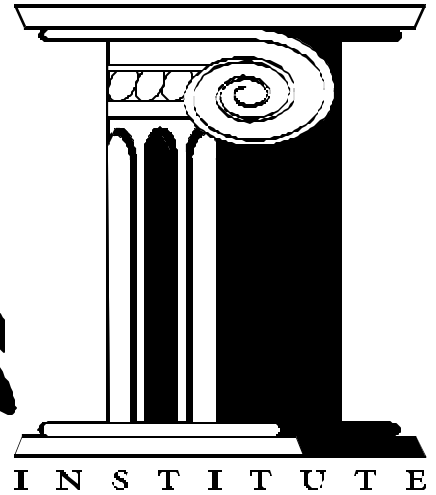


LIMIT



On Power and the Use of Power

I N S T I T U T E

Initiative and Referendum in the States

by Amy K. Frantz

The results are in on the November 7 ballot measures.

ARIZONA

Voters approved Proposition 203, a statutory initiative replacing bilingual education with an English immersion program, in most cases. This measure is similar to California's English for the Children initiative adopted by the voters in 1998.

CALIFORNIA

Proposition 39, a Constitutional Amendment initiative to allow voters to approve local school bonds by a 55 percent vote rather than the current two-thirds vote, was approved.

Proposition 38, a Constitutional Amendment initiative providing a \$4,000 school voucher to California students, failed.

COLORADO

In Colorado, the Constitutional Amendment initiative to amend the Taxpayer Bill of Rights (TABOR) was defeated. This measure, if adopted, would have required reductions in state income tax, vehicle, sales, and use taxes, and other state taxes.

MAINE

Maine voters defeated a legislative statute referendum to ban discrimination based on sexual orientation.

MICHIGAN

Michigan voters defeated Proposal 1, a Constitutional Amendment initiative requiring testing of teachers in academic subjects and allowing local school districts to establish school voucher programs.

MISSOURI

A campaign finance measure failed in Missouri. This statutory initiative would have increased taxes on large corporations to provide campaign financing for candidates who comply with certain requirements.

NEBRASKA & NEVADA

Voters in each of these states approved a Constitutional Amendment banning same-sex marriages.

OREGON

In Oregon, where the election was conducted completely by mail, voters considered 26 different ballot issues.

Initiatives approved by the voters include Measure 7, a Constitutional Amendment initiative to require payment to

continued on page 8

LIMITS

December 2000
Volume 5, Number 4
Public Interest Institute
President
Dr. Don Racheter

LIMITS is one of our quarterly membership newsletters, arriving in March, June, September, and December. It consists of short articles and essays on protection of human rights by limiting the powers of government.

LIMITS is published by Public Interest Institute at Iowa Wesleyan College, a nonpartisan, nonprofit, research and educational institute whose activities are supported by contributions from private individuals, corporations, companies, and foundations. The Institute does **not** accept government grants.

Contributions are tax-deductible under sections 501(c)(3) and 170 of the Internal Revenue Code.

Permission to reprint or copy in whole or part is granted, provided a version of this credit line is used: "Reprinted by permission from LIMITS, a quarterly newsletter of Public Interest Institute."

The views expressed in this publication are those of the authors and not necessarily those of Public Interest Institute.

If you have an article you believe is worth sharing, please send it to us. All or a portion of your article may be used. The articles in this publication are brought to you in the interest of a better-informed citizenry, because IDEAS DO MATTER.

We invite you to:
CALL us at 319-385-3462
FAX to 319-385-3799
E-MAIL to public.interest.institute@limitedgovernment.org
VISIT our web site at www.limitedgovernment.org
WRITE us at our address on page 8

Copyright © 2000

The Fat Tax — Public Policy Goes Belly Up

by Daniel B. Newby

As you stroll into the grocery store, in the back of your mind you realize that you've been going a little heavy on rich foods lately and should tone down your diet. Nonetheless, on your way to the low-fat yogurt section of the store, your uncooperative eye catches a glimpse of the snack isle and you find yourself heading toward your favorite candy bar.

"I don't think you should be eating that candy bar..."

Tasty morsel in hand, you move toward the checkout stand. As you do, a man blocks your way.

Before you can react, the stranger states: "I don't think you should be eating that candy bar. It contains high levels of saturated fat and processed sugar and (pointing an accusatory finger at your mid-section) represents a tangible hazard to your already suffering health."

Not wanting to cause a scene with this obviously deranged person, you dart for the safety of the checker just as fast as your legs will move. Behind you the stranger calls, "If you insist on buying that harmful product, we will assess a fat tax on you!"

Absurd scenario? The fat police maybe, but not the fat

tax. The Center for Science in Public Interest (CSPI), a national "public interest" group, has launched a media campaign urging new taxes on soft drinks and other "junk foods." In a June 1, 2000 press release, Michael F. Jacobson, executive director of CSPI, decries our current fat-laden lifestyles: "With obesity rates soaring and the costs of diet-related diseases in the stratosphere, it is essential that government fund major campaigns to promote healthful diets and physical activity. One way to obtain funding is to apply small taxes to foods that undermine health... Small taxes on soft drinks, candy, gum, and snack foods are a sensible way to fund health-promotion programs... Those programs could result in better health and lower health-care costs."

"If you insist on buying that harmful product, we will assess a fat tax on you!"

Political pundits used to joke that eventually taxes would be assessed on fatty foods, but today it seems that cynical humor can hardly keep pace with social engineers. The history of recent "consumer protection policies" demands

that fatty foods be slated for the taxing block. And why not?

Take tobacco, for instance. First Americans decided to tax smokers, then regulate airlines and other private businesses

From mandatory immunizations to bicycle helmets, Americans are proving that we no longer have faith in our own ability to be free.

from allowing smokers to pursue their habit, then finally used the courts to aggressively litigate against tobacco companies. It didn't matter that warning labels had been mandated on cigarettes since the 1960s.

As justification, we proclaim it inhumane to require smokers to be personally responsible for the damage they repeatedly inflict on their own bodies. Apparently, it *is* humane for our society to allow manufacturers to produce products with warning labels for several decades, and then punish them retroactively whenever enough of us decide we don't like them anymore.

This evolving precedent has been contagious. Rhode Island's Attorney General recently launched a lawsuit against lead paint manufacturers (lead paint was banned in 1978). He believes a case can be made against latex glove makers as well. Government prosecutors have set their sights

on gun manufacturers and consumers, and even the long-forbidden realm of thought crimes has been breached by so-called hate-crimes legislation.

From mandatory immunizations to bicycle helmets, Americans are proving that we no longer have faith in our own ability to be free. As we embrace the idea that individuals should not be responsible for their own actions, state and

As we embrace the idea that individuals should not be responsible for their own actions, state and federal governments increasingly abuse the powers of taxation, regulation, and litigation.

federal governments increasingly abuse the powers of taxation, regulation, and litigation. The goal is simple: to punish — and profit from — companies and consumers who do not pursue the strictest social and safety habits.

Chuckle if you wish, but fatty foods are simply the next logical target of people who know what's best for you — in this case your mid-section. And a not-too-distant Department of Fatty Food Reduction will not be the end of this bulging wave of government intrusion. In fact, there is no end.

Your best joke today can, like the fat tax, be America's reality tomorrow. America can either discard the idea that government is our super-nanny, or we can follow it to its natural conclusion: we have become too foolish and incapable to ever manage our own lives and behavior. Research suggests that widespread obesity is a symptom of indulgent lifestyles that disregard consequences. Perhaps a nation so afflicted can never gain control unless it first develops the intestinal muscle to put its own bloated government on a leaner diet.

On the brighter side, if fat-taxers are successful, we may finally have the incentive needed to keep from indulging in our favorite candy delicacies. We'll just have to weight and see.

Daniel B. Newby is Director of Operations & Development for Sutherland Institute, a Utah-based public policy research institute.

Reprinted with permission from Sutherland Institute.

For more information on Sutherland Institute, visit its website at www.sutherlandinstitute.org or contact Sutherland Institute, Independence Square, 111 East 5600 South, Suite 202, Salt Lake City, Utah 84107, 801-281-2081, sutherland@utah-inter.net.

In Support of Direct Democracy

by Eric Winters, J.D.

Living in Oregon, we may be tempted to take the Initiative and Referendum (I & R) for granted. Oregon is commonly regarded as the birthplace of direct democracy and has entertained more ballot measures than any other state, placing us on the cutting edge of political change.

"[T]he Constitution declares the fundamental delegation of authority to government springs from a natural right in the people to govern themselves. The Initiative & Referendum is the reservation of that right to self-government."

Recently there has been a political backlash against the Initiative process. During the last session the legislature referred a measure to the ballot asking us to amend the Constitution to make it more difficult to place questions on the ballot.

Oregon's Supreme Court has announced new broad standards for invalidating constitutional amendments based upon the potential of voters being misled. The Attorney General makes a practice of providing incomprehensible ballot titles to measures for partisan purposes, and the Secretary of State recently instructed county elections

officials to invalidate the signatures of inactive voters without providing them notice. These actions make it necessary for Oregonians to remain ever vigilant against government encroachment upon the Initiative power.

If not supported by politicians, Oregonians do have the blessing of the I & R's original framers in exercising their rights of direct democracy. Article IV, Section I of the Oregon Constitution reads, "The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves the power to propose laws and amendments to the constitution...."

"[T]he record of the Initiative in preserving liberty cannot be matched by the legislature."

The idea that government gains its authority from the people is echoed in Article I, Section I, which states:

We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness; and they have at all times the right to alter, reform,

or abolish the government in such manner as they may think proper.

"It is not surprising that aggregations of government interests coalesce to restrain the Initiative; elected officials have an institutional bias against anything that challenges their authority."

Read in conjunction, it is evident that the Constitution declares the fundamental delegation of authority to government springs from a natural right in the people to govern themselves. The Initiative & Referendum is the reservation of that right to self-government. Although frequently derided by critics as the "fourth branch of government," when viewed in its proper constitutional context, the I & R is actually the first branch of government as it *precedes* any delegation to the other three branches.

The Initiative and Referendum serves a needed function in our democracy, and deserves to be defended. A powerful tool for change, the I & R arouses bitter and divisive struggles over the shape of government and the rights of its citizens. Unlike the legislature, the Initiative and Referendum

offers a forum for debating controversial ideas — often, political hot potatoes that can only really be addressed by popular vote. Can anyone contend that death with dignity, medical marijuana or *any* substantive tax reform could emerge from the legislature? Those sorts of ideas are killed in committee.

Let me assure you, the Initiative is a double-edged sword. It is possible to create a larger, more restrictive and more burdensome government through popular vote. For instance, in 1914 and 1916, Oregonians voted to establish and extend alcohol prohibition, preceding federal Prohibition by five years. And there has certainly been no shortage of attempts to pass taxes through the Initiative. However, these attempts are typically unsuccessful.

"...the Initiative and Referendum offers a forum for debating controversial ideas — often, political hot potatoes that can only really be addressed by popular vote."

Oregonians have rejected new taxes at the polls almost universally and have passed several important tax limitations instead. Indeed, this trend is not unique to Oregon; limitations on taxes and expenditures have been successful in many states due to the Initiative.

Historically, the people have used the I & R to limit government or to introduce accountability to its systems. Such changes threaten legislators and make public officials uncomfortable by adding new levels of scrutiny and restrictions on power. It is not surprising that aggregations of government interests coalesce to restrain the Initiative; elected officials have an institutional bias against anything that challenges their authority. By amending the Constitution, Oregonians can alter or limit government in a manner that can thwart political agendas (as well they should).

Given the potential for Oregonians to fundamentally alter the shape of government through Initiative, it is no wonder politicians fear direct democracy. Indeed it is a powerful tool that can potentially be wielded unwisely. However, on balance, this has not been the practice in Oregon. With few missteps, the record of the Initiative in preserving liberty cannot be matched by the legislature. The ability to propose legislative and constitutional reforms is a fundamental right that Oregonians should zealously guard.

Eric Winters is an attorney in private practice in Portland, Oregon, who, with Kelly Clark of the firm O'Donnell & Clark, recently brought suit against Oregon elections officials for wrongfully invalidating petition signatures. He is an adjunct scholar with Cascade Policy Institute.

Reprinted with permission from Cascade Policy Institute.

Cascade Policy Institute is an independent, nonprofit public policy research and educational organization based in Portland, Oregon. Its mission is to explore and advance policy alternatives that foster individual liberty, economic opportunity and personal responsibility.

For more information on Cascade Policy Institute, visit its website at www.cascadepolicy.org or contact Cascade Policy Institute, 813 SW Alder, Suite 450, Portland, Oregon 97205, 503-242-0900, info@cascadepolicy.org.

FEDERALIST GOVERNMENT IN PRINCIPLE AND PRACTICE

A new book edited by Dr. Don Racheter, President of Public Interest Institute, and Dr. Richard Wagner, Economics Professor at George Mason University and Chairman of the Institute's Academic Advisory Board.

For more information contact Public Interest Institute.

A Tax Phantom Is Stalking You

by Kevin Hassett

If you were an unscrupulous tax-and-spend politician, you'd be frustrated by the unpopularity of tax hikes. It puts you in a bind: most of the money that comes in each year is already targeted for old programs. So how are you going to find money to pay for your own pet projects?

Wouldn't it be great if you could conjure up a Tax Phantom? The Tax Phantom could take money away from people in the dark of night. He'd be so stealthy that nobody would see him come or go. Many citizens wouldn't even miss the money, and the extra revenue could be divided up among all your friends in Congress. With luck, there'd be so much to go around that everyone could be re-elected.

Our tax system is set up so that every year in which the economy grows, taxes are raised automatically on millions of people.

Guess what? There *is* a Tax Phantom. Our tax system is set up so that every year in which the economy grows, taxes are raised *automatically* on millions of people. Real growth is just about a sure thing in America: since 1959, there have been only five years of economic contraction. And so

tax hikes are a sure thing as well.

I'm *not* describing the "bracket creep" you've heard about before, where inflation — the watering-down of our money by politicians — unjustly pushes folks into higher tax brackets. That cheap trick has been ended by law.

So how does this other tax scam work? The class-warfare specialists in the Democrat Party have given us a highly "progressive" tax structure. This means that as you earn additional income, the tax rate you pay (not just the *amount*, but the actual *rate*) goes up as well. Now when the economy grows, the incomes of ordinary Americans grow too. But our tax brackets are only indexed to factor out inflation, *not* real growth. As a result, almost every year a large number of Americans are pushed into higher tax brackets and get hit with an automatic marginal tax rate hike.

The following table reveals that this "real bracket creep" is a very big deal. From 1993 to '97, the most recent years for which we have enough data to make the necessary calculations, the percentage of people in the 28 percent tax bracket increased by 7.3 percent. The increases are even sharper in the higher tax brackets, with the number of taxpayers in the top 39.6 percent bracket posting a

whopping 55.5 percent increase over just those four years.

Mid-1990s Bracket Creep...

Tax bracket	Proportion of returns falling in each bracket	
	1993	1997
15 percent	64.3%	60.6%
28 percent	30.1	32.3
31 percent	3.2	3.8
36 percent	1.5	2.1
39.6 percent	0.9	1.4

Economists know that higher tax rates lead to all sorts of economic inefficiencies. Yet our tax code introduces steep rate increases each year, automatically. The next table shows just how much these rate hikes will shove tax returns into higher brackets by the year 2010, assuming that 1993-97 income growth patterns continue. For comparison, I include the 1993 distribution of returns.

...Accumulates into Big Tax Increases

Tax bracket	Proportion of returns falling in each bracket		
	1993	2010 (projected)	%
15 percent	64.3%	46.6%	-28%
28 percent	30.1	34.4	+14
31 percent	3.2	11.0	+244
36 percent	1.5	5.9	+293
39.6 percent	0.9	2.1	+133

The numbers are shocking. In 1993, barely over a third of

all taxpayers faced a marginal tax rate higher than 15 percent. By 2010, if nothing changes, well more than half will. Approximately 20 million tax returns will experience a rate hike!

When you're shoved into a higher tax bracket, your bill goes up. With 20 million Americans jumping brackets, that means a big chunk of the budget surpluses our politicians are racing to spend is attributable to unlegislated rate increases. How much?

There are two piles of revenue created by real bracket creep. The first comes from people who actually edge into higher brackets. If you are right at the top of the 15 percent bracket, for example, and have your income grow at the same real rate as GDP, then a chunk of your income ends up in the 28 percent bracket. If the 15 percent bracket had been expanded along with your income, you would pay 15 cents tax for each new dollar, but since the bracket was not expanded, you instead pay 28 cents on every dollar. The difference, 13 cents, is the new revenue from the tax hike. This pile of money amounts to about \$200 billion over the next 10 years.

The second pile is much, much bigger. Suppose you are Bill Gates, camped out in the top tax bracket for all time. If we move the limit on the 15 percent bracket higher to keep up with economic growth, it will affect even your tax bill.

Why? Because the brackets apply to everybody. Bill Gates' first \$41,000 is taxed at a 15 percent rate. If we fight real bracket creep by increasing the top of the 15 percent bracket to, say, \$42,000 this year, then even Bill Gates would get a small tax cut on the \$1000 that previously was taxed at the higher rate. This pile of money amounts to about \$1.1 trillion over the next ten years.

Americans will pay about \$1.3 trillion extra over the next ten years because their income tax system is not indexed for real growth.

Putting the two effects together, one can say Americans will pay about \$1.3 trillion extra over the next ten years because their income tax system is not indexed for real growth. To put that number in perspective, it's about the same size as the revenue reduction from Governor Bush's proposed tax reduction. His

across-the-board 30 percent cut is just enough to offset tax hikes that are already in motion!

With luck, the Bush tax cut will become law. And when it does, Congress should be sure to index tax brackets for real economic growth in the future. That way, tax hikes will happen only if politicians muster the political support for them, and the Tax Phantom will be out of business.

Kevin Hassett is a resident scholar at the American Enterprise Institute.

Reprinted with permission from The American Enterprise Magazine (www.TheAmericanEnterprise.org).

The American Enterprise Magazine is published eight times per year by the American Enterprise Institute for Public Policy Research. For more information, contact AEI at 1150 17th Street N.W., Washington, D.C. 20036.

Visit Public Interest Institute's
web page to see our new feature
News and Views.

Read the views of Institute authors on
today's current news issues.

www.limitedgovernment.org

**Public Interest Institute
at Iowa Wesleyan College
600 North Jackson Street
Mt. Pleasant, IA 52641**

NONPROFIT ORGANIZATION
U.S. POSTAGE PAID
MAILED FROM ZIP CODE 52761
PERMIT NO. 338

**I&R in the States
Continued from page 1**

a landowner if the property value is reduced by government regulation, and Measure 5, a statutory initiative requiring background checks at gun shows.

Voters defeated a majority of the measures on the ballot. Among those failing were initiatives to provide public financing to certain candidates, limit state appropriations to 15 percent of the state's personal income, require voter approval of most new or increased taxes and fees, and tie job performance to teacher pay.

A Constitutional Amendment initiative to make all federal income taxes deductible from income on state income

tax returns failed. The deduction is currently limited to \$3,000. However, voters did approve a statute placed on the ballot by the Oregon Legislature to increase the maximum deduction on Oregon income tax returns for federal income tax paid from \$3,000 to \$5,000.

Voters rejected a Constitutional Amendment to make the initiative process more difficult and expensive. Even with so many ballot measures to consider (some of which were placed on the ballot by the State Legislature), over 60 percent of the voters rejected this attempt to make the process tougher.

SOUTH DAKOTA

A Constitutional Amendment initiative was approved to

repeal the state inheritance tax. The measure was supported by 80 percent of the voters.

WASHINGTON

Voters approved Measure 722, a statutory initiative to nullify certain state and local tax and fee increases adopted without voter approval, to exempt vehicles from property taxes, and to place limits on property tax increases.

Measure 729, a statutory initiative to allow school districts and public universities to sponsor charter public schools, was defeated.

Amy K. Frantz is a Research Analyst with Public Interest Institute.