



# **2004 Voter Information Pamphlet**



***Vote November 2***

**An official publication of  
Montana Secretary of State Bob Brown**

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# **A Message from Secretary of State Bob Brown**



Dear Montana Voter,

A democracy is only as strong as the voice of its people. When we mark our ballots on Election Day, we make sure our voices are heard. We become soldiers for democracy.

This Voter Information Pamphlet is intended to help you make informed decisions when you vote November 2. It contains information both in support of and opposition to each of the seven ballot measures that will appear on the ballot. Please feel free to mark up your VIP and take it with you to the polls on Election Day.

Additionally this November, Montanans will be voting on a selection of state and local offices including a lone congressional seat, the governor and lieutenant governor, the secretary of state, the attorney general, the state auditor, the state superintendent of public instruction, three supreme court justices, half of the state senate and all of our state representatives.

Differences of opinion are to be expected and natural, but we can show our unity by exercising the fundamental right of a free people: We can vote in the general election.

Let your voice be heard. Your vote – your voice – *does* make a difference. Please join me in voting on November 2.

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

See you at the polls!

A handwritten signature in black ink that reads "Bob Brown". The signature is written in a cursive, slightly slanted style.

Bob Brown, Secretary of State

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If you would like to receive additional copies of the VIP, or would like to receive it in large print, in Braille, on a CD or cassettes, electronically, online, or in another accessible format, please contact the Secretary of State's Office at 1-888-884-VOTE (8683), go to our website at [www.sos.state.mt.us](http://www.sos.state.mt.us), or email [soselection@state.mt.us](mailto:soselection@state.mt.us).

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# How to Contact Your County Election Office

## Area Code 406

| COUNTY        | NAME                 | ADDRESS                                 | PHONE         | FAX      | E-MAIL                             |
|---------------|----------------------|---|---------------|----------|------------------------------------|
| Beaverhead    | Rosalee B Richardson | 2 South Pacific St. #3, Dillon 59725    | 683-2642      | 683-5776 | clerk@co.beaverhead.mt.us          |
| Big Horn      | Cyndy R Maxwell      | P.O. Box 908, Hardin 59034              | 665-9730      | 665-9738 | cmaxwell@co.bighorn.mt.us          |
| Blaine        | Sandra L Boardman    | P.O. Box 278, Chinook 59523             | 357-3240      | 357-2199 | sboardman@co.blaine.mt.us          |
| Broadwater    | Judy R Gillespie     | 515 Broadway St., Townsend 59644        | 266-3443      | 266-3674 | treas@co.broadwater.mt.us          |
| Carbon        | Jo-Ann Croft         | P.O. Box 887, Red Lodge 59068           | 446-1220      | 446-2640 | elections@co.carbon.mt.us          |
| Carter        | Pamela Castleberry   | P.O. Box 315, Ekalaka 59324             | 775-8749      | 775-8750 | ccnrc@midrivers.com                |
| Cascade       | Peggy Carrico        | P.O. Box 2305, Great Falls 59403        | 454-6803      | 454-6725 | elections@co.cascade.mt.us         |
| Chouteau      | JoAnn L Johnson      | P.O. Box 459, Fort Benton 59442         | 622-5151      | 622-3012 | joann59442@yahoo.com               |
| Custer        | Marie Wehri          | 1010 Main, Miles City 59301             | 874-3343      | 874-3452 | m.wehri@co.custer.mt.us            |
| Daniels       | Kristy Jones         | P.O. Box 247, Scobey 59263              | 487-5561      | 487-5583 | danielsco@nemontel.net             |
| Dawson        | Maurine Lenhardt     | 207 W Bell, Glendive 59330              | 377-3058      | 377-1717 | dawlerk@midrivers.com              |
| Deer Lodge    | Marie Hatcher        | 800 Main, Anaconda 59711                | 563-4060      | 563-4001 | adlcclerkrec@onewest.net           |
| Fallon        | Brenda J Wood        | P.O. Box 846, Baker 59313               | 778-7106      | 778-2048 | falloncc@midrivers.com             |
| Fergus        | Kathy Fleharty       | 712 W Main, Lewistown 59457             | 538-5242      | 538-9023 | clerkrecorder@tein.net             |
| Flathead      | Paula Robinson       | 800 S Main, Kalispell 59901             | 758-5536      | 758-5865 | electionweb@co.flathead.mt.us      |
| Gallatin      | Shelley Vance        | 311 W Main, Rm. 103, Bozeman 59715      | 582-3060      | 582-3068 | svance@co.gallatin.mt.us           |
| Garfield      | Janet Sherer         | P.O. Box 7, Jordan 59337                | 557-2760      | 557-2765 | gccr@midrivers.com                 |
| Glacier       | Sylvia Berkram       | 512 E Main, Cut Bank 59427              | 873-5063 x19  | 873-2125 | glaciercounty@yahoo.com            |
| Golden Valley | Kathleen Ott         | P.O. Box 10, Ryegate 59074              | 568-2231      | 568-2231 | kott@state.mt.us                   |
| Granite       | Blanche Pederson     | P.O. Box 925, Philipsburg 59858         | 859-3771      | 859-3817 | graclerk@blackfoot.net             |
| Hill          | Diane E Mellem       | Courthouse, Havre 59501                 | 265-5481 x221 | 265-2445 | mellemd@co.hill.mt.us              |
| Jefferson     | Bonnie Ramey         | P.O. Box H, Boulder 59632               | 225-4020      | 225-4149 | bramey@co.jefferson.mt.us          |
| Judith Basin  | Amanda H Kelly       | P.O. Box 427, Stanford 59479            | 566-2277 x109 | 566-2211 | akelly@co.judith-basin.mt.us       |
| Lake          | Kathie Newgard       | 106 4th Ave. E, Polson 59860            | 883-7268      | 883-7283 | kathie.elections@lakecounty-mt.org |
| Lewis & Clark | Paulette DeHart      | P.O. Box 1721, Helena 59624             | 447-8338      | 457-8598 | pdehart@co.lewis-clark.mt.us       |
| Liberty       | Maureen Cicon        | P.O. Box 459, Chester 59522             | 759-5365      | 759-5395 | clerk@co.liberty.mt.us             |
| Lincoln       | Coral M Cummings     | 512 California, Libby 59923             | 293-7781 x200 | 293-8577 | lcclerk@libby.org                  |
| Madison       | Peggy Kaatz Stemler  | P.O. Box 366, Virginia City 59755       | 843-4270      | 843-5264 | pkaatz@co.madison.mt.us            |
| McCone        | Maridel L Kassner    | P.O. Box 199, Circle 59215              | 485-3505      | 485-2689 | clerk@midrivers.com                |
| Meagher       | Joyce S Wofford      | P.O. Box 309, White Sulphur Sprgs 59645 | 547-3612 x2   | 547-3388 | jwofford@co.meagher.mt.us          |
| Mineral       | Katherine Jasper     | P.O. Box 550, Superior 59872            | 822-3521      | 822-3579 | dptycr@blackfoot.net               |
| Missoula      | Vickie Zeier         | 200 W Broadway, Missoula 59801          | 523-4751      | 523-2921 | vzeier@co.missoula.mt.us           |
| Musselshell   | Jane E Mang          | 506 Main, Roundup 59072                 | 323-1104      | 323-3303 | mshlcoor@midrivers.com             |
| Park          | Denise Nelson        | P.O. Box 1037, Livingston 59047         | 222-4110      | 222-4193 | clerkrecorder@parkcounty.org       |
| Petroleum     | Mary L Brindley      | P.O. Box 226, Winnett 59087             | 429-5311      | 429-6328 | mbrindley@state.mt.us              |
| Phillips      | Laurel N Hines       | P.O. Box 360, Malta 59538               | 654-2423      | 654-2429 | clerkrecorder@co.phillips.mt.us    |
| Pondera       | Janice Hoppes        | 20 Fourth Ave. SW, Conrad 59425         | 271-4000      | 271-4070 | clerkrec@3rivers.net               |
| Powder River  | Karen D Amende       | P.O. Box 270, Broadus 59317             | 436-2361      | 436-2151 | kamende@co.powder-river.mt.us      |
| Powell        | Karla M Rydeen       | 409 Missouri, Deer Lodge 59722          | 846-3680 x223 | 846-2784 | krydeenmt@yahoo.com                |
| Prairie       | Lisa Kimmert         | P.O. Box 125, Terry 59349               | 635-5575      | 635-5576 | clerkrecorder@co.prairie.mt.us     |
| Ravalli       | Nedra P Taylor       | 215 S 4th St., Suite C, Hamilton 59840  | 375-6213      | 375-6326 | recorder@co.ravalli.mt.us          |
| Richland      | Penni D Lewis        | 201 W Main, Sidney 59270                | 433-1708      | 433-3731 | penniclerkrec@richland.org         |
| Roosevelt     | Cheryl A Hansen      | 400 Second Ave. S, Wolf Point 59201     | 653-6229      | 653-6289 | chansen@co.roosevelt.mt.us         |
| Rosebud       | Geraldine Custer     | P.O. Box 47, Forsyth 59327              | 346-7318      | 346-7551 | clerkandrecorder@rangeweb.net      |
| Sanders       | Pat Ingraham         | P.O. Box 519, Thompson Falls 59873      | 827-6922      | 827-4388 | pingraham@metnet.state.mt.us       |
| Sheridan      | Milt Hovland         | 100 W Laurel Ave., Plentywood 59254     | 765-3403      | 765-2609 | mhovland@co.sheridan.mt.us         |
| Silver Bow    | Mary McMahon         | 155 W Granite, Room 208, Butte 59701    | 497-6335      | 497-6328 | clerkrec@co.silverbow.mt.us        |
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| Sweet Grass   | Sherry Bjordal       | P.O. Box 888, Big Timber 59011          | 932-5152      | 932-5177 | sgclerk1@cablemt.net               |
| Teton         | Paula J Jaconetty    | P.O. Box 487, Choteau 59422             | 466-2693      | 466-2138 | paula@3rivers.net                  |
| Toole         | Mary Ann Harwood     | 226 1st St S, Shelby 59474              | 424-8300      | 424-8301 | tcclerk@3rivers.net                |
| Treasure      | Ruth L Baker         | P.O. Box 392, Hysham 59038              | 342-5547      | 342-5445 | clerkrecorder@rangeweb.net         |
| Valley        | Lynne Nyquist        | 501 Court Square, Box 2, Glasgow 59230  | 228-6226      | 228-9027 | lnyquist@co.valley.mt.us           |
| Wheatland     | Mary E Miller        | P.O. Box 1903, Harlowton 59036          | 632-4891      | 632-4880 | wccr@mtintouch.net                 |
| Wibaux        | Patricia Zinda       | P.O. Box 199, Wibaux 59353              | 796-2481      | 796-2625 | wibauxco@midrivers.com             |
| Yellowstone   | Duane Winslow        | P.O. Box 35002, Billings 59107          | 256-2740      | 254-7940 | dwinslow@co.yellowstone.mt.us      |

# ***What Is the Voter Information Pamphlet?***

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

## ***Who writes the information in the VIP?***

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

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

## ***How can I find out if I am registered?***

If you are not sure whether or where you are registered, you should contact your county election office. See the opposite page for contact information. *The registration deadline for the general election is October 4.*

## ***Who is eligible to register?***

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

## ***Can I get the VIP in a different format?***

If you would like to receive the Voter Information Pamphlet in large print, in Braille, on a CD or cassettes, electronically, online, or in another accessible format, please contact the Secretary of State’s Office at 1-888-884-VOTE (8683), go to our website at [www.sos.state.mt.us](http://www.sos.state.mt.us), or email [soselection@state.mt.us](mailto:soselection@state.mt.us).

The Secretary of State has a telecommunications device for the deaf (TDD) at (406) 444-9068. Audio and large-print versions of the VIP are available by request through local libraries throughout the state.

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

# ***Your New Rights and Responsibilities as a Montana Voter***

The Help America Vote Act, passed by the U.S. Congress in October 2002, reforms our elections process in some new and exciting ways. These reforms will directly impact you, the Montana Voter. Some of the changes include the following:

Beginning with the 2004 elections, you have the responsibility to show **one ID** when you vote. Acceptable identification includes: ***A picture ID*** with your name on it ***OR a government document*** with your name and current address ***OR a bank statement*** with your name and current address ***OR a paycheck*** with your name and current address ***OR a utility bill*** with your name and current address.

Absentee ballots will be available beginning at least 30 days before the election. You have the right to vote using an absentee ballot, even if you are capable of voting in person. You may request an absentee ballot from your county election official any time from 75 days before Election Day until noon the day before. If you cannot vote at the polls due to illness or health emergency, you have the right to request an absentee ballot until noon on Election Day.

Beginning with the 2004 elections, you have the right to vote provisionally on Election Day if your name is not on the list of registered voters or if you forget to bring ID to the polls. County election officials will count your ballot after they verify your registration or once you provide ID. The latter must be verified or postmarked by 5 p.m. the day after Election Day. Be sure to vote in the correct precinct or your provisional ballot will not be counted.

You have the right to ask for a new ballot if you damage your ballot, if you want to change your vote, or if you overvote (mark more than one choice for a single office or issue, which invalidates your choice). Before the rejected ballot is deposited in the ballot box, ask an election judge to provide you with a new ballot.

If you are a person with a disability, you have the right to vote at an accessible polling place, to ask for help marking your ballot, to vote from your vehicle, or to have a ballot delivered to you.

You have the right to file a complaint with the Secretary of State's office regarding an election law violation.

# ***Political Parties of Montana***

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

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## **CONSTITUTION PARTY**

The Constitution Party believes the purpose of government is to secure the Inalienable Rights of life, liberty and property to every citizen. Today, actions of both federal and state governments have become antithetical to those rights. To correct this we must:

- Restore the United States to "One Nation Under God."
- Return to Constitutionally Limited Government.
- Protect the Inalienable Right to Life of All, including the Unborn and Infirm.
- Protect the Individual Right to Keep and Bear Arms.
- Restore National Sovereignty, including withdrawal from the U.N.
- Maintain a Strong National Defense.
- Replace the Income Tax with a system of Tariffs, Duties and Excise Taxes.
- Oppose NAFTA, GATT and the WTO.
- Stop ALL Unconstitutional Spending.
- Abolish the Federal Reserve and Restore Constitutional Money.
- Defend and Protect Marriage and the Family.
- End Federal Subsidies for and Control of Education and Welfare.
- Protect our Borders through Comprehensive Immigration Reform.
- Return Control over Elections to the People.
- Abolish Special Interest Entitlements (corporate welfare).

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

Constitution Party of Montana  
Jonathan D. Martin, State Chairman  
2212 2nd Avenue South  
Great Falls, MT 59405  
(406) 727-5924

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## DEMOCRATIC PARTY

Montana Democrats are working together with Montanans to move our state forward into the 21<sup>st</sup> Century, to create good-paying jobs, invest in our human and natural resources, protect our great quality of life, and help businesses grow and prosper so our children and grandchildren can live, work and raise a family in our magnificent state.

We have a long-term, sustainable vision to diversify our economy while protecting our great quality of life and a natural landscape second to none.

Investing in our future – health care, education, workers, business, protecting Montana’s natural landscape as a key economic asset while responsibly adding value to our human and natural resources – are fundamental to moving the state forward.

Democrats have a plan to:

- Boost our economy, create higher-paying jobs, and grow our businesses
- Provide access to quality, affordable health care
- Build our economy around a natural landscape where Montanans have continued access to world-class hunting, fishing and recreational opportunities
- Provide a quality education system to make Montanans competitive
- Provide Montanans with affordable, reliable energy

Working together on the economy means we all must take the high road to do what’s right for Montana. Review our economic plan at:

<http://www.montanademocrats.org/news/jobsandbusinessplan.html>

Montana Democratic Party

Mailing address: PO Box 802, Helena, MT 59624

Street address: 303 North Ewing, Helena

Phone: 406-442-9520

Fax: 406-442-9534

Email: [mdp@montanademocrats.org](mailto:mdp@montanademocrats.org)

Web: [www.montanademocrats.org](http://www.montanademocrats.org)

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## GREEN PARTY

The Montana Green Party is dedicated to grassroots democracy, ecological wisdom, social justice, and non-violence. We support a living wage and universal single-payer health care for all Americans. Fair trade and fair working conditions can be achieved by a fair distribution of wealth and power.

We support voting reforms like paper receipts and instant run-off voting to improve our democracy. We propose standardized debates, forums, and publications to give all legitimate candidates an equal opportunity to be known and elected.

We will end the 'War on Drugs', a misguided, socially destructive, and racially biased policy which does not address the root causes of addiction.

We favor a sustainable economy with renewable energy, recycling, carbon taxes, severance taxes, and subsidies for retrofits and conversion. To end war and terrorism, we must become energy self-sufficient.

We support full sovereignty for Native American tribal governments.

Our family values emphasize strong community support for education, daycare, parental leave, primary health care, and equal rights for gay and lesbian couples.

What's right isn't always popular, and what's popular isn't always right. It's time we invested our votes in a party that realizes this!

Please visit our website <http://www.mtgreens.org>.

Green Party  
Scott Proctor, Chair  
13 Rhea Lane  
Billings, MT 59102  
(406) 248-3378

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## **LIBERTARIAN PARTY**

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

The Montana Libertarian Party is dedicated to:

- \* Living wages for Montana's families by reducing the tax burden and reducing the size and scope of state government.
- \* Improving education by empowering parents not bureaucrats, to make important decisions for our children.
- \* Protecting the right to keep and bear arms, and the elimination of Victim Disarmament laws.
- \* Safer neighborhoods by punishing violent criminals rather than wasting resources prosecuting victimless crimes.
- \* A cleaner environment through innovative property rights solutions.

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

Montana Libertarian Party  
Mike Fellows, Chair  
P.O. Box 4803  
Missoula, MT 59806  
(406) 721-9020

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## **NATURAL LAW PARTY**

**No Statement Submitted by Party**

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## **REFORM PARTY**

**No Statement Submitted by Party**

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## **REPUBLICAN PARTY**

Over the past decade, Republican leadership has re-invigorated the Montana economy. We reduced taxes to encourage economic growth and we blocked repeated attempts by the Democrats to increase spending. The result is that personal income growth has outpaced most other states this year and we've added 4,000 new jobs, bringing our three-year total to 13,000 new jobs.

Our economy is improving, but we are still hampered by a small but aggressive contingent of unreasonable environmentalists who use frivolous litigation to shut down resource development. We must reform our regulatory structure to block the efforts of those that wish to shut down every project, everywhere in the state. At the same time, we must do more to make sure that the natural beauty of our state is preserved, and that our children enjoy a healthy future.

Republicans are committed to families and maintaining a moral environment for our children. We disagree with the Democrats that gay marriage should be legal. We feel that government assistance should be a last resort and we urge stronger support of community and faith-based organizations. We are committed to building stronger schools, but feel that a larger tax base through resource development is preferred to higher taxes.

Montana Republican Party  
John Rabenberg, Chairman  
P.O. Box 935  
Helena, MT 59624  
(406) 442-6469

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## CONSTITUTIONAL AMENDMENT 40

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX OF THE MONTANA CONSTITUTION TO CREATE A NOXIOUS WEED MANAGEMENT TRUST FUND; PROVIDING FOR THE PROTECTION OF THE TRUST IN THE AMOUNT OF \$10 MILLION UNLESS APPROPRIATED BY A VOTE OF THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE; AND PROVIDING FOR THE APPROPRIATION OF INTEREST, INCOME, AND A PORTION OF THE PRINCIPAL.

The 2003 Legislature submitted this proposal for a vote. It would amend Montana's Constitution to require the legislature to establish and provide a funding source for a noxious weed management trust fund. The principal would remain untouchable at 10 million dollars unless appropriated by vote of three-fourths of the members of each house of the legislature. Interest, income, and principal in excess of 10 million dollars from the trust could be expended by majority vote of both houses of the legislature to fund only the noxious weed management program.

This amendment provides constitutional protection to the current statutory weed management trust fund. It would have no additional fiscal impact to the state.

- FOR creating a noxious weed management trust fund and restricting its use.
- AGAINST creating a noxious weed management trust fund and restricting its use.

*The language above is the official ballot language. The argument on the following page has been prepared by the committee appointed to support the ballot measure. There was no opponent committee for this measure. The opinions stated in the argument do not necessarily represent the views of the State of Montana. The State also does not guarantee the truth or accuracy of any statement made in the argument.*

*The PROPONENT argument for this measure was prepared by Senator Bill Glaser and Representative Diane Rice.*

*There was no OPPONENT committee for this measure.*

## **ARGUMENT FOR C-40**

### **VOTE FOR C-40 PROTECT THE MONTANA NOXIOUS WEED TRUST FUND**

This election, voters will have the opportunity to protect one of Montana's most valuable assets, the Montana Noxious Weed Trust Fund. C-40 will constitutionally create and protect the Trust Fund, which has existed since 1985. The Trust Fund has generated millions of dollars in matching grants for weed control projects all over the state of Montana. The Trust Fund grants serve a variety of purposes ranging from research and education, to chemical and biological control.

C-40 will require the Legislature to have a  $\frac{3}{4}$  majority vote in both the House and Senate before accessing the Trust Fund for any use other than weed control. It will cap the corpus of the Trust Fund at \$10 million so that any principal amount generated over \$10 million, in addition to interest, can be used directly for weed control. This structure is similar to the Coal Tax Trust Fund; however, rather than accumulating hundreds of millions of dollars, we will be able to use any money over \$10 million now.

C-40 WILL NOT REQUIRE ANY NEW TAXES. C-40 is simply a protective measure to prevent raiding of the Trust Fund by the Legislature during tight budgetary times.

C-40 will be an economic boost to our state's Agricultural industry.

C-40 will protect us from the unsightly and devastating weeds that have been expanding everywhere in Montana.

**THERE WAS NO OPPONENT COMMITTEE FOR THIS MEASURE.**

# CONSTITUTIONAL AMENDMENT 41

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX OF THE MONTANA CONSTITUTION RECOGNIZING AND PRESERVING THE HERITAGE OF MONTANA CITIZENS' OPPORTUNITY TO HARVEST WILD FISH AND WILD GAME ANIMALS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

The 2003 Legislature submitted this proposal for a vote. It would amend the Montana Constitution by adding a provision specifically to recognize and preserve the opportunity of Montana citizens to harvest wild fish and wild game animals. The amendment specifies that this new provision does not create a right to trespass on private property or diminish any other private rights. This amendment is effective upon approval by the electorate.

- FOR recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.
- AGAINST recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.

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*The PROPONENT argument and rebuttal for this measure were prepared by Senator Duane Grimes, Chairman, Senate Judiciary Committee; Representative Joe Balyeat, Chairman, House Fish, Wildlife and Parks Committee; and Gary Marbut, President, Montana Shooting Sports Association.*

*The OPPONENT argument and rebuttal for this measure were prepared by Senator John Cobb.*

## ARGUMENT FOR C-41

### □ Vote YES on C-41 – The Hunting & Fishing Heritage Amendment

- **Hunting and fishing** in Montana aren't just an important recreational opportunity, a multi-million dollar source of tourist income, and a great source of healthy food. They're **Montana's cherished Way of Life**. Hunting/fishing are irreplaceable major facets of Montana culture.
- More Montanans hunt than in any other state. Hunting/fishing connect us with our great outdoors, giving us stellar appreciation for Montana's magnificence. ***This cultural appreciation for outdoor wonders must be protected for future generations.***
- ***Even if you're not a Montana hunter/angler, it's beneficial to Montana's wildlife and wild-places to maintain a strong hunting/fishing culture. Ever since Teddy Roosevelt it's been sportsmen's dollars – through hunting/fishing license sales – that provide the bulwark of wildlife conservation funding.***
- Montanans don't live here for wealth. We're here for Montana's way of life; the great atmosphere to raise families. **Hunting/fishing are perhaps the healthiest environment to connect with our children; especially teens.**
- ***In other states hunting/fishing opportunities have been steadily eroded by anti-hunting, anti-fishing, "animal rights" extremists, with endless legal challenges to hunting/fishing culture. C-41 gives Montana the legal foundation to resist these challenges in court as they arise – and they WILL inevitably happen here eventually. Rather than be on the defensive, we must be proactive. We must give future generations legal ammunition now to defend our heritage against outside attacks.***
- During Montana's Senate hearing, **virtually no groups opposed this amendment because it strikes a great balance.** While recognizing hunting/fishing in Montana's Constitution, it doesn't create an absolute right which would prevent Fish, Wildlife & Parks from continued regulation of hunting/fishing activity. Thus, **FWP worked intricately on the Amendment, and FWP approved the final language.** This Amendment also carefully balances hunting/fishing rights against other rights such as property rights – recognizing that sportsmen have no right to trespass.
- The purpose of enumerating rights in state constitutions is to protect minority groups against the political whims of the majority. ***While today hunting/fishing are enjoyed by large numbers of Montanans, there may come a day when harvesting wild fish and game is practiced by only a small minority,*** because the hunting population is shrinking. We must pass C-41 today, while we still have the political will to do so. Sportsmen's rights are already under attack elsewhere – that's why **more than half the states have passed a Hunting/Fishing Amendment, or are presently working on it.** Now, Montana's time is right.
- Not all constitutional rights are absolute. You can't exercise your right to vote anywhere, anytime. And certain lawbreakers lose their voting rights. Likewise, **legal scholars agree that passage of this Amendment will recognize a similar "regulate-able" right.** It'll be more than just a common law right which could be trampled on by majority whim; but won't be a fundamental absolute right which cannot be regulated by FWP. The Hunting & Fishing Heritage Amendment strikes perfect balance; and deserves your vote.

□ **Vote C-41 YES.** Protect Montana's **Hunting and Fishing Heritage.**

## ARGUMENT AGAINST C-41

This proposed constitutional amendment is a solution in search of a problem. There is no threat of banning hunting or fishing in this state.

The purpose of any democratic constitution is to protect minorities from the tyranny of the majority. Those proposing this amendment are reacting against a truly small anti-hunter minority, which they fear will eventually represent the future majority viewpoint. This proposed amendment implies the present majority will lose our heritage, and that it needs protecting now against an eventuality of a future majority of anti-hunters. This proposal represents a self-defeating attitude by a majority fearing they will become a minority without any other constitutional recourse.

Few are against preserving the heritage to harvest wild fish and game. But this proposed amendment does nothing to guarantee this privilege. Can the proponents show any law, regulation, or rule in Montana that this proposal would change? Can not the Dept. of Fish, Wildlife, and Parks, or the state legislature, continue to regulate hunting and fishing in this state, continuing to manage, restrict or eliminate hunting seasons as well as the numbers of fish and game to be harvested? Can they not restrict the number of hunters and fishermen and even regulate these activities so that opportunities to hunt and fish are restricted?

Either this proposed amendment allows current and future laws and regulations to manage and regulate hunting and fishing, or it does not. It cannot be both.

Common sense says hunting and fishing will still be regulated under this proposed amendment. This proposed amendment is a broad concept with which most people agree. If you ask 100 hunters if they would agree with this proposal, all should agree but if you ask for *details about what it specifically does to protect this heritage*, you will get 100 different answers.

Yes, there is a small minority who attack this heritage. But will this proposal as worded guarantee that our grandchildren will enjoy our heritage of hunting and fishing? No.

A concern is that some group will convince the majority of Montanans to ban hunting and fishing. This proposed amendment in and of itself will not preserve and protect that right and privilege. If we come to a time when the majority of Montanans do not want to allow hunting or fishing, this proposal will not protect the hunter and angler. Despite the passage of this proposal, the majority at that time can easily in piecemeal fashion regulate hunting and fishing to its death, which renders even this proposed amendment ineffective, null, void, and useless.

This proposed amendment also supposes to protect private property from trespass. This proposal will not protect against trespass, as legislatures can change what constitutes trespass.

The real solution to preserving and protecting our heritage lies with those who fish and hunt. For if we fail on an ongoing basis to educate and convince fellow Montanans that this heritage is worth preserving, then we cannot protect either ourselves or our future generations with this proposed amendment.

## PROPOSERS' REBUTTAL OF ARGUMENT AGAINST C-41

- ❖ Opponents wrongly suggest there's no threat of hunting/fishing bans. Numerous **other states (Washington, Oregon, etc.) have already experienced bans** on several types of hunting/fishing.
- ❖ Opponents totally miss the biggest threat – not some future 51% of Montanans, but **one Massachusetts animal rights lawyer armed with a clever lawsuit and a large budget**. C-41 gives Montana the legal basis to rebuff court challenges to our hunting/fishing heritage brought by outsiders unfamiliar with Montana culture.
- ❖ Opponents wrongly argue that hunters/anglers don't deserve constitutional protection because they aren't minorities. False – **hunters/anglers presently constitute only 40% of Montanans**. Moreover, *the hunting population is shrinking rapidly – recent statistics reveal 7% shrinkage in just five years*. If opponents defeat C-41 now, there may quickly come a day when we don't have the votes necessary to ever pass it.
- ❖ Opponents wrongly argue that C-41 won't provide any further protection against "majority tyranny." Absolutely wrong. **Without C-41, it only takes one judge or a simple majority of the legislature to ban hunting/fishing. With C-41, it would take 2/3 of the legislature plus a majority of Montana voters to do so.**
- ❖ Opponents argue that proponents can't "...show any law, regulation, or rule in Montana that this proposal would change." Wrong. ***Fish, Wildlife & Parks legal staff has concluded that C-41 will make a difference – it will still permit regulation of hunting/fishing in the best interests of wildlife management; but C-41 will prevent the legislature or activist judges from decreeing unwarranted hunting/fishing bans of specific species.***

**Vote YES.**

## OPPONENTS' REBUTTAL OF ARGUMENT FOR C-41

Our Montana Constitution gives us such Rights as the Right to bear arms, the Right to vote, the Right to a clean environment, the Right to free speech, the Right to freedom of religion. **Not the opportunity but the Right!**

The burden is on Government to show their laws can restrict these rights. Having only an opportunity to a right does just the opposite. It places the burden on the individual to prove the law restricting that opportunity is unreasonable.

This amendment gives us only the opportunity not the right to hunt and fish. It will effectively place into our Constitution that individuals have the burden to show laws infringe on that opportunity. That is a heavy burden to prove.

If you want an amendment to protect hunting and fishing, the amendment should say that "Montanans shall have the right to hunt and fish." This would place the burden on government to show that their laws are reasonable. This would give greater protection against those who seek to end or restrict hunting and fishing.

At the very least, this amendment does nothing; at the worst, it gives power to the anti hunting and fishing groups to restrict those activities with the burden on the individual to prove those laws are unjust. It is ironic that those who fear the anti hunters becoming a majority in Government now give them the power to eliminate or severely restrict those activities.

If you are against hunting and fishing vote for this amendment.

## CONSTITUTIONAL AMENDMENT 42

AN AMENDMENT TO THE CONSTITUTION PROPOSED BY THE LEGISLATURE

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IV, SECTION 8, OF THE MONTANA CONSTITUTION TO EXTEND TERM LIMITS FOR LEGISLATORS FOR AN ADDITIONAL 4 YEARS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

In 1992, Montana citizens passed a constitutional initiative that limited the number of terms of office Montana legislators and certain executive branch elected officials could serve. This proposal, submitted by the 2003 Legislature, would amend the Montana Constitution to increase the permissible number of terms of office of state representatives and senators. It would increase the permissible terms of office for legislators from 8 years in any 16 year period to 12 years in any 24 year period. This amendment is effective upon approval by the electorate.

- FOR extending term limits for legislators to 12 years in a 24-year period.
- AGAINST extending term limits for legislators to 12 years in a 24-year period.

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*The PROPONENT argument and rebuttal for this measure were prepared by Senator Bob Keenan and Representative Monica Lindeen.*

*The OPPONENT argument and rebuttal for this measure were prepared by Senator Jerry O'Neil, Representative Larry Jent, and Trevis Butcher.*

## ARGUMENT FOR C-42

C-42 was debated thoroughly by the 2003 Montana Legislature and was endorsed by over 70% of its members. It does NOT REPEAL term limits. It simply extends term limits from 8 years to 12 years in each House.

We believe that extending term limits is in the best interests of the people of Montana. Experience is critical when a citizen legislature like ours is charged with the responsibility of approving a budget worth over 6 billion dollars for the biennium and setting policy for over 900,000 Montanans. This learning curve takes time and the need for mentoring from colleagues serving in prior sessions is critical.

The current limit of 8 years in the House means 4 two-year terms and just 2 four-year terms in the Senate. As a result, newly elected legislators feel compelled to seek leadership positions and are placed in Committee leadership before they have had the opportunity to observe, learn and reflect on the legislative process. The result has been uneven leadership and a clear tilt in power to the Senate in what the framers envisioned was a co-equal House and Senate. Adding 4 years to each body will likely remedy this problem and at the same time respect the will of the voters when voting for term limits over a decade ago.

An unscientific review of statistics prior to enactment of term limits shows that a small percentage of legislators served over 12 years in each body, but a much higher percentage served between 8 and 12 years in either. We believe this shows the clear benefit of legislators serving long enough to gain adequate experience, while following a natural break in legislative tenure at 12 years.

Term limits guarantee new ideas and voices in the legislature, a concept that will still be retained. A majority of Montanans continues to express support for the concept of term limits. C-42 recognizes that majority, and still prohibits the presence of career legislators in our citizen legislature while also allowing the presence of experienced leaders who can conduct the business of the legislature in an orderly, efficient manner. The power, the will, and the voice of the people reside in the legislative body. Maintaining a strong legislative body is in the best interest of all Montanans.

We urge you to vote YES on C-42.

## ARGUMENT AGAINST C-42

**By VOTING NO on C-42, Montana voters will retain a citizen legislature – rather than one of entrenched politicians.**

C-42 proponents, including some of the long time legislators, claim 8 years is not enough time for legislators to learn their jobs (even though the President of the United States is also limited to 8 years in office). The *Missoulian* says:

**Well, the truth is, if it takes someone more than 8 years to come up to speed, they probably don't belong in public office to begin with.** (Editorial, 2-26-03)

Term limits guarantee new and innovative thinking as long time incumbents are moved out and replaced by people who are influenced more by their neighbors than by the power brokers and lobbyists who wine and dine them. Term limits mean lobbyists must argue their position to new legislators who bring their own opinions and experience to the legislature.

Eight year term limits help limit campaign spending and level the playing field. Incumbents normally receive significantly more donations from lobbyists and special interest groups than first time candidates.

The proponents argue that with term limits, legislation will be passed without the review of experienced legislators. However, the Senate continues to include many legislators with years of previous experience from the House of Representatives. Every piece of legislation passed is reviewed by senators – some with up to 16 years of legislative experience.

**Term limits encourage term limited legislators to run for other political offices** –including: county commissions, the board of regents, the public service commission, governor, attorney general and state auditor, thus giving the voters more choice for these offices. This increases understanding, accountability and communication between these offices and the legislature.

The legislators who voted for C-42 say they don't want to kill term limits, just to “extend” them from 8 years to 12 years. Don't be fooled. They know they can't convince Montanans to kill term limits all at once, so they are opting for the gradual approach.

Montana voters made a wise choice in 1992 when more than two-thirds of them said “EIGHT YEARS IS ENOUGH.” We are confident that in November of 2004 Montana voters will again say “**EIGHT YEARS IS ENOUGH.**”

**Vote NO on C-42 – KEEP MONTANA'S 8 YEAR TERM LIMIT!**

**Vote NO on C-42 – KEEP OUR CITIZEN LEGISLATURE!**

## PROPOSERS' REBUTTAL OF ARGUMENT AGAINST C-42

Extending term limits for legislators from 8-12 years accomplishes two objectives: retains a "citizen legislature" and rectifies leadership problems experienced with the 8-year term limit.

Opponents to this measure are closely allied with an out of state national term limits organization which could care less about problems experienced to date with Montana's current system. Any efforts by those attempting to make term limits work better and tailored for Montana are opposed, and arguments made in opposition are the same as those that advocate "repeal" of term limits.

For example, opponents are comparing an 8 year term limit imposed on the President to a part time citizen legislature. This is the same argument advocated by the out of Montana organization, and makes little sense for an initiative simply extending term limits.

Extending term limits to 12 years will provide a healthy balance of new ideas and experienced leadership. Existing legislators rather than lobbyists and bureaucrats can mentor new legislators.

Opponents cannot rebut the argument that the current system creates a decided and unwise edge to the Senate over the House in what should be co-equal branches of the legislature.

Ignore the scare tactic that this is an attempt to eliminate term limits. This "conspiracy theory" has no basis and is a crude effort to shift focus of this debate. By voting yes you will be fixing a serious problem facing our legislature and at the same time retaining our part time citizen legislature.

Yes on C-42

## OPPOSERS' REBUTTAL OF ARGUMENT FOR C-42

The C-42 term limit contest is between career politicians – and the voters of Montana who want a citizen legislature. In the last legislative session, 70% of the politicians voted to keep themselves in power when they voted to extend term limits. Contrarily, by citizen initiative, 66% of Montana's citizens voted to limit the politician's power when we voted to enact 8 year term limits. This serves the public by weeding out the dead wood that before term limits served indefinitely due to the power of the incumbency.

Montana's "entrenched politicians" took Montana from the 17th highest per capita income state in 1970 to the 49th ranked state in the year 2000. Since term limits broke the seniority stranglehold on our legislature in 2000, Montana has already begun to rebound to 45th in the nation – up 4 points in four years and on the rise.

The present system of "8 year" term limits does not automatically remove every politician from serving beyond eight years in the legislature. Many legislators, after their 8 year terms are up, run again for the other legislative body.

The opponents agree, "term limits guarantee new ideas and voices in the legislature." Let's not improperly restrain those new ideas and voices by diluting our present term limits law.

Keep Montana's current 8-year term limits.

Vote NO on C-42.

## CONSTITUTIONAL INITIATIVE 96

### A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

Montana statutes define civil marriage as between a man and a woman, and prohibit marriage between persons of the same sex. The Montana Constitution currently contains no provisions defining marriage. This initiative, effective immediately, would amend the Montana Constitution to provide that only a marriage between a man and a woman may be valid if performed in Montana, or recognized in Montana if performed in another state.

- FOR amending the Montana Constitution to provide that only a marriage between a man and a woman may be valid or recognized as a marriage.
- AGAINST amending the Montana Constitution to provide that only a marriage between a man and a woman may be valid or recognized as a marriage.

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*The PROPONENT argument and rebuttal for this measure were prepared by Senator Duane Grimes, Representative Jeff Laszloffy, and Terry L. Murphy.*

*The OPPONENT argument and rebuttal for this measure were prepared by Representative Tom Facey, Karl Olson, Joan Hurdle, and Jennifer S. Hendricks.*

## ARGUMENT FOR CI-96

**The time-honored, vital institution of marriage is being threatened.** Homosexual activists have pushed legislatures in Montana and across the U.S. to legalize same-sex marriage. Legislators have repeatedly said no because voters, by an overwhelming majority, reject same-sex marriage.

Lack of legislative success has caused homosexual activists to change tactics. They now seek out activist judges who are willing to mandate same-sex marriage by judicial decree. Public policy should be decided by the people, either directly through ballot initiative, or indirectly through their elected representatives, not by activist judges. **Voting yes on CI-96 places the definition of marriage in the hands of the people, rather than the courts.**

**CI-96 will ensure that natural marriage is preserved by defining it constitutionally.** Special interest groups are constantly seeking to gain special rights that infringe on the rights of the rest of society. Such **special rights cost all Montanans both in dollars and in lost freedom.** For instance, in this case, we could lose the freedom to teach our children as we wish. The issue of same-sex marriage will come before Montana's courts soon. Voting yes on CI-96 allows the people to give clear direction to judges on this important issue.

Voters have never legalized same-sex marriage in any state. **In every instance where same-sex marriage was mandated by a court decision, the voters immediately overturned the court through ballot initiative,** and then amended their state constitutions to define marriage as a union between a man and a woman.

### **If CI-96 fails, how will homosexual marriage one day affect your family?**

- Every public school in Montana would be required to **teach your children that same-sex marriage and homosexuality are perfectly normal.** Pictures in textbooks will also be changed to show same-sex marriage as normal.
- Small business **employers in Montana may someday be required to provide expanded health coverage, retirement and fringe benefits to same-sex "spouses"** of employees. The broad subjectivity of such un-funded mandates could hurt Montana's economy and jobs.
- Your church will be legally pressured to perform same-sex weddings. When courts – as happened in Massachusetts – find same-sex marriage to be a "constitutional and fundamental human right," **homosexual activists will successfully argue that government is underwriting discrimination by offering tax exemptions to churches and synagogues** that only honor natural marriage.

Natural marriage is extremely important for future generations. Men and women are distinctly different. Each gender brings vitally important, and unique, elements to a child's development. **Saying that children don't necessarily need fathers or mothers is saying that one gender or the other is unnecessary.** A loving and compassionate society always aids motherless and fatherless families. Compassionate societies never intentionally create families without mothers or fathers, which is exactly what same-sex homes do.

Of 193 countries, **only Scandinavia and two other countries have legalized same-sex marriage.** This radical departure from thousands of years of time-tested natural marriage has only occurred within the last 10 years. Let's protect our families and children from this vast, untested, social experiment. Please vote **FOR** CI-96!

## ARGUMENT AGAINST CI-96

Josef Kijewski volunteers in his community, contributes to the tax base, and participates in civic life. He is a “native” Montanan, as comfortable discussing politics with the governor as he is “kicking back” at a family reunion in a remote corner of Big Sky country. Josef’s ancestors moved to Montana in the 1870s and homesteaded at Brown’s Gulch, near Butte, in 1890. As for many Montana families who struggle to eke out a living and attain a first-class education, life hasn’t always been Easy Street. But when times are rough, Josef’s family is the first line of defense.

Nevertheless, when it comes to civil marriage, a convict on death row has more rights than Josef. Because Josef is gay, he cannot barter all the good will in the world for a \$35 marriage license – that simple document granting couples the responsibility to care for each other and the right to protect their legacies.

Josef and his future partner could spend thousands of dollars on attorney fees to patch together a handful of safeguards for their home and family. But if CI-96 were to pass, the State could nullify the contractual agreements made between same-gender partners. CI-96 would limit innovative and robust companies from treating their employees equitably. And CI-96 would ban churches and their clergy from legally solemnizing these partnerships – infringing on the diverse religious beliefs of our neighbors.

Montanans have designed the most remarkable Constitution in America. Our Constitution limits the State’s interference in our homes and families, and assures us that all Montanans are treated decently and fairly. The US Census counted 1,200 households headed by same-gender couples in Montana in 2000; these workers and families are an integral part of Montana’s social and economic fabric.

While some constituents may feel heterosexual relations are in need of validation by a constitutional amendment, CI-96 does nothing to strengthen marriages in Montana. CI-96 will not put food on a family’s table, a health insurance card in the wallet, gas in the car, or scholarships in the mailbox. CI-96 does nothing to help military families navigate wartime pressures. CI-96 does not address the cultural trends of divorce, teen parenting, premarital cohabitation, serial marriages, overworked parents, and the encroachment of commercialization on home life.

What CI-96 does do is diminish the freedom to be “let alone” that Montanans have historically treasured. CI-96 would alter the Constitution to set up one vulnerable minority group for alienation, discrimination and harassment. CI-96 directly contradicts the very intent of the Constitution, the civic spirit of our communities, and our independent heritage. For this reason, we urge our neighbors to vote No on CI-96.

(Portions of this argument are adapted from an essay by Josef Kijewski’s father, Kenneth Kijewski, of St Mary’s, Montana.)

## PROPONENTS' REBUTTAL OF ARGUMENT AGAINST CI-96

Contrary to the opponent's argument, CI-96 doesn't limit the ability of homosexuals to enter into contractual agreements to protect their assets. It doesn't stop employers from giving same-sex couples the same benefits as their married employees (if they so choose), and it doesn't stop churches from recognizing same-sex partnerships.

In short, CI-96 changes nothing, and that's the point. It simply stops the legalization of homosexual marriage by placing the historical definition of marriage into our constitution, as other states have done. **This is the only tool that has proven successful in stopping courts from mandating same-sex marriage.** Same-sex proponents say CI-96 limits the rights of homosexuals. That argument makes no sense because there is not, and never has been, a "right" to same-sex marriage, just as there is no "right" to polygamy.

Those in favor of same-sex marriage say that **Montanans just want to be "let alone."** **We couldn't agree more! That is exactly why we need to pass CI-96.** This amendment insures that parents will be "let alone" to raise their children as they deem best. It insures churches will be "let alone" to practice their faith as they feel led, and it insures employers will be "let alone" to run their businesses in a manner they feel best serves their employees and customers.

Let's stop homosexual activists and activist judges from forcing Montanans, and Montana's children, to become part of a vast, untested social experiment.

**Help protect marriage. Vote yes on CI-96!**

For more information go to [www.montanafamily.org](http://www.montanafamily.org).

## OPPONENTS' REBUTTAL OF ARGUMENT FOR CI-96

In their argument, CI-96 proponents deceive Montanans about the nature of civic life in our great state. Today, schoolchildren in Montana are already taught to respect the rights of those who are different from them: parents reserve the right to instill religious values in their children. Businesses in Montana are already required to operate under civil rights laws, and innovative employers large and small recognize that discrimination is bad for business. Churches retain the special right to refuse to solemnize the marriage of any couple for any reason. This will never change.

We find it chilling that the architects of CI-96 would resort to fear mongering to cut minority families out of the Constitution. Montana's Constitution states: "The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws." This should not be altered. Based on our Constitution, the Montana Supreme Court has ruled: "[T]here are certain rights so fundamental that they will not be denied to a minority no matter how despised by society." This should not be brushed aside.

Our Founders created a system of checks and balances that places a premium on individual liberty. Even when we as citizens have failed to recognize the humanity of our neighbors, America has always offered the promise of fairness. We are especially blessed with a secular form of government that allows each citizen to choose a unique religious path.

Preserve the promise of personal freedom in Montana. Vote NO on CI-96.

## INITIATIVE NO. 147

### A LAW PROPOSED BY INITIATIVE PETITION

Cyanide leach processing is a method that recovers precious metals from ore. In 1998, Montana voters approved an initiative to prohibit cyanide leach processing at open-pit gold and silver mines, except for mines already in operation.

This measure, effective immediately, would amend Montana law to allow new mines to use cyanide leach processing, subject to: permitting by the Department of Environmental Quality; restrictions on the containment of materials used in cyanide leach processing; and water quality monitoring requirements. This measure also would restore any contractual mineral interests diminished by or lost due to the 1998 prohibition.

This measure could generate additional tax revenues, and additional royalties from mines on school trust lands. This measure also could increase state environmental enforcement costs. Financial impact is not determinable at this time.

- FOR amending Montana law to allow cyanide leach processing at open-pit gold and silver mines, subject to state environmental regulation.
- AGAINST amending Montana law to allow cyanide leach processing at open-pit gold and silver mines, subject to state environmental regulation.

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*The PROPONENT argument and rebuttal for this measure were prepared by Senator Debbie Shea, Betti Hill, and Don Serba.*

*The OPPONENT argument and rebuttal for this measure were prepared by Gary Buchanan, Don Marble, Stephenie Ambrose Tubbs, Alan Shammel, and Joan Toole.*

## ARGUMENT FOR I-147

Montana's economy ranks 47th nationally, and new businesses seem reluctant to come here. First and foremost, we need good-paying jobs, money for education and essential services, and opportunities for our children.

And no, it need not be at the expense of the environment.

The 1998 ban on the use of cyanide in mining has had far-reaching, ill effects on the state's economy. A glaring example: According to the Bureau of Mines and Geology, in 1989 companies spent \$23.6 million on exploration in Montana, and in 1999, spending was less than \$100,000. The ban was one major reason.

Restructuring that ban will send a signal that Montanans will not be held hostage to a bad law, and that we expect responsible environmentalists and responsible industrialists to work together for the benefit of all.

Most Montanans would like to see more mining in the state – if there are stringent laws to protect the environment. I-147 takes that step. It allows miners to use solutions containing a low-level concentration of cyanide, **but only as long as they comply with a series of tough, new regulations to protect the environment.**

Some of I-147's new requirements include:

- All tailings impoundments, leach pads and ponds must have a synthetic liner backed up by a secondary liner;
- All tailings impoundments, leach pads and ponds must have a state-approved leak-detection system and a contingency system to recover solution in case of a leak;
- All tailings impoundments, leach pads, ponds and related processing components that use cyanide solutions must be designed to fully contain all processing fluids – and also contain the rain or snow from a 24-hour, 100-year storm event;
- All vats and tanks must have a secondary containment system that will handle at least 125% of the volume of the largest one;
- All mines must have a water-quality monitoring program to protect both surface and groundwater.

**I-147's new regulations will be enforced by the Montana Department of Environmental Quality (DEQ), not by the mining industry.** Furthermore, if the Montana DEQ determines that additional requirements are needed to protect nearby streams or groundwater, state regulators can mandate additional restrictions before mining permits are issued.

**I-147 also requires that before permits can be issued sufficient bonding must be posted to ensure that the industry, not taxpayers, pay for cleanup and reclamation.**

We realize that some environmental groups do not want any mining in Montana and will do whatever they can to stop it, regardless of the economic consequences. That's their right. This initiative, however, forces the mining industry working in our state to take responsible steps to assure jobs, economic opportunity and accountable environmental practice work hand in hand.

I-147 was written by Montanans, for Montanans. We have a rare opportunity that may not come our way again, an opportunity to start a new trend in working together, growing Montana's economy while being environmentally responsible.

Join us in voting for good jobs and for safe mining. **Please vote FOR I-147.**

## ARGUMENT AGAINST I-147

### **I-147 does two things:**

- \* **Repeals** the voter passed 1998 Initiative 137 that banned new cyanide-leach open-pit mines, and
- \* **Forces** the State to allow Canyon Resources Corp. of Colorado, I-147's primary funder, to move forward with a massive cyanide-leach mine on the Blackfoot River.

Supporters of I-147 claim the measure would require "new" environmental safeguards. Not true. According to the State's chief mining regulator, "the regulations in the proposed ballot measure are things the state has required in the past at major cyanide heap-leach mines" (*Great Falls Tribune*, 3/8/04). The same article listed \$10 million in taxpayer funds spent so far at these mines and reported that an additional \$16.4 million is needed for water treatment at Zortman/Landusky near Malta.

Thus, nothing has changed. **No** new technologies, **no** new safeguards.

And, according to the State, **more** Montanans work in mining jobs **today** than when I-137 passed.

I-147 is on the ballot only because Canyon Resources wants to build a mine nearly the size of Butte's Berkeley Pit next to the Blackfoot River east of Lincoln.

**Alan Shammel** ranches with his family next to the Kendall Mine. "My water has been taken by this Canyon Resources-owned mine. Our spring has been contaminated. My family's health and livelihood are in jeopardy. What can our kids look forward to after three generations of our family ranching this land? We must have water for ourselves, our crops, and our livestock. We are not opposed to all mining. But after sixteen years of dealing with cyanide heap leaching, we believe it should be prohibited. We owe it to our kids and grandkids."

**Joan Toole** is a former Bitterroot Valley rancher who served on the Lewis and Clark City-County Board of Health. "I studied cyanide leach open-pit mining and its impacts on surface and groundwater. I concluded that the downstream threat to public health is very real. It does not make sense to keep doing something that always fails."

**Don Marble** is a Liberty County Commissioner: "I have seen first hand the devastation to many of my friends' lives and communities caused by Pegasus Gold's Zortman/Landusky mines. Now that Pegasus has gone bankrupt, the government admits we taxpayers will pay at least another \$16.4 million for perpetual water treatment."

**Stephenie Ambrose Tubbs'** family owns a summer cabin in the Blackfoot River Valley. "A broad coalition of landowners in this valley has worked for years to protect the long term health of the community and the lands that support it. Canyon Resources' mine would jeopardize all that hard work."

**Gary Buchanan** of Billings is a former director of the State Commerce Department. "Canyon Resources is consistently a money-losing company. Montanans know the risks to their pocketbooks of weak companies and flawed cyanide mining technology. We have and want responsible, successful mining in Montana. Canyon, however, is not the company nor cyanide the method of mining we taxpayers want in our state.

Thank you very much for taking the time to become informed and reading our views.

## PROPONENTS' REBUTTAL OF ARGUMENT AGAINST I-147

"We'll look at the specifics and listen to what the developers have to say, but I'm anticipating that we're going to oppose this plant very strongly."

*Welcome to the response MEIC, the powerful environmental group leading the opposition to I-147, gave when a group of Montanans announced plans to build a power plant at Great Falls.*

No, they didn't know the specifics and hadn't talked to anyone. They were just against it! With almost all projects being opposed by extremists, is it any wonder companies shy away from Montana?

MEIC states: I-147 "forces" the state to let Canyon Resources open a particular mine. That's an absurd statement. Any new mine must first meet all of I-147's safeguards PLUS additional restrictions DEQ may impose.

No mine in Montana ever opened meeting all the safeguards I-147 will require. Zortman/Landusky met only two. Silver Creek Mill didn't meet any. The list goes on. Why? Because they weren't required to!

MEIC claims because the DEQ had the power to implement the safeguards in I-147 – if they wanted to – "there's nothing new." I-147 provides certainty and removes discretionary judgments by requiring environmental safeguards. We can all agree on that.

MEIC says there are more mining jobs now than before the ban, but they don't say those jobs are in copper and platinum mining, not gold and silver. You would think they could at least be honest about that! Do they really think we have enough jobs in Montana and don't need more good jobs?

## OPPONENTS' REBUTTAL OF ARGUMENT FOR I-147

-Proponents claim I-147 contains "new environmental protections." This is clearly not true. Warren McCullough, DEQ's chief mine regulator has stated: "...the regulations in the proposed ballot measure are things the state has required in the past at major cyanide heap-leach mines."

**Fact:** There are **no** new environmental safeguards in I-147.

-Proponents claim I-147 was written by Montanans, yet Canyon Resources, a Colorado Corporation, has paid 97% of the initiative backers' costs.

**Fact:** I-147 is a bad idea being pushed by out-of-state interests.

-Proponents made absolutely no mention of the unconstitutional section 2 "sweetheart deal" for Canyon Resources that's buried in the initiative. That's just plain deceitful.

**Fact:** I-147 is unconstitutional.

-Cyanide leach mining gave the mining industry a "black eye." Cyanide heap-leach mining is gone and our mining industry is now healthier. Let's not go backwards and allow this failed type of mining again.

**Fact:** The State says mining is now the fastest growing sector of Montana's economy.

**Cyanide heap leach, open-pit gold mines will poison our streams and groundwater, thereby threatening nearby communities and neighboring private property rights. Not one thing in I-147 will change that or prevent such mines from poisoning our water again. Let's protect taxpayers, private property and clean water.**

**Please vote no on I-147.**

Thanks again for reading our views.

## INITIATIVE NO. 148

### A LAW PROPOSED BY INITIATIVE PETITION

This initiative would allow the production, possession, and use of marijuana by patients with debilitating medical conditions. Patients could use marijuana, under medical supervision, to alleviate the symptoms of conditions including cancer, glaucoma, and HIV/AIDS, or other conditions or treatments that produce wasting, severe or chronic pain, severe nausea, seizures, severe muscle spasms, or other conditions defined by the State. A patient or the patient's caregiver could register to grow and possess limited amounts of marijuana by submitting to the State written certification by a physician that the patient has a debilitating medical condition and would benefit from using marijuana.

There would be no measurable cost to state government from the approval of this initiative.

- FOR allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.
- AGAINST allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.

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

*The PROPONENT argument and rebuttal for this measure were prepared by Representative Ron Erickson, Paul Befumo, and Robin Prosser.*

*The OPPONENT argument and rebuttal for this measure were prepared by Representative Jim Shockley and Roger Curtiss NCAC II, LAC.*

## ARGUMENT FOR I-148

Currently, under Montana law, patients suffering from cancer, multiple sclerosis, AIDS, and other serious illnesses face six months in prison and a \$500 fine for using marijuana for medical purposes. If passed by a majority of Montana voters, I-148 would protect these patients from arrest and prison if they have their physicians' approval to use marijuana for medical purposes. Perhaps most importantly, I-148 would allow patients to grow their own personal supply of marijuana so that they will no longer have to buy marijuana from the criminal market.

I-148 is similar to the laws in nine states – Alaska, California, Colorado, Hawaii, Maine, Nevada, Oregon, Vermont, and Washington. In November of 2002, the investigative arm of Congress issued a report which found that these laws are working well and have not created problems for law enforcement officials. Like the laws in most of these nine states, I-148 would provide ID cards to legitimate patients so that police can easily distinguish between recreational marijuana users and legitimate medical marijuana users.

The American Nurses Association, the American Public Health Association, the American Academy of Family Physicians, and several state medical associations have all issued positions supporting the medical use of marijuana under physicians' supervision. Like the medical community, the American people also support medical marijuana. A national public opinion survey conducted by CNN and Time magazine in 2002 found that 80% of the American people "think adults should be able to use marijuana legally for medical purposes."

Statewide medical marijuana studies in California, Georgia, Michigan, New Mexico, New York, and Tennessee have found that marijuana is medically beneficial for many patients suffering from cancer or glaucoma. In 1999, scientists at the National Academy of Sciences issued a comprehensive report that analyzed these state studies and all other medical marijuana research, concluding, "Nausea, appetite loss, pain, and anxiety are all afflictions of wasting, and all can be mitigated by marijuana." This report was commissioned by the White House drug policy office.

Federal courts have recently ruled that (1) the federal government may not punish physicians who recommend medical marijuana to their patients, and (2) the federal government does not have the constitutional authority to arrest patients whose medical marijuana use is intrastate in nature.

Since 1978, the federal government has provided medical marijuana to a limited number of patients suffering from AIDS, glaucoma, multiple sclerosis, and rare bone disorders. Seven of these patients are still receiving monthly shipments of medical marijuana from the federal government. The federal government shouldn't be playing favorites. If it's okay for the federal government to use taxpayer money to send marijuana to these seven patients who live in California, Florida, Iowa, Nebraska, and Texas, then it should be okay for Montana patients to use medical marijuana – at no expense to the taxpayers.

Montana voters should pass I-148, so that Montana patients who need to use medical marijuana will no longer have to live in fear of being arrested and sent to prison.

## **ARGUMENT AGAINST I-148**

Marijuana is still a federally designated Schedule I Drug, meaning dangerous, having a high potential for abuse, and having no medical value, notwithstanding the creative attempts by those who seek its legalization and want to label marijuana use as "compassionate" in medical settings.

This medical marijuana initiative undermines Montana's drug-enforcement priorities and our well-designed federal Food and Drug Administration system, and its rigorous scientific and medical process of approval of new drugs that protect the people of the United States from unsafe, ineffective drugs.

Marijuana is derived from the leaves and flowering tops of the Cannabis plant. It contains some 420 chemicals, most of which have never been studied by scientists. One cannabinoid, Delta-9-tetrahydrocannabinol (THC), was synthesized, tested, and approved by the FDA in 1985 for treating nausea in cancer patients and wasting in AIDS patients. This FDA-approved drug's trade name is Marinol.

Furthermore the respiratory difficulties associated with marijuana use preclude the inhaled route of administration as a medicine. Smoking marijuana is associated with higher concentrations of tar, carbon monoxide, and carcinogens than are found in cigarette smoking.

We need to be concerned with the legalization advocates' efforts to confuse the public about the difference between marijuana and legal medications prescribed and monitored by doctors. These advocates' assertions continue to contribute to the past decade's drop in the perception of marijuana's harmfulness, and this has resulted in an increase in marijuana use, other drug use, and drug addiction.

Even if Montana Initiative 148 should pass, there are still federal laws making it illegal to grow, sell, purchase or use marijuana even with a doctor's prescription.

Vote No on Initiative 148, the Montana Medical Marijuana Act.

## **PROPONENTS' REBUTTAL OF ARGUMENT AGAINST I-148**

The opponents of Initiative 148 make many inaccurate and misleading statements. Here is the truth:

- The federal law that claims marijuana has no medical value was written by politicians – not doctors or scientists – and science has learned much since that law was enacted in 1970. A 1999 Institute of Medicine study, commissioned by the White House, found, "Nausea, appetite loss, pain, and anxiety ... all can be mitigated by marijuana."
- Medical marijuana laws do not undermine law enforcement. Such laws are working successfully in nine states, which comprise one-fifth of the U.S. population. When the congressional General Accounting Office investigated the impact of state medical marijuana laws, most law-enforcement agencies reported that these laws had little or no impact on their law-enforcement activities.
- Medical marijuana laws do not encourage teen drug use. California passed the first state medical marijuana law in 1996, and teen marijuana use in California has dropped since then – even dropping by as much as 40% in some age groups.
- Medical marijuana laws do not undermine the FDA. The FDA never banned the medical use of marijuana; politicians in Washington, D.C., did.

It was politicians who made the decision to arrest and jail cancer, multiple sclerosis, and AIDS patients who find relief through medical marijuana. Montanans can and should use the initiative process to fix the politicians' mistake.

Please vote "yes" on Initiative 148, the Montana Medical Marijuana Act.

## **OPPONENTS' REBUTTAL OF ARGUMENT FOR I-148**

The Food and Drug Administration has not approved marijuana as safe or effective for medical use. Every medicine that doctors prescribe must first be tested to prove that it is safe and effective, that it does what its manufacturer claims it does and that its benefits outweigh its risks.

Contrary to the assertions of I-148 proponents, John A. Benson, Jr., Co-Principal Investigator of a National Academy of Sciences 1999 report, found that, "While we see a future in the development of chemically defined cannabinoid drugs, we see little future in smoked marijuana as a medicine." This report notes there are safer, more effective medicines for all diseases that advocates claim marijuana relieves. It calls for research and clinical trials of cannabinoids, but not whole marijuana, and warns that smoking is not an acceptable delivery system for any medicine.

Montana patients deserve the best medicine science can provide. Montana voters should defeat I-148.

## INITIATIVE NO. 149

### A LAW PROPOSED BY INITIATIVE PETITION

This initiative increases tobacco taxes by approximately 140%, to \$1.70 per pack of cigarettes, 85¢ per ounce of moist snuff, and 50% on all other tobacco products, and changes the use of these revenues. The initiative reserves approximately 45% of these revenues for: additional enrollment in the children's health insurance program; increased Medicaid services and provider rates; and, if created by the legislature, a supplemental need-based prescription drug program for certain groups, and programs to help small businesses provide employee health insurance. Remaining revenues are allocated to state veterans' nursing homes, the state building fund, and the general fund.

In fiscal year 2005 this initiative would raise \$38,400,000 for new health insurance and Medicaid initiatives, and an additional \$400,000 for state buildings and \$6,000,000 for the general fund. These revenues could decrease over time as fewer persons consume tobacco. Funding for state veterans' nursing homes would remain at \$2,000,000.

- FOR increasing tobacco taxes and changing the use of tobacco tax revenues to include specific health insurance and Medicaid programs.
- AGAINST increasing tobacco taxes and changing the use of tobacco tax revenues to include specific health insurance and Medicaid programs.

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

*The PROPONENT argument and rebuttal for this measure were prepared by Bob Bartholomew, Richard P. Sargent, M.D., and Cliff Christian.*

*The OPPONENT argument and rebuttal for this measure were prepared by Representative Jack Ross, Ronna Alexander, Dan Antonietti and Mark Staples.*

## ARGUMENT FOR I-149

### **Vote FOR I-149 because it will save our kids' lives and save money.**

Every year 2,000 of Montana's kids become new daily smokers, and the addiction is lasting. 90% of all long-term smokers will start the habit before they turn 18 years old. Tobacco-related diseases **kill** more than **1,400 Montanans** a year and **cost every Montana taxpayer**, smoker and non-smoker alike, **\$216 a year**. *Tobacco is killing our kids and costing us a fortune.* However, it is a health crisis we can prevent.

The best way to stop our children from starting smoking or using other tobacco products is to raise the price of tobacco. Increasing price also helps smokers quit.

- **I-149's price increase will result in a 16.2% reduction in youth smoking.** 8,900 kids alive today will not start smoking and 8,100 current smokers will quit if I-149 passes. Scientific studies show price has a significant impact on smokers, especially children. I-149 will lower smoking rates.
- **Montanans want needy children to be covered by insurance.** 44% of I-149's revenue will be set aside for the Legislature to fund health care, including the Children's Health Insurance Program (CHIP). This new revenue will also fund a supplemental prescription drug program for low-income children, seniors, chronically ill and disabled persons. Additionally it will allow funding for programs to help small businesses pay employee health insurance and to fund Medicaid expenditures. The remaining 56% of revenue will continue to fund the state veterans' nursing homes, the state building program, and the general fund.
- **Montana will see significant health benefits from reduced tobacco use.** Under I-149, 2,700 children alive today will not die from a premature smoking-caused death. 1,300 adults that currently smoke will stop smoking and avoid dying prematurely. 1,700 smoking-affected and premature births will be averted in the next 5 years. I-149 will protect our children and save lives.
- **I-149 makes financial sense, and saves you money.** Today, all Montana taxpayers pay an average of \$465 per household per year for smoking-caused health care spending. The reduction in smoking will save \$2.5 million from fewer smoking-affected pregnancies, \$3 million from smoking-caused heart attacks and strokes, and \$173.6 million in long-term disability and health costs.

The I-149 Healthy Kids Healthy Montana tobacco tax increase is supported by: AARP Montana, American Cancer Society, American Heart Association, American Lung Association of the Northern Rockies, BlueCross BlueShield of Montana, Deaconess Billings Clinic, Montana Academy of Pediatricians, Montana Hospital Association, Montana Pharmacy Association, Montana Medical Association, Montana Nurses Association, Montana Public Health Association, Montana Council for Maternal and Child Health, New West Health, Montana Association for Disability Services, Montana Chapter-American Academy of Pediatrics, Montana Diabetes Association, Montana Physicians for Prevention, ProtectMontanaKids.org, and St. Vincent Healthcare.

**We join with these caring sponsors in urging you to vote for health, for protecting our children from a lifetime of tobacco addiction, for Montana's financial well-being, for saving lives and FOR I-149.**

## **ARGUMENT AGAINST I-149**

- **I-149 Burdens Taxpayers**

The Montana Legislature just raised the cigarette/tobacco tax from 18 cents per pack to 70 cents per pack. This nearly 200% tax increase has hit a sizeable portion of Montana's citizen taxpayers within the last 1 ½ years. I-149 is the second attempt to raise tobacco taxes to an amount which the Montana Legislature determined was too high.

- **I-149 A Threat to Veterans**

I-149 is a threat to funding Veterans' Homes in Montana as it places in jeopardy the amount of money that goes to support Veterans' Homes. I-149 may actually reduce the amount of funding the Veterans' Homes receive.

- **I-149 Creates a New Bureaucracy**

I-149 creates a new multi-million dollar bureaucracy requiring millions in new spending. This bureaucracy will be funded by a continually decreasing tobacco tax source. As the tax revenue decreases because of decreased tobacco consumption, the bureaucracy will become a liability of all Montanans – not just smokers. I-149 funds new programs which already overtaxed Montana taxpayers cannot afford, given that current health programs lack sufficient funding.

- **I-149 Negatively Affects Montanans**

It is clear Montana wholesalers and retailers will be negatively impacted by I-149 as consumers will choose to purchase cigarettes/tobacco over the Internet or illegally to avoid the high tax rate on tobacco. The Department of Revenue in nearby Washington State reports that with their high cigarette/tobacco tax rate, illegal (untaxed) sales now account for nearly 40% of cigarette/tobacco sales in that state. Montana's tobacco taxes are now higher than those in surrounding states. An additional increase in tobacco taxes will encourage out-of-state purchasing by Montana's consumers. This will also reduce taxed tobacco sales in Montana, shifting to all Montana taxpayers the burden of paying for I-149's new programs.

## PROPONENTS' REBUTTAL OF ARGUMENT AGAINST I-149

**Vote FOR I-149**, the Health Kids Healthy Montana tobacco tax increase.

It will save our children's lives and save us money.

Big tobacco spends an estimated \$35.6 million per year (\$100,000 a day) peddling their deadly products in Montana and they gain huge profits. Montanans suffer the loss of friends, neighbors and loved ones **and** get stuck with the related healthcare bills.

Big Tobacco wants to hook our children. Higher prices will reduce youth smoking, save lives and money.

The tobacco lobby uses wrong and misleading information. Don't be fooled by their arguments.

- I-149 **reduces** the tax burden on **all** Montanans by reducing tobacco consumption. Current tobacco taxes do not even come close to repaying the healthcare cost to Montanans.
- I-149 has specific language that **increases** the funds available for our veterans' nursing homes. Once again, Big Tobacco is wrong.
- I-149 provides **funds for CHIP, prescription drugs for low income and elderly Montanans and insurance for small business owners**. Healthcare programs will receive 44% of the funds generated as a result of this tobacco tax increase. Montana can use these funds to gain additional matching federal dollars for healthcare, thus significantly increasing access to healthcare – a primary need in Montana.
- **I-149 will prevent our children from using tobacco**. Don't trust Big Tobacco on their smuggling claims. Washington State saw teen tobacco use drop by 53,000 after they increased prices and conducted youth prevention education.

Help protect our kids from big tobacco ... Vote **FOR** I-149.

## OPPONENTS' REBUTTAL OF ARGUMENT FOR I-149

**I-149 IS PUNITIVE TAXATION WHICH THREATENS VETERANS' HOME FUNDING IN MONTANA, WOULD CREATE MORE GOVERNMENT PROGRAMS AND BUREAUCRACY, AND ENCOURAGES CRIMINAL TRAFFICKING.**

**Veterans Could Lose & Weren't Even Consulted in the Drafting of I-149**

- I-149 puts Veterans' Home funding – now guaranteed – into state revenue accounts where veterans will have to compete with I-149 proposed programs, thus actually endangering this crucial funding.

**Punitive, Discriminatory Tax Policy**

- Our legislature just increased the Montana cigarette tobacco tax by nearly 300% (18¢ - 70¢). Now I-149 would more than double that to \$1.70, resulting in a more than 900% increase in just a year and a half. How much is enough?

**Increased Tax = Increased Untaxed Sales**

- There is no way to gauge whether such draconian tax increases, as sought in I-149, actually **reduce** cigarette/tobacco use. But, we do know that they dramatically **increase** untaxed, illegal sales, and criminal activity, such as in Washington State, where 40% of their sales are now illegal and untaxed.

**More Bureaucracy and Unstable Revenue for Entrenched Programs**

- Massive tax increases will increase “untaxed” sales, yet the new government programs this bill creates will be, like current programs, almost impossible to do away with. All Montana taxpayers will be left with the tab – long after smokers have chosen to buy out of state, from the Internet, or from smugglers, to avoid our outrageous taxes.

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

## **THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 40 (C-40)**

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX OF THE MONTANA CONSTITUTION TO CREATE A NOXIOUS WEED MANAGEMENT TRUST FUND; PROVIDING FOR THE PROTECTION OF THE TRUST IN THE AMOUNT OF \$10 MILLION UNLESS APPROPRIATED BY A VOTE OF THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE; AND PROVIDING FOR THE APPROPRIATION OF INTEREST, INCOME, AND A PORTION OF THE PRINCIPAL.

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

**Section 1.** Article IX of The Constitution of the State of Montana is amended by adding a new section 6 that reads:

**Section 6. Noxious weed management trust fund.** (1) The legislature shall provide for a fund, to be known as the noxious weed management trust of the state of Montana, to be funded as provided by law.

(2) The principal of the noxious weed management trust fund shall forever remain inviolate in an amount of ten million dollars (\$10,000,000) unless appropriated by vote of three-fourths (3/4) of the members of each house of the legislature.

(3) The interest and income generated from the noxious weed management trust fund may be appropriated by a majority vote of each house of the legislature. Appropriations of the interest and income shall be used only to fund the noxious weed management program, as provided by law.

(4) The principal of the noxious weed management trust fund in excess of ten million dollars (\$10,000,000) may be appropriated by a majority vote of each house of the legislature. Appropriations of the principal in excess of ten million dollars (\$10,000,000) shall be used only to fund the noxious weed management program, as provided by law.

**Section 2. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

FOR creating a noxious weed management trust fund and restricting its use.

AGAINST creating a noxious weed management trust fund and restricting its use.

## THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT No. 41 (C-41)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX OF THE MONTANA CONSTITUTION RECOGNIZING AND PRESERVING THE HERITAGE OF MONTANA CITIZENS' OPPORTUNITY TO HARVEST WILD FISH AND WILD GAME ANIMALS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Article IX of The Constitution of the State of Montana is amended by adding a new section 6 that reads:

**Section 6. Preservation of harvest heritage.** The opportunity to harvest wild fish and wild game animals is a heritage that shall forever be preserved to the individual citizens of the state and does not create a right to trespass on private property or diminution of other private rights.

**Section 2. Effective date.** This amendment is effective upon approval by the electorate.

**Section 3. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

- FOR recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.
- AGAINST recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.

## THE COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT NO. 42 (C-42)

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IV, SECTION 8, OF THE MONTANA CONSTITUTION TO EXTEND TERM LIMITS FOR LEGISLATORS FOR AN ADDITIONAL 4 YEARS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Article IV, section 8, of The Constitution of the State of Montana is amended to read:

**"Section 8. Limitation on terms of office.** (1) The secretary of state or other authorized official shall not certify a candidate's nomination or election to, or print or cause to be printed on any ballot the name of a candidate for, one of the following offices if, at the end of the current term of that office, the candidate will have served in that office or had he not resigned or been recalled would have served in that office:

(a) 8 or more years in any 16-year period as governor, lieutenant governor, secretary of state, state auditor, attorney general, or superintendent of public instruction;

(b) 8 12 or more years in any ~~16-year~~ 24-year period as a state representative;

(c) 8 12 or more years in any ~~16-year~~ 24-year period as a state senator;

(d) 6 or more years in any 12-year period as a member of the U.S. house of representatives; and

(e) 12 or more years in any 24-year period as a member of the U.S. senate.

(2) When computing time served for purposes of subsection (1), the provisions of subsection (1) do not apply to time served in terms that end during or prior to January 1993.

(3) Nothing contained herein shall preclude an otherwise qualified candidate from being certified as nominated or elected by virtue of write-in votes cast for said candidate."

**Section 2. Effective date.** This amendment is effective on approval by the electorate.

**Section 3. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

FOR extending term limits for legislators to 12 years in a 24-year period.

AGAINST extending term limits for legislators to 12 years in a 24-year period.

## **THE COMPLETE TEXT OF CONSTITUTIONAL INITIATIVE NO. 96 (CI-96)**

NEW SECTION. **Section 1.** Article XIII of The Constitution of the State of Montana is amended by adding a new section 7 that reads:

**Section 7. Marriage.** Only a marriage between one man and one woman shall be valid or recognized as a marriage in this state.

**Section 2.** Effective Date. This amendment is effective upon approval by the electorate.

## THE COMPLETE TEXT OF INITIATIVE NO. 147 (I-147)

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

Section 1. Section 82-4-390, MCA, is amended to read:

82-4-390. Cyanide heap and vat leach open-pit gold and silver mining ~~prohibited~~ restricted. (1) Open-pit mining for gold or silver using heap leaching or vat leaching with cyanide ore-processing reagents is prohibited except as described in ~~subsection (2)~~ this section.

(2) An application for a permit or permit amendment for a mine described in subsection (1) must comply with the requirements of subsections (3) through (9), and other applicable provisions of this part.

(3) Tailings impoundments, leach pads, ponds, and related processing components that use cyanide ore-processing reagents must be designed to fully contain all processing fluids, including all accumulations resulting from a 24-hour storm event with a 100-year recurrence interval, and must have a primary synthetic liner, a secondary liner, and a system for the detection of leaks. There must be a contingency system for the recovery of fluids if a leak occurs.

(4) A vat, tank, or other container that contains cyanide ore-processing reagents must have a secondary containment system with a volume equal to 125% of the volume of the largest vat, tank, or other container.

(5) The department may impose additional containment requirements based on proximity to surface water and ground water.

(6) Contingency plans for managing process flows in excess of the design quantity must be described in an operating permit under subsection (2).

(7) An operating permit under subsection (2) must include a program for monitoring the quality of any surface water or ground water that may be affected by the mine operations. The type, number, and location of the places at which monitoring will occur must be approved by the department. In determining the location of places at which monitoring will occur, consideration must be given to the geology and hydrogeology of the area in which the mine is located.

(8) A permit under subsection (2) must be conditioned upon the applicant's compliance with all applicable air quality and water quality provisions of Title 75, Chapters 2 and 5, and this part, as determined by the department, and all other applicable state and federal statutes and administrative rules.

(9) A permit under subsection (2) may not be issued until the applicant has given sufficient reclamation financial assurance to the department under 82-4-338.

(10) A mine described in ~~this section~~ subsection (1) operating on November 3, 1998, may continue operating under its existing operating permit or any amended permit that is necessary for the continued operation of the mine.

NEW SECTION. Section 2. Restoration of lost contractual interests and rights. A person whose contractual interest or right in a mineral estate was diminished or lost as a consequence of the enactment of the law codified as 82-4-390(1) is restored to the same legal rights, privileges, and obligations related to such interest or right, as the person had on November 3, 1998, the date of enactment of 82-4-390(1).

NEW SECTION. Section 3. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 4. Immediate effective date. This act is effective upon approval by the electorate.

## THE COMPLETE TEXT OF INITIATIVE NO. 148 (I-148)

**NEW SECTION, Section 1. Short title.** [Sections 1 through 9] may be cited as the "Medical Marijuana Act".

**NEW SECTION, Section 2. Definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) "Debilitating medical condition" means:

(a) cancer, glaucoma, or positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;

(b) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:

(i) cachexia or wasting syndrome;

(ii) severe or chronic pain;

(iii) severe nausea;

(iv) seizures, including but not limited to seizures caused by epilepsy; or

(v) severe or persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis or Crohn's disease; or

(c) any other medical condition or treatment for a medical condition adopted by the department by rule.

(2) "Department" means the department of public health and human services.

(3) "Marijuana" has the meaning provided in 50-32-101.

(4) "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate the symptoms or effects of a qualifying patient's debilitating medical condition.

(5) "Physician" means a person who is licensed under Title 37, chapter 3.

(6) (a) "Caregiver" means an individual, 18 years of age or older who has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marijuana. A qualifying patient may have only one caregiver at any one time.

(b) The term does not include the qualifying patient's physician.

(7) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(8) "Registry identification card" means a document issued by the department that identifies a person as a qualifying patient or caregiver.

(9) (a) "Usable marijuana" means the dried leaves and flowers of marijuana and any mixture or preparation of marijuana.

(b) The term does not include the seeds, stalks, and roots of the plant.

(10) "Written certification" means a qualifying patient's medical records or a statement signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient.

**NEW SECTION, Section 3. Procedures -- minors -- confidentiality -- report to legislature.** (1) The department shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of [sections 1 through 9].

(2) Except as provided in subsection (3), the department shall issue a registry identification card to a qualifying patient who submits the following, in accordance with department rules:

(a) written certification that the person is a qualifying patient;

(b) an application or renewal fee;

(c) the name, address, and date of birth of the qualifying patient;

(d) the name, address, and telephone number of the qualifying patient's physician; and

(e) the name, address, and date of birth of the qualifying patient's caregiver, if any.

(3) The department shall issue a registry identification card to a minor if the materials required under

subsection (2) are submitted and the custodial parent or legal guardian with responsibility for health care decisions for the minor signs and submits a written statement that:

(a) the minor's physician has explained to that minor and to the custodial parent or legal guardian with responsibility for health care decisions for the minor the potential risks and benefits of the medical use of marijuana; and

(b) the custodial parent or legal guardian with responsibility for health care decisions for the minor:

(i) consents to the medical use of marijuana by the minor;

(ii) agrees to serve as the minor's caregiver; and

(iii) agrees to control the acquisition of marijuana and the dosage and frequency of the medical use of marijuana by the minor.

(4) The department shall issue a registry identification card to the caregiver who is named in a qualifying patient's approved application if the caregiver signs a statement agreeing to provide marijuana only to qualifying patients who have named the applicant as caregiver. The department may not issue a registry identification card to a proposed caregiver who has previously been convicted of a felony drug offense. A caregiver may receive reasonable compensation for services provided to assist with a qualifying patient's medical use of marijuana.

(5) (a) The department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the application or renewal.

(b) The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the department determines that the information was falsified, or the applicant is not qualified to receive a registry identification card under the provisions of [sections 1 through 9]. Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) The department shall issue a registry identification card within 5 days of approving an application or renewal. Registry identification cards expire 1 year after the date of issuance. Registry identification cards must state:

(a) the name, address, and date of birth of the qualifying patient;

(b) the name, address, and date of birth of the qualifying patient's caregiver, if any;

(c) the date of issuance and expiration date of the registry identification card; and

(d) other information that the department may specify by rule.

(7) A person who has been issued a registry identification card shall notify the department of any change in the qualifying patient's name, address, physician, or caregiver or change in status of the qualifying patient's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

(9) The department shall report annually to the legislature the number of applications for registry identification cards, the number of qualifying patients and caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registry identification cards revoked, and the number of physicians providing written certification for qualifying patients. The department may not provide any identifying information of qualifying patients, caregivers, or physicians.

**NEW SECTION. Section 4. Medical use of marijuana -- legal protections -- limits on amount --**

**presumption of medical use.** (1) A qualifying patient or caregiver who possesses a registry identification card issued pursuant to [section 3] may not be arrested, prosecuted, or penalized in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, for the medical use of marijuana or for assisting in the medical use of marijuana if the qualifying patient or caregiver possesses marijuana not in excess of the amounts allowed in subsection (2).

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under [sections 1 through 9].

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department.

**NEW SECTION. Section 5. Disclosure of confidential information relating to medical use of marijuana - penalty.** (1) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of [section 3].

(2) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

**NEW SECTION. Section 6. Limitations of medical marijuana act.** (1) [Sections 1 through 9] do not permit:

(a) any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) the smoking of marijuana:

(i) in a school bus or other form of public transportation;

(ii) on any school grounds;

(iii) in any correctional facility; or

(iv) at any public park, public beach, public recreation center, or youth center.

(2) Nothing in [sections 1 through 9] may be construed to require:

(a) a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

(b) an employer to accommodate the medical use of marijuana in any workplace.

**NEW SECTION. Section 7. Affirmative defense.** Except as provided in [section 6], it is an affirmative defense to any criminal offense involving marijuana that the person charged with the offense:

(1)(a) has a physician who states that or has medical records that indicate that, in the physician's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the potential benefits of medical marijuana would likely outweigh the health risks for the person; or

- (b) provides marijuana to a person described in subsection (a) if the person does not provide marijuana to anyone for uses that are not medical;
- (2) is engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate the symptoms or effects of the medical condition of the person identified in subsection (1)(a); and
- (3) possesses marijuana only in an amount that is reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of the medical condition of the person identified in subsection (1)(a).

**NEW SECTION. Section 8. Fraudulent representation of medical use of marijuana -- penalty.** (1) A person commits the offense of fraudulent representation of medical use of marijuana if the person knowingly or purposely fabricates or misrepresents a registry identification card to a law enforcement officer.

(2) A person convicted of fraudulent representation of medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

**NEW SECTION. Section 9. Rulemaking -- fees.** The department shall adopt rules necessary for the implementation and administration of [sections 1 through 9]. The rules must address the manner in which the department will consider application for and renewals of registry identification cards for qualifying patients and caregivers. The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 9]. The department may vary the application and renewal fees along a sliding scale that accounts for a qualifying patient's income.

**Section 10.** Section 37-1-136, MCA, is amended to read:

**"37-1-136. Disciplinary authority of boards -- injunctions.** (1) Subject to 37-1-138, each licensing board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

- (a) revocation of a license;
- (b) suspension of its judgment of revocation on terms and conditions determined by the board;
- (c) suspension of the right to practice for a period not exceeding 1 year;
- (d) placing a licensee on probation;
- (e) reprimand or censure of a licensee; or
- (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by a board shall be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from engaging in the practice of the occupation or profession regulated by the board until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

(4) An action may not be taken against a person who is in compliance with [sections 1 through 9]."

**Section 11.** Section 45-9-101, MCA, is amended to read:

**"45-9-101. Criminal distribution of dangerous drugs.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for criminal distribution of such a drug shall be imprisoned in the state prison for a term of not less than 10 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned

in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than life or be fined an amount of not more than \$50,000, or both.

(5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 12.** Section 45-9-102, MCA, is amended to read:

**"45-9-102. Criminal possession of dangerous drugs.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or by both.

(3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or both.

(4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(5) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (2), (3), or (4) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.

(6) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(7) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 13.** Section 45-9-103, MCA, is amended to read:

**"45-9-103. Criminal possession with intent to distribute.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

(2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal possession with intent to distribute not otherwise provided for in subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 14.** Section 45-9-110, MCA, is amended to read:

**"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of criminal production or manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure. A person convicted under this subsection who has a prior conviction that has become final for criminal production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

(5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 15.** Section 45-9-127, MCA, is amended to read:

**"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of carrying dangerous drugs on a train in this state if ~~he~~ the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102."

**Section 16.** Section 45-10-107, MCA, is amended to read:

**"45-10-107. Exemptions.** Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice and persons in compliance with [sections 1 through 9] are exempt from this part."

**NEW SECTION. Section 17. Codification instruction.** Sections 1 through 9 are intended to be codified as an integral part of Title 50, and the provisions of Title 50 apply to sections 1 through 9.

**NEW SECTION. Section 18. Severability.** If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 19. Effective date.** This act is effective upon approval by the electorate.

## THE COMPLETE TEXT OF INITIATIVE NO. 149 (I-149)

### PREAMBLE

**WHEREAS**, tobacco related disease is the single most preventable cause of death in Montana.

**WHEREAS**, tobacco related disease kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.

**WHEREAS**, 1,400 Montanans die each year from their addiction to smoking.

**WHEREAS**, smokeless tobacco use can lead to oral cancer, gum disease, and nicotine addiction; and increases the risk of cardiovascular disease, including heart attacks.

**WHEREAS**, over 18% of Montana high school students use spit tobacco, more than double the national average of 7.8 %.

**WHEREAS**, 17,100 Montana children, now under 18, will ultimately die prematurely from smoking.

**WHEREAS**, Montanans spend \$216 million annually on health care costs in Montana directly caused by smoking.

**WHEREAS**, studies have also found that adolescents and young adults are 2 to 3 times more likely to quit than adults due to tobacco price increases.

**WHEREAS**, significant tax increases on all tobacco products will reduce consumption, prevent kids from becoming addicted, and increase quitting success for all Montanans.

**WHEREAS**, Montana loses federal matching dollars every year by under funding Medicaid.

**WHEREAS**, 173,000 Montanans, including 41,500 children, lack health care coverage.

**WHEREAS**, 56% of uninsured Montanans are self-employed or work for small businesses with 10 or fewer employees; and 60% of small businesses cannot afford to offer health benefits.

**WHEREAS**, prescription drug costs are increasing 10% per year and are not affordable for many families, seniors or people with disabilities.

**NOW THEREFORE, BE IT RESOLVED BY THE PEOPLE OF THE STATE OF MONTANA:** That we raise the tax on cigarettes by \$1.00 per pack (from 70 cents to \$1.70 per pack) and increase the tax on smokeless tobacco by a proportional amount and dedicate use of those tax funds for health care needs.

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

**SECTION 1.** Section 10-2-417, MCA is amended to read:

**“Section 10-2-417. Use of funds generated by taxation on cigarettes.** (1) Revenue generated by 16-11-119 and allocated to the department of public health and human services must be used to support the operation and maintenance of the Montana veterans’ homes programs or for the health and medicaid initiatives specified by [section 7].

(2) The legislature shall appropriate from the account established in 16-11-119 the funds required for the operation and maintenance of the Montana veterans’ homes or required for the health and medicaid initiatives specified by [section 7].”

**SECTION 2.** Section 16-11-111, MCA is amended to read:

**“16-11-111. Cigarette sales tax—exemption for sale to tribal member.**

(1) (a) A tax on the purchase of cigarettes for consumption, use, or any purpose other than resale in the regular course of business is imposed and must be precollected by the wholesaler and paid to the state of Montana. The tax is ~~70 cents~~ \$1.70 on each package containing 20 cigarettes. Whenever packages contain other than 20 cigarettes, there is a tax on each cigarette equal to 1/20 the tax on a package containing 20 cigarettes.

(b) The tax computed under subsection (1)(a) applies to illegally packaged cigarettes under 16-11-307.

(2) The tax imposed in subsection (1) does not apply to quota cigarettes.

(3) Subject to the refund or credit provided in subsection (4), the tax must be precollected on all cigarettes entering a Montana Indian reservation.

(4) Pursuant to the procedure provided in subsection (5), a wholesaler making a sale of cigarettes to a retailer within the boundaries of a Montana Indian reservation may apply to the department for a refund or credit for taxes precollected on cigarettes sold by the retailer to a member of the federally recognized Indian tribe or tribes on whose reservation the sale is made. A wholesaler who does not file a claim within 1 year of the shipment date forfeits the refund or credit.

(5) The distribution of tax-free cigarettes to a tribal member must be implemented through a system of preapproved wholesaler shipments. A licensed Montana wholesaler shall contact the department for approval prior to the shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota, as established in a cooperative agreement between the department and an Indian tribe or as set out in this chapter, has been met. If authorized as a tax-exempt sale, the wholesaler, upon providing proof of order and delivery to a retailer within the boundaries of a Montana Indian reservation selling cigarettes to members of a federally recognized tribe or tribes of that reservation, must be given a refund or credit. Once the quota has been filled, the department shall immediately notify all affected wholesalers that further sales on that reservation must be taxed and that a claim for a refund or credit will not be honored for the remainder of the quota period. Quota allocations are not transferable between quota periods or between reservations.

(6) The total amount of refunds or credits allowed by the department to all wholesalers claiming the refund or credit under subsection (4) for any month may not exceed an amount that is equal to the tax due on the quota allocation. The department shall determine the amount of refunds or credits for each Indian reservation at the beginning of each fiscal year, using the most recent census data available from the bureau of Indian affairs or as provided in a cooperative agreement with the tribe or tribes of the Indian reservation.”

**SECTION 3.** Section 16-11-114, MCA is amended to read:

**“Section 16-11-114. Insignia discount.** Each licensed wholesaler is entitled to purchase an insignia at full face value less the following percentage of the face value upon payment for the insignia as defrayment of the costs of affixing insignia and precollecting the tax on behalf of the state of Montana:

(1) ~~1.66%~~ 0.90% for the first 2,580 cartons or portion of 2,580 cartons purchased in any calendar month;

(2) ~~1.11%~~ 0.60% for the next 2,580 cartons or portion of 2,580 cartons purchased in any calendar month; and

(3) ~~0.83%~~ 0.45% for purchases in excess of 5,160 cartons in any calendar month.”

**SECTION 4.** Section 16-11-119, MCA is amended to read:

**“16-11-119. Disposition of taxes.** (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 15-1-501, be deposited as follows:

- (a) 8.3% or \$2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;
  - (b) ~~4.3%~~ 2.6% in the long-range building program account provided for in 17-7-205; ~~and~~
  - (c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in [section 7]; and
  - ~~(e)~~ (d) the remainder to the state general fund.
- (2) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund.”

**SECTION 5.** Section 16-11-202, MCA is amended to read:

**“16-11-202. Tax on sale of tobacco other than cigarettes – imposed on retail consumer – rate of tax.** (1) All taxes paid pursuant to the provisions of this section are considered to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person, the payment is considered as an advance payment and must be added to the price of tobacco products and recovered from the ultimate consumer or user. A person selling tobacco products at retail shall state or separately display in the premises where the products are sold a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section do not affect the method of collection of the tax as provided in this part.

(2) There must be collected and paid to the state of Montana a tax of ~~25%~~ 50% of the wholesale price, to the wholesaler, of all tobacco products, other than moist snuff. The tax on moist snuff is ~~35~~ 85 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package. Tobacco products shipped from Montana and destined for retail sale and consumption outside the state are not subject to this tax.”

**SECTION 6.** Section 16-11-206, MCA is amended to read:

**“16-11-206. Wholesaler’s discount – disposition of taxes.** (1) The taxes specified in this part that are paid by the wholesaler must be paid to the department in full less a ~~2.5%~~ 1.50% defrayment for the wholesaler’s collection and administrative expense and must, in accordance with the provisions of 15-1-501, be deposited by the department as follows:

- (a) one-half in the state general fund; and
- (b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in [section 7].

(2) Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable.”

**New Section. Section 7. Special Revenue Fund – Health and Medicaid Initiatives.** (1)

There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

- (2) There must be deposited in the account:
  - (a) money from cigarette taxes deposited under 16-11-119(1)(c); and
  - (b) money from taxes on tobacco products other than cigarettes deposited under 16-11-206(1)(b).
- (3) This account shall be used only to provide funding for:
  - (a) the state funds necessary to take full advantage of available federal matching funds in order to maximize enrollment of eligible children under the children’s health insurance program, provided for under Title 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue

in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits or to fund new programs to assist small businesses with the costs of providing health insurance benefits to employees, if these tax credits or programs are established by the legislature after the effective date of this section.

(4) Until the programs or credits described in subsections 3(b) and 3(d) are established, the funding shall be used exclusively for the purposes described in subsections 3(a) and 3(c).

(5) The phrase “trended traditional level of appropriation” as used in subsection 3(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized and payment amount during the past five biennial budgets.

(6) The department of public health and human services may adopt rules to implement this section.

New Section. Section 8. Codification instruction – Section 7 is intended to be codified as part of Title 53, chapter 6 and the provisions of Title 53, chapter 6 apply to [section 7].

New Section. Section 9. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

New Section. Section 10. Effective date. This act is effective January 1, 2005.

New Section. Section 11. Applicability. This act applies to cigarettes and other tobacco products received by wholesalers after December 31, 2004.

# **Ballot Measure Worksheet**

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

## **CONSTITUTIONAL AMENDMENT 40**

- FOR creating a noxious weed management trust fund and restricting its use.
- AGAINST creating a noxious weed management trust fund and restricting its use.

## **CONSTITUTIONAL AMENDMENT 41**

- FOR recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.
- AGAINST recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.

## **CONSTITUTIONAL AMENDMENT 42**

- FOR extending term limits for legislators to 12 years in a 24-year period.
- AGAINST extending term limits for legislators to 12 years in a 24-year period.

## **CONSTITUTIONAL INITIATIVE 96**

- FOR amending the Montana Constitution to provide that only a marriage between a man and a woman may be valid or recognized as a marriage.
- AGAINST amending the Montana Constitution to provide that only a marriage between a man and a woman may be valid or recognized as a marriage.

## **INITIATIVE 147**

- FOR amending Montana law to allow cyanide leach processing at open-pit gold and silver mines, subject to state environmental regulation.
- AGAINST amending Montana law to allow cyanide leach processing at open-pit gold and silver mines, subject to state environmental regulation.

## **INITIATIVE 148**

- FOR allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.
- AGAINST allowing the limited use of marijuana, under medical supervision, by patients with debilitating medical conditions to alleviate the symptoms of their conditions.

## **INITIATIVE 149**

- FOR increasing tobacco taxes and changing the use of tobacco tax revenues to include specific health insurance and Medicaid programs.
- AGAINST increasing tobacco taxes and changing the use of tobacco tax revenues to include specific health insurance and Medicaid programs.

## ***Key Election Dates***

**November 1:** Last day voters may submit a written request for an absentee ballot to their county election official. The county election office must receive the request by noon.

**November 2:** GENERAL ELECTION. ***Remember to bring your ID.*** Polls are open from 7 a.m. to 8 p.m. in most localities. Precincts of 200 or fewer voters may open their polling places at noon. Check your local media or county election office (page 4 of this booklet) for the polling times and places in your area.

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

Voters who suffer an illness or health emergency on Election Day or in the days immediately preceding it may request an absentee ballot until noon on November 2.

**November 22:** Deadline by which official statewide canvass of votes must be completed by the Secretary of State's Office.

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**COUNTY ELECTION ADMINISTRATOR**  
**County Courthouse**