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Date June 16, 1982

BUDGETING BY THE BALLOT: A LOOK AT THE MONTANA INITIATIVE PROCESS

by

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ABSTRACT

Montanans have enjoyed the right of initiative and referendum since 1906. With the passage of the new constitution in 1972, the process was simplified thus making it easier for petitioners to qualify issues for the ballot. It also permitted the use of initiatives to amend the constitution.

The simplified process contributed to the increased use of the initiative. One of the most recent trends is the use of the ballot to make long-term fiscal policy for the state. The paper analyzes three issues--property tax relief (I-72) in 1976, the spending ceiling (C-I 7) in 1976 and tax indexing (I-86) in 1980--and discusses four dysfunctions that have arisen from the shift in decision making to the public arena. The paper also discusses initiative reform.

In addition to the dysfunctions stemming from information gaps and the budget timetable itself, the researcher also discusses the special adjustment problems faced by government experts who have not seen the budget-building function as part of the public domain. To illustrate this a series of oral interviews were conducted with four fiscal experts in Montana state government from 1975 to 1980.

In summary the researcher traces two particularly divergent attitudes regarding the use of the initiative to make fiscal policy. One suggests that restrictions be placed on the process of putting fiscal issues on the ballot. The second opines that the initiative process is untouchable regardless of dysfunctions. The researcher takes the position that while the initiative should not be restricted, it is time to consider some of the problems and look at ways to reform the direct ballot for more effective citizen participation.

CHAPTER I

Direct democracy is an important part of the frontier tradition strongly rooted in American Populism. Late 19th Century dissatisfaction with unresponsive and often-time corrupt state and local governments led to the search for more direct forms of participation that could complement and/or bypass elected representatives.[1] The initiative is one of those forms of participation. In fact, citizen access to the initiative was on the reform agenda that swept across America in the progressive era. South Dakota in 1898 became the first state to adopt a system of direct legislation through the ballot box.[2] And by November 1906 with support from labor and progressive leaders, the Populists in Montana were successful in obtaining a constitutional amendment which guaranteed citizen access to the law-making process.[3] To date twenty-four states have provided a similar opportunity for their populations.[4]

In recent years interest in the initiative has reached such heights that even the Congress held hearings on the possibility of adding a provision for direct citizen participation to the U. S. Constitution.[5] During the hearings, the Senate Subcommittee did compile an exhaustive record including several studies on the initiative process. Charles M. Price, a researcher whose work was included in the record, noted that the initiative is particularly a western phenomenon. According to Price, only 19 percent or five states

east of the Mississippi have constitutional or statutory iniatives while 62 percent or fifteen of the states west of the Mississippi allow for the process.[6] Westerners in general like the initiative. It seems to mesh with the remnants of independence and local control that are often discussed along with the frontier tradition. In many instances the initiative may be to the westerner what the town meeting is to the citizen of the northeast.

Among the western states, California is most often cited for its frequent and "creative" use of the ballot. In fact, Price comments that California public relations firms have sprung up over the years for the sole purpose of helping groups qualify their issues for the ballot.[7] Attention in particular was focused on California when Proposition 13 won its much publicized victory. With the success of that issue, the citizens of California made a sweeping statement about their state's future fiscal policy. Some suggested that the vote marked a new kind of citizen involvement and in many ways, the proposition did elevate participation to a higher level. But U. S. voters had been casting direct ballots on fiscal issues before Proposition 13.

In fact a 1971 study indicated that of all the state ballot issues decided since the inception of the initiative, the largest number fell in the category of government machinery and reform. The second-most popular category was fiscal and financial. The study explained, however, that those fiscal and financial issues were not

usually of the Proposition 13 sort. They were more likely state or local mill levies.[8] That is, voters have often been involved in deciding for or against additional taxes as with school or bond issues, but it has only been in more recent times that voters have generally entered the arena of fiscal policy making through the direct passage of statutory or constitutional measures.

In Montana, for example, a group called the Citizens Legislative Coalition formed just about the time of the 1981 session to help citizens use the initiative successfully. In 1981, the Northern Rockies Action Group (NRAG) published a book aimed at giving citizens a "how-to" approach on the initiative.[9] Other states are experiencing a similar rise in interest.

The effect has been to involve the voters in a process traditionally reserved for the fiscal expert working with a limited number of public managers and elected officials. This shift has affected not only the budget process, but the role of the expert in budgeting as well. In many ways it has begun to polarize the system with public servants or managers on the one side and citizen groups on the other.

Problem Statement

This paper deals with Montana initiatives from two related perspectives. First, there is the question of the budgetary system

itself. Although all initiatives have some fiscal impact on the state budget, recent issues which have sought to alter the government's revenue producing ability or its authority to appropriate money are in a class by themselves. In addition to changing the amount of money available for the operation of government, some initiatives have also had specific impacts on the budget process itself. This paper seeks first to delineate and discuss those effects, particularly in light of the information available to voters.

The second question revolves around the changing role of the fiscal expert. Although fiscal managers realize they must be politically astute, they generally try to avoid partisan conflicts. With the advent of controversial and highly politicized fiscal initiatives, it has become more difficult for managers to maintain any distance from the political fray. It has also raised some important questions regarding the role of the expert. They include:

A. What is the proper role for a fiscal manager faced with an initiative that may become a law?

B. What role should the manager play when an initiative may seriously disrupt the administrative process or put the manager out of business altogether?

C. What about the fiscal policy initiative that could discredit the expert's political boss, or in the alternative, what about the initiative that could parlay the manager's boss into higher office?

In summary, the problem is one of a new and more aggressive level of citizen participation and the effect of that particpation on the state's budgeting process and on the people who are involved in that process.

Research Design

This research specifically centers on three ballot issues written during the last decade to make major changes in the way the state collected its revenues or allocated its money. These are: The Homestead Property Tax Relief Act of 1976 (I-72), the Constitutional Initiative to Limit State Spending (CI-7), and Phase Out Federal Funds of 1976 and the Tax Indexing Initiative of 1980 (I-86).

The writer used a case study approach to address the problems and to deal with the questions posed in the preceding section. The case study was supplemented by a review of the relevant primary and secondary sources and a content analysis of specific information available to the voters in 1976 and 1980. Information was drawn from a variety of journals and books as well as the data files of the Montana State University Library Archives, the Montana State Historical Society and the Montana Secretary of State's Office.

The case study data was gained principally from a series of interviews conducted with Montana state fiscal experts. Each was selected because of his involvement with the state's budgetary process during the time of the three initiatives now under study. The experts

include: John LaFaver, Legislative Fiscal Analyst (LFA) from 1975 to 1980; George Bousilman, director of the Office of Budget and Program Planning (OBPP); David Lewis who replaced Bousilman in 1980 and John Clark, deputy director of the Department of Revenue (DOR) from 1972 to date.

Each of the four experts responded to the same basic questions contained in a structured oral interview. (See Appendix A.) In addition, the experts were invited to add their own comments and in some instances the researcher added questions to elicit additional information.

With the information from the case studies and the accompanying background data from other sources, the researcher divided the work into four parts. Beyond the introduction, Chapter 2 deals specifically with Montana's budgetary process and the dysfunctions created by the initiatives under study. Chapter 3 deals with the experiences of the fiscal experts who found that their positions had, in some instances, changed or been made less certain by the increased level of public participation in the fiscal arena. The concluding section is divided into suggested strategies for management response to the initiative and a series of recommendations on a state-wide commitment to a public information program that could bring more rationality to voter involvement in the initiative process.

FOOTNOTES

[1]Jerry McCaffery and John Bowman, "Participatory Democracy and the Effects of Proposition 13," Public Administration Review (PAR), 38, no. 6 (Nov/Dec 1978), pp. 530-538.

[2]James Grady, "Popular Control: Initiatives, Recall and Referendum," Montana Constitutional Convention Studies, no. 11, 1972, p. 5.

[3]Michael Malone and Richard Roeder, Montana: A History of Two Centuries, Seattle: University of Washington Press, 1976, pp. 196-97.

[4]The states which currently provide for the initiative are: Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Idaho, Illinois, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming. See The Book of States, Lexington, Kentucky: Council of State Governments, 1980-1981, p. 26.

[5]Hearings before the Subcommittee on the Constitution of the Committee of the Judiciary, U. S. Senate, 95th Congress, First Session, SJR 67.

[6]Charles M. Price, "The Initiative: A Comparative State Analysis and Reassessment of a Western Phenomenon," Western Political Quarterly, 28 (June 1975), p. 209.

[7]Ibid., p. 215.

[8]Penelope J. Gazey, "Direct Democracy--A Study of the American Referendum," Parliamentary Affairs, 24, No. 2 (Spring 1971), pp. 232-234.

[9]Mike Males, Be It Enacted by the People, NRAG Papers, Vol. 4, Helena, Montana: Northern Rockies Action Group, Fall, 1981.

CHAPTER II

In 1972 when Montanans adopted a new constitution, they opted for a document that opened up the initiative process by making it easier for citizen groups to place issues on the election ballot. Specifically the new constitution reduced the signature requirements from 8 percent of the qualified electors to 5 percent. In addition, Article III changed the signature distribution requirements from two-fifths of the counties to one-third of the legislative districts. The 1906 amendment was designed to spread out the signature gathering so that population concentrations in Montana's powerful metal and mining industry could not control the initiative process. By 1972 there was less fear of that happening.[1] The new constitution also allowed citizens to use the initiative for constitutional revision. Amendments could be placed on the ballot by gaining signatures from 10 percent of the qualified electors in two-fifths of the state's legislative districts.[2]

Despite the trend toward opening up the initiative process during the Constitutional Convention, delegates were apparently not inclined to remove the 1906 restrictions against using the initiative to appropriate money. Article III, Section IV, plainly states that "the people may enact laws by initiative on all matters except for the appropriations of money and local or special laws."[3] It was believed that the appropriations process should be reserved for the

elected representatives of the people. Implicit in that decision was the feeling that fiscal matters are too complex for citizen lawmakers.[4]

Even with the appropriations restriction intact, however, the Montana electorate found many opportunities to take advantage of its access to direct democratic participation. In the years prior to the 1972 constitutional ratifications, there were sixty-four initiatives and referenda on the ballot for an average of nearly two issues per general election. Between 1972 and 1980, there were twenty-five issues put before the people for an average of about six per election.[5] Undoubtedly the simplified constitutional procedure contributed to that increased usage, but there may have been a more universal reason as well. Citizens who believed themselves to be overwhelmed by expanding government in the 1970's often searched for ways to re-establish their control over state and local structures.[6] A natural outgrowth of that search was manifested in the rise of public interest groups that used the initiative frequently during Montana's brief encounter with a relatively liberal political movement during the late 1960's and early 1970's. Ballot issues which established the coal severance tax trust fund and, for all practical purposes, banned nuclear plant siting are two examples.

By mid-decade, however, the Montana ballot had begun to providde an avenue of redress for citizen groups more worried about financial resources than about natural resources. The concern was expressed in

a series of ballot issues dealing with state fiscal policy, including several backdoor approaches which resulted in altering the appropriations process. Carefully worded issues were able to qualify for the ballot despite the constitutional intent to reserve the appropriations process for elected senators and representatives as seen below with regard to three issues.

1. The State-Funded Homestead Tax Relief Act of 1976 requested that the legislature appropriate funds to pay the taxes on the first $5,000 of the appraised value of each owner-occupied home in the state. More simply stated, the initiative provided a property tax break for Montana citizens. The people were asked to vote for or against "reduction of owners property tax liabilities on owner-occupied residential property." The issue qualified for the ballot and was approved by the voters.[7]

2. That same year, a constitutional initiative to limit state spending also qualified. The proposed amendment stated that ". . . appropriations could not exceed the sum of $375 million for any biannium [sic] commencing prior to July 1, 1983," and added that the legislature provide for a 15 percent annual phase-out of federal funds such that no federal monies could be accepted in Montana after July 1, 1984. The people were asked to vote for or against a $375 million limit on state spending and a phase-out of federal funds.[8] That issue lost.

3. In 1980 a group used the initiative process to institute a tax indexing system for Montana income taxpayers. The initiative proposed that tax brackets, exemptions, standard deductions and minimum filing requirements be adjusted each year to prevent tax increases. The initiative which easily qualified and just as easily got voter approval asked people to vote for or against adjusting income tax structures to prevent tax increases due solely to inflation.[9]

The trio of fiscal issues undoubtedly represented public displeasure with legislative and/or executive actions regarding the size and cost of government. They also foretold an increased level of citizen participation in the state's fiscal policy-making arena, a domain which had previously been reserved for public managers and elected officials.

Because of the popularity of the initiative process and its strong Populist roots, this shift in power has received little critical comment or study. Yet, as Peter May and Arnold Meltsner point out in their appraisal of Proposition 13, such massive citizen intervention into the fiscal side of state government calls for more than a business-as-usual response on the part of public servants.[10] In the main, however, Montana's public managers have remained silent.

The state's representative body has been the most vocal in opposing the perceived encroachment on its function. During the 1981 session, several legislative bills were introduced to alter the

requirements for initiatives thus making the process less accessible. One of the most controversial called for doubling the required number of signatures needed to qualify an issue for the ballot. But public enthusiasm in behalf of the initiative proved so great that attempts to enact major restrictions were doomed to failure. In the aftermath of the session, angry Montana public interest groups launched an effort to protect the initiative. They expect to place a constitutional initiative on the November 1982 ballot which will require voter approval for any changes in the procedures for adopting initiatives. The measure will also require a two-thirds vote of each house in the legislature in order to amend or repeal any initiative passed by the voters.[11] Thus, it appears that the initiative is here to stay.

Given the popularity of the process in Montana as well as in many other states, public managers have been reluctant to discuss some of the dysfunctions that arise from the use of the initiative, especially in the fiscal policy area. Fearful of being characterized as anti-democratic, most public managers have acquiesced.

Nonetheless, the dysfunctions remain. To investigate them, the following four situations are examined:

I. The use of the ballot to make back-door appropriations decisions despite a clear constitutional exhortation to the contrary;

II. The level of neutral public information available to voters;

III. Effects on the budget process, particularly from the point of view of the structural need to finalize revenue estimates months before the voters have ruled on fiscal ballot issues; and

IV. The possible politicization of the initiative stemming from candidates who foresee personal election victories tied to initiative campaigns.

I. The Constitutional Dysfunction

Despite the restraints built into the Montana Constitution to reserve the appropriations process for representative government, the citizens of today appear to be taking an activist role in fiscal decision making. State Senator Dorothy Eck who was vice president of the 1972 Constitutional Convention, acknowledged that recent ballot issues may have had the effect of backdoor appropriations.[12] Her observation was particularly illustrated after the passage of the 1976 Homestead Property Tax Relief Act.

A. Entitled An Act to Provide Property Tax Relief for Owner-Occupied Homesteads, the proposal's backers easily gathered the 16,000 signatures necessary to qualify for the ballot. The Citizens for Property Tax Relief could not, however, word the initiative to impose an affirmative duty on the legislature. Put another way, because of the constitutional ban on appropriations, they could not legally bind the legislature to approve money for property tax relief. Therefore,

the initiative backers had to find a way to insure the appropriation without saying so. Thus, the initiative stated that "to the extent funds are provided by the legislature" property tax relief would be forthcoming.[13] That was buttressed by a strong media campaign telling people that the state surplus should be appropriated to cover the rebates and that recipients could expect about $100 each.

In actuality, the legislature had little choice but to appropriate the desired money for tax relief, especially after the initiative passed by an overwhelming vote of 204,000 to 83,000.[14] Although the legislators toyed briefly with refusing to fund the initiative altogether, an appropriation was clearly the only way the body could fulfill the citizen mandate. The other option was to turn a deaf ear to the voters, which was a politically unpalatable choice at best.

The remaining issue in the 1979 session was simply one of how much money to rebate. The political campaign that had accompanied the initiative had promised about $100 annually per owner-occupied homestead. Backers pushed hard to accomplish exactly that. After a series of compromises, however, the legislature agreed to appropriate $30 million of the state's $50 million surplus which allowed for approximately $65 per rebate.[15] In later years, various payback schemes were tried, but the legislature continued to appropriate money through 1980 for property tax relief based on the initial success of the initiative.

B. By the beginning of the new decade, the momentum for fiscal reform had switched from property tax relief to income tax relief. The 1979 Montana legislature considered a variety of tax cut bills which reflected the conservative mood that eventually led to the Republican landslide victories in 1980. Among the bills were several that proposed income taxes be indexed to the annual inflation rate as determined by the Consumer Price Index to hold down the growth of government. A relatively new concept to the United States, indexing was frequently used in other countries.

Depending upon the formula, the net effect of indexing is to cut the amount of tax that people pay and thus to provide a corresponding decrease in annual government revenues. A bill which would have done just that did pass in the waning day of the 1979 session, but the Governor, citing revenue uncertainties, vetoed it after the legislature had gone home. The veto galvanized the backers of tax indexing. Calling themselves the Montana Tax Reduction Movement, they set about getting the necessary sixteen thousand signatures to qualify the indexing initiative for the 1980 ballot.

Tax indexing, as it was commonly called, passed by a two-to-one margin. As with property tax relief, there were a few weak attempts during the 1981 session to amend tax indexing to cut its fiscal impacts. John Clark, deputy director of the Department of Revenue, testified that the CPI upon which indexing was based, overstated

inflation. Indexing, he said, would better be based on the GNP price deflator. Neither the taxation committee nor the legislature agreed.[16]

Indexing differed from the homestead property tax relief initiative in several important ways. Not only was it a more complex piece of legislation, but it also had varied effects on individual taxpayers depending upon their tax rates and the rate of inflation. In the case of property tax relief, the initiative effected the return of about $30 million in general fund money to the taxpayers. With indexing, the effect was to adjust the tax tables so that about $35 million in taxes would be left uncollected.[17] Although the methods differed, the net effect on appropriations was the same. The successful use of the initiative removed a large increment of revenue from the appropriations control traditionally exercised by the legislature.

C. Because the spending ceiling initiative did not pass, it is difficult to assess its effect on the appropriations process. However, the issued proposed a ceiling of $375 million on spending and ordered the phase-out of federal funds, so its stated intent was also to have removed a large amount of money from legislature control.[18]

Despite the limitations that the three fiscal policy issues imposed on the state appropriations process, the legislature still retains the power to change or alter any initiative it deems unwise. In fact, initiatives are carefully worded to avoid any overt infringement on the prerogative. There is little evidence, however,

that elected officials will make substantive alterations in fiscal initiatives, especially with those with clear voter approval. Few politicians are brave enough to accept the charge that they voted against the popular will regardless of their concerns about long-range fiscal impacts.

When the delegates to the Constitutional Convention voted to continue appropriations restrictions over a decade ago, they aimed to protect the legislative process and to preclude a route by which special interest groups might secure an appropriation for a project or program of limited scope. What has happened in the intervening years is that taxpayers have begun appropriating a substantial annual sum for themselves via the ballot. That their act represents voter frustration with the legislature's own fiscal decisions is unquestionable. That it may also be subverting constitutional intent relative to appropriations is a distinct possibility.

After all, one measure of rational decision making is the opportunity to assess complete and objective information in an attempt to choose among several fiscal alternatives. Now that citizens are far more involved in that process than ever before, the lack of such information for general consumption leads to the second dysfunction in the initiative process.

II. The Public Information Gap

In 1976, just over 300,000 Montanans voted on property tax relief. Nearly two-thirds of them favored the measure. In that same election, two-thirds voted against the spending ceiling. The latter was not a partisan issue, but property tax relief was closely allied with the 1976 Democratic campaigns, especially the gubernatorial race. Four years later, the Republicans seized the momentum by making the tax indexing initiative their rallying cry. About 330,000 voted on that issue and again more than two-thirds voted yea.[19]

Since there were neither exit interviews nor follow-up surveys immediately after the two general elections, there are no objective data to suggest what the voters thought they were achieving by their votes on new fiscal policies in Montana. It is, however, possible to draw some conclusions from an analysis of the information available to the acquisitive voter at the time of the 1976 and 1980 elections. In brief, such an analysis suggests that while voters were being asked to make decisions as complex as any faced by their elected legislators, they had much less information than any legislator would have expected in similar circumstances (see Table 1). Moreover, the small amount of information available was principally limited to the political rhetoric generated by opposing sides. That, of course, is not unusual in any election year, but it becomes particular difficult when the rhetoric amounts to a confusing and disparate series of numerical projections.

TABLE I

ANALYSIS OF PRE-ELECTION INFORMATION[f]

Ballot Issue	Total Stories[a]	Stories quoting proponents or opponents[b]	Stories with independent analysis[c]	Stories with fiscal impacts[d]	Advertisements[e]
Spending Ceiling 1976	4	2	2	1	---
Homestead Property Tax Relief Act 1976	8	6	1	6	2
Income Tax Indexing 1980	24	20	4	8	1

[a]Any story carried in the Great Falls Tribune in 1976 or 1980 concerning any of the three ballot issues.

[b]Stories devoted to soliciting opinions from one or both sides of the issue.

[c]Commentary from any group not directly involved in the political campaign, i.e., editorials, voter information pamphlets (state) or analysis from non-aligned sources.

[d]Any mention of long-range costs/benefits, relationship to government services, or relationship to the budget process.

[e]Any paid space in the media.

[f]Stories which fell into more than one category were listed in more than one. Thus, the numbers in the separate spaces do not match the totals.

In order to evaluate a portion of the information made available to the electorate, the content analysis included paid advertisements, news stories, editorials, and the voter information pamphlets distributed by the Secretary of State during the two elections. The data were surveyed and classified into four categories:

a. Information that relied on quotes and/or reports from opponents or proponents of the ballot issues;

b. Information evidencing neutral analysis or conclusions separate from that generated by the opposing sides;

c. Information which mentioned long-range cost/benefit relationships to the government's service responsibilities, taxpayers, or the budget process; and

d. Paid political advertisements.

The content analysis centered on the coverage provided by the Great Falls Tribune, a daily newspaper with statewide emphasis, and the voter information pamphlets that the Secretary of State must issue prior to every general election. The Tribune was selected because it maintains its own state bureau and because it is generally considered to be among the best sources of statewide news in Montana. It is also true, however, that most Montana newspapers share the same wire services and therefore much of their coverage takes on a homogeneous quality.

The voter information pamphlets were included because they are the only piece that almost certainly gets into the home of each

registered voter. No attempt was made in this space to analyze the broadcast media. In any case, the wire services make available to most broadcast outlets the same information that appears in the newspapers, though probably in an abbreviated form. This analysis begins then with the assumption that the readers of the Tribune got as much or more information on initiatives as any group of voters in the state.

A. During the months preceding the 1976 election, the newspaper carried only eight stories on the property tax relief initiative as indicated in Table 1. Six of those stories concentrated on quotations from proponents. Parts of the six made some mention of fiscal impacts, usually in terms of funding relief from the state's $50 million surplus. The paper ran two advertisements paid for by the proponents which characterized the initiative with the slogan: "Voting Yourself $100 in Property Tax Relief is as easy as Flipping A Switch."[20]

The stories were generally given good placement on appropriate pages. That is, none appeared to be placed where it would not be found by the reader of state political news. One story entitled "Property Tax Redress: Reduction or Shuffle?" was slugged as part of an analytical series on the ballot issues. The report, however, did little more than to quote proponent/opponent positions as they appeared in the voter information pamphlet.[21] Only the paper's own editorial

writer appeared to move away from advocacy quotations when it was asserted that, "The act really encourages more political rhetoric rather than serious efforts to establish a realistic and fair tax program for our state."[22]

Citizens who wished to know about the issue's long-range impacts, the advisability of transferring surpluses into short-term tax relief, the problems with administering the program or the trade-offs between funding tax relief, and some other state needs were left without answers. The issue was effectively reduced to a voter choice for or against $100 in tax relief. As John LaFaver, who was the Legislative Fiscal Analyst at the time, commented: "Clearly if you ask people if they want property tax relief or not, you know where the check is going to fall."[23]

As required by law, the voter information pamphlet mailed to each registered voter in late October presented a neutral stance on the arguments for and against all ballot issues. Each side was given a controlled amount of space and the presentation was such that none could claim the advantage of headlines or placement. But, again, the information was prepared by the proponents and opponents. In short, the material in the pamphlets did not differ much from the advocacy press releases already issued and covered in the media.[24] People still had no way of evaluating the numbers placed before them.

B. The information carried in the media on the spending

ceiling initiative was sparce. There were only four stories. Two of them quoted the opposing sides and two evidenced some independent commentary. There were no advertisements and the voter information pamphlet carried only opposition data with the disclaimer that the proponents had failed to submit any written statement.

C. The controversy as well as the coverage was much greater during the 1980 campaign over tax indexing. Unlike Homestead which had promised appropriation of the surplus to cover tax rebates, indexing proposed not to collect the taxes in the first place.

During the months preceding the election, as noted in Table 1, there were twenty-four stories on tax indexing. The majority--twenty in all--quoted only the views of proponents or opponents. In fact, many of the twenty were devoted to charges and countercharges about who was telling the truth as the political battle unfolded. Of the total of twenty-four stories, only eight mentioned any projected fiscal impacts, usually in terms of the amount of revenue the state would lose or the amount the taxpayers might expect to save. The estimates on revenue losses provided the greatest source of confusion as they see-sawed from $13 million to $90 million per year. Estimates even varied among the various groups working for and against the measure. The content analysis also revealed that statements on revenue impacts were obscured by using different numerical bases. For example, in one story, the state revenue losses were pegged at $24 million while in another

they were characterized as a percentage (.36%) of the budget.[25]

Of the twenty-four stories, only four had any independent analysis. Three of those pieces were in editorial comment sections and one wire story used information on indexing taken from a report prepared by the Advisory Commission on Intergovernmental Relations (ACIR). Although it was not specific to Montana, ACIR largely favored indexing.[26]

As with the coverage of property tax relief, stories on indexing received good placement and the newspapers clearly aimed toward balance. More noticeable, however, was the lack of any information on the assumptions which undergirded the various projections on tax savings or revenue losses, the long-term impact of the new policy or the trade-offs between tax savings and other state priorities. There was also no discussion on the effects of indexing on property tax relief. Would indexing reduce the revenue available and thus kill the property tax relief voters had approved four years earlier? Or did voters think they might retain both? These issues were never addressed.

Given the dearth of analytical or non-partisan information on tax indexing and property tax relief in the media, it would be simple to berate the lack of journalistic depth in a relatively rural state and let the issue rest. But the problem goes deeper. A recent analysis in the Columbia Journalism Review decried the state of economics reporting throughout the United States and suggested that in

most instances stories on fiscal issues were merely a matter of soliciting opinions, or, as the writer put it, "he said, she said journalism."[27] From the Montana perspective, the problems revolved around the general lack of information on fiscal issues from any source in state government or even the private sector. In that regard, the persistent news reporter is not much better off than the persistent voter.

Independent information on complex fiscal policy issues like indexing, property tax relief, and the spending ceiling was and is hard to find. As John Clark, deputy director of the Montana Department of Revenue, pointed out, policy analysis, particularly on the fiscal side is directed by the assumptions from which the expert begins. During the 1980 campaign, the Republicans were routinely criticized for saying that indexing would only set back revenue projections by $13 million while Clark's own department which was part of a Democratic administration, was equally criticized for suggesting that the revenue bite could go as high as $90 million. In retrospect, Clark insisted that neither party was wrong in the classic sense of making mathematical errors or purposefully plugging in bogus figures.

"If you are a true believer," Clark said, "then you are conditioned by a set of assumptions."[28] And it is within the parameters of those assumptions that politicians have their impact on policy analysis. Those who wish to see a fiscal policy issue succeed begin

their work with a set of "best case" assumptions while the opposing side starts from the "worst case." The assumptions rapidly become the base for complex calculations which produce a variety of projects and estimates. The media outlets, unable to produce their own sets of check calculations, will opt for balance by resorting to "he said, she said" journalism. For their part, the voters must take their chances.

Three of the fiscal experts who served as resource people for this research agreed that it is difficult for anyone to find a neutral source of information on fiscal initiatives. "There are darm few places where perception is not shaded by personal prejudice," Clark said.

> I think through our research division (Department of Revenue) we used to try to give neutral data best we could unless we were told to give something that was a little bit less than neutral. There are few places where you can pick something from the objective observer who says, "I don't care how this comes out."[29]

The state's director of Budget and Program Planning, David Lewis, agrees that neutrality is hard to achieve and he believes that the wildly-varying estimates on fiscal impacts will continue as part of the political rhetoric. "They (impact figures) are all based on the answer you want. None of these answers is really wrong," Lewis said. He did note that in the future the public would be better served if the assumptions which undergird analysis were more specifically stated.[30]

Lewis' predecessor, George Bousilman, is less optimistic. He does not believe that neutral data on fiscal issues exists nor has it in the past.

> It might be that groups like the League of Women Voters have had some unvarnished information available to the public, but I don't know that they have the capability to come up with all the information (on fiscal impacts) so I suppose the answer is no.[31]

It could be then that the search for value-free data on fiscal policy proposals is fruitless. Perhaps it is not even the right line of investigation. It may be far more appropriate to inquire if people desire such data or if their actions will be changed by it. Lewis joined other fiscal experts in expressing grave doubts. "I think that a very, very small percentage of people would read it or pay any attention to it," Lewis said.

> They are going to get it (initiative information) in their heads through billboards, the TV advertisements, those little 15-second dudes that say vote for Proposition 13 and we'll cut your property taxes. That's it. Analysis, no matter how well presented, is just not going to be something that the general public is going to be able to handle.[32]

During the 1980 legislative session, state representatives and senators did take a small step toward public recognition of the fiscal importance of initiatives when they enacted Senate Bill 72. The act, which requires that fiscal notes be attached to all initiatives prior to the beginning of the petition drive, also ironically requires that the note not exceed fifty words--approximately the length of a thirty-second television commercial. While there are some initiatives

with negligible fiscal impacts which may well be explained in a sentence or two, it is difficult to imagine that the impacts of all future proposals may be adequately reduced to fifty words.[33]

Beyond the coverage in the media and the requirements of SB 72, the only other source of information on fiscal initiatives exists in reports prepared in the offices of the Legislative Fiscal Analyst, the Department of Revenue, and the Office of Budget and Program Planning. For the most part, these reports are compiled to meet legislative and executive information requests. They are not generally available to the public, nor do they receive much press coverage.

Thus, the voters go to the polls with sparce knowledge of the important fiscal issues which will be laid before them. As the votes are being cast, uneasy fiscal experts in the statehouse await the outcome in the hope that the success or failure of major fiscal ballot issues will not seriously jeopardize the biennial budget. The issue of budget preparation and the effect of initiatives with a substantial revenue impact creates a third dysfunction in the process of direct democracy.

III. The Budgetary Dysfunction

The problem in regard to the budget process is principally one of timing. Fiscal planners begin work on the budget in January of each even-numbered year, a full twelve months before the biennial meeting of

the state legislature. The Office of Budget and Program Planning initiates the process with a series of planning and review sessions that may require several months. The object is to consider new program requests and alterations. At the same time, officials in the Department of Revenue will begin to accumulate the data necessary to do the revenue projections for the biennium. It is a slow, painstaking process designed to inject as much rationality as possible into the document.

Although the expenditure side of the budget is exceedingly important, revenue projections are perhaps the most controversial in the preparation stages. There are, of course, certain givens in the revenue estimation procedure just as there are uncertainties, but the experts do their best to mitigate the problems. For example, fiscal planners will not finalize their revenue projections until September when they have the first payments on the coal and oil severance taxes. That level is an important variable in Montana revenue projections. Unfortunately, planners cannot wait until after the November election to include the exact nature of the revenue impacts generated by the ballot issues. By the time that decision is made, the budget must be very nearly complete. Thus, fiscal managers often find themselves in the position of gambling on the election outcomes. In other words, they formulate a budget based on their best guess of which initiates would succeed and what their aggregate fiscal impacts will be.

If the planners peg the impacts correctly and, more importantly, if they do a good job of second-guessing the electorate, the budget will not be greatly affected by the election outcome. If they miss, more than a year's work toward a rational budget document will be scrubbed in favor of a last-minute, across-the-board adjustment required to meet the voter mandate. Needless to say, computer technology makes it possible to rerun the budget with required changes in revenue and expenditures, but there is no time after the first week in November to institute the selective review and adjustment process that is desirable after experiencing a major decrease in revenue projections.[34]

The state's former budget director, George Bousilman, recalled that his office tried working out several different projections in advance in an attempt to cover all contingencies:

> In 1978, there were several initiatives on the ballot with fiscal impacts and we had to have a number of variable plans depending on whether initiative A, B, or C passed or failed or some combination of the three.[35]

The strategy was one of educated second-guessing.

A. The property tax relief initiative was a good case in point. Since it required that the state spend money in order to reimburse the counties for property tax reductions, an estimate for those expenses had to be worked into the budget on a contingency basis. The initiative was a controversial one and its impacts were difficult to measure. LaFaver, who did not like the way the issue

was written, characterized the dilemma:

> It was clear to the technicians there were a lot of problems with the initiative--mechanical, not philosophical--you just couldn't read the thing and tell how the flow of work was going to go.[36]

The uncertainties that planners had in estimating the impacts on revenue were several. Despite the fact that campaign backers had talked of providing $100 in tax relief for each property owner living on his/her land, no one really knew exactly what the legislature would finally appropriate. Moreover, the cost projects for the plan were based on the 1970 census data and it was also necessary to estimate how many property owners would make the required application for the relief. As the final budget document was readied for the legislature, the Governor and the FLA were still at odds over the cost of the property tax relief package.

B. During the same budget year, planners were also faced with estimating the costs of the constitutional initiative for a spending ceiling. The magnitude of the potential impacts stymied the experts. The issue which called for a $375 million spending ceiling and a phase-out of federal funds qualified for the ballot at a time when Montana was not only a net importer of federal money, but the state was also appropriating about $1.1 billion for the biennium.[37] The effect on the budget would have been so catastrophic that experts didn't even bother to work out contingencies. Instead, they simply gambled that

it wouldn't pass. LaFaver called the constitutional initiative crazy. "You're just way beyond looking at technical points and calculations . . . I don't know what role a fiscal staff can really play."[38] Only David Lewis, who was then an analyst in the executive budget office, thought the spending ceiling might pass, but he admitted that he had no idea how his office would have adjusted the budget to reflect the initiative's success.

In the end, the measure did fail, largely because its backers appeared to abandon the cause as election time neared and there was no solid partisan support from either political party to take up the slack. Still, the fiscal planners cast an uneasy eye toward the thirty thousand Montanans who had signed the initiative petitions and the 86,000 citizens who had voted yes.

C. Four years later, the state's fiscal experts began another budget year with yet another initiative on the horizon that promised a substantial impact on revenue projections. The tax indexing measure seemed assured of enough signers to qualify and most of the experts thought its passage a safe bet. The LFA's staff as well as the budget office and the Department of Revenue prepared estimates on the revenue impacts. All three varied, largely because of differing underlying assumptions. Not only was tax indexing highly politicized, but its impacts were affected by the projections on inflation, estimated tax receipts, and economic forecasts in general. Despite the differing

estimates, most experts thought the initiative would pass. However, the full impact of the first year of tax indexing will not be known until late 1982 when all the 1981 returns are processed. In that sense, indexing still represents a budgetary gamble.

Despite their internal differences, the state's fiscal planners share a growing uneasiness over the use of the initiative to make fiscal policy. Although the budget has proved remarkably resilient in absorbing revenue impacts, none of the experts feels comfortable with basing an important element of the budget planning process on what amounts to second-guessing the voters.

LaFaver expressed particular concern:

> The more initiatives that get put on the ballot, the more chance we are going to have of passing some things that are totally haywire. . . . Now, maybe we should trust the people, but I'm just not totally comfortable with it.[39]

Bousilman agreed.

> I don't think decisions such as income tax indexation which is really a technical kind of fiscal issue, belong in an arena where 200,000 people--if that's the correct number--are going to be deciding an issue. I think they belong in the legislature and I think they belong in the hands of the people who are elected.[40]

Bousilman did not confine his comments to indexing. He expressed the same concern about property tax relief.

John Clark sounded a similar note:

> I'm going to sound like a real medievalist, I suppose. Legislature is bad enough on these fiscal things. They act with insufficient understanding of what's going on. When

> you go around with some half-baked written piece of tax law and get some signatures on it and put it on the ballot and run a nice campaign and get it in, I really don't have a very good feeling for that sort of things, I guess . . . .[41]

Only Lewis seemed willing to accept fiscal initiatives at face value, but even he held the belief that voters will opt for their own interests regardless of the problems that may arise.

> If you believe in democracy, you have to believe that it (the initiative) is a proper process. I think that people are so unhappy with the way government has worked, they don't really believe that the legislature, certainly not the congress, reflects what they want. They want lower taxes. They want less government and if they have to do it by initiative, then that's what has to be done . . . . People vote for less taxes, period.[42]

Lewis' characterizations are rooted in the Populist belief that people should be able to use the political process to bypass elected representatives. The initiative is an integral part of that process. In recent years, however, it has also emerged as an important part of political campaign strategy. While there are no figures specific to Montana which correlate winning candidates with their sponsorship of initiatives, this altered use of the ballot may lead to a fourth dysfunction.

IV. The Initiative as a Political Tool

There is no doubt that the initiative is a legitimate part of the American political process. And, if recent protests over attempts to restrict ballot issues are any measure, initiatives will more likely grow than diminish in popularity.

The intent of the process, however, was to allow citizen groups with a common concern to take that issue to the people exclusive of an elected body. That route is still being used, but citizen groups have been joined in the last decade by political candidates who organize their own initiative campaigns and make them an important part of a political strategy. Not only does a candidate's sponship of an initiative provide extra visibility, but it also gives the candidate an aura of accomplishment. A person who has been successful in getting an initiative on the ballot is seen as an achiever.

A. Montana's immediate past governor, Thomas Judge, demonstrated that well in his 1976 re-election campaign. Rebuffed by the legislature on the issue of property tax relief, Judge formed his Montanans for Property Tax Relief group. Using campaign organizations already in place plus Democratic party structures, he obtained the signatures necessary to get the issue on the ballot. The governor also used the initiative effectively in his campaign advertisements and speeches.

William C. Barlet, who wrote an article critical of using the initiative to make fiscal policy, was equally critical of the Governor for politicizing the initiative process. He maintained that the 1976 election tipped the balance of power between the executive and the legislature.

> Through the initiative process, the governor can, in effect, sidestep the legislature first by selling a proposal to the electorate. The political pressures upon a legislature to comply with the electorate's message embodied in an initiative are a compelling force.[43]

Barlet also worried that future governors might follow suit and continue to mount initiative campaigns as part of the election plans.

B. As it turned out, the Governor had no monopoly on using the initiative to gain a favorable balance of power. Four years later, after a gubernatorial veto of the tax indexing bill, a member of the Montana legislature, Kenneth Nordtvedt, demonstrated forcefully that he could just as effectively use the initiative not only to side-step the veto, but to aid in his own re-election and that of many other Republicans.

C. As with any political strategy, the plan can fail and a candidate may be tied to an initiative that cannot win popular support. For example, the 1976 constitutional initiative on spending may well have proved a millstone around the neck of any political office seeker. On the other hand, a strong political push from a popular candidate might have meant the difference between winning and losing the issue.

Candidates who perceive that a good initiative is important to winning find that while an initiative campaign does require substantial work, most of that effort dovetails nicely with political strategies. Even the requirement for signed petitions is little deterrent. Candidates who do not have enough volunteers to college signatures have

learned that they can substitute money for organization by paying workers based on the number of signatures obtained. Such expenditures are perfectly legitimate and the Supreme Court has recently said it is unconstitutional for government to limit the amount of money that may be contributed to support or oppose initiatives.[44]

The challenge to the candidate and political strategists is to come up with the initiative that will have voter appeal. It goes without saying that an initiative which promises some manner of voter rebate or direct savings can be expected to have the most prima facie appeal. At that point, the initiative ceases to rise from an expression or popular concern, but comes instead from a campaign strategy session which concentrates on what can be marketed and sold. That is not necessarily bad, but it does cast the process in a light different from that of its origins. It is a bit like the shopper who is unaware of a need for an item until a well-placed advertising campaign creates such a need.

The potential dysfunction arises then, not so much from the politicization of the initiative, as from the arbitrary shift in motivation from citizen groups to campaign strategists and market researchers. LaFaver expressed the concern of many public servents when he suggested that the combination of the initiative and the ambitious candidate may be the future's package deal. "I mean it's a political fact of life," LaFaver said. "You don't run for office unless

you run with a sexy initiative. I'll bet we see it from now on."[45]

In his 1978 analysis of the problems surrounding the property tax relief initiative, an apparently discouraged Barlet concluded that at least in the realm of fiscal policy, initiates should not be used.

> While the initiative process has long been represented as a bulwark of democracy, the complexities of contemporary state government operations have raised legitimate doubt as to the suitability of the initiative as a means to make state fiscal decisions. The issues involved not merely a governor's opportunity to increase leverage within the state organization, but more fundamentally it is a question of direct citizen involvement in specific policy choices affecting the fiscal operation of the state. The story of the Homestead Relief Act suggests that in the complexities of contemporary state government budgetary processes, the initiative is a sacred cow that deserved to be laid to rest.[46] [sic]

Many political scientists share that view. But despite the legitimacy of their concerns, Barlet's solution is not a solution at all. From the political point of view, it is quite unlikely that Montanans or citizens of any other state are going to relinquish their rights to direct democracy. Given that reality, many public servants have opted to criticize the initiative process privately and ignore it publicly. That is no more a solution than trying to do away with the process altogether.

Whichever pathway is chosen, the dysfunctions remain. A third way is to consider reform in the initiative process. Observers and researchers over the years have not hesitated to look for ways to make democracy by elected officials work more effectively and rationally.

Why, then, the reticence to consider instituting rational methods of decision making into the initiative process? One reason, perhaps, is that the public managers who are most aware of the dysfunctions find that the current trend toward citizen participation in fiscal issues through the ballot box has confused their roles and the lines of authority within the structure of government. Their risks have suddenly increased and the protectionist layers of government between them and the people seem to be lessened as may be seen in the next chapter.

FOOTNOTES

[1]Interview with Richard Roeder, December, 1981. See also Michael Malone and Richard Roeder, Montana: A History of Two Centuries, Seattle: University of Washington Press, 1976.

[2]Proposed 1972 Constitution of the State of Montana, Constitutional Convention, March 22, 1972, p. 28.

[3]Ibid. There are nine other states which restrict the use of the initiative in regard to the appropriations process. They are: Alaska, Maine, Massachusetts, Maryland, Missouri, Nevada, Ohio, Washington, and Wyoming. See the Hearings Before the Subcommittee on the Constitution of the Committee of the Judiciary, 95th Congress, First Session, SJR 67, Washington, D. C.: U. S. Government Printing Office, 1978, pp. 286-352.

[4]In fact, the occasional papers from the 1972 Constitutional Convention quote warnings from Charles Adrian, a political scientist who argued that voters should not be asked to rule, but merely to choose who would rule. To ask more, as the initiative process does, ascribes a degree of rationality to the voter that is unlikely to be present, especially when dealing with highly complex issues, according to Adrian. See James Grady, "Popular Control: Initiative, Recall and Referendum," Montana Constitutional Convention Studies, No, 11, 1972, p. 5.

[5]Jim Waltermeyer, "Initiative and Referendum Issues Since the Adoption of Constitutional Amendment Article V, Section I," mimeograph handout from the Montana Secretary of State, 1981.

[6]For more on the theory behind the current trends toward more aggressive citizen participation, see David Korten, "The Management of Social Transformation," PAR, 41, no. 6, (Nov/Dec 1981), p. 610. Korten talks of reforming modern social structures by loosening central control and strengthening systems that increase feedback and the potential for self-direction, especially direct participation at local levels.

[7]Frank Murray, "Voter Information for Proposed Constitutional Amendments, Referendums, Initiatives," State of Montana, November 2, 1976, pp. 20-25.

[8]Ibid., pp. 5-9.

[9]Murray, "Voter Information for Proposed Constitutional Amendments, Referendums, Initiatives," State of Montana, November 2, 1980, pp. 17-23.

[10]Peter May and Arnold Meltsner, "Limited Actions, Distressing Consequences: A Selected View of the California Experience," PAR 41, Special Issue (January 1981), pp. 172-174.

[11]"Foes of Tampering with Initiatives Collect Backers," Billings Gazette, 10 February 1982, p. B-1.

[12]Interview with State Senator Dorothy Eck, December 1981.

[13]William C. Barlet, "The Homestead Property Tax Relief Act," Montana Public Affairs Report, July 1978, pp. 1-5.

[14]Waltermeyer, "Initiatives and Referendum Issues," mimeo from the Montana Secretary of State, 1980.

[15]Barlet, op cit.

[16]Interview with John Clark, 23 October 1981.

[17]Interview with David Lewis, 23 October 1981.

[18]Murray, "Voter Information for Proposed Constitutional Amendments," State of Montana, November 1976, pp. 5-9.

[19]Waltermeyer, op cit.

[20]"Voting Yourself $100 in Property Tax Relief Is As Easy As Flipping A Switch," Great Falls Tribune, 25 October 1976, p. 5.

[21]"Property Tax Relief: Reduction or Shuffle," Great Falls Tribune, 9 October 1976, p. 7.

[22]"Property Tax Initiatives," Great Falls Tribune, 29 October 1976, p. 6.

[23]Interview with John LaFaver, April 1981.

[24]Murray, op cit.

[25]"Montanans Too Heavily Taxed, Says Williams," Great Falls Tribune, 12 October 1980, p. 8-A, and "Erred About I-86," Great Falls

Tribune, 30 July, 1980, p. 5.

[26]"The Inflation Tax," Advisory Council on Intergovernmental Relations Report MII7, January 1980, passim.

[27]Chris Welles, "Scooped by Stockman," Columbia Journalism Review, XX no. 5 (Jan/Feb 1982), pp. 21-23.

[28]Interview with Clark, op cit.

[29]Ibid.

[30]Interview with Lewis, op cit.

[31]Interview with George Bousilman, 23 October 1981.

[32]Interview with Lewis, op cit.

[33]Jack Gault et al., Senate Bill 72, Montana 47th Legislature, February 1980.

[34]Interviews with Bousilman and Lewis, op cit.

[35]Interview with Bousilman, op cit.

[36]Interview with LaFaver, op cit.

[37]Murray, op cit.

[38]Interview with LaFaver, op cit.

[39]Ibid.

[40]Interview with Bousilman, op cit.

[41]Interview with Clark, op cit.

[42]Interview with Lewis, op cit.

[43]Barlet, op cit., p. 7.

[44]"High Court Overturns Contributions Ordinance," Public Administration Times 5, no. 1 (1 January 1982), p. 3.

[45]Interview with LaFaver, op cit.

[46]Barlet, op cit., p. 7.

CHAPTER III

Writing in his book, The Politics of Expertise, Guy Benveniste identifies the special problems that beset the experts in public agencies. Chief among their difficulties is a general lack of attentiveness to the people who are the eventual recipients of their analysis and recommendations. He argues that since experts are accustomed to working in isolated circumstances, they often ignore public sentiment until it is thrust upon them.[1] Though this model is cast in the mold of 1960s-style public participation where hearings, citizen advisory councils, and meeting notices were the rule, his analysis is nonetheless relevant to the more recent rise of the initiative as a tool of citizen participation.

Recalling the writings of Machiavelli, Benveniste divided bureaucratic roles into four categories. He first discussed the "princes" who may be governors or even presidents, but are, in any case, the most powerful persons in a given political situation. Because "princes" are more and more prone to require expert information, they surround themselves with specialists who can provide the technical data needed to make decisions. Experts are, above all, rational thinkers who rely on rational tools. But Benveniste argues that their bent toward rationality does not relieve them of political pressure, nor does it relieve them of political responsibility.[2]

Next in line, he defines the "implementors." These people are

more akin to career civil servants who are often, but not always, protected from political upheaval. Despite those protections, however, there is no evidence that implementors are politically neutral. Finally, Benveniste identifies the "beneficiaries." It is simply his term for the masses, the people who benefit or do not benefit from the workings of the government.[3]

Ultimately, Benveniste concentrates on the experts, because he believes, as a relatively new element in the bureaucracy, they often follow the dangerous strategy of ignoring all the actors in the bureaucratic scenario, save the prince. In his words, ". . . if they (the "beneficiaries") can organize and exercise political pressure, they may hamper implementation . . . ." Put another way, even the most astute analytical skills and subsequent recommendations may be subverted by a dissatisfied citizenry. Nowhere is that better illustrated than in the rise of the popular vote to make fiscal policy.

Using the Benveniste model, it is possible to examine the experiences that each of the four Montana fiscal experts had with the fiscal initiatives under study and to determine who maintained his "expert" anonymity and who became part of the partisan struggle.

The Legislative Fiscal Analyst

John LaFaver, Chief Legislative Fiscal Analyst (LFA) from 1975 to 1980, lived in a world of computer printouts and politics which he

was bound to juggle into a position of approximate neutrality. Not only is the Montana LFA responsible for a biennial analysis of the entire executive budget, but also is a key part of the executive revenue-estimating task force.[4] Beyond special requests, the LFA also does fiscal studies on a number of issues that may come up in future sessions. For example, under LaFaver, the office did a complex study on the issue of removing the state from the liquor business. They also worked on a new funding formula for higher education.

Additionally, the LFA is the key source of fiscal information for members of the legislature. In fact, the LFA was created in 1975 to give the legislature independent information that would balance what the executive is able to get through its revenue department and the Office of Budget and Program Planning.[5]

Analytical reports from the LFA are usually destined for a specific committee or legislator. They are seldom released to the public, though they are a matter of public record. The Office also generates its own data on ballot issues--usually in response to legislative requests--but like other requests, the reports do not often reach the public sector. In fact, LaFaver commented that there are few requests for such material. As a result, the public's knowledge of the LFA's analysis of initiatives is limited.

During his five-year tenure, LaFaver was far from immune to political pressure or criticism, but he steadfastly protected his

his independence and generally remained in good standing with his prince who, in reality, amounted to a committee of twelve. The LFA reports to the Legislative Finance Committee which is composed of house and senate leadership as well as other appointees.[6] The committee makeup is evenly balanced among Republicans and Democrats.

LaFaver also protected the right of his staff to reach independent conclusions, though he admitted they were not always accepted by the members of the legislature. Often his positions would counter those of the executive, even though the Governor was then a member of the Democratic party which also controlled the legislature. In that regard, the differences between the LFA and the executive were less one of partisanship than they were of maintaining the balance of power between the branches of the government. The fact that an important part of LaFaver's responsibility was to prepare an analysis of the executive budget resulted in an advisory relationship between the two offices. Often the contrasting views of the budget resulted in a political tug of war. That happened in 1976 when LaFaver's analysis of the revenue projections differed markedly from the Governor's. In part, the differences revolved around the estimated impacts of the Homestead Property Tax Relief Act. LaFaver's analysis of the executive budget for 1977 began: "The executive budget purports to contain $61.4 million in direct property tax relief over the biennium. We believe there is no net property tax relief in the budget."[7]

LaFaver's concerns had to do with what he predicted would be an increase in taxes needed to fund local schools. He contended that the rebate contemplated in the voter-approved property-tax relief act would simply offset the needs of the school districts to pass special mill levies in order to fund education. The executive countered with its own explanation, but since the exchange occurred long after the ballots had been counted, it could not have affected the public's decision to pass the property tax initiative.

If LaFaver harbored any pre-election concerns about property tax relief, they were not discussed, and he later recalled only that he was unclear about the way the initiative would operate and thus was privately opposed to it on mechanical, not philosophical grounds. He did not think, for example, that the early revenue estimates on the initiative's impact were reliable, but those were opinions that he expressed internally. His reactions to the constitutional initiative to curb state spending in the same year were similarly kept to himself. He abhorred the issue and knew that it would have a devastating impact on the state, but he did not work against it.[8]

In 1980, LaFaver had a more positive attitude toward the tax indexing proposal. He thought it was a good piece of legislation, but he did relatively little to support it. At the request of one legislator, he did compile figures in late October 1980 to show that the initiative would cut the rate of revenue growth by only $34 million.

That figure did make the papers when Rep. Carrol South used it to announce that indexing could not hurt higher education.[9] As a point of interest, LaFaver's revenue figures were substantially less than what the Republicans had claimed, but the media did not follow up on the discrepency.

LaFaver also recalled that he made a personal telephone call in the late fall of 1980 to Senate Majority Leader Chet Blaylock warning him that the figures he was quoting in his public opposition to indexing were inaccurate. Blaylock's data relied on workups prepared by the executive which LaFaver later described as "flat wrong."[10] He continued:

> There was an awful lot of misinformation that went out on indexing and we were anxious not from a standpoint of helping one political deal. I think that no matter how you want to vote on an issue like that, it really helps the public process if everyone is reacting to the same facts and then you develop your philosophy, but it doesn't help the debate to be putting out information that just isn't right.[11]

In actuality, the information provided by the executive was wide-ranging with a variety of impacts based on a series of inflationary assumptions.[12] Often those who used the information failed to point that out, citing instead only the worst case impacts.

Despite his concerns about the data, LaFaver kept a low profile during the 1980 campaign. Even so, he believed that the relatively small public use of his data in the Carrol South coverage constituted a risk. "Clearly the governor wanted it (indexing) killed and when

you challenge that it looks like you are siding with the Republicans, but we took the risk," LaFaver said.[13]

> Q: And you have a certain difficulty if your office gets labeled as too partisan.
>
> A: I have a difficulty if we get labeled as partisan at all.[14]

As it turned out, the risk was not great. Indexing won and the Republicans gained control of the legislature, so LaFaver was not in jeopardy. Had he worked against the initiative, even quietly, his situation might have been altered, but it is difficult to speculate.

Risky or not, LaFaver still finds himself in a philosophical corner on initiatives. He retains serious questions about the use of the ballot to make tax laws, even those that he support. As he described the dilemma, the tightly-written fiscal ballot issues are too inflexible. They leave no room for compromise. The voter who has little opportunity to gain information on such issues simply votes yes or no, and the state must live with that. LaFaver also expressed a concern about the lack of information, but he does not see that he has a role in providing information.

> I think that getting out and actually working for or against something is very much a political activity. I just don't think that's the role of the analyst. You give out a report and the political people look at it and if they believe or if they don't, then they are the ones who take action. I just can't see a fiscal analyst drawing these conclusions and setting up a whirlwind tour of the state.[15]

When trying to compare LaFaver with the model advanced by Benveniste, the researcher finds a clear skepticism for the direct role of the benefactor in fiscal policy making. At the same time, LaFaver is reluctant to become involved in the debate as it moves into the political arena. Nonetheless, he is increasingly concerned about the passage of something like the constitutional initiative to cut spending. Would that be sufficient to justify the involvement of the LFA in an initiative battle? In answer, LaFaver would only point to the California analysts who jumped into the battle against Proposition 13.

> I was in touch with them during that time and they were putting out information on what the impacts would be, and, as it turned out, they were among the people screaming that the sky was falling when, in fact, it did not fall.[16]

Professionally, LaFaver does not see that the LFA can maintain both political independence and political involvement at the same time. With a committee of princes who are often not in the castle, LaFaver's special allegiance is to an independent LFA with information flowing through political channels to the people.

The Deputy Director of the Department of Revenue

If John LaFaver was particularly concerned about maintaining the independence and non-partisanship of the LFA's office, his expert counterpart in the Department of Revenue could be described as the antithesis. As deputy director of DOR, John Clark is neither independent nor apolitical. His office is among the nineteen agencies

responsible to the Governor. Moreover, he works directly under the politically-appointed DOR director and is, in a real sense, politically vulnerable himself.

Clark's job revolves mostly around "the numbers," that is, the process of estimating revenue. DOR maintains its own forecasting staff and, in fact, it provides much of the raw data used by the Governor's budget director. The revenue projections are crucial to the budget process. It is only after a picture of revenue has emerged that the OBPP can begin to consider any expenditures over and above the current services budget.

In hard times, the initial revenue figures also signal the cutbacks that may filter down to the executive departments. For that reason, people are keenly interested in the figures as they emerge. Partisan leaders out of power will often make their own projections because they distrust the executive numbers. The LFA will generate separate data as individual legislators look on to see if there is hope for pet projects born of campaign promises. Estimates are often at odds and there will be many meetings among the concerned parties to reach consensus. In the final analysis, however, the Governor's budget director usually relies on the forecasts that Clark and his staff provide.[17]

Though Clark freely acknowledges that controversy and disagreement often surround the revenue estimates, he maintains that

the process is far better than before the adoption of the 1972 constitution when revenue estimates were a major secret shared only by a few powerful legislators, the Governor and perhaps the revenue head. "There were all kinds of stories," Clark said, "of some very powerful legislators who knew what 'the number' was going to be and then didn't tell anybody."[18]

Two things changed that. The first was the new constitution which contemplated a general overhaul of government through a reorganization process. The second was the growth in state government and the concurrent demands for accountability. In the old days--that is, the 1960s--Clark maintained that revenue estimates didn't need to be very close, because there was not much money in the state coffers and not much demand in any biennium. Now, revenue estimates use all the techniques of computer modeling and carefully maintained data bases. The process is continual.

> We are always in the budget cycle. Revenue estimates and forecasting generally start when you hear rumblings eight or nine months before the session to get the figures in order and then there's a deadline, probably about the first of October, when the estimates are finalized because you need them to go into the budget book.[19]

In addition to revenue estimates, Clark's office also prepares all the fiscal notes on proposed bills, but the Governor's office is probably Clark's most important customer. Since politics and the budget are inseparable, Clark is quick to admit that he is sometimes

asked to produce data that will square with a perceived political reality.

> Q: Do you feel that you are under pressure to produce data that supports certain political positions?
>
> A: Sure . . . , most things we deal with, they are shades of gray. There aren't any real blacks and whites. You can shade it whatever tone of gray you like. And if it became particularly abhorrent to me, probably I'd quit. But I've never been asked to do anything that I thought was all that bad. Generally speaking, the sort of policies that have been carried out by the Judge or the Schwinden administration are at least not too far out of line with my personal philosophy, so I don't have any problem with it. . . .[20]

Clark's involvement then with initiative campaigns is important in the fiscal context. Sometimes his office helps prepare the explanatory statements that the attorney general must approve for every ballot issue's petition.

In 1976, he was asked to help put together the Governor's Homestead Property Tax Relief initiative which promised approximately $65 in tax relief annually to each owner-occupied homestead. He did not like the initiative and felt it did not make sense, but he provided the necessary figures based on the assumption that it was a good idea that deserved public support. Of the law's eventual decline in popularity and final demise in 1980, Clark theorized:

> The first two years the law just provided a $65 credit against your tax liability . . . but then the bright idea came out of the political folds and they said we've gotta have a check that goes back to these people because they'll have something in their hand. And the widow can hold that

> $65 check. Well the widow looked at that check during the time of inflation and said, that's peanuts. I can't even buy a week's worth of groceries. That's nonsense. That's what was wrong with it (the initiative). If you give somebody a $65 check, they begin to see how small it really is.[21]

Like LaFaver, however, Clark kept his counsel and did not criticize the property tax relief initiative in any open way. He took the same position on the constitutional initiative to limit spending. By 1980, he was committed heavily in the much tougher fight on income tax indexing. In fact, Clark's involvement with indexing went back to the days of the 1979 legislature and House Bill 303, a tax indexing measure, which passed very late in the session.

After the legislature went home, the Governor determined that the combination of legislative efforts in the tax relief area had actually put the budget out of balance based on his admittedly conservative revenue estimates. One of the money bills had to be vetoed and Clark was involved in the discussions which resulted in the veto of HB 303. Clark helped write the veto message, though he remembered thinking at the time that it wasn't a good idea. Within a few weeks, outraged Republican sponsors had their initiative campaign underway. "I guess you could say I'm one of the original guys who got them in trouble," Clark said.[22]

By the early part of election year 1980, Clark's office was dealing with a number of requests for information on tax indexing. Most of them came from Democratic candidates and office holders who

were anxious to counter what appeared to be a popular ballot issue. The people asking for information included the Governor's office. Unlike 1976, the assumptions were that the initiative was bad and that its revenue impacts would be high, perhaps too high for the state budget to absorb.

Clark and his staff produced a variety of reports in early 1980 giving the pros and cons of indexing and generally estimating the impacts at about $20 million for the biennium. Then, in May 1980, Clark's office began to issue a new set of revenue impact statements pegged to inflation rates that ran as high as 11%. At those rates, impacts jumped to $48 million despite the fact that DOR researcher Tom Winn pointed out in his analysis that rates were not likely to stay at that level very long.[23] By October of the same year, more data had been fed into the equation and the Democrats were warning that the negative budget impacts might hit $94 million. DOR suggested that if the initiative contemplated basing the index on the $1250 tax exemption level allowed by the 1979 legislature rather than the normal $800 level, the negative impacts would rise dramatically. Republican proponents hotly denied the charge as the election neared.

Throughout the data war, Clark remained a relatively low-profile bureaucrat. Most of the public statements on indexing were made by DOR director Mary Craig or the director of OBPP George Bousilman. Nonetheless, Clark's personal risk in the initiative

campaign was much greater than it had been in 1976 when his numbers were being used to back the winning honestead property tax relief issue. This time, Clark's data were being used to counter an opposition proposal that even Clark felt sure would pass. It was also distinctly possible that I-86 might help propel a Republican governor into office. Had that happened, Clark's part in generating data against I-86 would doubtless have been remembered.

> Q: Let's say Ramirez had won. Would you be on the streets now?
>
> A: Oh, probably, I think the knife would have gone that deep.[24]

During the campaign, Republican rhetoric was directed at the lame duck Judge administration, but Republican leaders were aware that Clark was the man in charge of "the numbers." Under those circumstances, it is difficult to believe he could have stayed on despite nearly ten years experience in a section of government where continuity is critical. He was not, strictly speaking, a political appointee, but neither was he protected--even as an expert--from political realities.

Clark could be treated as a hybrid in the Benveniste model. He was an expert by virtue of his training, his access to complex data, and his role as an advisor to the executive branch. However, he was also an "implementor" working in a line agency just below the partisan head. His work on the politically explosive initiatives really consumed

only a very small percentage of his time, but he knew that periodically he would have to acquiesce to political realities and, when requested, he did so. Had he been asked to generate information for a program that was strongly at odds with his own value system, he did have the alternative of resignation. That did not happen, but then his political involved also varied depending upon who headed DOR in any administration.

> A: It so happens with this director now (Ellen Feaver) I probably can maintain my anonymity and blend into the woodwork which suits me just fine. That's the nature of my personality probably. I'm more like Spock of Star Trek. But I've been around it (politics) for awhile and it doesn't bother me much, but it's not my preference . . . .
>
> Q: Well, you didn't get quoted during the 1980 campaign and yet I think most knowledgeable people knew your office was producing an awful lot of the statistical material that was driving what the Democrats were saying.
>
> A: Well, that's a credit to my slipperiness, I guess.[25]

As an expert, Clark is clearly aware of the political realities, as Benveniste describes them, and he appears to know what the risks are in his job. In that regard, he and LaFaver share a common concern. Moreover, Clark does not see himself as a spokesman in the public eye though he does testify before the legislature from time to time. By his own assessment, he prefers to do his job and be left alone. That initiative campaigns may have made that anonymity difficult, if not impossible to maintain, is a source of concern for John Clark.

The Director of the Office of Budget and Program Planning

George Bousilman is no longer a part of Montana State government. Instead, he is now a member of a private financial firm in Helena. He lost his job because Governor Thomas Judge, his prince, was defeated in the June 1980 primary. The appointment was a political one and Bousilman understood that the fortunes of the budget director were closely tied to those of the Governor.

As director of the Office of Budget and Program Planning, Bousilman's job fell clearly within the expert rank as defined by Benveniste. His position required the constant delivery of technical advice to the Governor. In addition to the budget, as his title implies, he was also responsible for program planning functions and, in many cases, analysis and evaluation.

Bousilman's chief obligation, however, was to prepare the budget. Even with the biennial system in Montana, the processes of overseeing the executive budget are continual. While DOR is calculating revenue estimates and money accruals, the OBPP is concerning itself with the expenditure side of the ledger.

Like his predecessors, Bousilman worked with the executive agencies to determine what program add-ons and cuts should be included in the Governor's budget. He not only provided the guidelines that agencies used to generate their requests, but also negotiated directly with agency heads over new programs and cutback strategies. His goal

was to deliver a compromise budget to the governor that would preclude any unhappy administrators from making an end run to the chief executive for special consideration. Such political gamesmanship was a part of Bousilman's daily life in OBPP.[26]

In retrospect, Bousilman theorized that he had the most power over the agency heads appointed by the Governor. He could usually reach budgetary agreement and proceed with mutually workable recommendations. He had less control and thus more difficulty with the agencies that were technically a part of the executive, but outside the Governor's administrative reach. Those agencies which controlled their own constituencies were less likely to accept the budget director's decisions than were those who provided line services to the executive. The University System was one such example. Bousilman always expected and often got end runs from university administrators, regents, and faculty who objected to his budgetary recommendations.

The budget director had another role to play as well. He was part of the inner circle of advisors who worked with the Governor on a host of issues ranging from ceremony to crisis. Bousilman was not in the Judge administration during the decision to resurrect the property tax relief act in initiative form, but he was present when the Governor vetoed tax indexing.

On May 14, 1979, the Governor wrote to the President of the

Senate and Speaker of the House: "In accordance with the power vested in me as Governor by the constitution and the law of the state of Montana, I hereby veto House Bill Number 303." Judge went on to say:

> House Bill 303 is designed to control the effects of inflation upon Montana's income tax structure. While the goal of this bill is praiseworthy, its application to Montana's tax structure causes serious problems with both revenues for the state government and compatibility with other bills enacted during this legislative session.[27]

The Governor continued that he was concerned about the bill's unsubstantiated concept and the lack of consensus from other states about its effects. He also pointed out that since HB303 did not become effective until 1981, there would be time for the legislature to enact the idea with more information during the coming session.[28]

As already discussed, the veto action spawned an initiative campaign almost immediately.

> Q: Back to your old friend tax indexing. Did you become involved in terms of the veto? Is that where you first got into it?
>
> A: Yup. I was one of the people on the governor's staff who persuaded him to veto the bill. And, in retrospect, maybe it was an imprudent thing to do because it caused Tom Judge a lot of grief and probably cost him some votes in the primary 1980. I was involved on that level and then through the process from May of 1979 until it was on the ballot in 1980.[29]

Perhaps because he had the most at stake relative to the indexing initiative, Bousilman--unlike Clark and LaFaver--was not hesitant to jump into the political arena and work against it. He

qualified his enthusiasm, however, by saying that he would not do anything the Governor did not want him to do. Within a few days of the veto message, editorial criticism began to mount in the state.

Bousilman prepared a three-page letter to the editor that he intended to send first to the Montana Standard and then to other newspapers explaining the Governor's position.

The letter draft dated May 1979 and initialed by Bousilman was never mailed. It remained in the files as the administration adopted a wait-and-see response to the initiative campaign. When the battle did materialize, Bousilman worked hard in opposition to indexing. He was often quoted during the election year 1980, even though he was a lame duck after the primary. Bousilman said he liked being on the stump and saw it as part of the job.

> I was fairly comfortable talking with newspaper editors and reports and legislators and special interest groups. I saw that as being at least half my job. If you will the public relations role that had to be played on behalf of the Governor. I know for a fact that some prior budget directors did not like that part. They wanted to manage the people and numbers and not deal with the sticky kind of politics that are out there.[30]

The public's warm response to indexing ultimately contradicted Bousilman's advice on the Judge veto. By late 1980, high inflation and soaring interest rates had placed state revenues so far above what DOR had predicted that early claims about tax indexing unbalancing the budget sounded hollow. Nevertheless, the former bureaucrat says

he would give the same advice again.

> I think I was right. I think we were right, but I don't think it caused the loss of the primary. I think there were a whole bunch of things (other factors). No, I would have recommended the same thing. We knew that it was going to be sticky and the Governor didn't do it without a lot of thinking and he really agonized over that issue before he vetoed it.[31]

Bousilman's conviction stems partly from the fact that he remains certain that indexing is a bad thing which will eventually have adverse impacts on the state's revenue-generating capability. As noted previously, it will be some time before that is settled. Bousilman also shares the same apprehensions about fiscal initiatives in general as his colleagues in DOR and in the legislature. He sees their use as a denial of the process of representative government.

Bousilman also advances his own view relative to the growth of the initiative process in Montana. He theorizes that the biennial sessions, an over-large legislative body, and the restricted number of meeting days have given rise to the use of the ballot for direct law-making. In other words, representative government simply isn't around enough to deal with the issues, so the citizens have taken that role for themselves.

Although Bousilman's job description and his place within the bureaucratic framework certainly fit Benveniste's definition of an expert, he operated much more within the circle of his "prince" than either LaFaver or Clark. He commented that he had never crunched a

number and did not even own a calculator when he became head of OBPP. He relied on his staff and more specifically on Clark in DOR to provide the data needed for budget preparation. That was not to suggest that Bousilman could not do budgetary work, but that he gave more priority to his time in public than did the other experts.

Unlike his associates in DOR and the legislature who shunned public performances, Bousilman embraced them as a particularly important part of the budgetary process. Current budget director David Lewis gives much less time to public advocacy though he concedes he would do more if asked by the Governor.

> Q: Do you think it should be your position to get out and actively campaign for or against a fiscal initiative like the constitutional limit on spending?
>
> A: Well, only if the Governor wanted me to. I guess if the Governor says, I want you to get out on the stump and beat on this initiative--DO IT, I will, but I would not voluntarily do that because I would not feel comfortable in trying to influence public opinions. I mean, I think that's something the politicians should do and this office wouldn't normally do that except at the Governor's request.[32]

Lewis' reluctance to work directly for or against an initiative is not, however, derived from any hesitancy to be involved in politics. He does not, in fact, believe he can separate himself from politics in the budget office. His reluctance stems more from priorities. Returning to Benveniste, he does not believe he can have much influence on the benefactors because he is seen as a representative of government and, as such, likely to uphold the government position. Moreover, his

real concern is in being effective with the legislature because that is the body making most of the budgetary decisions.

> I guess what is important to me is to be trusted by the legislative leadership, the people who are in the process . . . the general public, I can't get that much into depth and try to seek any great relationship.[33]

In summary, then, the experts shared certain common ground in regard to fiscal initiatives though they had experienced them in different ways. They also shared certain reservations about the use of initiatives while recognizing that it is a legitimate channel for citizen participation.

LaFaver, for example, confined his fears to the belief that something really destructive could pass though he did not believe anything fiscally irresponsible had yet occurred. Bousilman looked at recent fiscal efforts by citizens as a denial of representative government and he believes indexing may still prove to the a problem. Clark shared that assessment and also looked with general disfavor at public participation in the fiscal policy area. Lewis accepted the initiative as a logical outgrowth of the public's dissatisfaction with government, but expressed little optimism for achieving a better-informed electorate.

The issue of control over the expert's involvement in an initiative campaign seemed to rely directly on the independence of operation that an expert could legitimately claim. LaFaver who was able to operate with the least central direction obviously had more

choices about the level of his involvement. He was also the most concerned that he not be involved in the partisan battles. In contrast, Bousilman seemed the most anxious to participate. His successor, Lewis, demonstrated a different style, claiming little interest in public involvements. In many ways, the two budget directors' viewpoints were as indicative of their Governor's ("prince's") style as their own. Clark was the farthest removed from the power sources, but, even so, his choices were limited. In his role as an expert, he would almost certainly be drawn into any initiative campaign where numbers were important.

The four also took varying degrees of risk in relation to the fiscal initiatives examined. As discussed previously, the ballot issues not only threatened their anonymity, but also in some cases their careers. For the budget directors and Clark, wrong choices on initiative campaigns could mean loss of a job. That risk appeared to increase in direct proportion to the expert's proximity to the "prince." Of course, there are a number of ways a public manager may lose a job, but the initiative does add to the general uncertainty and the addition comes from a corner over which the experts believe they have no control. In fact, all the experts viewed the initiative process more as a worrisome aberration than as part of the political arena where they might also be participants.

Despite their skepticism, however, the trend toward voter

participation in the fiscal arena may achieve at least three democraticizing effects on the role of the expert. The first is to move the expert into a position of more responsiveness and accountability to the "beneficiary." The threat of any initiative campaign may ensure that policy analysts take the issue of public receptivity into consideration. Since the strategies that lead to the use of the initiative, referendum or constitutional amendment are as open to the "prince" as they are to the "beneficiaries," they may have a levelling effect on the fiscal process. After all, if the people do not like expert recommendations as manifested through a Governor or legislative body, they have amply demonstrated a willingness to take the issues into the polling places.

The second effect is to encourage representative government not to default on its obligations. The three campaigns discussed in this research have, in their purest form, arisen from a failure on the part of elected officials to deal with the size and cost of government. Such failures have resulted in citizen action devoid of any of the give-and-take process found in the state capitol.

There is no leeway, as John LaFaver pointed out, once an issue reached the ballot. Initiatives have the form and force of law and must be spelled out in fine detail on the petitions. For example, the 1976 backers of the constitutional amendment to limit state spending claimed they had really only intended to put a ceiling on general fund

appropriations. By the time people realized that the wording of the issue actually imposed a restriction on all state appropriations, it was too late. The ballots were printed.

The third effect is in the critical area of information dissemination more fully discussed in the previous chapter. The fiscal expert is, after all, the keeper of the numerical analysis that suggests what a ballot issue may do to the taxpayer or for the taxpayer. The expert also knows under what assumptions that information is generated. The rise of the initiative may force more information into the public sector and it may involve the experts in the preparation of that information.

FOOTNOTES

[1]Guy Benveniste, The Politics of Expertise, San Francisco: Boyd and Fraser Publishing Company, 1977, pp. 28-29.

[2]Ibid., pp. 6-7. [3]Ibid., p. 8.

[4]Bruce L. Shively and John LaFaver, "Montana Appropriations Process," mimeograph, 1980.

[5]William C. Barlet, "Homestead Property Tax Relief Act," Montana Public Affairs Report, July 1978, pp. 1-5.

[6]Office of the Legislative Fiscal Analyst, Appropriations Report of the 1981 Biennium, Helena, 1979, p. 1.

[7]Barlet, op cit., p. 2.

[8]Interview with John LaFaver, April 1981.

[9]"Initiative Sponsor Says Opponent's Statements Misleading," Great Falls Tribune, 22 October 1980, p. 1-D.

[10]LaFaver, op cit. [11]Ibid.

[12]Memorandum from Mary L. Craig to George Bousilman, 8 February 1980, Helena, Montana.

[13]LaFaver, op cit. [14]Ibid.

[15]Ibid. [16]Ibid.

[17]Interview with John Clark, October 1981.

[18]Ibid. [19]Ibid. [20]Ibid.

[21]Ibid. [22]Ibid.

[23]Memorandum from Tom Winn to John Clark, 13 May 1980, Helena, Montana.

[24]Clark, op cit. [25]Ibid.

[26]Interview with George Bousilman, October 1981.

[27]Letter to The Honorable William Mathers and Harold Gerke from Thomas L. Judge, 14 May 1979, Helena, Montana.

[28]Ibid.

[29]Bousilman, op cit.

[30]Ibid.

[31]Ibid.

[32]Interview with David Lewis, October 1981.

[33]Ibid.

CHAPTER IV

During the last decade, one of the predominant political realities in Montana has been increased citizen participation in fiscal policy-making through the initiative. While those initiatives have been and will doubtless remain an important part of the democratic process, as they should, the foregoing analysis indicates dysfunctions, both in the budgetary system and in the role of the public manager.

Given the necessity and the importance of the initiative process, the focus ought to be on their most effective use. It is probable that like other democratic institutions, the initiative will evolve and change. Such an evolution is best achieved in an atmosphere committed to evaluation and reform as the needs arise.

Alternative Strategies for Bureaucratic Response

In their analysis of responses to cutback management in California, Meltsner and May listed five common problems shared by the public managers they studied. First on the list was something they described as avoidance of adequate action in response to shifts in internal and external environment.[1] Benveniste said much the same thing when he expressed concern that experts would simply ignore political realities.[2]

It seems logical then that the first strategy for public managers affected by initiatives is one of thoughtful consideration. Experts who choose to ignore the initiative cannot hope to form

adequate responses. In fact, it is possible that Montana citizens have within the last decade learned more about the initiative than the experts who work within the confines of the statehouse. As noted in Chapter III, the initiative has become a kind of leveler in the fiscal policy process. It is as available to citizen groups as it is to a governor or a legislator. Thus, no one can afford to ignore it.

A second strategy is to include the initiative when considering policy options. A careful estimation of the likelihood of an initiative campaign may change the weight that an expert would normally assign to various options in the decision-making process. Among other things, that means that experts must take more of what they can learn about public opinion into account when they define alternative courses of action. It is no longer enough for the expert to guess at whether "beneficiaries" will like or dislike a political decision. What is just as significant is learning if those same people are likely to act on their feelings, that is, will they take the issues to the polls.

In that vein, analysis, particularly those close to the "prince," may need to do more public opinion sampling. They may also benefit by studying the dynamics of past initiative campaigns.

A third strategy is for experts to more carefully calculate their own professional risks, even though those very close to top political leaders may have relatively little choice. The tradeoffs for such direct involvement in controversial initiative campaigns may

be the loss of bipartisan credibility needed for effective job performance. The expert's ability to function may be compromised if a public role is taken and it may also be compromised if the fiscal data becomes controversial. In many ways, experts are less resilient than politicians. They cannot be committed to the fray over and over without real damage to their ability to serve the "prince."

A fourth strategy is to use the availability of the initiative to move elected officials toward a position of problem solving rather than the stalemate. Experts who are often involved in political negotiations may have a responsibility to point out that a failure to reach acceptable compromise on complicated tax and revenue matters may result in a decision by the electorate which will have only a yes/no choice. In his NRAG publication, Mike Males has even suggested that Montanans consider a concept initiative which will essentially express a public point of view and then let the elected representatives and bureaucrats work out the operational details.[3]

A fifth response is for the experts themselves to be candid about dysfunctions and to suggest reform remedies. For example, in Chapter II, there was evidence that fiscal initiatives create problems within the timetable for budget preparation. The November ballot does not provide enough time to adjust the budget to voter decisions, so planners gamble that their estimates will reflect the majority vote. A possible solution to that problem is to delay effective dates until

the second year of the biennium. Another solution is to put issues with substantive budgetary impact on the primary ballot in June. The experts could help define what is substantive, but at least the revenue picture could safely reflect voter decisions without the necessity of gambling on the general election outcome.

In this the tenth anniversary year of the ratification of the Montana Constitution, experts may also wish to study the section on appropriations restrictions in light of recent initiatives. It is possible that the section may be amended or repealed in order to avoid the possibility of legal conflict in the future.

The sixth response strategy is in the public information category which, in the researcher's opinion, is the most serious dysfunction identified in connection with the initiative process. As discussed in the previous two chapters, experts have access to most of the critical information regarding the probable fiscal effects of initiatives. That data ought to be more available to the public sector and experts would do well to assist in that process.

For example, OBPP head David Lewis must, according to the provisions in SB 72, prepare a fifty-word fiscal note for each initiative petition. That note is clearly the distillation of a much longer report. The more detailed version might also be made available to the public. In fact, a brief notation on each petition might direct signers to the OBPP for the more lengthy explanation of impact.

The issue of state involvement in the information process becomes critical here and perhaps transcends the role of the public manager. Over the last dozen years, Montana has set up an OBPP and an LFA just to provide the decision-making tools needed for the chief executive and the legislature, respectively. In 1981, the legislature appropriated just over $2 million for the biennial personnel and operations expenses of those two agencies. It is perhaps not then unreasonable to suggest that state dollars should also be directed toward a better informed electorate.

Any such attempt would certainly merit extensive study and careful adaptation of the complex mass communications issues of information design, dissemination, and audience motivation. But, fortunately, Montana has some precedent. In 1972, the state cooperated with the University System and a number of private organizations to distribute information and encourage debate on the new constitution.[4]

Since that time, the state has funded a Citizen's Advocate to help in the information flow process and Montana now has a grant-funded educational telecommunications sytem (METS) which will provide interactive audio capabilities between central locations and forty-seven learning sites around the state. Library networks and various service and educational organizations about the state can also provide a means for getting initiative data disseminated without putting people in cars and sending them from one end of the state to the other.

A review of communications theory also suggests that media people who are expected to act as gatekeepers in any information flow process require directed exposure relative to the fiscal impacts of ballot issues in any given year. Media people will probably not allow themselves to be "used" as an information conduit for state educational efforts, but they seldom resist briefing sessions designed to point out the fiscal impacts of ballot issues.[5]

A common response to all this is that people will not use public information relative to initiatives even if they have it, therefore it is not useful for the state to commit any resources in that direction. On the other hand, state agencies spend uncounted dollars each year to mail out press releases, radio tapes, films, and publication of an educational and informational nature. Surely, the critical process of citizen law-making is deserving of at least as much attention, particular as it affects the state's fiscal posture.

There may well be other reforms that should be considered with the intention of making the initiative a more rational tool for voters. All should be explored. But those efforts should be undertaken in a context which recognizes the realities of the initiative process as distinguished from strategies which ignore the initiative or attempt to diminish its significance and contribution toward an effective democracy.

FOOTNOTES

[1]Peter May and Arnold Meltsner, "Limited Actions, Distressing Consequences: A Selected View of the California Experience," Public Administration Review (PAR) 41, Special Issue (January 1981), pp. 172-174.

[2]Guy Benveniste, The Politics of Expertise, San Francisco: Boyd and Frazer Publishing Company, 1977, pp. 6-7.

[3]Mike Males, Be It Enacted by the People, NRAG Papers, Vol. 4, Fall 1981, p. 51.

[4]A public information committee was an important part of the 1972 Constitutional Convention and it had laid out a plan to help inform people about the new constitution. However, a lawsuit brought by the opposition to the Constitution over a technicality effectively blunted the efforts of the public information committee to carry out its plans. As a result, much of what was accomplished was done through private efforts. See especially the 1972 Con Con clipping files in the Montana State University Library Archives.

[5]For a full explanation of the various facets of modern communications theory, see especially Philip Emmert and William Donaghy, Human Communications: Elements and Contexts, Reading, Massachusetts: Addison-Wesley Publishing Company, 1981.

APPENDIX

Oral Interview Outline

1. Please describe your responsibilities relative to the budget cycle.

2. At what point in the budget cycle do you consider the influence of your office to be the greatest?

3. At what point may the public participate in the state budgeting process?

4. Were you involved in the homestead tax relief campaign or the spending limit initiative? Please characterize the effect of each on the budgeting process.

5. At what level did you first become involved in tax indexing? Please describe the nature of your involvement.

6. Did your agency have a point of view on the merits of tax indexing? Did you believe you could publicly express that point of view? Why or why not?

7. Did both sides ask for your assistance and/or information in preparing their case on indexing?

8. Did you believe that your agency was vulnerable on the indexing issue? That is, did you feel that you might take the "wrong" stand?

9. Did the possibility of passage of the indexing initiative interrupt the budget preparation cycle prior to the election? How did

you deal with the contingency of a cut in revenue that might or might not be enacted?

10. What is your view of using the initiative process to make the sort of fiscal policy that has traditionally been left to the experts in your field and in the legislature?

11. What is the proper posture for a public employee like yourself in a highly politicized initiative campaign.

12. Did you make any mistakes in handling your position or that of your agency in the pre-election sparring over indexing?

13. What advice would you have for public managers at all levels who may have to deal with the continuing use of the ballot to enact fiscal policy?

14. Is the public well enough informed to do this job and, if it is not, does the bureaucracy have a responsibility to attempt to provide any sort of neutral information base?

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