



Iowa's Budget Needs Constitutional Spending Limits

by David Hogberg

Iowa's budget needs spending limits that are imposed by the State Constitution. Currently, the Code of Iowa imposes some spending limits. Unfortunately, limits imposed by statutes are insufficient since they are easily evaded by State Legislators.

Three of the most important statutory limits on spending are sections 8.33, 8.54, and 8.57 of the Code of Iowa. Section 8.33 mandates "reversions"—that is, if any state agency does not spend as much as the State Legislature and Governor allow it to spend in a given fiscal year, then the leftover funds "revert to the state treasury."¹ Section 8.54 imposes a 99% limit on the General Fund portion of the state budget. For every fiscal year, the State Legislature is not supposed to spend more than 99% of the revenue that the Revenue Estimating Conference predicts the state will collect. Section 8.57 creates a Rebuild Iowa Infrastructure Fund which is supposed to be used only for the construction or major repair of Iowa's infrastructure. It forbids the use of the fund for "routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement."²

Unfortunately, it is very easy for State Legislators to evade these limits. In fact, it only takes four syllables: "notwithstanding." State Legislators can override any portion of the Code of Iowa in a piece of legislation as long as they put the word "notwithstanding" in front of the section they want to override, such as "notwithstanding section 8.54." In fact, that exact phrase occurs in the Fiscal Year 2005 Iowa budget. It allows the Department of Human Services to ignore the 99% spending limitation if it decides to increase payments to the University of Iowa Hospital.³

Indeed, "notwithstanding" is a very popular word in budget bills. In the current budget bill, it appears over seventy-five times. It is most frequently juxtaposed with the words "section 8.33." Section 8.33 is overridden fifty-one times in the current budget. Just about every section in the budget bill dealing with the various State Government Department, from Administration and Regulation to Human Services to Justice, has a "notwithstanding section 8.33" clause. It appears that many state programs can keep on spending money into the next fiscal year despite section 8.33.

"Notwithstanding 8.57" is also a fairly popular clause, appearing fifteen times in the current budget bill. Although the Rebuild Iowa Infrastructure Fund is supposed to be used only for infrastructure projects or major repairs, in FY 2005 it will be used to remodel the state capitol building, to make lease payments for the Department of Corrections, and to purchase lab equipment for the state laboratories facility in Ankeny. Apparently the State Legislature has a rather flexible definition of "infrastructure."

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Another way that the State Legislature and Governor get around the 99% spending limit was explained in a January 2004 *INSTITUTE BRIEF*:

When Iowa runs a surplus — that is, when the state collects more tax revenue than the REC predicted it would — the surplus must be put in the economic emergency fund. Yet, the economic emergency fund may not exceed 10% of the amount spent in the General Fund. The Code reads, “If the amount of moneys in the Iowa economic emergency fund is equal to the maximum balance, moneys in excess of this amount shall be transferred to the general fund.” In practice, when the General Fund runs a surplus in one fiscal year, the surplus is then spent the following fiscal year. Thus, the Governor and Legislature for, say, FY 2000 were able to spend the amount of the 99% limit plus whatever surplus was left over from FY 1999.⁴

Ultimately, the spending limits found in the Code of Iowa are easily evaded by State Legislators and are, thus, ineffective.

One way to fix this problem is to create Taxpayer Reduction or Rebate (TROR) Fund, in which all surplus revenues must be deposited.⁵ Once the amount in the TROR Fund reaches a certain amount, State Legislators and the Governor must use the money in the TROR to either reduce taxes or send out tax rebate checks. The advantage of the TROR fund is that it would give money back to state taxpayers, who would in turn put pressure on their Legislators to not overspend. The disadvantage in the TROR fund would be part of the Code of Iowa, which means that State Legislators could evade it with their favorite word, “notwithstanding.”

What Iowa really needs is a constitutional limit on the state budget. Specifically, the State Constitution should be amended so that the State Legislature cannot spend more than what was spent in the previous year’s budget plus an increase for inflation and state population. When such a limit is in a State Constitution, it is much more difficult for State Legislators to evade it. If they exceed the limit, they can be sued in court, and the State Supreme Court can rule the excess spending unconstitutional.

Colorado has this limit in its State Constitution, and it has done wonders to rein in state spending. It is time that Iowa had it too.

ENDNOTES:

¹Code of Iowa, Chapter 8, Section 33, p. 96, 2001.

²Ibid, p.104.

³Senate File 2298, at <<http://coolice.legis.state.ia.us/legislation/Bills/SenateFiles/Reprinted/SF2298.html>>.

⁴David Hogberg and Amy K. Frantz, “How To Avoid Future Budget Crises (And Give State Taxpayers A Break!),” *INSTITUTE BRIEF*, Vol. 11, No. 1, January 2004.

⁵For more on the TROR Fund, see David Hogberg, “The Tax Reduction or Rebate Fund,” *INSTITUTE BRIEF*, Vol. 11, No. 9, March 2004.

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