest and most dependable power in the United States – before deregulation. Now the dams are owned by giant out-of-state corporations. Huge profits from Montana's cheap hydro power will simply be shipped out of state unless we vote for I-145.

Don't take a chance on the market for your electricity. Don't rely on multi-national corporate management for your electricity. Please Vote for I-145. Thank you.

ARGUMENT AGAINST I-145

I-145 PROMISES A LOT – But if the state of Montana condemns privately owned dams and gets into the energy business itself – what will really happen?

- Will my electricity bill go up, or down?
- Will my taxes go up, or not?
- Will this be good for our economy, or bad?

A lot of Montanans have asked those questions – taxpayers, business, labor, ranchers and farmers – and they've all come up with the same answer. The "promise" of I-145, is higher electricity bills, higher taxes and another blow to our struggling economy.

That's why the Montana AFL-CIO, Montana Taxpayers Association, Montana Water Resources Association, Montana Chamber of Commerce, among others – all oppose I-145. Here's what they found:

I-145, AN EXPENSIVE NEW BUREAUCRACY
The first thing I-145 would do is put five new politicians in office, with no experience requirements whatsoever – and THEY ALONE will decide whether Montana should condemn and take over the dams.

$12 MILLION, AND COUNTING
The next thing this new bureaucracy would do is spend $12 million of our taxes on a "study." And if that's not enough money, I-145 lets them come back for more.

$500 MILLION, AND COUNTING
After that, those five politicians can spend $500 million in bonds, forcing private industry out and forcing the state into the volatile energy business. And ratepayers are on the hook for that $500 million.

ELECTRICITY RATES? WITH I-145, THE "SKY'S THE LIMIT"
I-145 sets NO limits on future electricity rates. Once the state is in the power business, it could raise our rates to cover the cost of the bonds, make up a budget deficit, or just to bring in more money.

HIGHER TAXES TOO
I-145 would drain $17 million from your local governments and schools – because that's how much money the state and counties would lose in taxes. The only way to make up that money is through higher taxes, or higher electricity bills.

I-145, BAD FOR JOBS AND THE ECONOMY
The state budget has already been slashed and we can expect more cuts next year. Low-paying jobs with no future are resulting in Montana's youth being its fastest growing export. We should be encouraging businesses to come into Montana, not kicking them out.

So here's what we know about I-145:
We know we'll be paying millions for a brand new state bureaucracy.
We know we'll be on the hook for $500 million in bonds and force the state into one of the riskiest businesses around.
We know I-145 will drain tax dollars from schools, health care and other essential services.

And here's what we don't know:
We *don't* know how high our electricity bills will go.
We *don't* know how much our taxes will go up.
We *don't* know how many businesses will say no to a Montana that says no to them.

That's the real promise of I-145 – a promise we just can't afford. That's why taxpayers, labor and business leaders, ranchers and farmers ask you – **Please vote NO on I-145.**

PROPONENTS' REBUTTAL OF ARGUMENT AGAINST I-145

ELECTRIC DEREGULATION – A LONG LIST OF BROKEN PROMISES

Big Corporations promised lower rates – **but a study done by energy expert Tom Schneider shows that electricity rates have actually gone up by $60 million per year with deregulation!**

Big Corporations promised more competition and customer choice – instead, Pennsylvania Power's deregulated monopoly has resulted in **rates for Montanans going up by $60 million per year!**

Big Corporations say Montanans will pay $12 million to study buying back the dams, a figure we believe is unrealistically high – **but they don't say giant out-of-state corporations have raised rates $60 million per year, a figure five times higher than their own estimated cost of evaluating the dams!**

Big Corporations charge that I-145 is bad for the economy, but don't want to admit their promise of a better economy through deregulation is a dismal failure – **and they certainly don't want to admit shipping $300 million in higher utility rates to giant out-of-state energy companies over five years is bad for the economy!**

Big Corporations say I-145 will drain local tax dollars. **Not true. I-145 fully reimburses local governments, but raising rates by $60 million will hurt Montana taxpayers!**

Trusting Big Corporations will cost Montanans $300 million dollars over five short years. **But with I-145 Montanans can evaluate and buy back the dams, the water rights and the lands bordering our rivers, and provide the energy to Montanans at the lowest rates possible.**

LET'S STOP THE DRAIN ON OUR ECONOMY – VOTE YES ON I-145

OPPONENTS' REBUTTAL OF ARGUMENT FOR I-145

Let's be clear, the state doesn't want to get into the power business, a few folks want to use I-145 to force the state into the power business. Here are some facts:

Fact: When the energy crisis hit the nation, Montana Power Company's rates, under **private ownership remained stable**, no increases, and dependable, no blackouts.

Fact: I-145 will cost dam employees, who prefer to remain in the private sector, their jobs and send a **"YOU'RE NOT WELCOME"** message to new businesses. That's why the **MONTANA AFL-CIO AND THE MONTANA CHAMBER OF COMMERCE OPPOSE I-145.**

Fact: I-145 does not guarantee lower electricity rates. But by **squandering $12 million** on a study, **risking $500 million** in bonds, creating **an expensive new bureaucracy** and handing over our power supply to bureaucrats, I-145 virtually guarantees **higher electricity rates.**

Fact: Rights to Montana's water have nothing to do with dam ownership. There are strong, historic protections for our water rights. Responsible water users like the **MONTANA WATER RESOURCES ASSOCIATION OPPOSE I-145.**

Fact: Only NorthWestern Energy customers would get power from the dams, but 400,000 Montanans who buy power elsewhere will be equally taxed to pay for the I-145 boondoggle.

Fact: I-145 will cost the state **$17 million** in tax revenue **every year**, which means tax increases or budget cuts to make it up. That's why the **MONTANA TAXPAYERS ASSOCIATION OPPOSES I-145.**

Fact: I-145 will cost taxpayers and ratepayers millions of dollars at a time we can't afford it.

Oppose I-145. Vote NO. Visit www.damriskybusiness.com.

INITIATIVE NO. 146

A LAW PROPOSED BY INITIATIVE PETITION

In 1998, Montana reached a settlement agreement with tobacco companies under which Montana will receive annual payments from the companies as long as cigarettes are sold in Montana. This initiative dedicates 49 percent of the settlement funds received each year for a state-wide tobacco disease prevention program designed to discourage children from starting to smoke and assist adults in quitting smoking. Funds would also be used for programs which provide health insurance benefits to those Montanans who cannot otherwise afford or acquire health insurance. The initiative also creates a tobacco prevention advisory board.

The initiative will annually require $14 million of tobacco settlement funds currently deposited in the state general fund to be deposited: $9.1 million into a fund for tobacco disease prevention and $4.9 million into a fund for providing health insurance benefits to those who cannot afford or acquire them.

☐ FOR dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.

☐ AGAINST dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.

The language above is the official ballot language. The arguments and rebuttals on the following three pages have been prepared by the committees appointed to support or oppose the ballot measure. The opinions stated in the arguments and rebuttals do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the arguments or rebuttals.

The PROPONENT argument and rebuttal for this measure were prepared by Kristin Nei, American Cancer Society; Verner Bertelsen, Montana Senior Citizens Association; and Jim Ahrens, MHA...An Association of Montana Health Care Providers.

The OPPONENT argument and rebuttal for this measure were prepared by Senator Bob Keenan, Senator Debbie Shea, Representative John Esp, Jerry Driscoll, and Betty Lou Kasten.

ARGUMENT FOR I-146

Vote for I-146 to help prevent Montana's children from using tobacco, aid tobacco users who want to quit, and provide access to health care for children and adults who cannot otherwise afford it.

I-146 is supported by the American Cancer Society, American Heart Association, American Lung Association of the Northern Rockies, AARP, MHA...An Association of Healthcare Providers, Montana Campaign for Tobacco Free Kids, Montana Dental Association, Montana League of Women Voters, Montana Medical Association, Montana Senior Citizens Association, Montana Pharmacy Association, Montana Council for Maternal and Child Health, ProtectMontanaKids.org, and Montana Nurses Association.

I-146 earmarks 32 percent of each year's settlement proceeds to the Montana Tobacco Use Prevention Program and increases the percentage of Montana's tobacco settlement used for health care programs. The initiative earmarks 17 percent of the tobacco settlement proceeds for the Children's Health Insurance Program (CHIP), health insurance for children who otherwise wouldn't be covered, and to the Montana Comprehensive Health Association for affordable insurance to high-risk Montanans regardless of their health condition.

Montana receives about $30 million each year from the national tobacco settlement, a 1998 agreement between the major tobacco corporations and 46 states to compensate for past and future tobacco-related harm and costs.

According to this agreement, funds were to be used in part "to achieve a significant reduction in smoking by youth...." However, during this fiscal year only $384,000 is being used to fund the efforts to prevent kids from smoking and to help adults who want to quit. We are using less than two percent of the settlement dollars for the state's tobacco use prevention program. I-146 will significantly strengthen the state's commitment, bringing Montana in line with the program funding recommendations made by the U.S. Centers for Disease Control and Prevention.

Currently, 60 percent of each year's settlement receipts are deposited into the state's general fund. The remaining settlement funds are deposited into a voter-mandated trust fund. I-146 will ensure that tobacco settlement funds are used for health care and tobacco use prevention programs.

Each year, Montanans spend $216 million on health care costs resulting from tobacco use. More than 1,400 Montanans will die prematurely this year from smoking. A **vote for I-146** will help reduce future medical costs and save lives by establishing and funding a comprehensive statewide program that has been scientifically proven to prevent and reduce tobacco use. For example, since Oregon began its program in 1997, tobacco use has decreased 21 percent. A strong program in Montana will help those already addicted to tobacco quit, and will stop thousands more of our children from ever starting to use tobacco.

I-146 will provide insurance coverage for uninsured children and adults and help reduce tobacco-use illnesses. **Your vote for I-146** will improve the health of our citizens and save Montanans money.

ARGUMENT AGAINST I-146

You have a choice to make. It is clear and it is critical. It is: do you vote to take money away from providing needed health care services to Montana's most vulnerable populations – children, the elderly, and the disabled? A vote for initiative I-146 is to do exactly that.

I-146 requires that 32% of the tobacco settlement funding be diverted from providing a major source of much needed revenue to the state's funding for health care services into a trust fund. This trust would be used solely for supporting tobacco use prevention programs. The alternatives for providing the services currently funded with this money would be to reduce the level of health care services provided or to enact a tax increase. The tobacco settlement funding is fully used today by the state for necessary services. Reducing this funding source is not without impact.

Because the state uses funds such as those provided by the tobacco settlement to match available funds from the federal government, the impact of taking away this type of money is significantly greater than the amount of funds diverted. The state matches much of this money at a rate of three dollars for every state dollar. The amount of reduction to direct health care services (nursing homes, mental health centers, and community hospitals) to fund the tobacco prevention programs proposed by I-146 would far exceed the funds put into the prevention program. Please vote NO on I-146.

PROPONENTS' REBUTTAL OF ARGUMENT AGAINST I-146

A **vote for I-146** is a vote for Montana's children. The cost of tobacco use to Montana is enormous. The death, disease and medical costs will continue unless we prevent our kids from starting tobacco use and help adults who want to quit. I-146 will earmark part of the tobacco settlement to prevent tobacco-related death and disease.

Montana receives nearly $30 million annually from the tobacco settlement. This money was provided with the understanding that part of it be spent to prevent kids from smoking and help smokers quit. Instead, those millions of dollars were sent to the general fund and only a few hundred thousand dollars went to preventative programs.

Former Governor Racicot provided good funding for tobacco prevention because he knew we owed our children a fully funded tobacco prevention program. He understood that the tobacco settlement was supposed to be for prevention. The money was never intended to balance the budget. No one can tell you what it is spent on except that it is being put into the general fund.

The American Cancer Society, American Heart Association, and American Lung Association support I-146 because they see it is as sound health care policy. These groups support Montana spending the tobacco settlement for preventing children from smoking.

The more children we allow to start smoking the more we will all pay in the long run. A better investment is to keep kids from smoking in the first place. **Vote for I-146.**

OPPONENTS' REBUTTAL OF ARGUMENT FOR I-146

Proponents state "only $384,000 is being used to fund the efforts to prevent kids from smoking and to help adults who want to quit." Not so! Why wasn't $875,000 from the U.S. Centers for Disease Control and Prevention mentioned?

The tobacco settlement created a tobacco industry-funded $1.45 BILLION!! national public education fund for tobacco control.

The tobacco settlement requires the tobacco industry to put an additional $250 million over 10 years toward a foundation which will support programs to reduce teen smoking, substance abuse, and the prevention of diseases associated with tobacco. This foundation has committed nearly $35 million over three years in grants to states to foster statewide youth-led efforts against tobacco.

Please understand that there is $1.7 BILLION available for tobacco disease prevention efforts without risking cuts in Montana provider rates and other essential community health programs. Let's use Montana's settlement for health care, not another bureaucracy.

I-146 requires a 15-member advisory board with mileage and expenses! The lawsuit basis was to pay back taxpayers expenses for state health programs. The state has full discretion over the use of the money.

Please understand that taking $14 million from a federal matching opportunity will remove over $50 million from Montana medical programs. Our community hospitals, nursing homes, mental health centers, Medicaid programs, provider rates, and medically needy programs will suffer.

With a reduction of the general fund, our local schools may have to reduce their expenditures or raise taxes.

VOTE NO on I-146!

Secretary of State's note: The following material includes the complete text of each issue, including deleted (interlined) language and new (underlined) language, as it will affect the Constitution or laws of the State of Montana.

THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 36 (C-36)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION PROVIDING FOR THE INVESTMENT OF THE ASSETS OF A LOCAL GOVERNMENT GROUP SELF-INSURANCE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Article VIII, section 13, of The Constitution of the State of Montana is amended to read:

"**Section 13. Investment of public funds and public retirement system and state compensation insurance fund assets.** (1) The legislature shall provide for a unified investment program for public funds and public retirement system and state compensation insurance fund assets and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except as provided in subsections (3) ~~and (4)~~ through (5), no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

(3) Investment of public retirement system assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the

circumstances would use in the conduct of an enterprise of a similar character with similar aims. Public retirement system assets may be invested in private corporate capital stock.

(4) Investment of state compensation insurance fund assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of a private insurance organization. State compensation insurance fund assets may be invested in private corporate capital stock. However, the stock investments shall not exceed 25 percent of the book value of the state compensation insurance fund's total invested assets.

(5) Investment of the assets of a local government group self-insurance program established pursuant to state law shall be managed by the program in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of a private insurance organization. A local government group self-insurance program's assets may be invested in private corporate capital stock. However, the stock investments shall not exceed 25 percent of the book value of the group self-insurance program's total invested assets."

Section 2. Effective date. If approved by the electorate, the amendment in section 1 is effective January 1, 2003.

Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2002 by printing on the ballot the full title of this act and the following:

[] FOR allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

[] AGAINST allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 37 (C-37)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTION 7, AND ARTICLE XIV, SECTION 9, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO HAVE A CONSTITUTIONAL AMENDMENT PLACED ON THE BALLOT FROM AT LEAST 10 PERCENT IN TWO-FIFTHS OF THE LEGISLATIVE DISTRICTS TO AT LEAST 10 PERCENT IN ONE-HALF OF THE COUNTIES AND TO CHANGE THE BASIS FOR DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE ELECTORS IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE ELECTORS IN A COUNTY LAST VOTING FOR GOVERNOR.

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

Section 1. Article III, section 7, of The Constitution of the State of Montana is amended to read:

"**Section 7. Number of electors.** (1) The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

(2) For the purposes of a constitutional amendment, the number of qualified electors in each county and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election."

Section 2. Article XIV, section 9, of The Constitution of the State of Montana is amended to read:

"**Section 9. Amendment by initiative.** (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of ~~two-fifths~~ at least one-half of the ~~legislative districts~~ counties.

(2) The petitions shall be filed with the secretary of state. If the petitions are found to have been signed by the required number of electors, the secretary of state shall cause the amendment to be

published as provided by law twice each month for two months previous to the next regular state-wide election.

(3) At that election, the proposed amendment shall be submitted to the qualified electors for approval or rejection. If approved by a majority voting thereon, it shall become a part of the constitution effective the first day of July following its approval, unless the amendment provides otherwise."

Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2002 by printing on the ballot the full title of this act and the following:

[] FOR requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

[] AGAINST requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 38 (C-38)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTIONS 4 AND 7, OF THE MONTANA CONSTITUTION TO CHANGE THE DISTRIBUTION OF ELECTORS WHO MUST PETITION TO PLACE A STATUTORY INITIATIVE ON THE BALLOT FROM 5 PERCENT IN AT LEAST ONE-THIRD OF THE LEGISLATIVE REPRESENTATIVE DISTRICTS TO 5 PERCENT IN AT LEAST ONE-HALF OF THE COUNTIES AND TO CHANGE THE METHOD OF DETERMINING THE NUMBER OF QUALIFIED ELECTORS FROM THOSE IN A LEGISLATIVE REPRESENTATIVE DISTRICT LAST VOTING FOR GOVERNOR TO THOSE IN A COUNTY LAST VOTING FOR GOVERNOR.

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

Section 1. Article III, section 4, of The Constitution of the State of Montana is amended to read:

"**Section 4. Initiative.** (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least ~~one-third~~ one-half of the ~~legislative representative districts~~ counties and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held."

Section 2. Article III, section 7, of The Constitution of the State of Montana is amended to read:

"**Section 7. Number of electors.** (1) The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

(2) For the purposes of a statutory initiative, the number of qualified electors required in each county and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election."

Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2002 by printing on the ballot the full title of this act and the following:

[] FOR requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

[] AGAINST requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 39 (C-39)

AN ACT REQUIRING THAT ALL PUBLIC FUNDS BE INVESTED IN ACCORDANCE WITH PRUDENT EXPERT PRINCIPLES BY REMOVING THE RESTRICTION ON INVESTMENT IN PRIVATE CORPORATE CAPITAL STOCK; SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Article VIII, section 13, of The Constitution of the State of Montana is amended to read:

"Section 13. Investment of public funds and public retirement system and state compensation insurance fund assets. (1) The legislature shall provide for a unified investment program for public funds and public retirement system and state compensation insurance fund assets and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. ~~Except as provided in subsections (3) and (4), no public funds shall be invested in private corporate capital stock.~~ The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments ~~bearing a fixed rate of interest as may be provided by law~~ that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in investing a fund guaranteed against loss or diversion.

(3) Investment of public retirement system assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of an enterprise of a similar character with similar aims. Public retirement system assets may be invested in private corporate capital stock.

(4) Investment of state compensation insurance fund assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of a private insurance organization. State compensation insurance fund assets may be invested in private corporate capital stock. However, the stock investments shall not exceed 25 percent of the book value of the state compensation insurance fund's total invested assets."

Section 2. Effective date. If approved by the electorate, this amendment is effective January 1, 2003.

Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2002 by printing on the ballot the full title of this act and the following:

[] FOR allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

[] AGAINST allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

THE COMPLETE TEXT OF INITIATIVE REFERENDUM NO. 117 (IR-117)

AN ACT REVISING LAWS RELATING TO ELECTRICAL ENERGY; ALLOWING CUSTOMERS WHO ELECTED AN ALTERNATIVE ELECTRICAL ENERGY SUPPLIER AN OPPORTUNITY TO RECEIVE ELECTRICAL ENERGY FROM THE DEFAULT SUPPLIER; PROVIDING THAT ELECTRICAL ENERGY PURCHASED FROM THE DEFAULT SUPPLIER BY A DEFAULT CUSTOMER MUST BE USED FOR A CONSUMPTIVE PURPOSE AND MAY NOT BE REMARKETED; AUTHORIZING THE BOARD OF INVESTMENTS TO INVEST IN NEW GENERATION PROJECTS THAT MEET CERTAIN CRITERIA; PROVIDING ELIGIBILITY CRITERIA FOR THE PROJECTS, INCLUDING LONG-TERM CONTRACTS WITH THE DEFAULT SUPPLIER OR A MONTANA INDUSTRY FOR THE PURCHASE OF THE ELECTRICAL ENERGY GENERATED BY THE PROJECTS; REQUIRING A PLEDGE OF THE CONTRACT PROCEEDS AS A REPAYMENT OPTION FOR THE INVESTMENTS; MAKING THE STATE A PARTY TO THE CONTRACT IN THE EVENT OF DEFAULT IN PAYMENT BY DEFAULT SUPPLIER; EXTENDING THE DURATION OF THE UNIVERSAL SYSTEM BENEFITS CHARGE; MODIFYING THE DEFAULT SUPPLIER LICENSING RULES; CREATING A CONSUMER ELECTRICITY SUPPORT PROGRAM; PROVIDING THAT AN ELECTRICITY BUYING COOPERATIVE MAY SERVE AS A SUPPLIER OR PROMOTER OF ALTERNATIVE ENERGY AND CONSERVATION PROGRAMS; DEFINING "ELECTRICITY SUPPLY COSTS"; CLARIFYING THE DEFINITION OF "UNIVERSAL SYSTEM BENEFITS PROGRAMS" TO INCLUDE IRRIGATED AGRICULTURE; PROVIDING FOR PROCEDURES FOR A TRANSITION TO CUSTOMER CHOICE; PROVIDING FOR THE DEFAULT SUPPLIER'S RECOVERY OF ELECTRICITY SUPPLY COSTS; REVISING THE UNIVERSAL SYSTEM BENEFITS PROGRAMS FUNDING LEVEL TO INCLUDE IRRIGATED AGRICULTURE; ESTABLISHING A MONTANA POWER AUTHORITY; ALLOWING THE AUTHORITY TO PURCHASE, CONSTRUCT, AND OPERATE ELECTRICAL GENERATION FACILITIES OR ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION SYSTEMS AND TO ENTER INTO JOINT VENTURES FOR THESE PURPOSES; AUTHORIZING THE BOARD OF EXAMINERS TO ISSUE REVENUE BONDS FOR THE MONTANA POWER AUTHORITY TO ACQUIRE ELECTRICAL GENERATION FACILITIES AND TO BUILD ELECTRICAL ENERGY TRANSMISSION OR DISTRIBUTION SYSTEMS; PROVIDING THAT THE PRINCIPAL AND INTEREST ON THE BONDS IS PAYABLE FROM THE SALE OF ELECTRICAL ENERGY FROM THE FACILITIES AND FROM ELECTRICAL ENERGY TRANSMISSION AND DISTRIBUTION CHARGES; AMENDING SECTIONS 17-7-502, 35-19-104, 69-8-103, 69-8-104, 69-8-201, 69-8-203, 69-8-210, 69-8-211, 69-8-402, 69-8-403, 69-8-412, AND 69-8-414, MCA; REPEALING SECTIONS 35-19-103, 69-8-416, AND 69-8-417, MCA; AND PROVIDING EFFECTIVE DATES.

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

Section 1. Purpose. The purposes of [sections 1 through 5] are to:

(1) create up to 450 megawatts of electrical energy from new generation projects in Montana; and

(2) permit the purchase of up to 120 megawatts of electrical energy from existing qualified facilities that are located in Montana for the purpose of providing consumers with low-cost, reliable electrical energy.

Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Default supplier" has the meaning provided in 69-8-103.

(2) "Montana industry" means a commercial enterprise located within Montana that would have consumed more than 5 megawatts of electrical energy on an average during the last 12 months if the enterprise had not closed due to electrical prices.

(3) "Qualified facility" means an electrical generation facility owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a, or as provided for in 16 U.S.C. 796(17)(A).

Section 3. Qualification date. In order to participate in [sections 1 through 5], a new generation project must commence or have completed construction by July 1, 2003, or be an existing qualified facility choosing to participate in the contract portion of the program provided for in [section 5].

Section 4. Investment criteria. (1) The board of investments shall review applications from proposed new electrical generation facilities and existing qualified facilities for in-state investments pursuant to Title 17, chapter 6, part 3. In order to make an investment in a new electrical generation facility or an existing qualified facility, the board shall determine that:

(a) the project promotes economic development in Montana and creates or maintains employment opportunities in Montana;

(b) the construction of the project will provide stable electrical energy rates for Montanans who rely on the default supplier for electrical energy;

(c) the project will maintain environmental quality consistent with state and federal standards; and

(d) the project possesses long-term economic prospects consistent with the obligation to provide electrical energy generation capacity and electrical energy for the term of the contracts as required in [section 5].

(2) A project selected by the board must be collateralized by payments for the sale of the electricity produced by the project to the default supplier or a Montana industry at rates not in excess of 5 cents per kilowatt hour plus annual escalations equal to the inflation rate. A payment may be made from the assets of the state if the default supplier or its assignee or a Montana industry fails to pay the approved project for energy delivered in order to maintain the supply of energy to Montana. The state must be a party to the contract and may bring a cause of action against the default supplier or a Montana industry for nonpayment.

Section 5. Term of contract -- pledge. (1) A project is not eligible for an investment under [section 4] unless the applicant has signed an assignable electrical energy sales agreement with the default supplier or its successor in interest or with a Montana industry for a term of not less than 15 years or more than 25 years.

(2) The proceeds of the contract must be pledged as security for the repayment of the investment.

Section 6. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; [section 19]; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005.)"

Section 7. Section 35-19-104, MCA, is amended to read:

"35-19-104. Permissible purpose of incorporation. A buying cooperative may be organized under this chapter only for the purpose of supplying electricity to small customers as ~~a default~~ an electrical energy supplier, pursuant to ~~69-8-403~~ Title 69, chapter 8, parts 1 through 5, or for serving as a supplier or promoter of alternative energy and conservation programs."

Section 8. Section 69-8-103, MCA, is amended to read:

"69-8-103. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates retail customers, purchases ~~electric~~ electrical energy, and takes title to ~~electric~~ electrical energy as an intermediary for sale to retail customers.

(2) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle, to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest in or right to transition property.

(3) "Board" means the board of investments created by 2-15-1808.

(4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or intermediary in the sale and purchase of ~~electric~~ electrical energy but that does not take title to ~~electric~~ electrical energy.

(5) "Cooperative utility" means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana, pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single retail electric customer or consumer with a single individual load.

(7) "Customer-generator" means a user of a net metering system.

(8) "Default supplier" means a customer's distribution services provider ~~or a person that has received a default supplier license from the commission~~.

(9) "Distribution facilities" means those facilities by and through which electricity is received from a transmission services provider and distributed to the customer and that are controlled or operated by a distribution services provider.

(10) "Distribution services provider" means a utility owning distribution facilities for distribution of electricity to the public.

(11) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and marketers, offering to sell electricity to retail customers in the state of Montana.

(12) (a) "Electricity supply costs" means actual costs of the electricity. Actual costs include fuel, ancillary service costs, transmission costs including congestion and losses, and any other costs directly related to the purchase of electricity and management of electricity costs or a related service.

(b) Revenue from the sale of surplus electricity must be deducted from the costs included under subsection (12)(a). Total transmission costs are recoverable only once in electricity supply costs.

(c) The terms used in this subsection (12) must be construed according to industry standards.

~~(12)~~(13) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

~~(13)~~(14) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited to:

(i) distribution;

(ii) connection;

(iii) disconnection; and

(iv) termination rates and charges that are authorized by the commission in a financing order to permit recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and of acquiring transition property through a plan approved by

the commission in the financing order, including the costs of issuing, servicing, and retiring transition bonds.

(b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery period is modified by the transactions approved in the financing order.

~~(14)~~(15) "Functionally separate" means a utility's separation of the utility's electricity supply, transmission, distribution, and unregulated retail energy services assets and operations.

~~(15)~~(16) "Interested person" means a retail electricity customer, the consumer counsel established in 5-15-201, the commission, or a utility.

~~(16)~~(17) "Large customer" means, for universal system benefits programs purposes, a customer with an individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that individual load.

~~(17)~~(18) "Local governing body" means a local board of trustees of a rural electric cooperative.

~~(18)~~(19) "Low-income customer" means those energy consumer households and families with incomes at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

~~(19)~~(20) "Net metering" means measuring the difference between the electricity distributed to and the electricity generated by a customer-generator that is fed back to the distribution system during the applicable billing period.

~~(20)~~(21) "Net metering system" means a facility for the production of ~~electric~~ electrical energy that:

(a) uses as its fuel solar, wind, or hydropower;

(b) has a generating capacity of not more than 50 kilowatts;

(c) is located on the customer-generator's premises;

(d) operates in parallel with the distribution services provider's distribution facilities; and

(e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

~~(21)~~(22) "Nonbypassable rates or charges" means rates or charges that are approved by the commission and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

~~(22)~~(23) "Pilot program" means a program using a representative sample of residential and small commercial customers to assist in developing and offering customer choice of electricity supply for all residential and commercial customers.

~~(23)~~(24) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

~~(24)~~(25) "Qualifying load" means, for payments and credits associated with universal system benefits programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in which the customer qualifies as a large customer.

~~(25)~~(26) "Small customer" means a residential customer or a small commercial customer who has an individual account with an average monthly demand in the previous calendar year of less than 100 kilowatts or a new commercial customer with an estimated average monthly demand of less than 100 kilowatts of a public utility distribution services provider that has opened access on its distribution system pursuant to Title 35, chapter 19, or this chapter.

~~(26)~~(27) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and other entities acting for the benefit of that holder.

~~(27)~~(28) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

~~(28)~~(29) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of transition costs.

~~(29)~~(30) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a utility customer does not have any liability for payment of transition costs.

~~(30)~~(31) "Transition costs" means:

(a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital, that become unrecoverable as a result of the implementation of this chapter or of federal law requiring retail open access or customer choice;

(b) those costs that include but are not limited to:

(i) regulatory assets and deferred charges that exist because of current regulatory practices and can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and conservation investments made prior to universal system benefits charge implementation;

(ii) nonutility and utility power purchase contracts, including qualifying facility contracts;

(iii) existing generation investments and supply commitments or other obligations incurred before May 2, 1997, and costs arising from these investments and commitments;

(iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition bonds; and

(v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

~~(31)~~(32) "Transition period" means the period beginning on July 1, 1998, and ending on July 1, ~~2002, unless otherwise extended pursuant to this chapter, during which utilities may phase in customer choice of electricity supplier~~ 2007.

~~(32)~~(33) "Transition property" means the property right created by a financing order, including without limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue, collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition amounts that are authorized by the commission in the financing order to recover transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property, including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition property before the utility's sale or transfer or any other right created under this section or created in the financing order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

~~(33)~~(34) "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission.

(35) "Transmission services provider" means a person controlling or operating transmission facilities.

~~(35)~~(36) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits programs costs.

~~(36)~~(37) "Universal system benefits programs" means public purpose programs for:

(a) cost-effective local energy conservation;

(b) low-income customer weatherization;

(c) reducing energy costs of irrigated agriculture in Montana through conservation and efficiency measures;

~~(c)~~(d) renewable resource projects and applications, including those that capture unique social and energy system benefits or that provide transmission and distribution system benefits;

~~(d)~~(e) research and development programs related to energy conservation and renewables;

~~(e)~~(f) market transformation designed to encourage competitive markets for public purpose programs; and

~~(f)~~(g) low-income energy assistance.

~~(37)~~(38) "Utility" means any public utility or cooperative utility."

Section 9. Section 69-8-104, MCA, is amended to read:

"69-8-104. Pilot programs. (1) Except as provided in ~~69-8-201(4)~~ 69-8-201(5) and 69-8-311, beginning July 1, 1998, utilities shall conduct pilot programs using a representative sample of their residential and small commercial customers. A report describing and analyzing the results of the pilot programs must be submitted to the commission and the transition advisory committee established in 69-8-501 on or before July 1, 2000.

(2) Utilities shall use pilot programs to gather necessary information to determine the most effective and timely options for providing customer choice. Necessary information includes but is not limited to:

(a) the level of demand for electricity supply choice and the availability of market prices for smaller customers;

(b) the best means to encourage and support the development of sufficient markets and bargaining power for the benefit of smaller customers;

(c) the electricity suppliers' interest in serving smaller customers and the opportunities in providing service to smaller customers; and

(d) experience in the broad range of technical and administrative support matters involved in designing and delivering unbundled retail services to smaller customers."

Section 10. Section 69-8-201, MCA, is amended to read:

"69-8-201. Public utility -- transition to customer choice -- waiver. (1) A public utility shall, except as provided in this section, adhere to the following deadlines:

(a) ~~On~~ Subject to subsection (4), on or before July 1, 1998, all customers with individual loads greater than 1,000 kilowatts and for loads of the same customer with individual loads at a meter greater than 300 kilowatts that aggregate to 1,000 kilowatts or greater must have the opportunity to choose an electricity supplier.

(b) Subject to subsection (2), and as soon as is administratively feasible but before July 1, 2002, all other public utility customers must have the opportunity to choose an electricity supplier.

(2) ~~(a) Except as provided for in subsection (4), the commission may determine that additional time is necessary for customers identified in subsection (1)(b); however, the implementation of full customer choice may not be delayed beyond July 1, 2004.~~

~~(b)~~ A determination by the commission that additional time is necessary for subsection (1)(b) customers must be made at least 60 days in advance of the scheduled date and must be based on one or more of the following considerations:

~~(i)~~(a) implementation would not be administratively feasible;

~~(ii)~~(b) implementation would materially affect the reliability of the electric system; or

~~(iii)~~(c) Montana customers or electricity suppliers would be disadvantaged due to lack of a competitive electricity supply market.

(3) The commission shall designate the public utility or one or more default suppliers to provide regulated default service for those ~~small~~ customers described in subsections (1)(a) and (1)(b) of a public utility that are not being served by a competitive electricity supplier and those customers who elect to receive service from the default supplier. ~~The transition advisory committee shall review and address the need for continued default supply service and make recommendation to the 57th legislature.~~ A customer who elects to receive service from the default supplier may only use the electricity for consumptive purposes and shall enter into a contract with the default supplier that prohibits the customer from remarketing the electricity. A distribution services provider has an ongoing regulated default supply obligation beyond the end of the transition period.

(4) The commission shall establish procedures and terms under which customers may choose an electricity supplier other than the default supplier or may choose to be served by the default supplier. The choice must be available for the period beginning July 1, 2002. The procedures must provide for an orderly process of choice during the transition period and provide conditions for leaving and returning to the default supplier. The procedures must take into account electricity supply contracts for supplying customers during the transition period. The procedures must provide for the recovery of costs associated with those customers who choose an alternative electricity supplier and who wish to return to the default supplier.

~~(4)~~(5) Except as provided in 69-5-101, 69-5-102, 69-5-104 through 69-5-112, and 69-8-402, a public utility currently doing business in Montana as part of a single integrated multistate operation, no portion of which lies within the basin of the Columbia River, may:

(a) defer compliance with this chapter until a time that the public utility can reasonably implement customer choice in the state of the public utility's primary service territory, except that the public utility shall file a transition plan pursuant to 69-8-202 to provide transition to customer choice on or before July 1, 2002, and must have completed the transition period to customer choice by July 1, 2006; and

(b) petition the commission to delay the public utility's transition plan filing until July 1, 2004.

~~(5)~~(6) Upon a request from a public utility with fewer than 50 customers, the commission shall waive compliance with the requirements of 69-8-104, 69-8-202 through 69-8-204, 69-8-208 through 69-8-211, 69-8-402, and this section."

Section 11. Section 69-8-203, MCA, is amended to read:

"69-8-203. Public utility -- customer choice ~~-- continued service~~ -- education of customers. (1) A customer is permitted to choose an electricity supplier pursuant to the deadlines established in 69-8-201. Public utilities shall propose a method for customers to choose an electricity supplier.

~~(2) If a customer has not chosen an electricity supplier by the end of the transition period, a city, county, or consolidated government that is licensed as an electricity supplier may, upon application to and approval by the commission, become the default supplier to residential and commercial customers of a public utility within its jurisdiction. For customers that are not within the jurisdiction of a licensed and approved city, county, or consolidated government electricity supplier area, a public utility shall propose a method in the public utility's transition plans for assigning that customer to an electricity supplier. The commission shall establish an application process and guidelines for the designation of one or more default suppliers for the distribution area of each public utility.~~

~~(3) A public utility may phase in customer choice to promote the orderly transition to a competitive market environment pursuant to the deadlines in 69-8-201.~~

~~(4)~~(2) Public utilities shall educate their customers about customer choice so that customers may make an informed choice of an electricity supplier. This education process must give special emphasis to education efforts during the transition period."

Section 12. Section 69-8-210, MCA, is amended to read:

"69-8-210. Public utilities -- electricity supply. (1) On the effective date of a commission order implementing a public utility's transition plan pursuant to 69-8-202, the public utility shall remove its generation assets from the rate base.

~~(2) During the transition period, the commission may establish cost-based prices for electricity supply service for customers that do not have a choice of electricity supply service or that have not yet chosen an electricity supplier.~~

~~(3)~~(2) ~~If~~ During the transition period, ~~is extended, then~~ the customers' distribution services provider, acting as the default supplier, shall:

(a) beginning July 1, 2002, extend any cost-based contract with the distribution services provider's affiliate supplier for a term of not more than 3 years; or

(b) purchase electricity from the market; and

(c) use a mechanism that recovers electricity supply costs in rates ~~to ensure that those costs are fully recovered~~ as provided in subsection (4).

(3) (a) The default supplier shall provide for the full electricity supply requirements of all default supply customers. To meet these requirements, the default supplier shall procure a portfolio of electricity supply using industry-accepted procurement practices, which may include negotiated contracts or competitive bidding. The commission may develop reasonable requirements for the use of competitive bidding in the procurement process.

(b) A default supplier may submit material related to proposed bids or contracts concerning electricity supply to the commission before the default supplier enters into the contract. The commission may comment on the material.

(c) In reviewing electricity supply contracts, the commission shall consider only those facts that were known or should reasonably have been known by the default supplier at the time the contract was entered into and that would have materially affected the cost or reliability of the electricity supply to be procured.

(4) (a) The commission shall use an electricity cost recovery mechanism that ensures that all prudently incurred electricity supply costs are fully recoverable in rates. The cost recovery mechanism must provide for prospective rate adjustments for cost differences resulting from cost changes, load changes, and the time value of money on the differences.

(b) The default supplier shall submit a proposed electricity supply cost recovery mechanism to the commission for approval on or before July 1, 2001. A mechanism must be adopted by the commission before March 30, 2002.

(c) The commission shall establish a method to provide for the full recovery of electricity supply costs that extend beyond the end of the transition period.

~~(4)~~(5) If a public utility intends to be an electricity supplier through an unregulated division, then the public utility must be licensed as an electricity supplier pursuant to 69-8-404.

(6) A public utility shall offer its customers an opportunity to purchase a separately marketed product composed of power from renewable resources. This product may be priced differently from the standard electricity product authorized in this section. For the purposes of this section, "renewable resources" means biomass, wind, solar, or geothermal resources."

Section 13. Section 69-8-211, MCA, is amended to read:

"69-8-211. Public utilities -- transition costs and charges -- rate moratorium. (1) Subject to the provisions of this section, the commission shall allow recovery of the following categories of transition costs:

(a) the unmitigable costs of qualifying facility contracts, including reasonable buyout or buydown costs, for which the contract price of generation is above the market price for generation;

(b) the unmitigable costs of energy supply-related regulatory assets and deferred charges that exist because of current regulatory practices and that can be accounted for up to the effective date

of the commission's final order regarding a public utility's transition plan, including costs, expenses, and reasonable fees related to issuing of transition bonds;

(c) the unmitigable transition costs related to public utility-owned generation and other power purchase contracts, except that recovery of those costs is limited to the amount accruing during the first 4 years after the commission enters an order pursuant to 69-8-202(3); and

(d) other transition costs as may qualify for recovery under this section.

(2) Transition costs as determined by the commission upon an affirmative showing by a public utility must meet the following requirements:

(a) Transition costs must reflect all reasonable mitigation by the public utility, including but not limited to good faith efforts to renegotiate contracts, buying out or buying down contracts, and refinancing through transition bonds.

(b) The value of all generation-related assets and liabilities and electricity supply costs must be reasonably demonstrable and must be considered on a net basis, and methods for determining value must include but are not limited to:

(i) estimating future market values of electricity and ancillary services provided by the assets;

(ii) appraisal by independent third-party professionals; or

(iii) a competitive bid sale.

(c) Investments and power purchase contracts must have been previously allowed in rates or, if not previously in rates, must be determined to be used and useful to ratepayers in connection with the commission's approval of the utility's transition plan.

(d) Unless otherwise provided for in this chapter, only costs related to existing investments and power purchase contracts identified in subsection (2)(c) and costs arising from those investments and power purchase contracts may be included as transition costs.

(3) (a) On commission approval of the amount of a public utility's transition costs, those costs must be recovered through the imposition of a transition charge.

(b) A transition charge may not be collected from customers for:

(i) new or additional loads of 1,000 kilowatts or greater that were first served by the public utility after December 31, 1996; or

(ii) loads served by that customer's own generation.

(c) Subject to commission approval, a utility and a customer may agree to alter the customer's transition charge payment schedule. Public utilities may file with the commission tariffs for electric service rates that foster economic development or retention of existing customers within the state, including generally available rate schedules. Transition charges are the only charges that may be imposed upon a customer class to recover transition costs under this section. A separate exit fee may not be charged.

(4) Transition charges must be imposed within a transition cost recovery period approved by the commission on a case-by-case basis. Except for transition costs recovered under subsection (1)(c), categories of transition costs may have varying transition cost recovery periods.

(5) Approval of transition costs and collection of those transition costs through transition charges is a settlement of all transition costs claims by a public utility. A public utility seeking to recover transition costs through any means not authorized by this chapter may not collect transition charges with respect to these transition costs.

(6) Except as provided in subsection (7), public utilities shall implement a rate moratorium ~~during the transition period as follows:~~

~~(a) From July 1, 1998, through June 30, 2000, public utilities may not charge rates higher than those rates in effect on July 1, 1998.~~

~~(b) From~~ from July 1, 2000, through June 30, 2002, ~~and~~ only for those customers subject to the provisions of 69-8-201(1)(b)~~,~~. During that period, public utilities may not increase that increment of rates normally allocated to electric supply-related costs above the increment associated with electric supply-related costs reflected in rates in effect on July 1, 1998. Beginning on July 1, 2000, public utilities may propose increases to those increments of rates normally allocated to transmission and distribution costs.

(7) Excepted from the provisions of subsection (6) are:

(a) increased costs related to universal system benefits programs greater than those currently in rates, including the treatment of universal system benefits program costs as an expense;

(b) increased costs necessary to implement full customer choice, including but not limited to metering, billing, and technology. Those costs must be recovered from the customers on whose behalf the increased costs are incurred.

(c) subject to commission approval, an extraordinary event resulting in either:

(i) a 4% annual revenue requirement increase from July 1, 1998, through June 30, 2000; or

(ii) an 8% power supply-related annual revenue requirement increase from July 1, 2000, through June 30, 2002;

(d) the increase or decrease in the annual state and local property tax expense that has occurred since May 2, 1997.

(8) Notwithstanding subsections (6) and (7), during the transition period, public utilities may not charge rates or collect costs that include costs reallocated to transition costs at a level higher than the public utility would reasonably expect to recover in rates had the current regulatory system remained intact.

(9) Public utilities shall apply savings resulting under 69-8-503 toward the rate moratorium pursuant to subsection (6).

(10) ~~During the 4-year transition period~~ Before July 1, 2002, public utilities may accelerate the amortization of accumulated deferred investment tax credits associated with transmission, distribution, and the general plant as an adjustment to earnings if electric earnings fall below 9.5% earned return on average equity. The public utility may include the flow through of investment tax credits so that the public utility's earned return on equity is maintained at 9.5%. Accumulated deferred investment tax credits amortized under this subsection may not be reflected in operating income for ratemaking purposes.

(11) The commission shall issue the accounting orders necessary to align rate moratorium timing and requirements to actual transition bonds savings."

Section 14. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, energy conservation measures for irrigated agriculture, and low-income energy assistance during the transition period and into the future.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. Except as provided in subsection ~~(7)~~ (8), these universal system benefits charge rates must remain in effect until ~~July 1, 2003~~ December 31, 2005.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) Utilities must receive credit toward annual funding requirements for a utility's internal programs or activities that qualify as universal system benefits programs, including those portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, conservation and efficiency measures for irrigated agriculture, or low-income energy assistance, and for large customers' programs or activities as provided in subsection ~~(7)~~ (8). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility's distribution services provider at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's distribution services provider shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income related expenditures and conservation and efficiency measures for irrigated agriculture, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs, conservation and efficiency measures for irrigated agriculture, and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) A utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(a) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

(b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) Except for those utilities that have not filed a transition plan, a utility's minimum annual funding requirement for reducing energy costs through conservation and efficiency measures for irrigated agriculture is established at 6% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(b) A utility must receive credit toward the utility's irrigated agriculture assistance annual funding requirement for the utility's internal irrigated agriculture assistance programs or activities.

(c) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the irrigated agriculture energy assistance fund established in 69-8-412.

~~(7)~~(8) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) $500,000, less the large customer credits provided for in this subsection ~~(7)~~ (8); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection ~~(7)~~ (8);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

~~(8)~~(9) A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the transition advisory committee provided for in 69-8-501. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the transition advisory committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and to the transition advisory committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(a) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(b) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and

(c) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

~~(9)~~(10) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

~~(10)~~(11) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection ~~(10)(b)~~ (11)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."

Section 15. Section 69-8-403, MCA, is amended to read:

"**69-8-403. Commission authority -- rulemaking authority.** (1) Beginning on the effective date of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail transmission and distribution services within the state of Montana, as provided in this chapter, and may not regulate the price of electricity supply except as electricity supply may be procured as provided in this section:

(a) by one or more default suppliers for those customers not being served by a competitive supplier; or

(b) by the distribution function of a public utility for those customers that are not being served by a competitive electricity supplier as provided by commission rules. During the transition period, those procurements may include a cost-based contract from a supply affiliate or an unregulated division.

(2) The commission shall decide if there is workable competition in the electricity supply market by determining whether competition is sufficient to inhibit monopoly pricing or anticompetitive price leadership. In reaching a decision, the commission may not rely solely on market share estimates.

(3) The commission shall license electricity suppliers and enforce licensing provisions pursuant to 69-8-404.

(4) The commission shall promulgate rules that identify the licensees and ensure that the offered electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.

(5) The commission shall establish just and reasonable rates through established ratemaking principles for public utility distribution and transmission services and shall regulate these services. The commission may approve rates and charges for electricity distribution and transmission services based on alternative forms of ratemaking such as performance-based ratemaking, on a demonstration by the public utility that the alternative method complies with this chapter, and on the public utility's transition plan.

(6) The commission shall certify that a cooperative utility has adopted a transition plan that complies with this chapter. A cooperative utility's transition plan is considered certified 60 days after the cooperative utility files for certification.

(7) The commission shall promulgate rules that protect consumers, distribution services providers, and electricity suppliers from anticompetitive and abusive practices.

~~(8) The commission shall license default suppliers and enforce default licensing provisions pursuant to 69-8-416.~~

~~(9) The commission shall promulgate rules for the licensing of default suppliers on or before December 1, 1999.~~

(8) The commission shall establish electricity supply rates for individual customer classes, which may vary based on cost factors associated with classifications of service or customers and any other reasonable consideration. Collectively, the individual electricity supply rates must reflect the full level of electricity supply costs that the default supplier incurs on behalf of its customers.

~~(10)~~(9) Until the commission has determined that workable competition has developed for small customers, a default supplier's obligation to serve remains.

~~(11)~~(10) In addition to promulgating rules expressly provided for in this chapter, the commission may promulgate any other rules necessary to carry out the provision of this chapter.

~~(12)~~(11) This chapter does not give the commission the authority to:

(a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance with this chapter; or

(b) compel any change to a cooperative utility's certification filing made pursuant to this chapter."

Section 16. Section 69-8-412, MCA, is amended to read:

"69-8-412. Funds established -- fund administrators designated -- purpose of funds -- department rulemaking authority to administer funds. (1) If, pursuant to 69-8-402(2)(f) or (5)(b), there is any positive difference between credits and the annual funding requirement, the department of revenue shall establish one or ~~both~~ all of the following funds:

(a) a fund to provide for universal system benefits programs other than low-income energy assistance. The department of environmental quality shall administer this fund.

(b) a fund to provide universal low-income energy assistance. The department of public health and human services shall administer this fund.

(c) a fund to provide for reductions in the energy costs of irrigated agriculture through energy conservation and efficiency measures. The department of agriculture shall administer this fund.

(2) The purpose of these funds is to fund universal system benefits programs.

(3) The department of environmental quality and the department of public health and human services may adopt rules that administer and expend the money in each respective fund based on an annual statewide funding assessment that identifies funding needs in universal system benefits programs. The annual assessment must take into account existing utility and large customer universal system benefits programs expenditures."

Section 17. Section 69-8-414, MCA, is amended to read:

"**69-8-414. Universal system benefits programs credit review process.** (1) All annual reports required pursuant to ~~69-8-402(8) and (10)~~ 69-8-402(9) and (11) must be filed with the department of revenue on March 1 of each year.

(2) Except as provided in 69-8-413, upon a challenge by an interested person, the department of revenue shall ensure that the credit claimed is consistent with this chapter. An interested person may file comments challenging the claim, including supporting documentation, with the department of revenue. A challenge of any claimed credit must be filed within 60 days of the department of revenue's receipt of the credit claimant's annual reports required pursuant to ~~69-8-402(8) and (10)~~ 69-8-402(9) and (11).

(3) Claimed credits are presumed to be correct unless challenged by an interested person. If a challenge is filed by an interested person, the department of revenue shall conduct an initial review of a challenged credit and shall make a determination as to the likelihood that the challenged credit qualifies for universal system benefits programs. If the department of revenue finds that the challenged credit is not likely to qualify for universal system benefits programs, the department of revenue shall formally review the challenge; otherwise, the department of revenue shall dismiss the challenge and provide a statement of the reasons supporting dismissal of the challenge. The department of revenue may request additional information from the credit claimant or interested person. The department of revenue shall complete the initial review within 30 days of the challenge.

(4) If the department of revenue determines that a formal review of a challenged credit is necessary, the department of revenue shall provide public notice of the opportunity to comment to the credit claimant and interested persons. The department of revenue may also schedule an oral hearing. If a hearing is scheduled, the department of revenue shall provide public notice of the hearing to the credit claimant and interested persons.

(5) For a formal credit review challenge, the following procedures apply:

(a) The credit claimant shall provide documentation supporting the credit claimed to the department of revenue and to all interested persons, subject to department of revenue protective orders for confidential or sensitive materials, upon a showing of a privacy interest by the credit claimant.

(b) The department of revenue shall make all materials related to the claim, the challenge, and the submitted comments available to the credit claimant and for public inspection and photocopying, subject to any department of revenue protective orders.

(c) The credit claimant may respond in writing to any comments and other documents filed by an interested person.

(d) The department of revenue may ask for additional detailed information to implement this section.

(6) Upon completing a formal review of a challenged credit, the department of revenue shall make a decision to certify or to deny the credit claimed, providing a statement of the reasons supporting the department of revenue's decision. The formal review of a challenged credit,

including the department of revenue's final decision, must be completed within 60 days of the department of revenue's public notice of the opportunity to comment on the challenged credit."

Section 18. Consumer electricity support program. (1) There is a consumer electricity support program. The purpose of the program is to provide an affordable and reliable electricity supply to customers of the default supplier from July 1, 2002, until June 30, 2007. The consumer electricity support program consists of financial support or the assignment and subsequent disposition of electricity supply.

(2) There is a consumer electricity support account in the state special revenue fund. The account must be used for the deposit of any of the financial sources dedicated to the account. Distributions from the account must be in accordance with rules adopted by the department of administration for the program. Financial sources for funding the account may include:

(a) allocations from the state as provided by law; and

(b) other financial sources as identified in rules adopted by the department of administration.

(3) Electricity supply made available for the program must be either disposed of, with the resulting revenue deposited to the consumer electricity support account, or assigned to the distribution services provider to serve default supply customers. The electricity supply providers must be reimbursed for electricity supply contributed and used in accordance with rules adopted by the department of administration for this program. Electricity supply sources include:

(a) electricity provided by electricity suppliers;

(b) electricity available in the electrical energy pool established in [section 1 of House Bill No. 645];

(c) government power authorities;

(d) qualifying facility electricity supply as provided by law; and

(e) any other source of electricity supply as identified in rules adopted by the department of administration.

(4) The consumer electricity support program must be administered by the department of administration. The department shall adopt rules necessary to operate the program and to allocate the consumer electricity support resources beginning July 1, 2002. The rules must provide for the equitable distribution of program resources for default supply customers and for the reimbursement of the electricity supply providers. The rules must balance the short-term considerations of cost mitigation with the longer-term interests of encouraging customer demand response by establishing accurate electricity supply price signals. The department shall implement the consumer electricity support program in coordination with the default supplier.

(5) The department of administration may recover the costs of administering the program from the consumer electricity support account.

Section 19. Funding of consumer electricity support program. (1) Up to $100 million each year from the revenue derived from the electrical energy excess revenue tax imposed by [sections 1 through 10 of Senate Bill No. 512] must be transferred from the general fund into the consumer electricity support account.

(2) Pursuant to rules adopted by the department of administration under [section 18], at least 80% of the money in the account must be used to promote price stability of the supply of electrical energy in Montana:

(a) for default customers of a public utility that has submitted a transition plan pursuant to parts 1 through 5 of this chapter on or before July 1, 2001; and

(b) for customers that chose an electrical energy supplier as provided in Title 69, chapter 8, part 2.

(3) Pursuant to rules adopted by the department of administration under [section 18], the amount remaining in the account after promoting price stability of the supply of electrical energy under subsection (2) of this section may be used for the following purposes:

(a) assisting in the recruitment of new employers with 100 employees or more and in the promotion of the expansion of employment by 100 employees or more by existing employers who need a reasonable and stable supply of electrical energy;

(b) funding universal system benefits programs provided for in this chapter;

(c) providing low-interest loans for new transmission facilities or for improvements to existing transmission facilities;

(d) providing low-interest loans for the construction of new temporary or permanent electrical generation facilities and for the expansion of the net generation capacity of existing electrical generation facilities. The electrical generation facilities referred to in this subsection must have an electrical generation capacity of 60 megawatts or less.

(4) In adopting rules, the department of administration shall consult with the commission and the consumer counsel. The department may contract with the commission for the administration of portions of the program.

(5) The funds deposited in the account under this section but not expended for the purposes established in this section must be transferred to the general fund after the end of each biennium.

(6) The money in the state special revenue account is statutorily appropriated, as provided in 17-7-502, for the purposes of [section 18] and this section.

Section 20. Short title. [Sections 20 through 28] may be cited as the "Montana Power Authority Act".

Section 21. Purpose. The legislature finds and declares that:

(1) the economic viability and security of the state of Montana is directly linked to reliable and affordable electrical energy;

(2) electrical energy has become a basic and irreplaceable necessity that impacts the public health, safety, and welfare of all Montana citizens;

(3) Montana's residential, agricultural, governmental, commercial, and industrial consumers of electrical energy are entitled to cost-based prices for electrical energy; and

(4) it is in the public interest that the Montana power authority have the ability to:

(a) purchase electrical energy from any supplier in the wholesale market for the purpose of providing reliable, cost-based power exclusively to Montana consumers;

(b) construct, acquire, or enter into joint ventures to construct or acquire electrical generation facilities that will provide cost-based power to consumers in Montana;

(c) construct, acquire, or enter into joint ventures to construct or acquire electrical energy transmission or distribution systems;

(d) sell electrical energy to a default supplier and to any municipal utility, cooperative utility, or investor-owned utility that serves Montana customers;

(e) contract with public or private entities for the operation and maintenance of state-owned power facilities; and

(f) encourage and support energy conservation to mitigate consumer costs and detrimental impacts on the environment.

Section 22. Definitions. As used in [sections 20 through 28], unless the context requires otherwise, the following definitions apply:

(1) "Cost-based" means the price charged to a distribution services provider that is sufficient to meet the operating costs, including commodity costs, of the Montana power authority and to ensure timely repayment of bonds issued on behalf of or any other debt incurred by the Montana power authority.

(2) "Default supplier" means a distribution services provider.

(3) "Department" means the department of natural resources and conservation established in 2-15-3301.

(4) "Montana power authority" or "authority" means the citizen board established in [section 23].

Section 23. Montana power authority -- board composition -- procedures. (1) There is a Montana power authority consisting of a seven-member citizen board appointed by the governor with the consent of the senate.

(2) In selecting the members, the governor shall:

(a) consider each prospective member's knowledge and understanding of the structural and financial dimensions of the electrical energy sector of the state's economy;

(b) ensure that two of the members broadly represent, as evidenced by their background, experience, and livelihood, the following categories of electrical energy consumption:

(i) irrigated agriculture;

(ii) commercial and industrial enterprise; and

(iii) residential;

(c) choose an at-large member with academic or business credentials that indicate that the person has substantial experience in energy markets in the region of the western states; and

(d) choose an at-large member with substantial experience in financial, banking, and bonding matters.

(3) The members shall elect the presiding officer by majority vote.

(4) Members of the Montana power authority shall serve staggered 4-year terms. The governor shall designate two of the initial members to serve 2-year terms and three of the initial members to serve 3-year terms. Vacancies must be filled by appointment for the unexpired term. A member may not serve more than two consecutive terms.

(5) The Montana power authority shall meet at least twice a year and may meet more frequently as required by circumstances or at the request of any two or more members of the authority.

(6) Decisions of the Montana power authority require a simple majority of the whole membership.

(7) The Montana power authority is attached to the department for administrative purposes, and the department shall provide staff support and a liaison between the authority and other state or federal agencies.

Section 24. Powers and duties. (1) The Montana power authority may:

(a) purchase electrical energy from any wholesale power supplier, on a contractual basis, without limitation on the duration of any contract, to meet the aggregated load requirements of consumers in the service territory of a distribution services provider in Montana;

(b) purchase, construct, and operate electrical generation facilities or electrical energy transmission or distribution systems in the state;

(c) enter into joint ventures with any municipality, a cooperative, an investor-owned utility, or any other public or licensed private entity in Montana for the purpose of financing the construction of an electrical generation facility or an electrical energy transmission or distribution system;

(d) request that the legislature authorize revenue bonds to be issued by the board of examiners pursuant to Title 17, chapter 5, for the purpose of:

(i) constructing electrical generation facilities or electrical energy transmission or distribution systems in the state; or

(ii) purchasing an electrical generation facility or an electrical energy transmission or distribution system; or

(e) sell electrical energy to any distribution services provider in the state;

(f) participate in a regional transmission organization established in response to or in compliance with an order of the federal energy regulatory commission; and

(g) participate with any municipality in an electrical energy generation project as provided in Title 90, chapter 5, part 1. The bonds may be publicly or privately sold, bear interest at rates and times, and mature at times not exceeding 40 years from the date of issuance as the board shall determine. The board may issue the bonds pursuant to a resolution or indenture of trust with a financial institution having the powers of a trust company. The resolution or indenture may contain provisions for protecting and enforcing the rights of bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the state, the board of examiners, the authority, or agencies of the state in relation to the acquisition, construction, improvements, maintenance, operation, repair, and insurance of the project financed with the proceeds of the bonds and the custody and application of all money. The trust indenture may set forth the rights and remedies of the bondholders as is customary in trust indentures, deeds of trust, and mortgages securing bonds.

(2) The Montana power authority shall, subsequent to the purchase of electrical energy from the wholesale market or the generation of power from an in-state generation facility, offer cost-based electrical energy to Montana consumers, including to a default supplier and to any municipal utility, cooperative utility, or investor-owned utility in the state.

Section 25. Bond authorization. (1) The board of examiners may issue and sell bonds of the state in an aggregate principal amount not to exceed $500 million for the purposes authorized in [section 26]. The bonds are revenue obligations in which the net revenue from the sale of the electrical energy produced from the electrical generation facilities acquired or built pursuant to [section 26] or revenue from electrical energy transmission and distribution charges is pledged for payment of the principal and interest on the bonds. The board may issue the bonds in accordance with the applicable provisions contained in 17-5-921 through 17-5-930.

(2) The proceeds of the bonds, other than any premiums and accrued interest received, must be deposited in an account in the state special revenue fund. Premiums and accrued interest must be deposited in the debt service fund established in 17-2-102. Proceeds of bonds deposited in the account may be used to pay the costs of issuing the bonds and to fulfill the purposes authorized in [section 26]. For the purposes of 17-5-803 and 17-5-804, the account constitutes a capital projects account. The bond proceeds must be available to the Montana power authority and may be used for the purposes authorized in this section without further budgetary authorization.

(3) (a) In authorizing the sale and issuance of the bonds, the board of examiners, upon request of the Montana power authority, may create separate accounts or subaccounts to provide for the payment and security of the bonds, including a debt service reserve account. The net revenue from the sale of the electrical energy produced from the electrical generation facilities acquired pursuant to [section 26] must be pledged to these accounts.

(b) The electrical energy produced from the electrical generation facilities must be offered to in-state customers before the electrical energy may be offered to other customers.

Section 26. Use of bond proceeds. The Montana power authority shall use the proceeds of the bonds authorized in [section 25] to purchase the electrical generation facilities and associated water rights for those facilities, to build electrical energy generation facilities, to design and build new state-owned electrical energy transmission or distribution systems, or to pay capitalized interest during construction, to fund a debt service reserve, and to pay costs associated with the sale and security of the bonds. The Montana power authority may not acquire a facility or system that is associated with a superfund project.

Section 27. Interagency cooperation. (1) State agencies shall cooperate with the Montana power authority in the planning of electrical energy purchases or the permitting or constructing of electrical generation facilities.

(2) Within the limits of available resources, state agencies shall provide scientific, economic, and other relevant data requested by the Montana power authority.

Section 28. Pledge. In accordance with constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of the bonds issued by the state.

Section 29. Adoption of rules. Because the supply and price of electricity constitute a threat to the public health, safety, and welfare, the commission and the department of administration may begin proceedings to adopt rules immediately upon passage and approval of [this act]. The rules must be adopted by July 1, 2001.

Section 30. Repealer. Sections 35-19-103, 69-8-416, and 69-8-417, MCA, are repealed.

Section 31. Codification instruction. (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 1 through 5].

(2) [Sections 18 and 19] are intended to be codified as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [sections 18 and 19].

(3) [Sections 20 through 28] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 20 through 28].

Section 32. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2001.

(2) [Sections 29 and 31 and this section] are effective on passage and approval.

THE COMPLETE TEXT OF INITIATIVE NO. 145 (I-145)

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Montana Hydroelectric Security Act".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 10] is to acquire hydroelectric facilities that are in the public interest to acquire and to operate them for the benefit of the people of Montana.

NEW SECTION. **Section 3. Definitions**

(1) "Hydroelectric Facilities" means dams with an installed electrical generation capacity of greater than 5 megawatts that are located in the state, associated real and personal property, equipment, contract rights, easements, and water rights.

(2) "Commission" means the Montana public power commission created in section 4.

NEW SECTION. **Section 4. Montana public power commission – Composition- Compensation- Benefits**

(1)Composition-procedures. There is a Montana public power commission that consists of five members. Each commission member must be elected and must be a qualified elector from the district from which the member is elected. Each member must be from a separate district of the state. The districts must correspond to the districts for members of the public service commission as provided for in 69-1-104. Each commission member shall take office on the first Monday of January after the election. Each commission member will serve a 4 year term. Terms will be staggered with two members serving an initial term of two years. The members who are elected shall draw by lot to determine their terms of office.

(2)Compensation. For each day engaged in the business of the commission, members of the commission are entitled to:

a) salary commensurate to that of an entry grade 18 state employee;

b) mileage allowance as provided in 2-18-503 and;

c) expenses as provided in 2-18-501 and 2-18-502.

(3)Benefits and Retirement. Members of the commission are entitled to participation in the state benefits group plan and public retirement plan under the same conditions as state legislators provided for in 5-2-303 and 5-2-304.

(4) Administration. The commission is attached to the department of natural resources for administrative purposes, and the department shall provide staff support and a liaison between the authority and other state or federal agencies.

NEW SECTION. **Section 5. Powers and duties.**

(1) The commission shall conduct an assessment of existing hydroelectric facilities and determine those that would be in the public interest for the state of Montana to acquire. In determining the public interest, the commission shall consider:

(a) the condition of the facility;

(b) the estimated cost of the facility;

(c) the estimated cost of maintaining, repairing and operating the facility;

(d) the debt burden to be serviced;

(e) the revenue expected to be derived;

(f) the value of avoided risk in power markets;

(2) For those hydroelectric facilities determined to be in the public interest to acquire, the commission shall:

(a) purchase the hydroelectric facility at fair market value;

(b) if necessary, use the power of eminent domain to acquire the hydroelectric facility at fair market value;

(c) enter contracts to manage and operate hydroelectric facilities, provide marketing services or provide other services;

(d)sell electrical energy at a retail or wholesale level, provided that customers who reside in an area that was served by an investor-owned utility with its entire service territory in the state of Montana prior to January 1, 1997, and customers with an average individual metered demand of less than 1 megawatt have priority;

(e) utilize proceeds from the issuance and sale of revenue bonds by the board of examiners in order to purchase or otherwise acquire investments in hydroelectric facilities and to implement subsections (1) and (2) of this section.

(f) reimburse any loss of revenue to any taxing unit, as defined in 15-1-101, associated with the acquisition of any hydroelectric facility. Reimbursement of local governments must be implemented as provided by law.

(3)The commission may invest revenue from the sales of electricity in renewable energy development and projects for energy conservation as defined in 90-4-102.

(4)The commission has all powers necessary and convenient to carry out the duties set forth in subsection (1), (2) and (3).

NEW SECTION. **Section 6. Rights of employees of hydroelectric generation facilities.** Each person employed by a hydroelectric facility acquired by the state of Montana under [section 4] is entitled to all rights that the person possessed as an employee before the ownership of the facility was transferred to the state.

NEW SECTION. **Section 7. Revenue bonds.** The board of examiners shall issue revenue bonds as necessary for the acquisition of hydroelectric generation facilities, real or personal property, and water rights set forth in [section 4] in an amount up to $500 million. The board of examiners has all powers necessary and convenient to carry out the duties set forth in this section.

NEW SECTION. **Section 8. Repealer.** Sections 69-9-101, 69-9-102, 69-9-103, 69-9-107, 69-9-108, 69-9-111, 69-9-112, 69-9-113, 69-9-114 and 69-9-115, MCA are repealed.

NEW SECTION. **Section 9. 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 10. Effective date.** [This act] is effective upon passage.

THE COMPLETE TEXT OF INITIATIVE NO. 146 (I-146)

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

Section 1. Section 17-6-602, MCA, is amended to read:

"17-6-602. Definitions.

As used in this part, the following definitions apply:

(1) "Benefits, services, or coverage of health care needs" means the provision of health care to persons by the state through any program of benefits, services, or coverage, including income tax incentives.

(2) "Health care" has the meaning provided in 50-16-504.

(3)(a) "Programs for tobacco disease prevention" means programs of services administered by the state for the purposes of informing individuals of the health risks of tobacco use and exposure to secondhand tobacco smoke, assisting persons in the avoidance of tobacco products use, and assisting individuals in cessation of tobacco use.

(b) Programs for tobacco disease prevention include:

(i) community-based education programs;

(ii) American Indian community tobacco education programs;

(iii) general public awareness and education programs;

(iv) tobacco cessation services;

(v) a tobacco use resource center;

(vi) special education and cessation programs to reach youth and women of childbearing age;

(vii) smokeless tobacco user programs; and

(viii) advertising issue programs.

(4)"Tobacco products" means a substance intended for human use that contains tobacco and includes but is not limited to cigarettes, cigars, smoking tobacco, and tobacco intended for use in an oral or nasal cavity.

(5)"Trust fund" means the Montana tobacco settlement trust fund authorized by Article XII, section 4, of the Montana constitution and implemented through this part."

NEW SECTION. **Section 2. Tobacco settlement accounts - - purpose -- uses.** (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund a statewide comprehensive tobacco disease prevention program designed to:

(a) discourage children from starting use of tobacco;

(b) assist adults in quitting use of tobacco;

(c) provide funds for the Children's Health Insurance Program; and

(d) provide funds for the comprehensive health association programs.

(2)An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding a statewide tobacco prevention program designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco prevention program and shall adopt rules to implement the program. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs - - August 1999, or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

(a) matching funds to secure the maximum amount of federal funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; and

(b) programs of the comprehensive health association provided for in Title 33, chapter 22, part15, with funding use subject to 33-22-1513.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within two years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services.

NEW SECTION. **Section 3. Tobacco prevention advisory board.**

(1) There is a tobacco prevention advisory board. The board consists of 15 members appointed by the director of the department of public health and human services. Except for the initial appointments, each board member shall serve a 3-year term and is subject to reappointment for one succeeding term. The director shall appoint members to staggered terms, with 5 members serving an initial term of 1, 2 or 3 years. The initial members appointed shall draw lots to determine their term of office. The board shall terminate when tobacco settlement funds are no longer received by the state. The board shall meet at least one time each year, with date and frequency of meetings to be determined by its presiding officer. Health care professionals and individuals are eligible to serve on the board. A board member may not have been paid by the tobacco products industry during the 10-year period preceding appointment.

(2) Members of the board are not entitled to compensation for their services, but are entitled to mileage allowance, as provided in 2-18-503, and expenses as provided in 2-18-501 and 2-18-502.

(3) The board shall furnish advice, gather information, and perform other activities regarding the state special revenue accounts established pursuant to [section 2]. The board may make recommendations for the use of appropriations from the state special revenue accounts.

(4) The board is attached to the department of public health and human services for administrative purposes, and the department shall provide staff support to the board.

Section 4. Section 53-4-1011, MCA, is amended to read:

"53-4-1011. (Temporary) Tobacco settlement funds to general fund. ~~Funds~~ Unless deposited into the trust fund, provided for in 17-6-603, or a state special revenue account, provided for in [section 2], funds received from the tobacco settlement must be deposited in the general fund. Any funds appropriated from the general fund for the children's health insurance program that remain unexpended at the end of the biennium must be transferred to the general fund. (Terminates on occurrence of contingency – sec. 15, Ch. 571, L. 1999.)"

NEW SECTION. **Section 5. {standard} Codification instruction.** Sections 2 and 3 are intended to be codified as an integral part of Title 17, chapter 6, part 6, and the provisions of Title 17, chapter 6, part 6, apply to sections 2 and 3.

NEW SECTION. **Section 6. {standard} 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 7. {standard} Effective date.** This act is effective upon approval by the electorate.

Ballot Measure Worksheet

Mark your choices on this worksheet and then take it with you on Election Day as a reminder.

CONSTITUTIONAL AMENDMENT 36

☐ FOR allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

☐ AGAINST allowing a maximum of 25% of a local government group self-insurance program's assets to be invested in private corporate capital stock.

CONSTITUTIONAL AMENDMENT 37

☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than two-fifths of the legislative districts for constitutional initiatives.

CONSTITUTIONAL AMENDMENT 38

☐ FOR requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

☐ AGAINST requiring that signatures be gathered in at least one-half of the counties rather than one-third of the legislative districts for statutory initiatives.

CONSTITUTIONAL AMENDMENT 39

☐ FOR allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

☐ AGAINST allowing the investment of public funds, including school trust funds, in private corporate capital stock in accordance with recognized standards of financial management.

INITIATIVE REFERENDUM 117

☐ APPROVE House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.

☐ REJECT House Bill 474, a bill that changes provisions of the deregulation of the electricity industry.

INITIATIVE 145

☐ FOR creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.

☐ AGAINST creating a public power commission to purchase or condemn hydroelectric dams whose acquisition it determines to be in the public interest.

INITIATIVE 146

☐ FOR dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.

☐ AGAINST dedicating 49 percent of Montana's yearly tobacco settlement funds for tobacco disease prevention and expanding access to health insurance programs.

Key Election Dates

November 4: Last day voters may submit a written request for an absentee ballot to their county election official. The county election office must receive the request by noon.

November 5: GENERAL ELECTION. Polls are open from 7 a.m. to 8 p.m. in most localities. Precincts of 200 or fewer voters may open their polling places at noon. Check your local media or county election office for the polling times in your area.

Voters may turn in completed absentee ballots at their county election office until the close of polls on Election Day.

Voters who suffer a serious illness or other medical emergency on Election Day or in the three days immediately preceding it may request an absentee ballot until noon on November 5.

November 25: Deadline by which official statewide canvass of votes must be completed by the Secretary of State's Office.

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COUNTY ELECTION ADMINISTRATOR
County Courthouse