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On Power and the Use of Coercion

Taxpayers Need Constitutional Protections

by Jason Mercier

Lawmakers in Washington state are poised to raise taxes by nearly a billion dollars to address a $2.8 billion budget deficit, caused in part by overspending. Facilitating the consideration of these tax increases is the decision to repeal for two years most of Initiative 960 (I-960) enacted by voters in 2007.

On three separate occasions (1993, 1998, and 2007) Washington voters have adopted an initiative or referendum to require a two-thirds vote of lawmakers to raise taxes. On three separate occasions (2002, 2005, and 2010) the Legislature and Governor have signed a law to "temporarily" repeal this requirement — to facilitate tax increases.

On February 24, Governor Chris Gregoire signed the latest two-year repeal of this requirement reinstated by voters via Initiative 960 (I-960).

Advertised as the *Taxpayer Protection Act*, I-960 re-affirmed an oft-ignored law that requires a two-thirds vote of the Legislature to raise taxes. The measure also required that the Legislature approve all state fee increases and that the public be notified via email any time a tax or fee increase is proposed. I-960 also mandated that if the Legislature raises taxes without first referring them for voter approval, the voters would have the opportunity to participate in a non-binding advisory vote on the tax increase.

For each tax increase, the public was to receive the following information on the voters' pamphlet:

•A description of each tax increase.

•A 10-year estimate of how much lawmakers increased the financial burden they placed on taxpayers.

•A list showing how each lawmaker voted.

•Each Legislator's contact information.

Along with the two-year repeal of the two-thirds vote requirement, the Legislature and Governor this year also repealed for two years the non-binding advisory votes and subsequent voters' pamphlet.

As a result, Washington Policy Center will publish the public disclosure information that would have appeared in the voters' pamphlet if Initiative 960 had remained in place.

I-960 sponsor Tim Eyman has already filed a new initiative

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Taxpayers Need Constitutional Protections by Jason Mercier (continued from page 1)

to provide voters with the opportunity to implement a two-thirds vote requirement for tax increases for the fourth time.

Ultimately lawmakers need to have the courage to end this debate once and for all by putting the two-thirds vote requirement for tax increases on the ballot as a constitutional amendment. Regardless of the outcome, the intent of voters will no longer be in question, and the two-thirds vote protections will not be the subject of legal debate or legislative shenanigans. Of those states with a super-majority requirement for tax increases, Washington is the only one without constitutional protections.

Washington Policy Center and the American Legislative Exchange Council (ALEC) have long advocated for this type of constitutional protection for taxpayers.

ALEC's Super-Majority Act can be summarized in the following way: Super-majority requirements are based on the premise that tax increases fuel excessive government spending. Therefore, to more effectively control the budgetary process, the ability to raise taxes or enact new taxes should be made as politically difficult as possible, require broad consensus, and be held to a high standard of accountability. This Act calls for a constitutional provision requiring all tax and license fee impositions and increases to be approved by two-thirds of all members of each House. It provides for an exemption if there are insufficient revenues to pay interest on the state's debt.

As lawmakers grow tempted to reach even further into the recession-strained wallets of families and businesses, constitutional taxpayer protections are needed to refocus efforts on government reform instead of job-killing tax increases. ALEC's Super-Majority Act is just what the taxpayer needs in uncertain economic times like these.

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Tax Day Or Pay Day

by Curtis Dubay

Another Tax Day, another check to Uncle Sam. Right? More and more, though, that isn't the case. Indeed, a growing number of taxpayers pay no income tax whatsoever. And because of increasing pressure to expand government even faster than the unsustainable path it's already on, the United States is on a glide path toward an economic meltdown. According to the Tax Foundation, the number of taxpayers who had no federal income tax liability increased 45 percent between 2001 and 2008.

The number of "non-payers" now stands at 52 million. These non-payers have no interest in controlling the size of government.

Why shouldn't they demand more services if they share in none of the costs? But if the growth in the number of non-payers continues on its current trajectory, we could soon reach a dangerous tipping point. The bottom 50 percent of taxpayers now pays less than 3 percent of all income taxes. Their already small share has been declining for years. If recent trends continue, combined with recent policy changes, it's likely that when the data for this year comes out, we could be at the point where more than 50 percent of taxpayers pay no income taxes. Past that point, a majority of taxpayers can vote themselves a larger and larger share of government benefits at no cost to themselves. And a large part of government spending would be financed entirely by a shrinking minority of taxpayers.

If this scenario were to occur, politicians would have no incentive to restrain government spending. After all, more votes could be won by ramping it up even faster. This deadly recipe for never-ending increases in government spending will lead inevitably to fiscal implosion when there are no longer enough productive taxpayers to foot the bill for the expanding welfare state. Why are taxpayers falling off the rolls at an increased rate? Because of new and expanded tax credits that both political parties are fond of handing out. But credits are not only wiping out the tax liabilities of millions, they are expanding the number of families dependent on the government for income. In fact, not only does the bottom 50 percent of taxpayers pay almost no taxes, many of them actually receive income through the tax code because of refundable credits. For these families, Tax Day is now payday.

In 2010, the three largest refundable credits — the Earned Income Tax credit, the Making Work Pay credit, and the Child Tax credit — will redistribute more than $114 billion to the families that claim them. Most of the credits that are knocking millions off the income tax rolls and redistributing cash through the tax code have been on the books for years. But President Obama's agenda doubles down on these provisions and makes an already bad problem worse. The stimulus already created a huge new refundable credit (Making Work Pay) and expanded several others to increase dependency on the tax code.

The President's plan to raise tax rates on those making more than $250,000 a year will further decrease the share of taxes paid by the bottom 50 percent and move us faster to the inflection point where more than 50 percent of taxpayers pay nothing. We must take action so that that point is never crossed. But it won't be easy. Many taxpayers have grown accustomed to not paying taxes and getting payments through the tax code. Bringing them back onto the tax rolls and taking away their subsidies will be a difficult political problem. But if current trends continue, increasing dependency will threaten the vitality of our economy, and government spending will spiral even faster out of control. The choice should be easy.

To start, Congress should immediately stop creating new credits — especially refundable ones — that will knock more taxpayers off the tax rolls. It also should extend the 2001 and 2003 tax cuts for all taxpayers. Permanently extending the cuts

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The Harding-Christianson Formula For Iowa

by John Hendrickson

When the United States emerged out of World War I, the national economy went into an economic depression that lasted until 1923. Prior to the presidential election of 1920, American politics was dominated by the progressive presidencies of Theodore Roosevelt and Woodrow Wilson, both of whom rejected constitutional limited government in favor of the regulatory administrative state. In the aftermath of the Great War, the nation voted to reject the policies of President Wilson and return to a more conservative direction with the election of Ohio Senator Warren G. Harding.

Once in office, President Harding confronted the depression by cutting government spending, reducing the war-time tax burden, and paying off the national debt — all policies continued by President Calvin Coolidge after the death of Harding. President Harding believed that the best solution for economic recovery was found in limited government and free enterprise rather than government intrusion. What followed was an economic recovery that initiated business growth and entrepreneurship, lowered the unemployment rate, and created budget surpluses, all under the banner of "Coolidge prosperity." The political atmosphere of the 1920s, at least under the leadership of Presidents Harding, Coolidge, and Secretary of the Treasury Andrew Mellon, was based on a commitment to limited government; reduced government spending, lowered taxation, and reduced regulation — in other words, constitutional government. These are all policies that Congress should follow today in addressing the national fiscal crisis and the continuing problem of unemployment.

On a more local level, the economic policies of Harding and Coolidge were shared by Minnesota Governor Theodore Christianson, who was elected in 1924 with the campaign slogan "More Ted and Less Taxes."[1] Governor Christianson, who served two terms, followed a policy of limited government in his administration by cutting both taxes and government spending, and trying to bring efficiency to state government through reorganization.[2] Governor Christianson's philosophy was committed to limited government.

The state of Iowa, just as with the nation, is facing a fiscal crisis with a budget shortfall of nearly $1 billion. State Auditor David Vaudt stated that "revenues would have to grow over 13% just to match this year's true total spending for General Fund services."[3] Although the government reorganization bill that passed the Legislature this session is significant and did find "an estimated $108 million of General Fund savings," it fails to solve the budget problem.[4]

Iowa's fiscal standing will also influence the economy. In *Rich States, Poor States*, a publication that evaluates economic competitiveness at the state level, Iowa ranks 28 out of 50 in economic outlook.[5] Iowa, also ranks high in taxation: 46 for top marginal corporate income tax rate, 33 for property tax burden, and 24 for top marginal personal income tax rate.[6] In order to solve the fiscal crisis and bring economic recovery to Iowa, state policymakers must consider cutting the size of government and initiating substantial tax relief.

Some of the policy ideas that state lawmakers could consider include tax relief by lowering income and corporate tax rates, implementing a taxpayer bill of rights (TABOR) that would require tax and spending increases to be approved by a two-thirds majority in each house of the Legislature, eliminating unnecessary state government programs, and (to further economic growth) eliminating the state income tax all together.

The fiscal crisis that Iowa faces was caused by overspending. Spending and tax limitations hold the key for Iowa's econom-

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ic and fiscal recovery. As *Rich States, Poor States* noted, "if states had simply allowed their spending to grow at the rate of population plus inflation growth, they would be sitting on budget surpluses instead of facing deficits."[7] A low tax and spending policy, such as TABOR, would result in economic growth. Colorado is one example of a TABOR state that is growing:

> Following the low-tax-plus-limited-government formula, Colorado has developed one of the most competitive business climates in the nation, not to mention giving taxpayers back billions of their hard-earned dollars through refunds and lowering tax rates across-the-board… The economic growth followed, as Colorado boasted one of the most competitive and fastest growing economies in the nation.[8]

Recently *The Wall Street Journal* praised Minnesota Governor Tim Pawlenty for vetoing a substantial income tax increase that would raise the top income tax rate even higher than both New York and New Jersey.[9] Such a tax increase, whether at the state or national level, during an economic recession would be a disastrous economic policy. As *The Wall Street Journal* noted, the battle over taxing and spending is a debate taking place not only in Washington, but also in numerous Legislatures and the Democrats favor economic policies based on higher taxation and spending — "higher tax rates do not produce prosperity or balanced budgets as we can see in New Jersey and New York, or Greece and Portugal."[10]

Lower taxation and spending will result in economic growth and job creation. Governor Christianson wrote that the best policy that government "can do for the farmer, the laborer, or any other man, is to relieve him, so far as it may be done, of the burdens it has imposed on him."[11] As a former state Legislator, Christianson also offered a truism when he stated that "legislatures sin more often by enacting laws than by defeating proposed measures," and he argued, "when in doubt vote no," and "do not be in a hurry to legislate."[12] Policymakers would be well advised to follow the policy examples of Harding and Christianson rather than the progressive policies of tax, spend, and regulate.

Endnotes:

[1]"Governors of Minnesota: Theodore Christianson," *Minnesota Historical Society*, <http://www.mnhs.org/people/Governors/gov/gov_23.htm> (May 12, 2010).
[2]Ibid.
[3]David A. Vaudt, "State Auditor Vaudt Reviews Fiscal Year 2011 Budget," News Release, Office of Auditor of State, April 16, 2010.
[4]Ibid.
[5]Arthur B. Laffer, Stephen Moore, and Jonathan Williams, *Rich States, Poor States*, American Legislative Exchange Council, Washington, D.C., 2009, p. 86.
[6]Ibid.
[7]Laffer, Moore, and Williams, p. 11.
[8]Ibid., p. 12.
[9]"The Minnesota Prelude: land of 10,000 tax increases," *The Wall Street Journal*, May 12, 2010, <http://online.wsj.com/article/SB10001424052748704250104575238211344367 87960.html?mod=WSJ_Opinion_AboveLEFTTOP> (May 12, 2010).
[10]Ibid.
[11]Theodore Christianson, "Inaugural Message of Governor Theodore Christianson to the Legislature of Minnesota," January 7, 1925, p. 15, <http://archive.leg.state.mn.us/docs/NonMNpub/oclc18196620.pdf> (May 12, 2010).
[12]Ibid.

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Federalism and Health Care

by John Hendrickson

"The powers delegated by the proposed Constitution to the federal government, are few and defined. Those which are to remain in the state governments, are numerous and indefinite," wrote James Madison in *Federalist Paper No. 45*.[1] In drafting the federal Constitution, the Founders created a government that was limited. Congress, in Article I, Section 8, is limited by certain enumerated powers. The Tenth Amendment reinforces the idea of a limited federal government by its language: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, or to the people."[2] The Tenth Amendment has become forgotten as the federal government continues to grow in the post-New Deal era.

President Ronald Reagan described federalism as "rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government."[3] The recent passage of health-care reform has renewed a debate over federalism and the role of the states in the political process. The question must be asked whether or not Congress has the authority under Article I, Section 8, to require citizens to purchase insurance and to create a bureaucratic institution that will oversee the health-care industry.

Health-care reform, which represents the flagship program of President Barack Obama's progressive reform agenda, is a continuation of the political legacy begun by progressives in the early 20th century and solidified by President Franklin D. Roosevelt's New Deal and President Lyndon Johnson's Great Society. The legislation also represents a further erosion of federalism as the entitlement state continues to grow at the expense of constitutional government and escalating financial costs that threaten the economic stability of the nation.

The states have increasingly become administrative districts of the federal government. "It is easy for advocates of limited constitutional government to get discouraged these days, considering the near-daily national encroachments on individual liberty and the federalist balance in American government," noted former Congressman Thomas C. Feeney.[4] Federalism has been undermined by progressive interpretation of the Constitution, which neglects the Tenth Amendment and gives a broad reading to Article 1, Section 8, especially the Commerce, Necessary and Proper, and General Welfare clauses.

"Why then, today, do we have a federal leviathan in our midst, redistributing our wealth and regulating virtually every aspect of our lives, making a mockery of the Founders' vision of limited government," asked constitutional scholar Roger Pilon of the CATO Institute?[5] The answer rests with the progressive view of the Constitution that allows vast government power to regulate. "The Obama health care law exceeds any Commerce Clause power by mandating fines for American citizens who do not purchase federally approved health insurance," noted Feeney.[6]

Current opposition to health-care reform by various state Attorneys General, policy groups, and the Tea Party movement, have all resurrected a constitutional debate that centers on the question of what are the powers, limits, and responsibilities of the federal and state governments. It is quite clear based on the original intent of the Constitution that health-care reform is unconstitutional when measured against the Commerce Clause and Tenth Amendment. As Representative Feeney clearly noted:

> State Legislators have the right and obligation to fight for the preservation of federalism and state government prerogatives. If the federal government can micromanage personal health care decisions,

> state Legislatures may as well be dissolved, as our nationalized government has turned them into administrators and tax collectors for a nationalized welfare state…Nationalization of health care is a watershed in the fight for American liberty.[7]

The battle over health-care reform will be an important landmark in the future course of constitutional government. "Nothing could so far advance the cause of freedom as for state officials throughout the land to assert their rightful claims to lost state power; and for the federal government to withdraw promptly and totally from every jurisdiction which the Constitution reserved to the states," noted Senator Barry M. Goldwater.[8]

Endnotes:

[1]Alexander Hamilton, John Jay, and James Madison, "Federalist No. 45," in George W. Carey and James McClellan (ed.), *The Federalist: The Gideon Edition*, Liberty Fund, Indianapolis, Indiana, p. 241.
[2]Tenth Amendment, *United States Constitution*.
[3]Ronald Reagan, "Executive Order 12612-Federalism," October 26, 1987.
[4]Thomas C. Feeney, "Federalism Under Attack: How Obamacare turns citizens into government minions," *Heritage Lectures*, No. 1154, The Heritage Foundation, Washington, D.C., April 12, 2010.
[5]Roger Pilon, "The purpose and limits of government," in Donald P. Racheter and Richard E. Wagner (ed.), *Limiting Leviathan*, Edward Elgar, Northampton, MA, 1999, p. 29.
[6]Feeney.
[7]Ibid.
[8]Barry M. Goldwater, *The Conscience of a Conservative*, MJF Books, New York, 1990, p. 21.

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Question of the Quarter: Should Iowa enact a Super-Majority Act?

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By Curtis Dubay

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would avoid shifting even more of the tax burden to top-earners.

These steps will only buy Congress time, though. It also needs to move quickly to fundamentally reform the tax code to eliminate all credits that are not justified according to sound policy principles. That way at least a sizeable majority of taxpayers will have some incentive in keeping the size of government under wraps.

Congress should act soon. If it does nothing to stop the growth of dependency and non-paying taxpayers, restraining the growth of government will become next to impossible. And those of us who do still pay taxes will have an even worse Tax Day next year — and for years to come.

Curtis S. Dubay is a Senior Policy Analyst at The Heritage Foundation. This article appeared on April 16, 2010, at www.Heritage.org and it originally appeared in McClatchy.

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