VOLUME NO. 39 OPINION NO. 9

TAX INDEXING - Initiative 86;
TAXATION - State income taxes personal exemption;
TAXATION AND REVENUE - Personal exemption under Initiative 86;
INITIATIVE & REFERENDUM - Initiative 86;
INITIATIVE & REFERENDUM - Personal exemption;
INITIATIVE & REFERENDUM - Tax indexing;
LAWS OF MONTANA - Chapter 698, section 8;
MONTANA CODE ANNOTATED - Section 15-30-112.

HELD: Initiative 86 provides that the personal exemption for state income tax purposes is $1,250.00.

18 March 1981

Honorable Jean A. Turnage
President of the Senate
State Capitol
Helena, Montana 59601

Dear Senator Turnage:

You have requested an opinion regarding the computation of the personal exemption for state income tax purposes as amended by Initiative No. 86.

Initiative No. 86, commonly known as the tax indexing initiative, was passed by the voters at the general election of November 1980. In addition to tax indexing the initiative establishes a new permanent base for personal exemptions.

Section 6 of the initiative provides:

> Adjusted base year structure to appear on tax forms. Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for the taxable year. [Emphasis added.]

For exemptions, section 1 defines base year structure as the exemptions in effect on January 1, 1980.

These sections require the Department of Revenue to permanently apply the exemption in effect on January 1, 1980. Under the provisions of section 15-30-112, MCA, personal exemptions are set at $800.00 per year. However, the exemption in effect on January 1, 1980, is a different temporary figure. The temporary figure was established under a legislative formula to provide for tax relief, only in this biennium, if there was a sufficient surplus in the state general fund. (1979 Mont. Laws, ch. 698, § 8.) In 1980 there was a sufficient surplus and therefore the exemption was temporarily raised to $1,250.00.

THEREFORE, IT IS MY OPINION:

> Initiative 86 provides that the personal exemption for state income tax purposes is $1,250.00.

Very truly yours,

MIKE GREELY
Attorney General