

Guest opinion: Constitutional flaw in I-185

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Imagine a ballot initiative that would give every citizen in Montana \$1,000 each year. That initiative would be very popular and would likely pass. But with a \$1 billion price tag, it would result in a serious deficit for our state budget and require massive tax increases or cuts to other services.

The authors of our Montana Constitution were wise to prevent these types of situations from occurring. Monetary appropriations by ballot initiative allow special interests to use the initiative process to reap windfalls of tax dollars and could bust our state budget.

The Montana Constitution, in Article III, Section 4 states, “The people may enact laws by initiative on all matters except appropriations of money ...” This provision ensures that only the Legislature — which is constitutionally mandated to pass a balanced budget — would have the authority to set appropriations.

But this is not the case with I-185. While I-185 doesn’t create a new appropriation, it repeals the sunset date for Montana’s Medicaid Expansion program and thus repeals the termination date for the program’s associated statutory appropriation. With the sunset date removed, I-185 creates a de facto permanent statutory appropriation.

In the words of the Montana Legislative Services Division, “[I]f the proposal [I-185] is approved it would be the actions of the people that would lead to the appropriation of state general fund money for an indefinite amount of time and for an indefinite amount.”

By doing this, the initiative has serious a constitutional flaw, and I do not see how it would withstand judicial scrutiny.

We've seen this happen before. Special interests pass a ballot initiative, only to have it struck down as unconstitutional.

The proponent of I-185 was warned by the independent Legislative Services Division staff that the ballot initiative was on constitutionally shaky ground, but he chose to ignore that warning and did not make changes to the Initiative that would put it in line with Montana's Constitution.

That hasn't stopped I-185's proponents from attempting to deceive Montana voters into passing an unconstitutional law.

Adding insult to injury, while I-185 is projected to raise \$74 million per year in new tax revenues, it doesn't even allocate enough funding to cover the cost of the permanent appropriation it creates.

Permanent Medicaid Expansion is projected to cost Montana taxpayers more than \$60 million per year by fiscal year 2023. I-185, on the other hand, specifically states that no more than \$26 million per year shall be allocated to fund Medicaid Expansion. That leaves all Montana taxpayers on the hook to cover \$34 million per year in costs for Medicaid Expansion.

The proponents of I-185 not only chose to write an initiative that violates our state constitution, they also wrote one that could result in even higher taxes or cuts to other government programs and services.

It's no wonder the hospital corporations are supporting I-185. They reap a direct benefit by providing services to Medicaid Expansion enrollees.

Don't be misled. I-185 isn't about health care. It's all about money. Those who gain the most are the special interests bankrolling this effort.

They've shown they have no respect for our Montana Constitution. We owe their initiative no respect in return. Please join me and vote no on I-185.