

LIMITS



On Power and the Use of Coercion

Abolish State Income Taxes: Statistics show they retard economic growth

by Richard W. Rahn

Did you know there are nine states that have no state income tax? The non-income-tax states are geographically and economically diverse, ranging from the state of Washington in the Pacific Northwest, to Texas and Florida in the South, and up to New Hampshire in the Northeast.

Why is it that some of the states with the biggest fiscal problems have the highest individual state income tax rates, such as New York and California, while some of the states with the least fiscal problems have no state income tax at all? High-tax advocates will argue that the high-tax states provide much more and better state services, but

the empirical evidence does not support the assertion. On average, schools, health and safety, roads, etc. are no better in states with income taxes than those without income taxes. More importantly, the evidence is very strong that people are moving from high-tax states to lower-tax-rate states — the migration from California to Texas and from New York to Florida being prime examples. (Next year, the combined federal, state, and local income tax rate for a citizen of New York City will be well over 50 percent, as contrasted with approximately 38 percent for citizens of Texas and Florida.) If the citizens of California and New York really thought they were getting their money's worth for all of the extra state taxation, they would not be moving to low-tax states.

The obvious question then

is: Where is all the extra money from these state income taxes going? It is going primarily to service debt, and to pay for inflated salaries and employee benefits. It is interesting that the high-tax-rate states also, on average, have much higher per capita debt levels than states without income taxes. (Alaska is an outlier because it has its oil reserve to borrow against and actually gives its citizens a "dividend" each year.)

The biggest additional burden the high-tax states have is unionized government worker contracts. My Cato colleague Chris Edwards notes: "Half of all state and local spending — \$1.1 trillion out of \$2.2 trillion in 2008 — goes toward employee wages and benefits." His study showed that, on average, total hourly compensation for state and local government workers

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Abolish State Income Taxes by **Richard W. Rahn** (continued from page 1)

was 45 percent higher than for equivalent private-sector workers. In addition, the government workers are rarely fired — even those with poor job performance. Importantly, the differential was much greater in states where more than half of the state employees were unionized, and these were all in states with state income taxes, with the exception of Washington. High rates of unionization of public employees and high rates of debt go hand in hand. Those states whose government workers are less than 40 percent unionized have median per capita state debt of \$2,238, while those states where unionization rates are over 60 percent have a median per capita state debt of \$6,380. High rates of unionization tend to lead to excess staffing, unaffordable benefits, and pensions.

There have been a number of both empirical and theoretical studies showing the negative impacts of state income taxes and particularly those with high marginal rates on economic growth within the state. A recent study published in the *Cato Journal* by professors Barry W. Poulson and Jules Gordon Kaplan, which was carefully

controlled for the effects of regressivity, convergence, and regional influences in isolating the effect of taxes on economic growth in the states concluded: "Jurisdictions that imposed an income tax to generate a given level of revenue experienced lower rates of economic growth relative to jurisdictions that relied on alternative taxes to generate the same revenue."

The state of New York is a poster child for what not to do. At one time, it was the richest and most populous state. But at least going back to the Harriman and Rockefeller administrations decades ago, it decided it could tax and spend its way to prosperity. (Note: New York City residents face a maximum combined state and city income tax of over 12 percent, while those in many New York counties pay a little less than 9 percent, giving the state an average maximum tax rate of almost 11 percent.) The results have been the opposite of what was promised. New York's relative population, economic growth, and per capita income have all declined, particularly in relation to those states without a state income tax. In the past year, per-person taxes have increased by \$419 in New York, far higher than any other state. (Note: They went up only \$1 in Texas. Is New York or Texas now better off?)

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The Importance of Limited Government Power

by Darcy Olsen

From Roman coliseums to Chinese communes, history shows repeatedly the devastating loss of freedom and humanity that can be wrought by unchecked government power. As survivors of religious and political oppression, America's Founders were determined to provide their families and fellow men with a system of governance that would avoid the tyranny of the past and protect the unalienable rights to life, liberty, and the pursuit of happiness in the future.

Believing that “most bad government results from too much government,” as Thomas Jefferson put it, the Founders purposefully restrained the size and scope of government power. Men and women reading this article are familiar with the long list of painstakingly crafted limits the Framers placed on the federal government — dividing governance among executive, legislative, and judicial branches, establishing democracy and the right to vote, and creating a federal government of explicitly enumerated and hence limited powers.

Thomas Jefferson described the end goal of American government this way: “A wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the

bread it has earned. This is the sum of good government...”

The federal government today unfortunately bears little resemblance to that vision. Federal rules determine our health care, retirement, savings, education, wages, and employment options. The capital brims with men and women eager to regulate nearly every aspect of daily life, from the 1992 congressional mandate that toilets only use 1.6 gallons per flush to the 2007 ban of the incandescent light bulb. The nation carries a \$12 trillion federal deficit, the equivalent of a \$40,000 credit card bill for every man, woman, and child in the nation. At last count, the average American worker spent the first three months of the year working just to pay his tax bills.

The crushing weight of Washington, D.C., is the tip of the iceberg. Since 1972, America has gained an average of two new local governments every day. Regulatory juggernauts are the norm. Want to hold a bake sale at your church or school? You'll be a criminal if you attempt that in Pennsylvania, New York, and Massachusetts, to name just a few states that have outlawed Betty Crocker. Want to cut hair in Arizona? Moms beware! To be legal, you'll need to spend about \$10,000 and 3,600 hours in training. From our children's curriculum to the desserts we eat, fewer and fewer decisions remain outside the reach of meddling bureaucrats.

In *Conscience of a Conservative*, Barry Goldwater presciently wrote, “...today neither of our two parties maintains a meaningful commitment to the principle of States' Rights. Thus, the cornerstone of the Republic, our chief bulwark against the encroachment of individual freedom by Big Government, is fast disappearing under the piling sands of absolutism... 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.”

Goldwater understood that the legions of agencies and brokers constituting the federal government would not easily relinquish power. Champions of limited government can help restore the lost limits on federal power by fighting fire with fire: deploying the constitutional power of the states to fight against concentrated power in Washington.

The most promising tool to scale back government is the ripe ground of state Constitutions. Under the federalist system, it was the Framers' wisdom that the states would be the primary guardians of individual rights. As the *Federalist No. 51* explains, a compound republic

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Proposition C and the Future of Federalism

by John Hendrickson

The Patient Protection and Affordable Health Care Act represents the cornerstone of the progressive policy agenda for President Barack Obama and the Democrat-controlled Congress. Universal health care has been a progressive policy objective since the early 20th century. President Franklin D. Roosevelt in his 1944 State of the Union address made universal health care a part of his “Second Bill of Rights.” Speaking before the Cato Institute, George F. Will described health-care reform as “that great lunge to complete the New Deal project and the Great Society, that great lunge to make us more European.”¹ The passage of the Patient Protection and Affordable Health Care Act, along with other policies such as the economic stimulus and financial regulation, has caused not only concern over the effects of these policies, but also the financial costs. Constitutional questions have been raised over many of the recent policies that have been enacted. Health-care reform raises serious constitutional questions such as whether or not Congress has the power in Article 1, Sec. 8, to mandate citizens to purchase health insurance and whether the law violates the Tenth Amendment. At stake is the future of limited constitutional government.

A number of state Attorneys General have filed suit against the health-care reform law and recently the state of Missouri overwhelmingly passed Proposition C (Health Care Freedom Act), which was a strong resolution opposing the law. *The Wall Street Journal* noted that “71 percent of voters supported Proposition C, establishing a state law that says Missouri cannot compel people to pay a penalty or fine if they fail to carry health coverage.”² The American Legislative Exchange Council (ALEC) estimates that at least 42 states, including Iowa, have either introduced or announced sponsorship for the Freedom of Choice in Health Care Act.³ In 2010, the Iowa Legislature had four bills or resolutions (HF 2177, HF 2214, HJR 2007, SF 2139) dealing with freedom of choice in health care, but each is currently inactive.⁴ In fact, HJR 2007 was a proposed Constitutional Amendment to the Iowa Constitution that would protect freedom of choice in health care. State Legislatures in five states, Virginia, Idaho, Arizona, Georgia, and Louisiana, have passed similar measures to Missouri’s Proposition C.⁵

Christie Herrera, Health Care Task Force Director for ALEC, stated that “Proposition C will give Missourians the ultimate exit strategy at a

time when Americans are faced with an unconstitutional federal requirement to purchase health insurance.”⁶ In addition, Herrera argued that the passage of Proposition C “will give Missouri standing in the current lawsuit against the federal health law [and] allow Missouri to launch future, 10th Amendment-based challenges against the federal government...”⁷ In addition to Proposition C, “twenty-one states [not including Iowa] have filed suit to block the federal mandates as unconstitutional,” and the state of Virginia recently won a key legal victory advancing its constitutional challenge to health-care reform.⁸

The passage of health-care reform and other related policies backed by President Obama and the Democrat-controlled Congress has caused a populist challenge in the form of the Tea Party movement, which is putting pressure on public officials to return to constitutional limited government and traditional federalism. “We’re seeing a re-emergence of constitutional principles and federalism across the country,” noted historian and Senior Fellow at the Kansas Policy Institute Gregory L. Schneider.⁹ The Tenth Amendment, which has long been neglected, has become front and center in the current political debate over health care, education, and im-

migration, among other issues. “The idea that powers not explicitly delegated in the federal Constitution ‘are reserved to the States respectively, or to the people,’ as stated in the 10th Amendment is a powerful one,” stated Schneider.¹⁰

The progressive policies initiated by Congress and the Administration have “ignited an explosion of interest in the Constitution, the limits of federal power, and the political process.”¹¹ Americans are starting to learn the state of the nation’s constitutional drift. “The policies of the current Administration and Congress — from massive spending to the takeover of whole industries to new regulatory initiatives and the resulting explosion of debt — have been especially threatening to and destructive to the idea and structural integrity of federalism.”¹²

The Patient Protection and Affordable Health Care Act is just one major example of a policy area, health care, which rightly belongs to the states. James Madison, in *Federalist Paper No. 45*, wrote “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.”¹³ The various state challenges to health-care reform, such as Proposition C and the Tea Party movement at large, are forcing a serious debate and recommitment towards limited constitutional government. The

state of Missouri showed the nation by passing Proposition C that voters are not happy with the current policy direction and constitutional drifting. Although it is uncertain if Proposition C can withstand the Supremacy Clause of the Constitution, it does provide for a serious argument over federalism. In addition, the Patient Protection and Affordable Health Care Act raises significant questions in regard to the Congress’ use of the Commerce clause to require citizens to purchase health insurance. In either case, based upon the original intent of the Constitution, the law is unconstitutional.

“We are going to come to a time when America is going to have to revisit Madison’s *Federalist Paper No. 45*... The cost of not facing this fact, of not enforcing the doctrine, in some sense, of enumerated powers, is that big government inevitably breeds bigger government,” noted George F. Will.¹⁴ Perhaps, in light of the current policies and economic and fiscal crises our nation faces, citizens are starting to revisit Madison’s words. The passage of Proposition C is an example.

Endnotes:

¹George F. Will, “Not a State-Broken People,” *Cato Policy Report*, July/August 2010, Vol. XXXII, No. 4, CATO Institute, 2010, p. 8.

²Peter Landers, “Missouri voters oppose mandatory health insurance,” *The Wall Street Journal*, August 4, 2010, <http://online.wsj.com/article/NA_WSJ_PUB:SB10001424052748703970704575408202618964626.html> (August 5, 2010).

³American Legislative Exchange Council, “ALEC Applauds Missouri Passage of Health Care Act,” Press Release, August 4, 2010, <http://www.alec.org/AM/Template.cfm?Section=Press_Releases&Template=/CM/ContentDisplay.cfm&ContentID=13574> (August 18, 2010).

⁴American Legislative Exchange Council, “ALECs Freedom of Choice in Health Care Act: How Your State Can Learn to Protect Patients’ Rights,” <http://www.alec.org/AM/Template.cfm?Section=ALEC_s_Freedom_of_Choice_in_Health_Care_Act1&Template=/T aggedPage/Tagged-PageDisplay.cfm&TPLID=29&ContentID=13843> (August 18, 2010).

⁵Merrill Matthews, “States Rebellious Against ObamaCare,” *Forbes.com*, August 6, 2010, <<http://www.forbes.com/2010/08/06/obamacare-missouri-mandate-opinions-columnists-merrill-matthews.html>> (August 9, 2010).

⁶“ALEC Applauds Missouri Passage of Health Care Act.”

⁷Ibid.

⁸“It’s now fact: The public hates ObamaCare,” Editorial, *The Washington Times*, August 4, 2010, <<http://www.washington-times.com/news/2010/aug/4/its-now-fact-the-public-hates-obamacare/>> (August 5, 2010).

⁹Gregory L. Schneider, “Federalism Strikes Back,” *The Washington Times*, August 13, 2010, <<http://www.washingtontimes.com/news/2010/aug/13/federalism-strikes-back/>> (August 16, 2010).

¹⁰Ibid.

¹¹Matthews.

¹²“Re-embracing Federalism,” Solutions for America, The Heritage Foundation, August 17, 2010, <<http://www.heritage.org/Research/Reports/2010/08/re-embracing-Federalism>> (August 17, 2010).

¹³James Madison and Federalist 45, quoted in Anthony A. Peacock’s, *How to Read The Federalist Papers*, First Principles Series, The Heritage Foundation, Washington, D.C., 2010, p. 91.

¹⁴Will, p. 9.

John Hendrickson is a Research Analyst with Public Interest Institute.

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by
Darcy Olsen

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consisting of both federal and state governments, each with its own protections of individual liberties would provide a “double security” for the “rights of the people.” As part of that structure, every state ratified its own unique Constitution.

The Founders expected state Constitutions to excel in their role as guardians of the people’s rights. Indeed, early language from Virginia’s Constitution served as a model for the Bill of Rights itself. Our state Constitutions consequently are chock-full of restrictions on government power for which there are no federal counterparts, including anti-corporate bailout clauses, balanced budget requirements, and prohibitions against excessive debt. These principles should give limited government champions the home field advantage, but until now, few state Constitutional provisions have been vindicated in the courts.

At the state and local level, taxpayers seeking an end to government excess should prioritize reviving these doctrines. Activating anti-monopoly provisions and prohibitions against exclusive franchises can ensure the right of entry into businesses

and professions like driving cabs and hauling trash. Strictly enforcing supermajority voting requirements, property tax caps and bonding limits can bring the hammer down on runaway spending.

One right sorely lacking in the U.S. Constitution is taxpayer standing. In most state courts, however, standing gives citizens the ability to challenge almost any exercise of government power by virtue of their taxpayer status. Without this right in federal courts, taxpayers had no legal recourse when Congress lavished preferential subsidies on private companies like GM.

But even as those million-dollar-subsidies were flooding into car dealers’ pockets, Arizona’s Court of Appeals was putting the brakes on a similar deal in Phoenix concerning a \$100 million subsidy for a mall developer. The court declared the scheme unconstitutional owing to Arizona’s gift clause, a taxpayer protection prohibiting the state and cities from awarding donations, grants, or subsidies to individuals or companies.

New York, Maryland, and 34 additional states enjoy similar clauses designed to stop special-interest giveaways. While state courts are not bound to follow precedent from neighboring states, they look intensely to other jurisdictions for guidance in interpreting similar language. As a result, the potential for one state’s legal victory to shape outcomes nationwide

is enormous.

Doctrines like the gift clause can reanimate an originalist view of government as one with strictly limited powers. Activists also will find promising language protecting private property, securing crime victim rights, prohibiting special laws benefiting a narrow portion of the public, and guaranteeing liberties not specifically enumerated. Litigating these provisions could renew limited government nationwide.

States also can offer protection against federal laws that threaten individual rights like the Employee Free Choice Act, a Pelosi-Reid priority. The act would eliminate the requirement of secret ballot votes, allowing unions to organize if a majority of employees signed cards stating their preference. Workers could be subject to intimidation by union organizers or employers if the right to a secret ballot disappears.

States, however, can guarantee the right to a secret ballot. To that end, Clint Bolick, Goldwater Institute litigation director, drafted a plain amendment for states that reads, “To preserve and protect the fundamental right of individuals to vote by secret ballot, where local, state, or federal law requires elections for public office or public votes on ballot measures, or designations or authorizations of employee representation, the right of individuals to vote by secret ballot shall be guaranteed.” Any state can adopt this amendment to preserve the right to vote by secret ballot, regardless of what

occurs in Washington.

Another Congressional priority is a national health system where lawmakers have proposed banning private health insurance and forcing all taxpayers into a government program. To protect a patient's right to make his own health-care decisions, two Arizona doctors drafted a state amendment to guarantee health freedom, regardless of national plans. The amendment also protects the right of citizens to forgo insurance mandates all together.

State amendments like these would create a Constitutional clash between the Supremacy Clause, which provides that federal law supersedes conflicting state laws, and the power of states to protect individual rights, which they retained under the 10th Amendment. Given the important state interests in protecting the secret ballot and freedom of association, both provisions should prevail in challenges with federal law.

A state Constitutional renaissance can rein in state and federal government power and reanimate an originalist view of government as one with strictly limited powers. The Goldwater Institute today is leading the charge to renew federalism, rebalancing the scales as the founders intended, to create a brighter future for the next generation.

We'd love to have you join us.

Darcy Olsen is President & CEO of the Goldwater Institute. This column was originally written for Glenn Beck's American Revival. (Link: <http://www.glennbeck.com/content/articles/article/198/36080/>)

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Should Iowa abolish the state income tax?

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Abolish State Income Taxes

By Richard W. Rahn
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Income taxes, as contrasted with consumption (i.e., sales) taxes and modest property tax rates, are far more costly to administer and do far more economic damage (by discouraging work, saving, and investment) and are far more intrusive on individual liberty. The states without state income taxes overall have had far better economic performance for most of the past several decades than have the income tax states — particularly those with high marginal taxes. The Tea Party move-

ment indicates that it might be the right time politically for politicians in the income tax states to call for those taxes to be phased out. Good economics might actually be good politics this year.

Richard W. Rahn is a senior fellow at the Cato Institute and chairman of the Institute for Global Economic Growth.

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