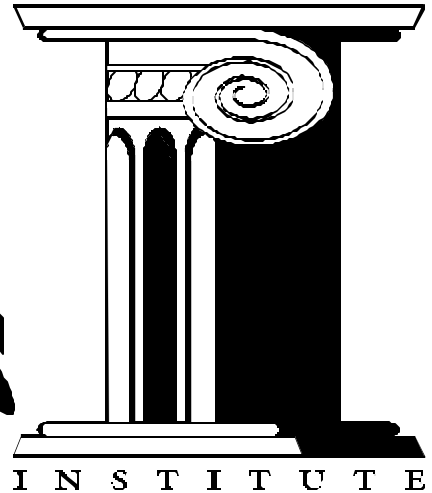


LIMITS



On Power and the Use of Coercion

Protect Our Right to Limit Taxes

by Fred Holden

Government and taxes belong to the people. The people have the right and responsibility to limit how much government takes.

Colorado's alleged "perfect fiscal storm" refers to the interaction of the homeowner-protecting Gallagher Amendment, tax-limiting Taxpayer's Bill of Rights, and accelerated school-funding Amendment 23.

Voters approved the Gallagher Amendment in 1982 to slow skyrocketing residential property taxes, by apportioning them 45 percent to residential and 55 percent to non-residential. Last month, voters

defeated a plan to repeal the Amendment's protections.

Voters approved the Taxpayer's Bill of Rights in 1992, to require voter approval to increase tax rates and impose flexible spending limits on Colorado's 2,415 governments. Surpluses must be returned to taxpayers unless voters let government keep excess revenue. State spending can grow no more than population plus inflation, to allow governments to administer to more people and maintain purchasing power. School funding can increase by inflation and enrollment growth. Other local government revenue can increase by inflation and net new construction.

From 1998 to 2002, the state refunded \$3.25 billion to taxpayers, or about \$3,200 for a family of four.

Voters approved Amendment 23 in 2000,

requiring extra K-12 per-student funding of inflation plus 1 percent for 10 years, then keeping up with inflation thereafter. The money was to come from future TABOR surpluses. These ended with the national and local economic downturn, so this increase for schools was paid by slowing growth in other programs and by raiding trust funds created by user fees.

TABOR opponents say "we" have fiscal troubles – as though "we" means Colorado citizens and taxpayers. Actually, their "we" means government.

TABOR opponents want the people to give up their right to vote on its spending limits. Why would Colorado voters agree to give up, permanently, this priceless, hard-won right to control excessive spending? Under TABOR, all government

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What's New at PII?

*Check for new publications,
Policy Studies, or events on
our Website at
www.limitedgovernment.org*

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Dr. Don Racheter,
President

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.

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Cell Phone Taxes: Enough is Enough!

by John Berthoud

Enhanced 911 (E911) service, which will assist 911 call centers in pinpointing the location of emergency callers, should be paid out of existing taxes, rather than more special surcharges as some suggest. A number of states have adopted surcharges for E911 service, and others are considering it. They should drop the idea. The last thing cell phone users need is another tax – cell phone service is already overtaxed.

Wireless customers face a staggering array of government levies, including sales taxes (state, and sometimes county and city), a 3 percent federal excise tax, annual regulatory fees, municipal franchise taxes, and federal universal service fund surcharges. Combined, these taxes add up to a tax burden of well over 14 percent (government regulations add

even more costs). Surely, somewhere in this vast amount of revenue, some money can be squeezed out for the cost of E911.

E911 has not been implemented as speedily as hoped, but not because of a lack of revenue. The problem is poor prioritization by politicians. There's been an unwillingness to allocate the tax dollars currently collected from cell phone users to this effort. Worse, in some states politicians have slapped additional taxes on cell users specifically for E911, but then have diverted these funds to other uses. In New York – where cell phone users pay over 20 percent in taxes on their service – E911 fees were hijacked for other purposes. State Comptroller Carl McCall

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Two New *POLICY STUDIES* are available from Public Interest Institute:

Iowa's State Budget: Fiscal Year 2004 Update

What we need is budget reform, to return surplus revenue to Iowa taxpayers and a Constitutional Amendment imposing spending limitations, to enable Iowa to avoid a future budget crisis.

Township Government in Iowa

Iowa Legislators should consider placing limits on the amount of property tax revenue townships may hold in reserve, and indeed whether township government itself has outlived its need to survive.

To read these POLICY STUDIES, visit Public Interest Institute's Website at www.limitedgovernment.org or contact the Institute to request a copy.

Are Initiatives to Blame for California's Budget Crisis?

by Amy K. Frantz

One of the arguments used in opposition to the use of the Initiative is that too many successful initiatives tie the hands of elected officials when crafting a state budget, either by preventing or limiting tax increases or by requiring certain levels of spending on particular programs or agencies. But is this true? John G. Matsusaka of the University of Southern California, takes a look at the initiatives that have been approved in the state of California and their impact on the state budget in his study, "Have Voter Initiatives Paralyzed the California Budget?"

California voters have approved 98 initiatives since 1912, when the initiative process was first available in that state. Professor Matsusaka reviewed each of those successful initiatives for his study to determine their fiscal impact on the California budget for fiscal year 2003-2004. Some of the initiatives are no longer in effect for various reasons. For those initiatives that are effective, Professor Matsusaka calculated the amount of spending that was locked in by each of the initiatives. If the amount was uncertain, Matsusaka used the largest plausible amount, often based on the official estimates from Legislative analysis.

For fiscal year 2003-2004, Matsusaka found that initiatives

locked in just over \$32 billion, at most, out of total state appropriations of \$101 billion. One initiative alone, an education spending initiative passed in 1988, locked in \$30 billion for K-14 education. However, Matsusaka believes the \$30 billion in education spending would be appropriated even without the requirements in the initiative. Without this one education initiative, initiatives locked in only two percent of the state's budget.

Matsusaka also looked at the impact of initiatives on state revenue. He ranks taxes by type, according to the percentage of tax revenue raised from a particular tax by all state governments. The top tax is personal income tax, comprising 34.6 percent of state tax revenue nationwide. Initiatives in California place no constraint on the collection of personal income taxes. General sales taxes come in at number two, comprising 32.9 percent. There is one California initiative with an impact on sales tax; a 1992 initiative prohibiting the collection of sales tax on food. The next three sources of tax revenue are corporate income (6.2%), Gas (5.8%), and motor vehicle (3.1%); none of which are restricted by initiative. We must drop to the seventh-most-important source of revenue, the property tax, to find another

tax on which any initiative-driven restrictions are placed, in the form of Proposition 13, which limits increases in property tax. It seems that initiatives have a very limited impact on the ability of California's elected officials to increase taxes.

Those who are opposed to the concept of initiatives make statements, often unfounded, about the grave restrictions placed on budget-makers by successful initiatives. "As a result of several voter initiatives, about 70 percent of state spending is earmarked in advance," says Laura D'Andrea Tyson.¹ An analytical study of the initiative measures shows that the impact of initiatives is not as confining as opponents would have us believe. Instead, Matsusaka concludes, the initiative process is the scapegoat for elected officials' inability to deal with California's budget crisis.

ENDNOTE:

¹Laura D'Andrea Tyson, "A New Governor Won't Fix What Ails California," *Business Week*, September 22, 2003, p. 24.

A copy of Professor Matsusaka's study, "Have Voter Initiatives Paralyzed the California Budget?," can be found at http://lawweb.usc.edu/cslp/pages/documents/matsusaka2_000.pdf

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

**Protect Our Right to
Limit Taxes**

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has to do to keep its excess revenue is ask for it, and convince voters that the government's need for it is greater than our own.

As a representative of the Independence Institute, I joined the 60 people and 28 groups that state Treasurer Mike Coffman assembled to study the interaction of these Constitutional Amendments. Knowing most in attendance favored more taxes and less fiscal discipline, TABOR author Douglas Bruce asked them how many had refused or returned their TABOR tax rebates. The answer: none.

State budget director Nancy McCallin says TABOR has had no impact on the state's budget situation during the past two years. "Although many would like to brand TABOR as the scapegoat in the recent budget shortfall, it did not play any role at all," McCallin said in October.

Legislators in 1998 passed HB 1414, which allowed them to spend excess TABOR revenue immediately rather than save it for refunding. They gambled on the next year's TABOR surplus and lost. When the surplus vanished in

the 2001 recession, Legislators confiscated hundreds of millions from trust funds to pay the Constitutionally-required refund in 2002. Had a private corporation participated in such Enron-style accounting, where would its leadership end up?

Government revenues do not decrease because of TABOR, but because of economic downturns. Since 1992, the total Colorado revenue has doubled. TABOR merely limits the rate of increase in annual revenues. The "cuts" that TABOR detractors bemoan are but slight reductions in increases. And if recession lowers revenue for the people who pay taxes, shouldn't government accept a lower level of spending as well?

TABOR has done exactly what it was supposed to do. During its first 10 years, Colorado revenues grew 61 percent, with inflation plus population up 62 percent. During the preceding 10 years, revenues grew 104 percent, more than twice inflation plus population's 40 percent.

Amendment 23's mandate of increased spending on government schools will moderate in seven years to require only keeping up with inflation. An immediate beneficial change would be to drop the extra 1 percent funding. Repealing the Amendment entirely would be

better. We shouldn't breed and feed budgetary sacred cows with Constitutionally-earmarked funds.

The Legislature can create a budget stabilization or rainy-day fund for economically lean years. The taxpayer-friendly preference would be to place the fund in the Constitution and fill it from normal state revenue rather than from the surplus pledged for tax refunds. Use of that fund should require a three-quarters majority vote of House and Senate, and occur only when general-fund revenue drops below the prior year's level. These requirements will prevent the rainy-day fund from becoming just another slush fund.

Other states are seeking to adopt TABOR in a growing national movement. This fact should prompt Coloradans to vigorously maintain their TABOR support. Over time, TABOR will extend nationwide its benefits of lower taxes and limited government, a fiscal blessing to our whole country and its future.

Why would overburdened taxpayers and savvy citizens vote to weaken TABOR? If governments need more taxes, all they have to do is ask. The people will decide.

The tax-and-spend, big government types call these three Constitutional Amendments some kind of fiscal "perfect storm." Hard-

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aid envelope to make your tax-deductible contribution to this effort today.**

working and overburdened taxpayers who cannot easily participate in lobbying to get back their hard-earned money instead can call TABOR and the Gallagher Amendment their “perfect protection.”

Get more information on Colorado revenue growth by viewing the tax charts at www.tax-cut.org.

Fred Holden is a Senior Fellow at Independence Institute and Deputy Treasurer of Financial Analysis in Jefferson County, Colorado. He is also the author of Total Power of One in America (Phoenix Enterprises, 2001).

This column originally appeared in the Denver Post. Reprinted with permission from Independence Institute.

Independence Institute is a non-profit, non-partisan think tank located in Golden, Colorado. Its public policy research focuses on economic growth, education reform, local government effectiveness, and Constitutional rights.

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Cell Phone Taxes: Enough is Enough!

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found that the total amount diverted was \$162 million. Similarly, in North Carolina, an E911 surcharge was frittered away on other programs.

More taxes will actually have an adverse effect on public safety by slowing the spread of cell phone usage. Cell phones have proven to be a valuable asset in improving public safety, and government shouldn't be discouraging more people from signing up for service by imposing unreasonable tax burdens.

If E911 is a vital expenditure of public money, politicians should steer current cell phone revenues towards this effort, not away from it. States and localities can't even use the excuse that they are short on money from other sources: aggregate third quarter state and local revenues are up nearly \$100 billion from a year ago. Enough is enough.

Dr. John Berthoud is President of National Taxpayers Union (NTU) and National Taxpayers Union Foundation (NTUF).

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National Taxpayers Union was founded in 1969 to fight for the American taxpayer. NTU is the nation's largest grassroots taxpayer organization, with 350,000 members across fifty states. NTU lobbies Congress and State Legislatures, educates politicians and the media on important taxpayer issues, and teaches its members how to become effective, united citizen lobbyists.

National Taxpayers Union Foundation was founded in 1977 and provides critical research on a variety of tax and fiscal issues.

For more information visit www.ntu.org, contact NTU and NTUF at 108 N. Alfred Street, Alexandria, VA 22314, or call 703-683-5700.

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If a Flat Tax is Good for Iraq, How About America?

by Daniel J. Mitchell, Ph.D.

Few Americans would want to trade places with the people of Iraq. But come tax time in April, they may begin to wonder who's better off.

That's because the Iraqis soon will enjoy something we don't — a simple and fair tax system. Beginning in January, all Iraqis will pay a "flat tax" of 15 percent. President Bush's administrator in Baghdad, L. Paul Bremer, recently approved this pro-growth tax system, which replaces Saddam Hussein's soak-the-rich system that had tax rates as high as 45 percent.

An Iraqi flat tax is good news for the United States on several counts. Perhaps most importantly, it will advance our national security interests by boosting the Iraqi economy. A prosperous and growing Iraq will be less susceptible to radical politics — and less fertile territory for terrorist groups seeking new recruits. And the sooner Iraq is stable and free, the sooner our troops can come home.

But there are other benefits to Iraqi tax reform. It will:

Help restore the Iraqi economy. Decades of heavy-handed government control crippled Iraq's private sector. Saddam and his henchmen treated the country as a personal piggy bank, and the Iraqi people quickly learned to use the underground economy to survive. The flat tax will

"legalize" productive behavior and help unleash entrepreneurship and innovation. Businesses will be formed and jobs will be created. To be sure, the flat tax is just part of the solution, but it's an important step on the road to economic recovery.

Reduce U.S. foreign aid.

An Iraqi flat tax also will save American taxpayers money. Nations that experience strong economic growth generally don't feel the need to come to Washington begging for handouts. This is a critical issue since, for better or for worse, we now bear considerable responsibility for Iraq's future. If its economy is weak, we'll be sending billions of dollars to Baghdad every year for the indefinite future. But the flat tax can help wean Iraq from American aid.

Boost economic reform in the Middle East. Creating a democracy in Iraq should stimulate political reform in other Middle East nations. The same principle applies to economic reform. The Iraqi flat tax will provide an example to other nations in the region that want to modernize their economies. It would be especially helpful if Israel and Egypt learned from Iraq, since both nations consume a lot of U.S. foreign aid — money they wouldn't need if they replaced their punitive tax regimes with a flat tax.

Educate U.S. politicians.

If American officials recognize that a flat tax is good for Iraq, this raises an obvious question: Why isn't it also good for the United States? One of the indirect benefits of the Iraqi flat tax is that it will create another case study showing the benefits of a fair, simple, pro-growth tax system. Not that politicians should need more evidence: Hong Kong's flat tax, after all, is a long-time success story, and the flat taxes in Russia, Lithuania, Estonia and Latvia are helping their economies grow as well.

In spite of this success, however, the Iraqi flat tax likely will prove unpopular with France and Germany. They opposed the war in Iraq, and they also happen to be leading the effort for global "tax harmonization" (meaning that all nations would have bad tax policy so that oppressed European taxpayers will have less incentive to move their money out of places like France and Germany). It would be deliciously ironic if the Iraqi flat tax begins to attract business away from Europe's welfare states and helps pressure these socialist nations to lower their tax rates. This might be a fringe benefit of Iraqi tax reform.

The Bush administration deserves considerable praise for the Iraqi flat tax. Officials could have left Saddam's bad

tax system in place or turned the Iraqi economy over to the United Nations (who probably would have increased tax rates even higher!). But the President and his team know that peace and stability in the Middle East are impossible without prosperity.

The next step: Find some country to liberate us and replace our terrible tax code with a 15 percent flat tax. Any takers?

Daniel J. Mitchell is the McKenna Fellow in political economy at The Heritage Foundation.

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LIMITS

Question of the Quarter:

Are you in favor of a Flat Tax to replace the current income tax system in the United States?

Send your thoughts on this issue to us at public.interest.institute@limitedgovernment.org. We may publish some of your ideas in the June 2004 issue of *LIMITS*.

The Question of the Quarter in our last issue was:
Should Iowa adopt a supermajority requirement to increase taxes?

Dick Hubbard of Council Bluffs, Iowa responded:

I am in favor of setting limits on government spending. If it takes a supermajority vote then let it be.

I would also approve of sunseting the legislation to two or three years to see if the taxing bodies get the message that we demand to have spending reigned in.

They can't whine about the cost of special elections because none of them hesitate to hold special elections for the pure sake of power over constituents.

Thank you to all of our readers who responded to the Question of the Quarter!

*Employees of Public Interest Institute are available for speaking engagements.
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Initiative and Referendum in the States

by Amy K. Frantz

Expect to see many tax limitation Initiatives on state ballots this year, as states struggle to balance their budgets and often look at increasing tax revenue as a solution.

CALIFORNIA

Voters will consider a ballot measure that the Howard Jarvis Taxpayers Association calls a “direct attack” on Prop. 13, the tax limitation measure that began the tax revolt in the 1970s. The Constitutional Initiative, Prop. 56, reduces the required 2/3 vote of the

California Legislature to impose new or increased taxes to a 55 percent vote. Prop. 56 also eliminates the 2/3 vote requirement for the Legislature to approve the state budget, requiring only a majority vote.

NEBRASKA

Nebraska Taxpayers for Freedom have started a petition drive to amend the state’s Constitution. The Taxpayer Bill of Rights Initiative requires any new state tax or increase in state tax rate approved by the State Legislature to be submitted to the voters for approval before

taking effect. The text of the Taxpayer Bill of Rights is available at www.netaxpayers.org.

WASHINGTON

The anti-tax group, Voters Want More Choices, has filed a statutory Initiative to reduce property tax rates for local governments by 25 percent. If the petition drive is successful, this Initiative will be on the ballot in November.

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