Homestead Relief Act: Implications for state budgeting.

William Charles Barlet

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THE HOMESTEAD RELIEF ACT:
IMPLIEDATIONS FOR STATE BUDGETING

By

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PREFACE

On April 18th, 1977, the Montana Senate approved funding for the Homestead Relief Act. Approval ensured the operation of the property tax relief proposal for at least one year of the 1977-79 biennium. The events which preceded the vote spanned a four year period and encompassed a wide array of participants, including the electorate of Montana.

The history of the Homestead Relief Act represents salient issues for the state of Montana's fiscal process. This professional paper is a case analysis of those events and examines possible implications for the state's budgetary process and the political futures of participants.

This paper grew out of independent study which examined the paths of the Homestead Relief Act and the Property Tax Replacement Act through the 1977 Montana legislative session and the state's budgetary process.
CHAPTER I

CASE STUDY:
THE HOMESTEAD PROPERTY TAX RELIEF ACT
AND THE STATE BUDGETARY PROCESS

On January 5, 1977, in accordance with Article 6, Section 9 of the Constitution of Montana, Governor Thomas L. Judge transmitted to the 45th legislative assembly the 1977-79 biennial executive budget recommendations for state government. The governor unveiled what he termed "a taxpayer's budget, pared to a bare minimum, yet adequately addressing the problems facing Montana during the upcoming biennium."^2

The proposed executive budget called for record expenditures of $1.9 billion of state and federal funds in the 1977-79 biennium. The governor advised members of the legislature that the proposed all-funds biennium budget of $1.87 billion would be 15 percent larger than the 1975-77 budget of $1.63 billion without being inflationary. Governor Judge estimated that federal funds would provide about $500 million of the 1977-79 budget, or slightly more than one-fourth of the governmental expenditures he wanted the legislators to approve. Judge said his budget, if accepted, would halt the growth of state government and actually reduce the number of state employees, while necessitating no personal tax increases in the two years of the biennium. The general-fund portion of the executive budget--the anticipated cash revenue which the legislature must officially allocate, in accordance with

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Section 79-415, Revised Codes of Montana, 1947\(^3\)--amounted to $448.6 million. Thus, the executive budget proposed a 26 percent increase in the general-fund portion. The governor attributed the increase to the direct allocation of general-fund monies for the property tax relief initiative approved by the Montana electorate in the November 2, 1976 general election, and for the elimination of the statewide permissive levy for public schools. The executive stated that, excluding those two direct allocations, the general-fund operating budget for the new biennium would be only 12 percent higher than for the 1975-77 biennium. The governor concluded that the proposed executive budget provided $61.4 million in direct property tax relief.\(^4\)

Thomas Judge had emphasized the need for property tax relief in his successful campaign for a second term as Montana's governor, and the Homestead Relief Act became almost a running mate for the governor during the campaign. On the eve of the 45th session, the governor termed the Homestead Relief Act, and the plan to fund it with a general fund surplus, an expression of the people's desire for property tax relief. The "State Funded Homestead Tax Relief Act", Initiative 72, had been backed by a decisive popular vote the November before. The initiative carried every Montana county; 71 percent of qualified electors voting indicated their approval and 204,532 persons favored the proposal. Governor Judge contended that no longer could the Homestead Relief Act be called his proposal, since the measure had received that 71 percent plurality. He insisted that the message embodied in the results of the
election must be interpreted as a mandate from the people, and he directed the legislature on the eve of the session to consider that popular expression.

Montana's concern with the revision of the property tax certainly has been shared by all of the fifty states. According to the Advisory Commission on Intergovernmental Relations, as of 1975 all states had some type of property tax relief program--either a state-mandated reduction in valuation for special groups or state authorized but locally financed programs. And in 1976, 16 states raised their existing property tax relief programs by either expanding or liberalizing reductions in payments or exemptions from the property tax. Montana, through Initiative 72, represented one of the 16 states undertaking steps to reduce the property tax burden. Although Montana is but one of many states concerned with the problems of the property tax, Montana is unique, according to the Montana Department of Revenue Legal Division, in the use of direct, citizen-initiated property tax legislation. The fact that many states in 1976 did not have a general-fund surplus comparable to Montana's accents the state's enviable position. Yet Montana is certainly not the only state to accumulate a general-fund surplus, and obviously not the only state to engage in property tax relief measures. Montana does stand alone in proposing property tax relief through direct, citizen-voted relief, using a general-fund surplus as the source of the rebate. The fact that the state pursued such unique means to provide property tax relief, when many other alternatives
are available, caused considerable controversy throughout the 45th legislative session.

As the 45th Montana Legislature began deliberations, the governor spelled out what he wanted in terms of property tax relief legislation in his State of the State address. He pointed out that although Montana ranked 40th among the 50 states in all taxes collected per capita, the state ranked 6th in property taxes levied per capita. Judge said state government only receives less than 5 percent of property tax revenues, but it is the state's responsibility to insure that ability to pay is maintained as the prevailing principle of equitable taxation among all political jurisdictions within its boundaries. The governor contended that the property tax conflicted with that principle. He maintained in his State of the State address that if the legislature accepted his proposed budget, including $31.8 million to eliminate the statewide permissive levy for public schools, with over half that amount coming from the state's federal revenue-sharing funds, there would be no statewide property taxes for support of public schools in Montana during the two years of the biennium. The governor then called upon the legislature to appropriate $3.5 million from state income tax surcharge revenues for sharing with local governments which might be hurt by property tax limitations. This property tax relief plan had constituted Thomas Judge's number one campaign pledge, and he offered the Homestead Relief Act as the beginning of permanent property tax relief in Montana (adding that every biennial legislature would have to continue to provide
funding to keep the program going). The governor stated that this means of relief would begin to redress the imbalance facing residential property owners who have been held disproportionately responsible for support of Montana school systems and local governments.

Therefore, the 1977 Montana Legislature opened with property tax revision as one of the key points on its agenda. To proponents of the Homestead Relief Act, the measure's impressive victory at the polls meant that the 45th Legislature was obligated to appropriate the needed funds. However, the governor's contention that the Homestead Relief Act's funding should be in the "legislative bag" because the people had registered their approval of the measure created legislative waves.

Thomas Judge had previously backed two property tax relief measures in the legislature; SB 312 in 1974, and SB 11 in 1975. The Montana Senate rejected both, with SB 312 going down by a roll call vote of 36-5 and SB 11 losing 48-0. In the fall of 1976, the governor made the decision to conduct an initiative campaign (under provisions of Article 3, Section 4 of the Montana constitution). Governor Judge directed the formation of the initiative committee, the Citizens For Property Tax Relief, and on January 2, 1976, the campaign began to secure the 15,938 signatures of registered voters needed on petitions proposing statutory changes in Montana. Although Governor Judge did not participate directly in the initiative campaign in an official capacity, he informally coordinated the committee's efforts to secure citizen support. The campaign produced 16,251 signatures by the deadline date, three months
before the date of the election, and Initiative 72 officially became part of the November 2nd ballot.12

The ballot submitted to the qualified electors of Montana included title and text of the initiative, with the following words:

For reduction of owner's property tax liability on owner-occupied residential property.

Against reduction of owner's property tax liability on owner-occupied residential property.13

Voters approved the initiative and the State Funded Homestead Tax Relief Act became law. However, the initiative did not, by itself, reduce property taxes on each owner-occupied home. Initiative 72 did not place an affirmative duty on the legislature to fund the proposal. Since Article 3, Section 4 of the Montana constitution specifies that the people may not enact laws by initiative for appropriations of money,14 and Article 9, Section 14 specifies only the legislature may appropriate moneys,15 the Homestead Relief Act merely provided that "to the extent funds are provided by the legislature" property tax relief would be forthcoming. In effect, this meant that should the legislature have refused to appropriate funds for this purpose, neither the governor nor state taxpayers would have had any legal recourse to obtain state funds.

Although they had no legal recourse, supporters of the initiative could pursue avenues of political recourse. To avoid the legislature's refusal to fund the measure, proponents brought numerous pressures to bear upon legislators balking at the proposal or entertaining hopes for alternative measures. Governor Thomas Judge, an aggressive defender of the relief proposal, served as a catalyst for those pressures.
The state constitution provides the governor of Montana with a powerful executive policy tool with which to participate in the budgetary process. The executive budget (Art. 6, Sec. 9) and the item veto (Art. 6, Sec. 10) constitute that powerful policy instrument. The governor of Montana is required to submit with an explanatory message an itemized budget of recommended state expenditures and estimated revenues. The governor is empowered to obtain information from state agencies, employees, and officers. The executive is permitted to reduce one or more items of appropriation, while approving other portions of the bill. An extraordinary majority of two-thirds of the membership of the legislature is required to override the item veto.¹⁶

Thus, the governor of Montana is provided with planning and control devices analogous to those of the President of the United States, and the governor is further endowed with the nearly invincible "blue pencil" to veto specific budget items. Through the Office of Budget and Program Planning, the governor receives, reviews, and amalgamates the budget which is presented as the governor's own. The legislature is free to amend and revise the governor's requests, but the item veto discourages significant legislative initiative in this respect. In the past, attempts to override the governor's item veto have been infrequent owing to difficulties in securing the needed two-thirds support. Thus, the executive budget and the item veto give the Montana governor considerable financial initiative in the state's fiscal process.
Therefore, the Homestead Relief Act assumed the unique position of: (1) being supported by the governor who possessed the financial initiative cited above; and (2) having garnered a 71 percent plurality in the state-wide election. And although only the legislature is constitutionally charged with the power of appropriation, these two points would prove to be irresistible forces given the way in which the governor used the two-pronged attack to secure needed funding. The governor's aggressive support, coupled with the successful initiative campaign, provided the needed momentum for legislative funding; yet the nature of the governor's actions in supporting the measure and pressuring legislators to do the same engendered adverse reactions. Substantive criticisms became fortified with that political backlash.

The substantive criticisms began when the legislature's chief fiscal analyst stated that the governor's 1977-79 budget would not provide any overall net property tax relief. The fiscal analyst made his property tax observations in an analysis of the executive budget, in accordance with section 43-1-1114, Revised Codes of Montana, 1947. The analysis represented the first comprehensive review of an executive budget in Montana. In 1975, the legislature established the fiscal analyst's position as a means to provide a review of the executive budget. Legislators believed an independent analysis would allow the legislature to examine a range of fiscal policy options that previously had not been available. The legislature initiated the review process not as a means to criticize the recommendations of the executive, but as a means to "present alternative recommendations when meaningful alternatives are clearly available." The role of the fiscal analyst
quite often could be an irritant to the governor.

The analysis of Governor Judge's proposals by the analyst provided the legislature with alternative interpretations concerning the state's role in property tax relief. The analysis of the governor's tax relief plan began:

The executive budget purports to contain $61.4 million in direct property tax relief over the biennium. We believe there is no net property tax relief in the budget.¹⁹

The fiscal analyst argued that the governor's proposed state aid to public schools would be so low that property taxes which support local schools would have to be raised by $30 million statewide. The fiscal analyst contended that that figure would almost exactly offset the $29.6 million the governor had included for the reduction of statewide property taxes on owner-occupied homes. He recommended that the legislature increase state public school support by $30 million above what the governor had recommended, adding that only then would the $29.6 million Homestead Relief Act that the governor supported and the Montana voters had approved be real tax relief. The fiscal analyst said his own recommended level of state public school support would allow total school spending to increase about 7.25 percent annually, while holding taxes on existing real property constant. The governor contended that his proposal would allow a 6 percent increase in total public school spending. The fiscal analyst maintained that the cost increases assumed in the executive calculation would entail increasing the average voted school property tax levy 10 mills by the end of the
biennium, and that the governor's budget staff overestimated the availability of other revenue which could be used for schools.20

The director of the Office of Budget and Program Planning, who is in charge of preparing the governor's proposed budget, answered the fiscal analyst by contending the executive budget did, in fact, contain the $61.4 million in direct property tax relief. The director maintained that the fiscal analyst had mistakenly calculated that school budgets would grow by 7.25 percent annually, since the analyst had not taken into account what the director said would be a decline in enrollment during the biennium. The director also called the fiscal analyst's 7.25 percent figure "inflationary," noting that Congress had projected an inflation rate of only 4.8 percent and the Consumer Price Index had been projected to rise only 5.5 percent in 1977.21

As legislators sifted through the conflicting analyses and conducted their own, the chief fiscal analyst offered more food for thought when he contended that the Homestead Relief proposal would actually cost $34.5 million instead of the $29.6 million the governor had budgeted. The executive assistant to the governor attributed the differences in the estimations of the cost of property tax relief to a difference in underlying assumptions. The chief fiscal analyst attributed the differences in figures to the fact that he had used a larger number of owner-occupied residences in his calculations. He said the executive estimate used 23,000 fewer single-family residences in their calculations for 1977 than had been reported in the 1970 census.22 The
executive assistant did not directly challenge the analyst's figures, but said that if the legislature funded the tax cut at $29.6 million and if there should be more eventual beneficiaries than the governor's data suggested, each homeowner would simply receive a smaller reduction in his property tax bill. The governor had repeatedly predicted throughout the Initiative 72 campaign that the tax cuts would average about $100 to $110 per household.

Thus the legislature had been presented with different figures by their own fiscal analyst and by the director of the governor's Office of Budget and Program Planning. As lawmakers formed their opinions concerning alternative uses of state funds, other areas of substantive opposition began to surface. One major problem of the relief plan recognized by proponents and criticized by opponents concerned the lack of tax relief provided by the measure for renters or others who do not own the homes they occupy--a number estimated by opponents of the measure as comprising one-third of Montana's population. To address that specific criticism of the plan, supporters promised that renters would not be overlooked in the relief. In a pamphlet provided by the Secretary of State's office, Voter Information for Proposed Constitutional Amendments, Referendums, and Initiatives, which included voter information for the November 2, 1976 election, the Citizens for Property Tax Relief promised that renters would be aided. The rebuttal to the argument advocating rejection of the measure stated: "...legislation to provide relief to renters is being prepared for introduction in the
45th legislative assembly and would, if enacted, become effective at the same time as Initiative 72. However, except for the Property Tax Replacement Act, which the governor opposed and is discussed below, no one introduced legislation during the 45th legislative assembly to provide property tax relief to renters. Nevertheless, the press quoted the governor following the session as saying he had gotten everything he wanted in the session; he made no mention of renters.

The Property Tax Replacement Act constituted an alternative plan designed to deal with the property tax burden. This plan embodied an innovative and sweeping revision of the state's property tax system. If enacted, it would have been the first of its kind of tax reform in the nation. The plan, designed to eliminate the direct property tax on owner-occupied homes in favor of a new tax on gross income, had been introduced four previous times in the legislature. The plan met with stiff opposition from the governor. In the State of the State address, the governor said he "did not consider...an experimental gross income tax to be consistent with equity and fairness in taxation." This early criticism of the Property Tax Replacement Act served as an indication of the governor's strategy for the 45th session in dealing with appropriation items or items of legislation which were in opposition to his executive proposals.

Arguments concerning administrative costs and contentions that the Homestead Relief Act represented only a one-shot relief plan also
surfaced during the session. The latter objection stemmed from the view that the plan reflected a piecemeal effort at reform, and that a one-shot gratuity did not comprise an equitable form of property tax relief. The contention that the plan provided no on-going relief and that it would become an impotent measure without a large general-fund surplus engendered considerable legislative opposition to the Homestead Relief Act.

The argument that Montana badly needed a rational, coherent system of property tax reform prompted examination of alternative methods and the legislature subjected the Homestead Relief Act to detailed scrutiny. The governor labeled substantive opposition as a failure by the legislature to respond to the desires of the Montana people. The governor seemed bewildered by the gale of opposition blowing in from all points of the political compass against the relief plan. The opposition ranged from fiscal conservatives who did not want to spend the general-fund surplus to fiscal liberals who wanted to use the surplus for alternative expenditures. Another group believed that the concept of citizens voting their own tax relief could lend to chaos and insolvency in government by circumventing the appropriation process.

To deal with this unorganized array of opposition, the governor resumed his high-profile strategy and countered with the strengths inherent in his executive role. The governor, as is his constitutional
prerogative (Article 6, Section 9 of the Montana Constitution), issued a mid-session budget message to the legislature. In the message, the governor brandished his veto power. He stated that he would not tolerate any legislative tinkering with his Homeowner's Property Tax Relief Act, nor would he allow a deficit budget. The governor addressed the legislature:

Politics is the art of compromise...however, this governor will not compromise the state of Montana into a general-fund deficit, or repudiate the overwhelming mandate of the electorate for property tax relief.30

The governor cautioned the legislature that he would veto any spending measure that would reduce money available for the property tax measure, any attempt to repeal it, and any increase of more than 6.3 percent in the state foundation program for support of public schools. Governor Judge closed his mid-session budget message with the warning:

I continue to maintain full confidence in Montana's ability to provide adequate service levels for citizens, to provide full funding of the property tax relief law enacted by the people, and to maintain a $12.5 million surplus as a cushion against unforeseen fluctuations in the economy. I will, as I have indicated in the State of the State message and this letter, resist with the full constitutional power of this office, legislative actions which counteract attainment of those goals.31

As legislators digested the executive's message, the governor scheduled visits around the state to discuss the Homestead Relief Act and its progress through the session. These visits prompted charges from some sectors that the trips constituted political junkets. The
governor repeatedly said throughout the state: "...I am amazed and shocked that there are legislators who are reluctant to support the measure after it was carried by an absolute overwhelming margin by the people." 32

Therefore, as the session progressed, the governor again made it clear to the legislature and Montana citizens that he expected the plan to be funded—and funded intact. The governor promised to use his constitutional prerogatives should his executive proposals be endangered by revision or alternative spending. And he continued to make it known to the legislature that any attempt to revise or deny funding would be interpreted as a blatant disregard of the people's wishes. The governor, in effect, admonished legislators that failure to fund the Homestead Relief Act would be tantamount to snubbing the democratic initiative process, and that he, in his role as executive, would be pointing out that fact to each and every Montana voter.

At one point during the session, the governor advised legislators that they should increase state income taxes if state revenues would not be sufficient to fund his tax plan. The governor commented to the press that if the money would not be available from any other source, he would support an income tax increase because he believed that Montanans would prefer an income tax increase if they could realize some property tax relief. 33 Governor Judge made this comment after being advised by a group of legislators that the large number of revenue bills that had been filed during the session and the governor's
own fiscal projections for the public school funding program jeopardized the funding of the Homestead Relief Act. Legislators believed that the public would tend to view an income tax increase as the responsibility of the legislature, while property tax relief would be credited to the governor. Thus, the alternatives available to legislators appeared to be: (1) sacrifice their own bill preferences and fund the Homestead Relief Act; (2) fund their pet bills and the Homestead Relief Act, thereby necessitating more state revenue, probably in the form of increased income taxes; or, (3) refuse to fund the Homestead Relief Act.

As the Homestead Relief Act continued to draw flak for substantive reasons, the alternatives available to legislators created no shortage of political skirmishes. As the deadline for transmittal of the bill from the House to the Senate approached, both Republican and Democratic legislators leveled charges at the governor. Legislators accused the governor of attempting to enter the legislative branch through the "back door" with the Homestead Relief Act and forcing the lawmakers into a political corner on the issue. 34

As the transmittal deadline drew closer, House Democrats, who held a 57-43 majority, continued to be strongly split over the Homestead Relief Act. On April 6, a straight party-line vote in the House forced a delay on the relief plan vote. The intent of the delay was to give House Democrats time to work out their differences over the measure in the privacy of the caucus. Opposition among Democrats ranged along the lines of criticisms discussed above. Yet the legislators could not
ignore the governor's pressure nor the fact that the plan had been backed by over 200,000 Montanans. Republicans, on the other hand, argued that the governor's proposal be considered as quickly as possible and, some said, killed if possible. Yet it seemed doubtful that House Republicans would hold the line against funding the measure; a majority of their constituents had probably voted for the measure, since the initiative carried every county in the state. Some Republican legislators weighed the thought of embarrassing the Democratic governor by joining Democratic dissidents.

Despite substantive opposition and frustration emanating from the governor's aggressive tactics, the Democratic majority in the Montana House of Representatives reversed its position on the Homestead Relief Act on April 8. With the Democrats muting their opposition, and with Republican help, the Homestead Relief Act received funding for at least the first year of the 1977-79 biennium. The measure cleared the House on a vote of 71-29. Democratic floor leaders secured support by exerting pressure and proposing an amendment to the funding measure. The House amended the funding measure, HB 838, on the floor to insure that tax relief for a second year would not drain the general-fund below $6 million. The amendment also stipulated that the plan not operate for the 1978 tax year if the general-fund falls below $15 million.

The House sent both the Homestead Relief Act and the Property Tax Replacement Act (HB 3) to the Senate for deliberation, but the replacement plan met with opposition in the smaller body. During the
Senate Taxation Committee' hearing on HB 3, proponents of the Property Tax Replacement Act leveled charges at the executive branch for violations of the separation of powers doctrine (Article 3, Section 1 of the Montana Constitution). The charges stemmed from the belief that the governor had sent individuals from the executive branch to represent his opinions at the committee's hearing. Supporters of the tax replacement plan also contended that these representatives violated another law because they had not registered as lobbyists in accordance with Section 43-803 of the Revised Codes of Montana, 1947. The objections concerned the testimony of five members of the Montana Department of Revenue at the April 7 hearing. Proponents of the Property Tax Replacement Act contended that the governor had "badgered" them in order to defeat the tax replacement measure and secure funding for the Homestead Relief Act. The committee chairman's ruling that the committee had issued an invitation to department spokesmen erased any question of illegality concerning their testimony. Yet the author of the Property Tax Replacement Act commented on record that he had never seen a bill so lobbied by a governor.

Although nothing illegal did in fact occur, the opposition to HB 3 by the Department of Revenue consisted of well organized presentations and comprehensive coverage. The department's incoming director acknowledged that the testimony represented unique participation by the department:
It is our normal custom to testify in an informal manner and as succinctly as possible, for the purpose of conserving your time. Because of the complexities and far reaching implications of this bill, we are with the Chair's indulgence, altering our usual format.

In any event, the Revenue Department's testimony did not cause HB 3 to be defeated in the powerful Senate Taxation Committee. It passed by a 6-4 vote. The measure had earlier passed the House by an overwhelming 67-28 bipartisan vote despite the governor's repeated warnings that he would veto the measure should it be approved. The Property Tax Replacement Act eventually went down to defeat in the Senate by a vote of 29-18.

The Montana Senate approved funding for the Homestead Relief Act on April 18 by a vote of 35-15. Immediately following the vote, Governor Judge commented:

Great news...it has been a long battle--four years of work on our part. It's a great victory for the more than 200,000 Montanans who voted for it.

Opponents felt voters had been duped into voting for illusory tax relief by a governor with further political ambitions. Similarly, they felt that the governor acted in a fiscally irresponsible manner because of his use of the initiative campaign. Some termed the plan a political gimmick to assure Thomas Judge's re-election to Montana's highest office and contended that the overwhelming success of Initiative 72 stemmed from the nature and timing of the "selling" campaign waged by proponents. Opponents viewed the governor's use of the initiative and public opinion as overstepping the boundaries between the executive and legislative branches of Montana state government. They said the
presence of the initiative on the 1976 ballot declared, in effect: "We have a $50 million surplus up here in Helena, wouldn't you like to have some of it?" Opponents maintained that no voter would turn down an enticing deal like that; even renters would not turn it down, since they had been promised accompanying relief legislation.

Those who supported the Homestead Relief Act termed the victory a success for Montana and the beginning of real property tax relief. Supporters perceived every attempt to defeat the measure as a legislative slap-in-the-face to the citizens who voted yes on Initiative 72. But some legislators who voted for the act felt backed into a corner fiscally and politically.

In the end, however, the Homestead Relief Act passed both houses of the Montana legislature by greater than a two to one margin. Initiative 72, which had not constitutionally required the 45th legislature to appropriate funds, had been in the legislative bag after all. The electorate of Montana now had the tax relief they voted for, and the governor had received everything he wanted in the 1977-79 biennium budget.
Footnotes

5. Advisory Commission on Intergovernmental Relations, State Actions in 1975, p. 32.
7. Ibid., p. 25.
9. Montana. Legislature. Senate. A bill for an act entitled: "An act to provide an exemption from taxation of all resident homesteads, and to enable political subdivisions to further exempt from taxation the resident homesteads of persons sixty-five years of age and older." SB 1-1, 44th Legislature, 1975.
11. Information concerning Governor Judge's participation in the initiative campaign obtained in a telephone conversation with Emily Melton, Deputy Campaign Treasurer for the Citizens For Property Tax Relief.
12. This figure provided by the office of the Montana Secretary of State.

19. Ibid., p. 3.

20. Ibid., pp. 1-4.


24. Ibid., p. 25.


31. Ibid.


34. Great Falls Tribune. 1 April 1977. p. 4.


36. Ibid.


40. Ibid.

CHAPTER II

CASE ANALYSIS

Introduction

The events leading to the funding of the Homestead Relief Act serve as an example of the complexities of the state budgetary process. Moreover, areas of controversy and concern remain with regard to the effects that those events will have on future state budgetary processes. The history of the Homestead Relief Act assumes added importance when viewed as events which could reoccur. For this reason, it appears useful to examine those events.

It is obvious that proposed legislation lives or dies upon the support that sponsors are able to muster. Similarly, it is apparent that the odds are weighted towards legislation supported by those who are in a position to exert influence upon other participants in the process. Along these lines, the world of budgeting has been described as a drama, populated by a wide and diverse variety of actors socialized into roles and utilizing those roles as calculating devices to simplify their budgetary decision-making processes. This view has been articulated further in that the roles fit in with one another and set up a pattern of mutual expectations among the participants. This concept of roles and expectations in the budgetary process is applicable in the case of the Homestead Relief Act, as there were conflicting interpretations of what constituted legitimate
behavior. The fact that citizen input became directly involved through Initiative 72 prompted some members of the legislature to perceive that an unexpected role had been incorrectly and unfortunately interjected into the budgetary process. To these members of the 45th legislature, the initiative represented pressure from outside the customary budgetary process.

The use of the initiative involved a hybrid form of democracy, composed of representative democracy and direct democracy. There are obvious contradictions in the two. The Homestead Relief Act drew attention to these inherent contradictions and how they affected the state budgetary process. In the succeeding pages, the use of the hybrid democratic system is analyzed, along with its implications for the state budgetary process. The roles of the actors in the 1977-79 biennial budgetary process, and the actors' interpretations of those roles as affected by the hybrid democratic system, are also examined. Constitutionally prescribed roles are examined in the context of the political pressures that emanated from the passage of Initiative 72.

The following analysis addresses the impact which the hybrid form of democracy may have upon the state budgetary process in the future. Similarly, an examination is made of Governor Judge's employment of the hybrid system. When coupled with his constitutional prerogatives as executive, this strategy provided the governor with vastly increased leverage in his efforts to secure acceptance of his proposals. In tandem, these two variables upset the fine balance between participants in the budgetary process.
Yet, even more fundamentally, the Homestead Relief Act raises legitimate doubts concerning the suitability of direct citizen involvement in complex, technical decision-making in the state budgetary process. The ability of the electorate to render sound decisions on anything but broadest policy objectives is debatable. With the state operation continually becoming more complex, the luxury of direct citizen involvement in the state's fiscal decision-making is suspect. The ability of a governor to manipulate public opinion through the initiative process and to apply increased pressure upon a legislature is demonstrated in the case of the Homestead Relief Act. The initiative process will be evaluated for its potential to disrupt the balance between executive and legislative power in the budgetary process, and for the suitability of direct citizen involvement in complex, specific budgetary decision-making.

The Office of the Governor

The office of governor provides the occupant important tools with which to function within the state organization. Those tools are the legal and constitutional powers of the office. However, the governor might very well become a faceless participant in the process, only performing duties programmed by statute, unless the governor's personal impact upon the state organization is felt. Therefore, a governor is personally challenged, in a sense, to effect changes:
The state organization, like most large organizations, is perfectly capable of running itself. Offices and responsibilities are delineated by statute, while day-to-day operations are activated by a programmed flow of work which rarely requires intervention by executive action. This situation presents a serious problem for a governor, for it forces him to seek changes in the organization as a means of becoming relevant to it. Unless he does change the organization in some way, there will be nothing for which the governor can "take credit" and nothing to show that his tenure in office had any impact on the organization. The governor is thus a focal point for change, not so much because he is personally interested in reform (though he may be), but because implementation of some change is the only way that he can demonstrate his presence as governor.  

Along these lines, any governor's impact will be indicative of and dependent upon personal style and personal aspirations. The impact the chief executive has upon the state organization will be evident in the changes effected. The governor must personally devise the means through which those changes are enacted, since state government generally is not designed to aid such changes;

There are no rules which tell the governor what to do to promote change, nor are there any bureaucratic units established to search out potential areas of change. If change is to come, therefore, it must come as a product of the governor's own resources. The office of governor is thus cast in an intensely personal light, in which gubernatorial role performance seems to be relatively more dependent upon the personality traits of incumbents than upon situational or organization characteristics.  

Therefore, how much influence a governor actually exerts over the state budgetary process is, to a large extent, dependent upon the individual executive's desire to exert any influence. If such attempts to
exert influence are not made, it is not because a governor cannot; it is because the governor will not. It is a matter of the individual's own perceptions and motivations, particularly with regard to views of political customs, traditions, and opportunities. For this reason, the office of governor appears to be thoroughly colored by the personal style of each occupant. While every governor obviously is subjected to legal and administrative restraints, the most immediate limits on gubernatorial action are essentially political. Whether these limits are accepted or challenged, and how a challenge is made, ultimately depend on what the governor wants and what is done to get it.

For Thomas Judge, a record of sound management evidently did not provide an adequate example of his "impact" on Montana state government. Lacking a single, highly-visible change which could represent any accomplishment for which he might take credit, the governor sought to capitalize upon the general-fund surplus. Thus, the governor, conceivably motivated to make a personal impact upon state government in the eyes of the Montana electorate, chose to take an active decision-making role in the formulation of Montana's 1977-79 biennial budget.

However, as Norton Long writes, "single headedness in the executive gives no assurances of singleness of purpose." There could be no guarantee that the 45th legislature would entertain the same singleness of purpose concerning the general-fund surplus. Therefore, as a means of maximizing chances for success, the Governor chose to interject the Montana electorate as a direct participant into the budgetary process.
In the form of Initiative 72, the "single headedness" of Thomas Judge assumed political significance. The governor attached his campaign to property tax relief, and the addition of the Homestead Relief Act to the governor's re-election campaign placed him in a particularly advantageous political situation.

The Public Budgetary Process

The Montana electorate had a direct impact upon the state budgetary process through Initiative 72. Budgeting is a political process in which decisions are ideally made through comparisons of alternative uses of public monies. There is no absolute standard of value in the budgetary process. Ideally, the results of an expenditure must be worth their cost, and the results must be more valuable than the outcome would be if the money is used for any other purpose. Since there are too few resources to meet all of the competing desires of the public, budgetary decisions should attempt to secure a beneficial compromise acceptable to a majority of the public. Comparing relative values is intrinsic to the state fiscal process:

Budget decisions must be made on the basis of relative values. Comparison of relative values to be obtained from alternative uses of funds is necessary because resources are inadequate to do the things considered necessary and desirable.\(^6\)

When public budgets are viewed as planning devices used to translate present scarce fiscal resources in the public sector into future governmental goals and programs, they become vital instruments for directing the tasks government will perform and the ways in which public monies will be used. As V. O. Key points out:
The $64.00 question on the expenditure side of public budgeting is: On what basis shall it be decided to allocate X dollars to Activity A instead of allocating them to Activity B, or instead of allowing the taxpayer to use the money for his individual purposes.7

The budget process is thus a key element in state decision-making, and when viewed as a political document the budget reflects, through the allocation of funds, the interests of the body politic as expressed by legislative bodies.8 Aaron Wildavsky refers to the process as:

...a seamless web of choices concerned not merely with fiscal aspects of allocating public monies, but with the entire fabric of democratic society.9

Throughout the budgetary process the legal and constitutional roles of the participants must interact. It is that interaction between participants which constitutes the system in which allocative decisions are made. However, the decisions concerning the state fiscal process are never made in a vacuum. They are made with an ear attuned to the desires of constituents.

Although the responsibility for final decisions on fiscal policy is assumed by elected representatives, that constitutional duty is merely but one factor in the appropriation process. The decision-making process is comprised of much more than the constitutionally prescribed roles of the participants. Because many external factors affect that process, those roles are shaped by the expectations that come to be held by the participants. In other words, while the constitution and statutes of the state explicitly describe the legitimate roles of the participants in the state's fiscal decision-making process, external factors pose
constraints and offer opportunities to the participants which cannot be traced to the constitution or codes of law.

If it is assumed that political action is rational, with both politicians and voters acting in their self-interests, then a politician's objective is to stay in power, while voters' objectives are to maximize the net benefits which they derive from the fiscal operation (i.e., the excess of benefits derived from governmental expenditures over tax costs). Voters will thus cast their votes for those who will best represent their interests. Politicians will offer programs and support legislation which best meet the desires of their constituents. Those elected officials who come closest to meeting those desires will receive the most votes, and hence gain or retain political power.

The above is a generalization of the motivations of political action, and does not mean that participants in the budgetary process operate only on a vote-maximization rationale. Yet, it is argued that participants will not usually pursue goals contrary to what they perceive are the desires of constituents.

Initiative 72 constituted the entrance of the citizenry directly into the budgetary process. Whether that entry had an injurious effect on the budgetary process must be resolved. Specifically, did the placing of the measure on the statewide ballot adequately allow comparison of relative values, or examination of alternative use of funds? Did the legislature adequately examine alternative uses of the funds? Did the
initiative process diminish the legislature's discretion in allocating state funds? While the governor and other proponents of Initiative 72 acknowledged that the Homestead Relief Act could become operational only with the funding of the legislature, they did not counsel the Montana electorate to compare adequately all of the alternative uses to which the funds might be put.

Political Pressures to Fund the Homestead Relief Act

Criticisms of the Homestead Relief Act are relevant to this analysis in that they provide evidence that the legislature made comparisons of alternatives and studied the relative value of proposals. Furthermore, the substantive criticisms and defenses of the governor's proposals provide evidence that the budgetary process kindled controversy over how the state's limited resources should be allocated.

Nevertheless, the November vote could not be overlooked. Only those who believe that budgeting is purely an economic endeavor can minimize the effects that Initiative 72 had on the legislative budgetary process. Those who know that budgeting is essentially a political process recognize that political pressures stemming from the initiative had decided effects upon the political feasibility of alternatives available to legislators concerning the funding of the Homestead Relief Act.

What can be argued (and legislators made this argument) is that through the inclusion of an external participant, the governor sought to circumvent the established fiscal process. In other words, the governor

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"stacked the deck" in his favor by creating a scenario in which the executive and legislative roles assumed new meaning. Initiative 72 serves as an example of a governor's fundamental advantage in using the initiative process to secure support for executive proposals. That advantage is inherent in the governor's role in the state organization. Any governor who chooses to attempt to garner support through an initiative campaign possesses all of the powers of public accessibility available to a chief executive. This ability to maintain high visibility with the public affords a governor the opportunity to "sell" an idea to the electorate by using those official lines of communication. The legislature has no comparable means within the state organization to rally public opinion.

When employed by a governor to gain acceptance of executive proposals, the initiative process tilts the balance between executive and legislative power towards the executive. Through the initiative process a governor can, in effect, sidestep the legislature by first selling a proposal to the electorate. Legally the role of the legislature is not shifted. Nevertheless, a de facto role shift does occur when the electorate becomes directly involved in policy formulation. The political pressures upon a legislature to comply with the electorate's message embodied in an initiative are a compelling force.

When skillfully employed by a governor, the initiative process can upset the expected fiscal policy-making role of the legislature as effectively as if a de jure role shift had occurred. Governor Judge created a protagonist-antagonist relationship between himself, the
legislature, and the Montana electorate. That is, he assumed the role of the people's ally against the regressive incidence and stifling burden of the property tax, while the legislature was forced to assume the role of an obstacle between the Montana people and property tax relief. The governor cast himself in the role of defender of property tax relief, and cast the legislature in the role of a threat to that relief. He had not in any way technically affected the legislature's constitutional role of budgetary decision-makers, but he had drastically affected any budgetary decisions that might endanger the Homestead Relief Act. By creating the situation in which the Homestead Relief Act represented the inviolable will of the Montana people, the governor had made the issue more than a plan to provide property tax relief. It became a question of the legislature's responsiveness to the desires of the Montana people as expressed in the passage of Initiative 72. The governor demonstrated that executive authority is inherently more receptive to direct citizen participation than is the legislative branch. An initiative potentially cripples a legislative body in its role as allocator of public monies.

Governor Judge's determined and continuous appeals to the Montana electorate to remind legislators that they expected "their" Homestead Relief Act to be funded, and his many threats to veto any item which posed a threat to his executive proposals, came across to some legislators as an executive attempt to overstep the boundary between executive and legislative branch. A legislator who chooses to vote contrary to a piece of citizen-initiated legislation is forced to defend that choice against
charges of unresponsive representation. Any vote which is at odds with the desire of an electorate as expressed through an initiative requires an unusually comprehensive and difficult justification. Even with such justification, the repercussions are likely to be decidedly negative for a dissenting legislator. A legislator who ignores those pressures and chooses to oppose a piece of citizen-initiated legislation that is backed by a governor faces opposition from constituents, from opponents in the next election, from the governor's office, and possibly from the news media.

The threat of adverse reactions is often just as potent a force as the actual repercussions. Although it is difficult to assess precisely what repercussions a negative vote on the Homestead Relief Act's funding caused, it is apparent that many legislators perceived themselves as pressured to vote for the Homestead Relief Act by the "threat" of adverse consequences. Since the measure passed rather handily, any negative repercussions for those who voted against the measure quite likely have not been as severe as they might have been had the measure been defeated. In the case of the Homestead Relief Act, a sufficient "bark" precluded the need for a "bite".

To attempt to calculate the number of legislators fundamentally opposed to the initiative, or those who simply chose not to risk their own political futures by refusing to fund the Homestead Relief Act, would be a difficult undertaking. This is not meant as an implication that the measure received funding solely due to the pressures of Initiative 72,
for some legislators approved of the plan and favored its funding. However, many lawmakers opposed the Homestead Relief Act both substantively and politically, and favored alternative appropriations. For many of those legislators, the initiative process created the pressures which ultimately led to the funding of the measure.

In this regard, it is interesting to speculate whether the Property Tax Replacement Act might have passed had it not been for the confrontation with the governor and his budget and Initiative 72. The same holds true for other items of legislation and appropriation during the session. Items which posed threats to the funding of the governor's relief plan occupied a position of double jeopardy, in that they faced gubernatorial opposition and they could be interpreted as violating the will of the electorate. The governor, in two previous sessions, had failed to sell similar property tax legislation to legislators. Considering those two previous defeats, the amount of substantive opposition to the Homestead Relief Act voiced by legislators throughout the session, and the number of dollar-consuming "pet" bills introduced by legislators, it is likely that without Initiative 72 the legislative budgetary process would have produced different fates for the Property Tax Replacement Act and other items of appropriation and legislation.

Implications for Public Budgeting

The precedent set by Governor Judge's successful employment of the initiative process has increased the likelihood that future state budgetary
decisions will be similarly affected by direct voter involvement through initiatives. In addressing the implications of the use of the initiative process in state fiscal policy making, it is useful to approach the matter in two ways: (1) the merits of the initiative process as a means to affect state fiscal policy; and (2) the impact the initiative process is likely to have on future state fiscal processes.

Because the biennial budget is, in effect, the "blueprint" by which the state operates for two years, the means through which that budget is formed are vitally important. The use of the initiative process to affect state fiscal decisions poses potentially detrimental consequences. The perplexing issue is whether or not the electorate has the expertise or the information with which to make complex choices between alternative uses of state funds. As the state's fiscal process becomes evermore complex, with the Montana 1977-79 biennial budget at nearly $1 billion, can the state continue to honor the initiative process when that process represents potential fiscal insolvency? Is there any feasible way to provide an electorate with the information needed to judge adequately the merits of alternative uses of funds? The Homestead Relief Act provides an example of the initiative process creating political pressures which directly affected the legislature's control of state funds. Upon what criteria did the electorate make their decision? Is the value of the initiative process sufficient to offset the potential costs?

It probably is not feasible to use direct democratic fiscal processes in anything but the smallest forum. The qualities of "pure" democracy
have not diminished since Thomas Jefferson called the town meeting "the wisest invention ever devised by the wit of man for the perfect exercise of self-government and for its preservation."\(^{10}\) However, the social basis for the direct form of democracy known as the town meeting has disappeared even from the local scene--the small, autonomous, homogeneous, and somewhat isolated community. The role of pure democracy is perhaps overestimated in contemporary society. As John Dewey said, "it is a form of idolatry to erect means into the ends which they serve. Democratic political forms are simply the best means that human wit has devised up to a special time in history."\(^{11}\) Perhaps up to Jefferson's "time in history" the town meeting (i.e., direct democracy) was the best means for the practice and maintenance of self-government. Today at least, the best means is no longer direct democracy but the representative system.

The old powers of town meetings have passed to elective and appointive officials. Representative democracy has displaced the "pure" democracy of the town meeting as the best means of self-government (the criteria for judging "best" in this context are governmental efficiency and effectiveness within a system based upon direct accountability and accessibility--the "pure" democratic system's superiority in accountability and accessibility has been overcome by the system's inherent inefficiencies in dealing with the complexities of contemporary government operations). Today only the broadest policy control is exercised by the voting citizen. The fact that the town meeting's direct form of democracy is rapidly becoming obsolete does not mean democracy is outmoded. Representative
governments on every level must face the same major problem: how can governments secure expert handling of technical, complex affairs, and yet leave control of policy in the hands of an electorate that has neither the training nor the time to comprehend these affairs in detail?

The complexities of contemporary state government preclude the entire electorate's dealing with relevant fiscal information upon which to base budgetary decisions:

In a democratic society, the division of resources between the public and private sectors is roughly determined by the electorate, but because it is such a complex and time consuming task, the electorate is chronically ignorant of the costs and benefits of many actual and potential government policies. Collectively, the electorate is usually incapable of adequately weighing specific policy alternatives. Decisions requiring detailed examination of relative values of complex and technical uses of funds severely strain an electorate's capability to render sound choices. Incapacity to weigh adequately specific policy alternatives does not preclude the electorate's ability to address broad policy issues rationally, nor the ability to evaluate rationally the actions of elected representatives in pursuit of those broad policies. In other words, an electorate can rationally determine ends, but must delegate authority to devise the specific, complex and technical means to reach those ends. An electorate, in this sense, while being unable collectively to critique specific means, is capable of assessing outcomes of specific policies.

Elected representatives weigh the relative values of specific policy alternatives designed to achieve the broad policy objectives voiced
collectively by the electorate. Therefore, within the representative system an electorate can rationally determine if representatives are serving their interests, while not being capable of determining the merits of specific means to those ends. Similarly, elected representatives can assess the broad desires of an electorate, and thus make specific choices among complex alternatives designed to achieve those policy objectives.

It is futile to attempt to assess the value of the initiative process, since that process is an invaluable commodity in a democracy. Yet to ensure an electorate's ability to cope with specific, complex issues, means must be devised by which each voter is provided easy access to relevant information. The Montana electorate did not have adequate information to judge the merits of the Homestead Relief Act or to weigh adequately alternatives to the measure. Although it is not beyond the realm of possibility to devise a direct democratic fiscal process on the state level in which the electorate is exposed to and briefed on data pertinent to the state budget, it must be viewed as a mammoth undertaking. The avalanche of data pertinent to the budgetary process taxes the capacity of even the legislature to make sufficient examinations of the material upon which to make fiscal decisions. Although taxed by time and the nature of the task, the legislature has access to state fiscal information which the average Montanan does not readily have at his disposal. The practical limitations upon a system dedicated to exposing each voter to fiscal data in a manner comparable to the exposure
legislators receive are obvious. These practical limitations are the key hindrances on the electorate's ability to produce satisfactory fiscal decisions.

The existence of these limiting factors serves to accent the role of the legislature in the state fiscal process, and must cause careful examinations of those instances in which the public becomes directly involved. Although the legislature is subject to the same constraints in the fiscal process, those constraints are effectively diminished through the legislature's relatively small size, access to pertinent data and ability to debate issues as a unified body. To diminish the constraints upon the electorate, extensive modifications must be made. A fundamental necessity is an increase in voter interest and awareness at the grassroots level. Public forums in each locality across the state could provide a vehicle through which relevant information could be relayed to state voters. Along these same lines, more extensive use of news media directed towards public awareness of fiscal policy issues could similarly increase an electorate's ability to render knowledgeable decisions. State financed media information concerning policy issues embodied in initiatives could serve to create more balanced initiative campaigns and insure a more balanced presentation of pro and con arguments. It also can be argued that it is the role of the opposition (including legislative candidates) to inform the electorate of the "better" choices at the time of the initiative campaign. It must be recognized that without serious attention directed towards devising practical means to ensure
the electorate's ability to weigh adequately all of the variables involved in the fiscal process, the continuance of direct citizen involvement can only result in collective decisions made through varying degrees of ignorance.

In the case of Initiative 72, Governor Judge presented to the Montana electorate a skillfully marketed "package". Any voice of opposition able to tarnish that package required similarly skillful orchestration. The initiative did not appear to represent imminent financial danger to the state. To the contrary, Initiative 72 as presented to the electorate was an attractive proposition. Certainly the wording of the proposal on the ballot contributed to the success of the Homestead Relief Act, for undoubtedly few taxpayers would choose to vote "against reduction of owner's property tax liability on owner-occupied residential property". Without any systematic method of supplying the electorate with the information upon which to judge the merits of the Homestead Relief Act relative to alternative uses of state funds, the opposition to Initiative 72 remained strictly spontaneous and unorganized.

In contrast, the Budgetary Procedures Ceiling Act of 1976, an initiative proposal on the same ballot as Initiative 72, experience a considerably greater amount of opposition. The Budgetary Procedures Ceiling Act sought to put a ceiling of $375 million on Montana legislative appropriations for any one biennium, along with a gradual halt to the state's use of federal funds. If that initiative proposal had passed, and the ceiling had been interpreted to apply to all of the funds appropriated
by the legislature, the results could have been chaotic. While it can be argued that this initiative's failure demonstrates the electorate's basic awareness and responsibility, it can similarly be argued that the electorate simply responded to the great amount of opposition which emanated from across the political spectrum. The difference in amount of opposition voiced against Initiative 72 and the Budgetary Procedures Ceiling Act obviously can be attributed to the nature of the two initiative proposals. Yet, it is similarly valid to attribute the lack of organized opposition to Initiative 72 to the fact that such opposition seemed to represent opposition to the idea of property tax relief. As discussed previously, while many legislators shared the Montana electorate's desire for property tax relief, many legislators opposed the Homestead Relief Act as a means to reach those ends. Yet, many avoided taking a firm stand because such a position represented real political risks.

Unlike Initiative 72, broad policy objectives should be delineated by the electorate, and the specific values of alternative means to reach those objectives should be chosen by elected representatives in a representative democracy. In this sense, the criteria for what constitutes the "best" specific uses of state funds are set by elected representatives. Although the process of legislative appropriations has been shown to be grossly inadequate at times, and there is no guarantee that the best choice will be made by a legislature, that body is in a better position than the electorate to address fiscal issues and make specific choices.
The "correctness" of those specific choices, in the final analysis, is determined by Montana voters who ultimately assess the responsiveness of those representatives in directing government activities. Elected representatives can be removed from office through the electoral process if state voters should judge them to be unresponsive. Although the state bureaucracy possesses the expertise to render sound fiscal decisions, the electorate has no direct electoral means to hold the bureaucracy accountable for its actions. The legislature's accountability to the electorate tends to overshadow other deficiencies of legislative decision-making, and in this sense, the legislature, rather than the bureaucracy, should engage in the budgetary process. Without that accountability, the electorate's influence over governmental decisions would be severely limited. Therefore, the deficiencies in the electorate's ability to render sound decisions on specific, complex policy issues, and the lack of direct means with which to hold the state bureaucracy accountable for its actions, places the legislature in the best position to allocate the state's limited resources.

As the initiative process now stands in Montana state government, the initiative is inadequate as a means to allow direct voter involvement in specific fiscal policy formulation, such as the Homestead Relief Act. Although it is still on the books, the initiative process is not suitable in cases of specific policy formulation, and until the time major revisions are designed to remedy the obvious deficiencies, the initiative will have no legitimate place in state fiscal decision-making. Although
the initiative process is unsuitable for specific fiscal policy formulation, the precedent set by Governor Judge's successful employment of the initiative may dictate an increasing use of that process for future state fiscal policy-making. It remains to be seen if future Montana governors will follow suit.

The Homestead Relief Act represents an instance in which the initiative process made an impact on the budgetary process--whether "enlightened" or not. This is unusual in the United States but is solidly in the populist tradition. The problem stems from the fact that the legislature's role of choosing the specific means to achieve policy objectives was upset. Through an initiative such as the Homestead Relief Act, the electorate indicates specific policy desires, and the legislature's contribution is fundamentally altered.

The implications of Initiative 72 for public budgeting are obvious. While the initiative process has long been represented as a bulwark of democracy, the complexities of contemporary state government operations have raised legitimate doubt as to the suitability of the initiative as a means to make state fiscal decisions. The issue involves not merely a governor's opportunity to increase leverage within the state organization, but more fundamentally it is a question of direct citizen involvement in specific policy choices affecting the fiscal operation of the state. The story of the Homestead Relief Act suggests that in the complexities of contemporary state government budgetary processes, the initiative process is a sacred cow that deserves to be laid to rest.
Political Implications

A corollary issue is the political consequences of actions taken by participants in the history of the Homestead Relief Act. If the measure does not redeem the promises made, those associated with its sponsorship will likely incur political losses. Similarly, should the measure be received favorably, the sponsors will benefit politically. It remains to be seen just how well the relief plan will operate and what its effect will be on other governmental areas such as the state public school system.

The manner in which the operation of the plan is received involves a variety of variables. The governor portrayed the plan as "the beginning of real property tax relief in Montana", yet whether that confidence is shared by Montana property taxpayers upon receipt of the relatively small rebate is questionable. It is entirely possible that Montana taxpayers will perceive that the small rebate does in fact, as criticized by opponents, offer little as far as comprehensive, on-going property tax relief. The fact that the "widespread property tax relief" promised by the governor could be obtained only if applied for, poses potentially undesirable consequences for the governor since the number of actual applications proved to be substantially less than the number of taxpayers eligible to apply. Should the Homestead Relief Act prove injurious to counties' ability to fund public schools, it will be interesting where the blame is placed--on the Judge administration or the
legislature. It is a fairly safe assumption that the inclusion in the funding bill of the general-fund surplus limitation provision will tend to insure against any unforeseen disastrous consequences. Therefore, there probably will be no disastrous political consequences for either the legislature or the executive stemming from major defects in the relief measure. However, an important consideration is that the Homestead Relief Act in all probability will not be funded for more than the two years of the current biennium--possibly only one. This means the state has not dealt with the problems of the property tax on an ongoing basis. The Homestead Relief Act represents a rebate plan that is, and probably always will be, dependent upon a state general-fund surplus--a dependence that limits its impact as a permanent aid to property taxpayers. This analysis means simply that the 1979 Montana legislature will be faced again with the responsibility of addressing property tax relief or property tax reform, and with much less than a $50 million general-fund surplus.

The governor will absorb the brunt of any criticisms if the rebate is interpreted as not being real property tax relief. Although actual deficiencies of the Homestead Relief Act will obviously not aid the political future of the governor, Thomas Judge should be able to sidestep any criticism simply by asserting that at least he, as governor, attempted to ease the property tax burden of Montanans, whatever the deficiencies of his method. This is something the Montana Legislature never really attempted.
It also is possible the governor might well have depleted his supply of political chips over the funding of the Homestead Relief Act. Legislators who resented the governor's aggressive tactics during the 45th session may choose as a retaliatory gesture to mute their support for Thomas Judge in the future. Still, the impact the governor made upon the Montana electorate with his attempt to ease their property tax burden may compensate for any loss of legislative support.

The governor has politically gambled with the Homestead Relief Act, and he played the game well, adeptly using all of his allotted moves. As far as political implications for himself, it remains to be seen if he made the correct moves. Thomas Judge chose to make a personal impact on the Montana governmental scene. The Homestead Relief Act became a vehicle through which the governor could make that impact. Rather than assuming a passive gubernatorial position, Thomas Judge chose an aggressor's role. The political stakes are high for Governor Judge, as they would be for any governor who actively seeks to influence the state operation. A governor who chooses to become the aggressor and interject personal style into the state organization, increases the success which might be derived from the gubernatorial tenure. Concomitantly, however, the governor increases the chances that those actions will be met with negative reactions, since an active role attracts more critical scrutiny and engenders opposition. A governor who opts for an aggressor's role gambles with that choice; if he should negotiate the hazards, he stands to win the political "pot" in a game in which he "upped the stakes".
Should he fail, he stands to lose much more than had he not chosen an aggressor's role. Thomas Judge has upped the stakes; he has yet to claim the pot.
Footnotes


4. Ibid., p. 25.


11. Ibid.


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