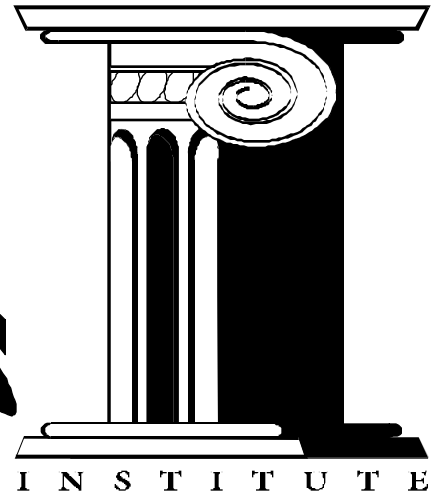


# LIMITS



*On Power and the Use of Power*

## Initiative and Referendum in the States

by Amy K. Frantz

Choosing a Presidential candidate won't be the only decision for primary voters this spring and summer in states that allow voter initiatives and legislative referendum.

### CALIFORNIA

The March 7, 2000 primary will offer California voters the opportunity to vote on several propositions in addition to a presidential candidate.

There will be a Proposition 13 on the California ballot in March, but it is not to be confused with the well-known Proposition 13 approved in 1978, limiting property taxes and sparking the anti-tax movement nationwide. As reported in Howard Jarvis Taxpayers Association's *Taxing Times*, "After reaching Proposition 227 in the 1998 June primary election, the state started the numbering process over again with Proposition 1 in

that year's November general election."<sup>1</sup> An attempt was made in the California Legislature to retire the number 13 for propositions, but was unsuccessful. The subject of the new Proposition 13 is park and water bonds.

Proposition 22 is a statutory initiative adding a provision to the California code stating that "only marriage between a man and a woman is valid or recognized in California."<sup>2</sup> Similar ballot measures have been approved in Alaska and Hawaii, and may be on future ballots in Colorado and Nevada.

Proposition 24, an initiative to lower the salaries of California Legislators and establish a procedure for the Courts, rather than the Legislature, to reapportion legislative districts in the state, has been removed from the ballot. The California Supreme Court ruled that the Proposition violated the state's

single-subject rule for ballot measures.

Proposition 26 is a Constitutional Amendment to allow a majority of voters, rather than the currently-required two-thirds of voters, to approve school bonds. Opponents of Proposition 26 say they find it ironic that a proposition that could double the taxes of California property owners is number 26, double that of Proposition 13, which limited property taxes over 20 years ago. Supporters of Proposition 26 say opponents are just cheap and have vowed to spend \$20 million in support of this ballot measure.

Proposition 27 amends the State Constitution of California to allow candidates to voluntarily sign a non-binding limit on the number of terms they will serve in the U.S. House of Representatives or U.S. Senate.

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## Taxation by Other Means

by Max Schulz

When Congress takes up the issue of tax relief, too often the debate concentrates on money. That is, the arguments about taxes, pro and con, focus solely on the money due to the federal government each April 15. This shows the shortsightedness of the political class in determining the laws under which you and I must live.

Whether haggling over the details of estate taxes, sin taxes, or capital gains taxes — not to mention the income tax — denizens of Washington, D.C., underestimate the average American's tax burden. Discussion at each end of Pennsylvania Avenue assumes those are the only levies he pays in exchange for the government he receives. In reality, state and local taxes (especially property and sales taxes) add to our crushing tax obligations.

But even factoring in these charges, there are still other ways government taxes us. We would do well to remember — especially when politicians of all stripes grandstand on "tax relief" — that many (if not most) activities of government impose onerous burdens. They aren't direct payments to a government treasury, but they are nonetheless taxes on our time, our labor, our freedom.

Take the IRS code itself. The government requires citizens to conduct its tax collection, making people

bookkeepers for the federal Leviathan. Even the simplest 1040 form requires time-consuming labor without hint of remuneration — a classic unfunded mandate. And the sheer complexity of a tax code that runs to thousands of pages means that Americans are forced to spend untold time and money to pay their annual tribute.

*Whether haggling over the details of estate taxes, sin taxes, or capital gains taxes — not to mention the income tax — denizens of Washington, D.C., underestimate the average American's tax burden.*

A slew of such implicit taxes, kept off the government's balance sheet, are to be found in every facet of daily life:

**Regulations.** The rules government mandates for us are hidden taxes. A law, after all, is a tax on behavior. The government is as likely to overtax through laws and regulations as it is through more traditional levies on our paychecks. These hidden taxes are insidious precisely because we don't always notice them. They don't show up as actual

payment to the Treasury. Yet they still are costs we incur to do the government's bidding. The shop owner who must install a ramp to comply with the Americans With Disabilities Act pays a real price.

**The legal system.** Our out-of-control tort system allows people to play a roulette game of legalized extortion. The tax? Our constant exposure to the legal harassment of frivolous lawsuits. Not only does government fail to protect businesses and individuals from the truly frivolous suits, but the vague and inexact laws Congress passes often encourage them. Moreover, we are taxed in the marketplace, where the problems of the tort system translate into higher prices for nearly all products and services.

**Price supports.** Price-support policies on sugar and other agricultural products drive up the prices we pay for virtually every meal. Citizens pay the tax for this corporate welfare at the cash register.

**The Postal Service.** The Postal Service constantly congratulates itself for taking no federal tax money. Its operating costs aren't figured into the annual budget, but are covered by revenue from the sale of stamps. So where's the tax? In the artificially high price of stamps. Those self-congratulatory claims are misleading because the government reserves to the Postal Service a monopoly on first-class mail delivery. As a result, the price we pay for postage is

far higher than it likely would be in an unfettered market.

*A tax isn't necessarily money we give the government. Rather, a tax is a way for the government to control us. Taxes of all types make us the servants of the state...*

**The monetary system.** Washington also reserves to itself the monopoly on currency: competing private currencies are illegal. While this may seem esoteric, what it means is that we have no choice but to use the government's money. The least government can do is guarantee a stable value of money, as a gold standard would accomplish. It doesn't. Inflation — and anxiety about future inflation — can be a deadly hidden tax on savings and investment, robbing people decades down the road.

We suffer many other taxes in our everyday endeavors. We need licenses to drive, licenses to operate many kinds of business, and permits to build on our own property. Each usually involves a fee in addition to the hassle of petitioning the appropriate authority for approval. When you have to take time off from work to stand in line to pay the government for a stamped slip of paper in order to continue — well, working — you are being

taxed on several levels.

A tax isn't necessarily money we give the government. Rather, a tax is a way for the government to control us. Taxes of all types make us the servants of the state, both when we send tribute to Washington or when we work to satisfy regulatory mandates.

Taxes, it is said, are the price we pay to live in an orderly society. Fair enough. Just don't forget that this "price" includes far more than the coins we drop in Uncle Sam's coffers.

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*This article, originally appeared in FEE's The Freeman (now known as Ideas on Liberty) and was adapted by Mackinac Center for Public Policy.*

*Ideas on Liberty is a monthly journal with articles on topics of interest from the fields of economics, history, and moral philosophy. A sample copy of Ideas on Liberty is available on request from Foundation for Economic Education, 30 S. Broadway, Irvington-on-Hudson, NY 10533.*

# Limitations on Government: A New Feature of Public Interest Institute's Web Page

by Amy K. Frantz

“The American Revolution was spurred in part by the desire to limit the power of the British government to tax American colonists. Americans have long believed that government serves its citizens, not the other way around. To ensure that citizens are the masters of government, not its slaves, we recognize the need to place limits on government from time to time, to protect ourselves from an overzealous government. Some of the states, through Legislatures or citizen initiatives, have adopted limits on the government’s power to tax and spend, and on the number of terms elected officials may serve.”

— Public Interest Institute’s Limitations on Government web page.

A new feature of Public Interest Institute’s web page, Limitations on Government, is currently under construction. When complete, as the introduction to the web page states

above, the page will feature information on tax and spending limitations and term limits in all 50 states.

Visitors to the web page can find limitation information by state or by issue.

Choosing the Limitations by State option brings up a map of the United States. Clicking on each state provides information on the types of limitations applicable for that state, and the constitutional or statutory language of the limitations.

For example, when completed, a visitor may click on the state of Iowa on the map. The information will indicate that Iowa adopted a statutory State Tax and Expenditure Limitation in 1992, limiting appropriations to 99% of adjusted general fund receipts. A link allows the viewer to see the section of the Iowa Code that includes the limitation.

Information on a particular type of limitation can also be accessed through Limitations on Government by Issue.

There, visitors can view a chart of State Tax and Expenditure Limitations (TELEs) or State Supermajority or Voter Approval Tax Limits. These charts include a list of states that have such a limitation, a brief description of the limitation, and the year the limitation was adopted. A chart of state term limits is under construction, but will be available for viewing in the future. These charts also provide a link to the Constitutional or Statutory language of each limitation.

Visit Public Interest Institute’s web page at [www.limitedgovernment.org](http://www.limitedgovernment.org) to view this new feature. In addition to the Limitations on Government feature, the Institute’s web page features all of Public Interest Institute’s past publications, press releases, and newspaper columns and editorials, a listing of the materials available in our research library, the history and mission statement of our organization, Public Interest Institute’s upcoming events, information on becoming a member of Public Interest Institute, and a link to our e-mail for your questions, comments, or information requests.

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

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[www.limitedgovernment.org](http://www.limitedgovernment.org)**

## Initiative and Referendum in the States

Continued from page 1

Candidates signing such a pledge would have this information noted on ballots and state-sponsored voter education materials.

Proposition 28 repeals the 50-cent per pack increase in the cigarette tax in California and eliminates the funding it provided for early childhood development and smoking prevention programs. This tax increase was narrowly adopted as Proposition 10 in the November 1998 election.

### MASSACHUSETTS

Three statutory initiatives to reduce taxes may be on the ballot in Massachusetts unless the State Legislature acts on the proposals during its current session.

Measure B is the Commuter Tax Relief Act. This proposal provides a state income tax credit equal to the amount of tolls paid during the year on all Massachusetts roads, highways, tunnels, and bridges. Corporations would receive a credit against corporate excise taxes equal to any tolls paid by the corporation or its employees while on corporation business.

The second tax-related ballot item is Measure S, which

provides a state personal income tax deduction for charitable giving. This deduction is available whether or not the taxpayer itemized deductions on a federal income tax return, and uses the same guidelines for eligible charitable giving as for federal income taxes.

The third item, Measure G, reduces the state income tax rate to five percent by the year 2003. Last year the Massachusetts Legislature approved a reduction in the state income tax rate from the current 5.95 percent to 5.75 percent over two years. While Massachusetts Governor Paul Cellucci called this “a good start,” he and the members of Citizens for Limited Taxation would like the state income tax rate returned to five percent, the state’s income tax rate prior to being increased on an “emergency” basis in the late 1980s.<sup>3</sup> If the Legislature does not further reduce the state income tax rate this year, this initiative will go before the voters in November.

### OREGON

Bill Sizemore, activist and unsuccessful candidate for Oregon Governor, has proposed an initiative to amend Oregon’s Constitution allowing state personal and corporate income taxpayers to deduct all federal income tax paid from the Oregon income tax return. Currently, personal income taxpayers may deduct up to \$3,000 paid in federal income tax, while corporations get no

deduction for federal income tax.

Oregon Governor John Kitzhaber called Sizemore’s plan “madness” and, in an unusual move, has challenged Sizemore to a debate on the merits of the initiative.<sup>4</sup> Portland, Oregon pollster Tim Hibbitts questioned Governor Kitzhaber’s challenge to Sizemore, asking “When in American history has a [G]overnor who defeated his opponent 2-1 challenged him to a series of debates on public policy 14 months later?”<sup>5</sup>

The Oregon Legislature has referred two Constitutional Amendments to the May 16, 2000 ballot regarding the initiative process. Measure 78 extends the time period during which the Secretary of State must verify signatures on state initiative and referendum petitions. Measure 79 increases the number of signatures required to submit a Constitutional Amendment initiative to the voters.

### WASHINGTON

In November 1999 voters in the state of Washington approved Initiative 695, a statutory initiative to require voter approval of any new tax or increase in state or local taxes, tax rates, tax base expansion, or tax extension; repeal the 2.2 percent annual excise tax on motor vehicles; and increase the basic vehicle registration fee from \$24 to \$30 annually.

**continued on page 8**

# Missouri's Hancock Amendment

## Has the state's tax limitation kept taxes down?

by Amy K. Frantz

A recent Special Report from Tax Foundation takes a look at Missouri — one of the states with a tax limitation requiring excess taxes to be returned to taxpayers — and the impact the limitation has had on the state's tax burden. In *Tax Limitation: The Case of Missouri*, Tax Foundation economist J. Scott Moody concludes that Missouri's tax limitation, known as the Hancock Amendment, has restrained the government's "tax bite."

A growing U.S. economy in the 1990s has led to higher tax revenue. Moody says this increasing revenue leaves states with two choices; spend more or return the excess revenue to the taxpayers. Missouri is one of six states (Arizona, Colorado, Ohio, Oregon, Massachusetts, and Missouri) that have established a process to automatically determine if excess revenue has been collected and, if so, to return it to taxpayers.

In 1980 the Hancock Amendment was added to the Constitution of Missouri (see a selection of the Hancock Amendment on page 7). The Amendment states that if total state revenue exceeds 5.6959 percent of the personal income of Missouri, the state must refund the excess tax collection to the taxpayers.

The limit was exceeded for

the first time in 1995, and was exceeded again in 1996, 1997, and 1998. However, due to court challenges, the refund to taxpayers was delayed. In early 1998 taxpayers received a check distributing the combined 1995 and 1996 excess tax collection. In late 1998, money was distributed for the 1997 refund, and finally, the 1998 refund was sent to taxpayers in the fall of 1999. The state refunded \$147 million for 1995, \$229 million for 1996, \$319 million for 1997, and \$245 million for 1998.

Over the last three decades, Missouri's state and local tax burden has fluctuated, but has generally followed national trends (see Table 1). However, from 1991 to 1997, the state and local tax burden in Missouri grew by more than one percent, a rapid increase. At the same time, the national average for state and local tax burden remained fairly steady.

Since 1997, the tax burden in Missouri has begun to drop. Moody attributes this decline in tax burden to the refunds from the Hancock Amendment and other tax cuts adopted in the state.

Tax Foundation tax burden rankings for the states indicate Missouri has the 39<sup>th</sup> highest state and local tax burden (meaning 38 states have a greater state and local tax

**Table 1:  
State and Local  
Taxes as a Percentage  
of Income:  
Missouri vs. the  
National Average  
1970-1999**

	Missouri	National Average
1970	9.20	10.79
1971	9.61	11.06
1972	10.23	11.43
1973	10.00	11.15
1974	10.12	11.21
1975	9.97	11.34
1976	9.77	11.41
1977	9.48	11.38
1978	9.32	10.88
1979	9.10	10.48
1980	9.13	10.51
1981	8.88	10.47
1982	9.39	10.88
1983	9.43	10.94
1984	9.17	10.88
1985	9.12	10.94
1986	9.27	11.13
1987	9.54	11.23
1988	9.60	11.04
1989	9.57	11.09
1990	9.61	11.09
1991	9.60	11.35
1992	9.68	11.42
1993	9.85	11.42
1994	10.29	11.42
1995	10.59	11.38
1996	10.67	11.32
1997	10.69	11.23
1998	10.60	11.32
1999	10.49	11.33

Source: Tax Foundation Special Report, *Tax Limitation: The Case of Missouri*, by J. Scott Moody.

burden) for 1999. In the absence of the Hancock Amendment refunds, Missouri's ranking would have risen to the 17<sup>th</sup> highest state and local tax burden in the United States. "The Hancock Amendment effectively stems the increase in the state tax burden,"<sup>1</sup> said Moody in the conclusion to his report.

ENDNOTE:

<sup>1</sup>Moody, J. Scott, "Tax Limitation: The Case of Missouri," Tax Foundation Special Report, No. 90, September 1999, p. 6.

*Tax Foundation, a nonprofit, nonpartisan research and public education organization, has monitored tax and fiscal activities at all levels of government since 1937.*

*This Special Report from Tax Foundation, Tax Limitation: The Case of Missouri — Hancock Amendment Keeps Check on Government Tax Bite, by J. Scott Moody is available from Tax Foundation for \$10. For more information, contact Tax Foundation at 1250 H Street N.W., Suite 750, Washington, D.C. 20005, or visit Tax Foundation's web site at [www.taxfoundation.org](http://www.taxfoundation.org).*

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## From the Hancock Amendment to the Constitution of Missouri:

*Article X, Section 18. (a) There is hereby established a limit on the total amount of taxes which may be imposed by the general assembly in any fiscal year on the taxpayers of this state. Effective with fiscal year 1981-1982, and for each fiscal year thereafter, the general assembly shall not impose taxes of any kind which, together with all other revenues of the state, federal funds excluded, exceed the revenue limit established in this section. The revenue limit shall be calculated for each fiscal year and shall be equal to the product of the ratio of total state revenues in fiscal year 1980-1981 divided by the personal income of Missouri in calendar year 1979 multiplied by the personal income of Missouri in either the calendar year prior to the calendar year in which appropriations for the fiscal year for which the calculation is being made, or the average of personal income of Missouri in the previous three calendar years, whichever is greater.*

*(b) For any fiscal year in the event that total state revenues exceed the revenue limit established in this section by one percent or more, the excess revenues shall be refunded pro rata based on the liability reported on the Missouri state income tax (or its successor tax or taxes) annual returns filed following the close of such fiscal year. If the excess is less than one percent, this excess shall be transferred to the general revenue fund.*

This is a portion of the Hancock Amendment. For the full text of the Amendment, see Public Interest Institute's Tax Limitations web page at [www.limitedgovernment.org](http://www.limitedgovernment.org).

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## **Initiative and Referendum in the States**

**Continued from page 5**

A legal challenge has now been filed against I-695 by the Amalgamated Transit Union Local 587, a union representing transit drivers in three Washington counties. The union claims the initiative is unconstitutional because it deals with more than one subject, requires all taxes to be referred directly to the voters, and the ballot title did not include all provisions of law affected by I-695.

Meanwhile, Tim Eyeman,

the sponsor of I-695, is planning a new initiative to limit property tax valuation increases and abolish any increases in taxes or fees passed by state or local governments between July 2 and December 31, 1999. Several local governments approved tax or fee increases just prior to January 1, 2000, the effective date of I-695; the new initiative would negate those tax increases.

### **ENDNOTES:**

<sup>1</sup>“When Proposition 13 is Not Proposition 13,” *Taxing Times*, the quarterly newsletter of Howard Jarvis Taxpayers Association, Vol. 22, Issue 4, Winter 1999-2000.

<sup>2</sup>[www.ballotwatch.org](http://www.ballotwatch.org).

<sup>3</sup>“2000 Ballot Questions To Offer \$2.2 Billion in Tax Cuts,” *State Tax Notes*, December 13, 1999, p. 1579.

<sup>4</sup>Ansell, Damon B., *Tax Alert*, a bi-weekly report from Americans for Tax Reform, Vol. 6, Issue 24, January 27, 2000.

<sup>5</sup>*Ibid.*

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