

INDEPENDENT

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INDEPENDENCE
INSTITUTE.ORG



Celebrating 30 Years of TABOR
- PAGE 8



THINK FREEDOM

WE ARE AN ACTION TANK AND A PUBLIC RELATIONS FIRM FOR LIBERTY.

A central role of an effective think tank is to produce quality research and analysis. Since 1985, we have provided research resulting in changes in law and policy. But we have never been content with just research. We are more than a think tank. We are an “action tank.” We put our ideas into action through groundbreaking litigation, coalition building, work on ballot initiatives, new media and investigative reporting. We don’t just fight on paper. We fight for freedom on the streets, in the statehouse, in the media, on the ballot, and in the courts.

The mission of the Independence Institute is to empower individuals and to educate citizens, legislators and opinion makers about public policies that enhance personal and economic freedom.



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We All Live in Boulder Now.

By Jon Caldara, President

People always ask me why I live in Boulder. Now that the whole state of Colorado is controlled by intolerant progressives, you basically live there too.

Take the state's new shopping bag tax, excuse me, "fee," which turns into an outright bag ban in a year. It is a fine example of this statewide Boulder smugness. Our Rob Natelson has more to say about this silly law on page 14.

"Boulder smugness" is the addiction to coerce other people to do your virtue signaling.

I went to a Boulder restaurant recently and they had a poster sanctimoniously showing why they don't serve plastic straws - it could end up in the sea and up a turtle's nose, seriously. Therefore, customers could only get paper straws.

But there's just one problem with their pretentious virtue signaling: it's a falsehood. No plastic straw from Colorado is going up the nose of a sea turtle unless you take it to the ocean and shove it up one yourself.

Like plastic bags, if not recycled plastic straws here are entombed in landfills. If somehow they do get released into the wild (like gray wolves) and find their into the water system, they get caught up in any number of treatment facilities along the way to Mr. Turtle.

And plastic bags and straws statistically make up basically none of the plastic waste problem in Colorado.

Like almost all virtue signaling it's the inconsistency of the issue that makes it comical. Really, is the goal of this to reduce plastic? Cuz the ban doesn't. It just forces others to have your temper tantrums.

Next time you're in the grocery store, try to tap your finger on every other piece of plastic that will still be legal in the store: the plastic bags in the produce section; the plastic that the products are packaged in; the plastic they're delivered in, displayed on. You'll be there for days.

Score another one for the virtue signaling mandators.

If plastic bags and straws need to be outlawed, shouldn't plastic tampon applicators also be banned? I mean, other than no male legislator is brave enough to put his name on the bill. They do have cardboard applicators, you know.

Colorado, welcome to Boulder-style silly theatrics — costly, inconvenient panache over substance.

Maybe there are reasons not to use paper or plastic bags. But please just do what good cultists do and convince us to join in your behavior and not what bad cultists do and force us.

In some parts of the Muslim world women are kept covered under burkas and veils to keep them virtuous, under threat of stoning. I hope any modern American woman finds such a mandate revolting.

To subjugate another under somebody else's definition of virtue is simply immoral, even if those in power are 100% certain of their correctness.

The situation here in Colorado is not all that different. Those in power are 100% certain of what our virtues must be.

And you live in Boulder now, baby.

We're working on getting you out of Boulder.

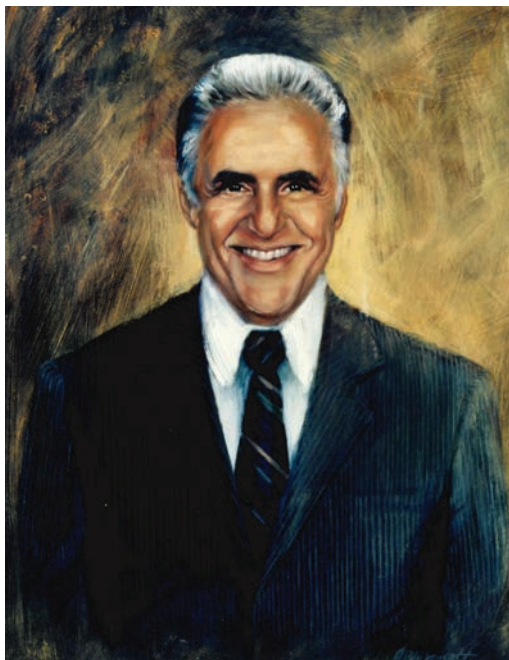


The Path to TABOR

By Dave Kopel

The following is an excerpt from David Kopel's book "Colorado Constitutional Law and History" (Vandeplass Pub. 2d ed. 2022).

In the late 1970s American voters began to act against excessive taxation and spending. California voters in 1978 enacted Proposition 13 to limit property tax increases. In the next election cycle, a dozen states approved tax limits. By 2010, there were 34 tax and expenditures limits (TEs) adopted in the states.



Vern Bickel founded the Colorado Union of Taxpayers in 1976. Until his death in 1998, he was always in front rank of civic engagement for taxpayer rights.

Colorado Ballot initiatives in 1976 and 1978 to regulate taxes and spending were handily defeated. Citizen proponents were not well-organized, and were far outspent by opponents.

From 1967 until the end of the century, both chambers of the General Assembly were under Republican control, except for 1975–76, when Watergate gave Democrats a one-term majority in the House. While Republicans held the purse strings in the 1970s and 1980s, the size of government in Colorado expanded rapidly. From 1970 to 1980, the Colorado state budget grew 45% above inflation plus population growth.

The 45% increase in taxes and spending came during an economically stagnant decade. While the state government ended the decade 45% richer, many taxpayers did not.

Another initiative for citizen votes on taxes was proposed in 1986, and soundly defeated. The 1988 and 1990 elections featured what would become the Taxpayer's Bill of Rights (TABOR). The 1990 initiative attracted 49% of voters.

With new language to address criticisms from 1990, TABOR returned to the ballot in 1992. Again, opponents heavily outspent proponents. Governor Roy Romer called defeating TABOR the "moral equivalent of defeating the Nazis at the Battle of the Bulge" and labeled one of its leading advocates, Douglas Bruce, "a terrorist who would lob a hand grenade into a schoolyard full of children."

The people of Colorado adopted TABOR by a vote 53.7% in favor and 46.3% against.

The 1992 Taxpayer's Bill of Rights continued a long Colorado tradition. The 1876 Constitution had expected the General Assembly to be rapacious. Hence, the Colorado Constitution even specifies that the General Assembly's contracts for stationary and other supplies must be submitted for public bid, and the lowest bid be chosen.

Our Constitution imposes many other fiscal restrictions, including on taxes (Article X) and debt (Article XI).

The Taxpayer's Bill of Rights carries forward the enduring fundamental principles of our Colorado Constitution: "All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole." And, "The people of this state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state. . ." (Article II, sections 1-2).

The people being sovereign, and the government their subordinate agent, the government must ask the sovereign for permission to take and spend extra.



Dave Kopel

Dave Kopel is Director of our Second Amendment Project and our Research Director. He is also an adjunct scholar with the Cato Institute in Washington; and adjunct professor of advanced constitutional law at University of Denver's Sturm College of Law.

Reducing Coloradans' Tax Burden

By Ben Murrey

For decades Independence Institute has been at the forefront of reforming the tax code and reducing the income tax burdens on Coloradans. We throttled those efforts in 2020 when I came on board to launch a dedicated fiscal policy center. A lot has happened since—but first a quick recap.

In 1987, our economists helped to craft the policy moving Colorado from a graduated progressive income tax with a top rate of 8% to a single flat income tax rate of 5%. In 1992, we played an integral role in the passage of the Taxpayer's Bill of Rights (TABOR). We worked to lower the income tax twice, in 1999 and 2000, reducing the rate to 4.63%. Along the way, we fought and defeated countless tax increases, including our winning campaign against Proposition CC in 2019.

After launching the fiscal policy center in 2020, we reduced the income tax rate again for the first time in two decades with our Proposition 116. That measure put the rate at 4.55%.

That measure had two main purposes. First, it countered a citizens' ballot initiative that would have returned Colorado to a multi-tiered progressive income tax—a tax system designed to publish success and productivity in the economy. Our measure won; the competing measure didn't even get enough signatures to make the ballot. The second reason we did the measure was to test the electorate's appetite for ratcheting down the income tax rate incrementally.

Though Independence Institute had been involved in taxpayer-friendly reforms since its inception, we did not formally roll out a plan for phasing out Colorado's income tax entirely until after the passage of Proposition 116 in 2020. The measure's overwhelming popularity told us the time was ripe for a formal Path to Zero plan.

In 2021, we introduced our Path to Zero plan to lawmakers and the public. The plan would require the state to issue TABOR refunds through income tax rate reductions and then make the new rate permanent moving forward. In this way, the state could automatically ratchet down its income tax each time the state experiences a surplus without impacting the current-year state budget.

The same year that we publicized Path to Zero, Gov. Polis publicly stated his support for phasing out Colorado's income tax. He did not repeat that support or talk about it on the campaign trail, however, until pressured to do so—thanks primarily to the work of the fiscal policy center.

The pressure came again with our next ballot measure, Proposition 121, which asked voters to lower the income tax rate to 4.4%. Again, we forced Polis to take a concrete position on cutting the income tax by placing putting the question on the ballot during a gubernatorial election year. We then published a report that analyzed positions and public statements Polis had made regarding income tax reform.

In the next gubernatorial debate after the publication of the report, CBS's Shaun Boyd opened the evening with a line of questioning for Polis based on findings from the report. In every subsequent debate thereafter, the governor was forced to repeat his support of eliminating Colorado's income tax.

Finally, in his state of the state address in January, Polis for the first time endorsed Independence Institute's proposal for phasing out the state's income tax.

During the address, he said we need to “continue to make progress” toward fully eliminating the income tax. Then he continued, “With healthy budget surpluses from our strong economy, we should further reduce the income tax rate for everybody.”

We'll see whether Polis can and will follow through on his rhetoric by putting pressure on the legislature to reduce the income tax rate. In the meantime, we'll continue to lead the way on the Path to Zero.



Ben Murrey

Ben Murrey serves as Director of Fiscal Policy, working to promote fiscal responsibility in Colorado government and to defend the Taxpayer's Bill of Rights.

New Publication Offers Solutions to Increase Educational Options

By Pam Benigno

Policies that control the development of new public schools of choice, such as charter schools, should be overhauled to meet the growing parental demand for educational programs not offered by most district-run schools. Long charter school waiting lists prove that school districts are not meeting the needs of all parents.

Unfortunately, the requirements for these new choice schools to be authorized can be burdensome, particularly when those processes involve hostile authorizing entities. Too many school districts don't want new schools within their boundaries to compete for district students—no matter how many parents demand the option or how many children need an alternative to their assigned government school.

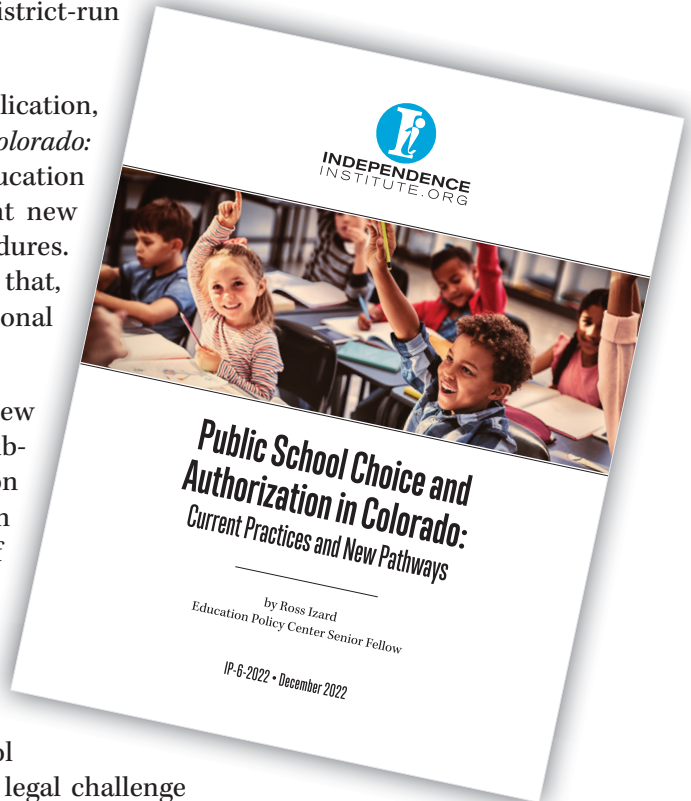
Only a handful of authorization pathways exist for Colorado schools of choice. Charter schools, for instance, may only be authorized by local school districts or the Colorado Charter School Institute. Other entities called boards of cooperative educational services (BOCES) may also authorize schools in some circumstances. The Innovation Schools Act also creates a path for public schools and districts to convert district schools into schools that allow some of the flexibility that benefits charter schools. It is rare, but some school districts have authorized unique, district-run choice schools.

In the Education Policy Center's latest publication, *Public School Choice and Authorization in Colorado: Current Practices and New Pathways*, Education Senior Fellow Ross Izard examines current new school authorization policies and procedures. Ross recommends various policy solutions that, if adopted, would better meet the educational needs of Colorado's children.

Some in Colorado are working to develop new pathways, often through BOCES, for new public schools of choice to receive authorization when they cannot obtain that authorization from a local school board. In the absence of significant legislative expansions of school choice, these new pathways represent the best way to expand options for Colorado students and families.

An innovative BOCES that opened a school for children with dyslexia is undergoing a legal challenge related to school authorization. The Independence Institute recently filed an amicus brief with the Colorado Supreme Court requesting that the justices grant certiorari. You can read more about the case in the publication.

Public School Choice and Authorization in Colorado: Current Practices and New Pathways is an excellent primer for anyone who wants to understand how educational options are authorized. Colorado legislators, school board members, and those involved with charter schools should read the publication to become well-informed about current policy and the need for change. Colorado can do better.



Pam Benigno

Pamela Benigno is Director of the Education Policy Center. A tireless advocate for both public and private school choice, she works with education organizations, policymakers, and community leaders to expand school choice opportunities.

A Local Government Project Success Story

I am now a Board member of the Douglas County Libraries. Let me share my story as to why I got involved. Maybe it can percolate your thinking as to how you might be able to serve your community or state by serving on a board or commission, where you can put your business skillsets to good use!

Douglas County Libraries is actually a big, fantastic organization with 7 locations, over 250 employees, 1,000 volunteers, over 6 million items checked out a year, and a \$36 million budget. We seek to elevate our community by inspiring a love of reading, discovery, and connection.

Just imagine what it takes from when you reserve a book or video online until you pick it up. The software knows which location it is located. It then signals for it to be picked from the shelf, sorts it to go to the correct library branch, is then put alphabetically on the shelf for pickup; emails let you know when it is in transit and when you can pick it up. When you return items, they go down an amazing conveyor belt system that reads the imbedded code sensors, and then, as the conveyor belt progresses, each item is slid into one of seven bins, one for each branch as to where it resides.

And I could go on about all the other services and equipment available, like radon detectors, national and state park passes to check out, an incredible selection online of magazines and newspapers, and even an amazing sound and video recording studio you can use! This isn't your grandfather's library, where people were scared of trying to use the card catalog and Dewey Decimal systems. Technology has made libraries so user friendly. And it does my heart good to see young children in the special children's areas with wide eyes as they read amazing stories and listen to story time. We even have a relationship with our public school system so kids can use their school ID cards to check out items. The public library in essence is now an extension of their school library. All this is astounding.

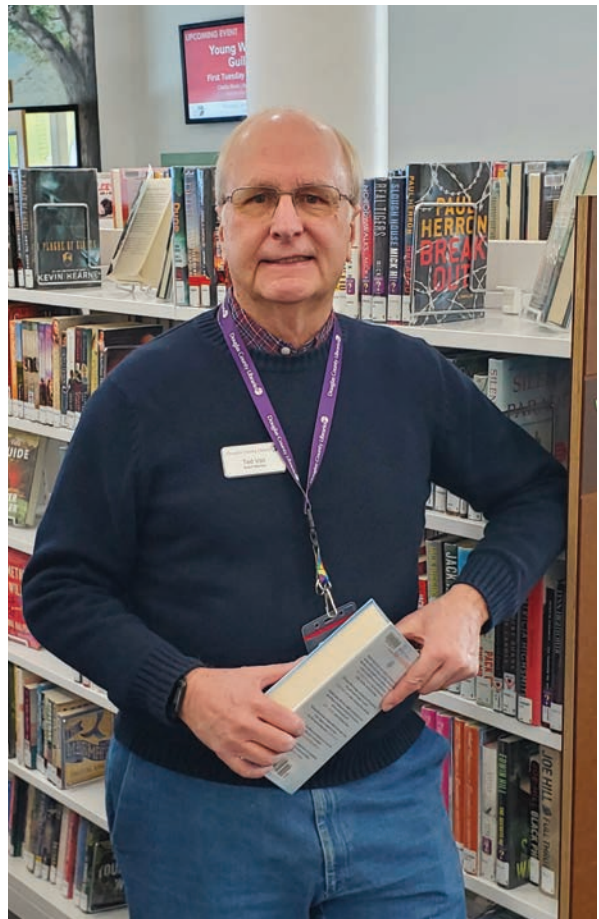
This isn't some sort of rubber-stamping board. It is a real Board of Directors with well-crafted bylaws. The Executive Library Director reports to us. We have the authority to hire and fire. We set and approve the budget. We provide the governance oversight on behalf of our constituents, the 370,000 citizens of Douglas County. Management is the responsibility of the Executive Libraries Director. We all understand our roles.

So, entrusted with this responsibility, I take it seriously. Very seriously.

"Why are you doing this?" Glad you asked... Well, all citizens of a community/state/country need to step up and do their part in overseeing or running societal endeavors. For me, being on this board is such an engagement.

"How did you know where to find a board or commission to serve on?" Another great question! The answer... Kathleen Chandler! I knew that she helped people find the right entity to serve on, and that she taught a great class on local governance and how to become involved. So, voila! Her excellent advice steered me to this strategic opportunity to serve!

Now the big question you should ask yourself. "How can I serve?" Well, you know the answer to that question. My advice? Go do something. Our society is only as good as those who serve in it for the greater good. Talk to Kathleen. Take her class. Reflect upon your skill sets. You will be so glad that you got involved!



Ted Vail, Douglas County Library board member

A Celebration of TABOR

By Natalie Menten

My original plan for the Taxpayer's Bill of Rights' 30th Celebration was just a gathering of a few dozen activists. Maybe a potluck or bring in some takeout? However, news of the event circulated and a few dozen grew to hundreds who came together to honor the legislation and those who worked tirelessly to bring it into existence.

Politicians and opponents labeled the limited government volunteers as extremists and TABOR's author, Douglas Bruce, as a terrorist. The governor traveled to numerous public meetings, up to nine a day, insisting if TABOR passed, the state would be closed for business. The Secretary of State falsely ruled there weren't enough valid petition signatures which she reversed after Douglas Bruce proved her wrong.

Facing all those challenges and over six hard years of work, TABOR finally passed in 1992. Special thanks go to Douglas Bruce, Fred Holden, Clyde Harkins, Vern Bickle, John & Diane Cox, Katherine Anderson, Steve Shoe, Penn Pfiffner and the many volunteers who sacrificed their businesses and personal lives to make the legislation a reality.

Thanks to TABOR, over \$8.15 billion has already been returned to taxpayers; forecasts project that number to increase to nearly \$13 billion through 2025. But that is only if we fight to protect our Taxpayer's Bill of Rights! Bureaucrats, politicians, and taxpayer funded lawyers are lining up to try and repeal this legislation.



Douglas Bruce, author and architect of TABOR



Walt and Ramey Johnson



Luz McClure and Tom Tancredo



Credit: Janssen Photography



Credit: Janssen Photography

Natalie Menten receiving a gift basket from Liz Veeder (not pictured)



Credit: Janssen Photography

Natalie Menten and Jimmy Sengenberger



Credit: Janssen Photography

Priscilla Rahn and Kim Monson



Credit: Janssen Photography

Natalie Menten, Don and Kim Ytterberg



Credit: Janssen Photography

Leif Smith, Shawn Hegarty, and Bob Drewlow



Credit: Janssen Photography

Jesse Mallory, Americans for Prosperity



Credit: Janssen Photography

Fred Holden, Independence Institute Senior Fellow, one of the original TABOR leaders



Credit: Janssen Photography

Brett Moore, Lincoln Club of Colorado



Credit: Janssen Photography

Penn Pfiffner, TABOR Foundation Chairman



Credit: Janssen Photography

Jessica Fenske, Libertarian Party of CO



Credit: Janssen Photography

Jon Caldara, President Independence Institute



Credit: Janssen Photography



Credit: Libertarian Party of CO

Hayden Gober, Kyle Furey, Jessica Fenske, Justin Savoy, Brandon Wark, Kirsten Steinke (Libertarian Party of CO)



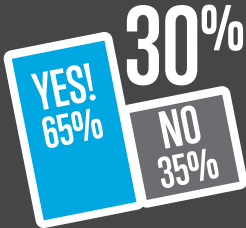
1 "Theyby" born to II staff. We're not sure if she's a girl, we do policy not biology.



262 Coalition meetings held at II



10 Future leaders, great at liberty, not great at map reading... all of them got lost on their way back from the Rockies game



What our permanent income tax cut passed by



110 Cigars smoked



1 Celebration of our "libertarian" Governor



78 Bottles of bourbon the II staff drank to drown our sorrows on election night



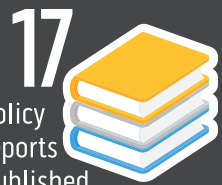
69 Op-eds in major media (yes this is the real number)



1 tax cut passed, lowering the income tax rate to 4.4%



3 Issues of our Inking magazine



17 policy reports published



1,170 Number of politically incorrect jokes, certain to get one fired in any other place of employment



2 Supreme court citations



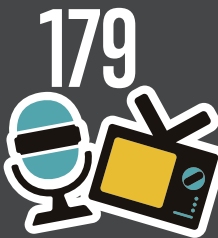
563 CompleteColorado.com Articles

546

F-bombs dropped while analyzing the Colorado state budget



2 Californian of the Year award winners



179 TV and radio appearances



52 DA episodes



8 invitations to testify before legislative committees

100%

Funded by our donors



0%

Funded by government handouts

6,290

Rounds fired at the ATF Party



\$114,000



Colorado Gives Day Donations

Spiking Energy Bills are Like a Tax Hike You Don't Get to Vote On

By Jake Fogleman

You probably don't need me to tell you, but exorbitant utility bills have become the new norm in Colorado over the last several months.

The state estimates that average Xcel Energy bills were up 52% year-over-year in December. Still, many customers have reported seeing their bills double or even triple during the same time-frame.

The ensuing bill shock has led to an understandable backlash against utilities like Xcel, but such outrage misses the primary culprit.

Because Colorado is a regulated utility state, residents are left without a choice in who they purchase their energy from. Private companies like Xcel are given a government-sanctioned customer base, shielded from competition, which they automatically get to serve and collect a profit from.

In return for such a sweet deal, regulators at the Public Utilities Commission are supposed to oversee Xcel's investments, ensure that they are reasonable, and fix the profit it is allowed to make over time.

Instead, while most Coloradans were busy going about their daily lives, the trio of unelected regulators at the PUC have been hard at work rubber-stamping rate hike requests from Xcel. In 2022 alone, the PUC approved six different electric and gas rate increases while also allowing Xcel to pass along the full costs of increased wholesale natural gas prices to captive customers.

The Colorado General Assembly has caught on to the perverse game at play as well. State lawmakers have realized over the years they can mandate certain aspects of the transition to clean energy using Xcel as a vessel, and Xcel happily obliges so long as it can generate a rate of return from fulfilling the mandate.

Clean Energy Plans that force the early retirement of functional coal plants, replacement wind and solar generation, massive transmission line buildouts made necessary to integrate those new renewables, utility-owned electric vehicle charging stations—these things all originated from deliberate policy choices, and the costs of seeing them implemented are starting to add up.

Those costs fall directly on the shoulders of ratepayers who don't have a say in which company they choose to purchase their power from and don't get to vote for the regulators who approve these costs.

So, the next time you're ready to curse Xcel after opening an eye-popping utility bill, remember the people in power who allow this to happen: the state lawmakers who continue to uphold Xcel's monopoly status and the unelected regulators who continue to bless Xcel's spending spree.



Jake Fogleman

Jake Fogleman is a research associate with the Energy and Environmental Policy Center. He is a cum laude graduate of Metropolitan State University of Denver where he studied political science and economics. Jake is a Colorado native.

We Actually Answer Our Phones

Political Law Center Director Shayne Madsen answered a call from Boulder County Republican Chair Theresa Watson. Ms. Watson had discovered that the Boulder County Democrat candidate for the Colorado House of Representatives Tracey Bennett did not live in her House District as required by Colorado law. State Republican party attorneys could not help, but we did. Shayne provided advice on election law matters and counseled the county party on the challenge process.

As a result of Watson's complaint, Ms. Bennett was charged by Democrat District Attorney Michael Dougherty with attempting to influence a public servant, forgery, providing false information about a residence, perjury, and procuring false registration, all stemming from her lying about her residence in her 2022 re-election bid.

Ms. Bennett resigned in January 2023 and ultimately pleaded guilty to all charges on February 10, 2023. She was ordered to perform significant public service hours. The sentencing judge, Nancy Salomone, accused Ms. Bennett of undermining public trust in elected officials, stating that her actions "endanger democracy."

This action all happened in Boulder, by Democrats, an area of the state known for its proud embrace of "wokeness." Theresa Watson did not back down. Independence Institute's staff is always happy to guide citizens through confusing administrative processes.

When local neighborhood activists in Denver sought guidance on how to proceed with a campaign finance complaint filed against them by Denver mayoral candidate Leslie Herod, they also turned to Shayne for general advice in navigating complicated campaign finance requirements. Ultimately the neighborhood group, Citizens for a Safe and Clean Denver prevailed, and Leslie Herod's complaint was dismissed.



Pam Benigno, Director of our Education Policy Center and Erin Lee, parent and school transparency advocate

Larimer County parent Erin Lee became concerned about an after-school art club at her daughter's public middle school. A guest speaker told the preteen daughter she must be transgender because she wasn't 100 percent comfortable in her female body. Seeking help, Erin Lee called various organizations, including parents' rights organizations. No one called her back.

Finally, Erin reached out to Pam Benigno, Director of Independence Institute's Education Policy Center, and Pam answered the call. Not only did Pam answer her call, but she also provided Erin with guidance and the opportunity to tell her story before the Colorado legislature. Jon Caldara interviewed Erin on his Devil's Advocate TV show. The interview went viral throughout Colorado and nationally. Since the Independence Institute answered Erin's call for help, she has been interviewed by at least 30 national media outlets and continues to expose inappropriate materials and activities in public schools.

The directors of the policy centers at the Independence Institute stand ready to serve as a resource to individuals and groups who share our mission.

The Fight Against Guns: The Tactics Have Changed but the Goal Remains the Same

By Dave Kopel

As I write this article, I am at the Colorado State Capitol waiting to testify against a gun control legislation. I will be at the legislature extensively this Spring. This is nothing new for me. The first time I testified in the Colorado legislature in 1989, following my first congressional testimony in 1988. I'd like share some thoughts about what has changed since then, and what stays the same.

One difference is that the gun ban lobbies have changed their names and slogans, but not their objectives. In 1989, the leading prohibition lobby was Handgun Control, Inc. (HCI). Previously, they had called themselves the National Council to Control Handguns, and were a member organization of the National Coalition to Ban Handguns.

In the early twenty-first century, the group finally recognized that “gun control” was unpopular. So the group changed its name, and began describing itself as a “gun safety” group. Which was absurd. The leading American group that actually promotes gun safety is the National Rifle Association, which has been training Americans in gun safety since 1871. Over the last two decades, HCI's newer names have all been some variant of “Brady.”

Meanwhile, oligarch Michael Bloomberg had gotten into the gun issue. Bloomberg's initial work into the gun control issue was not very effective. But he didn't get a \$76 billion fortune by inheriting it. Over time, he hired more and more sophisticated advisors, the best that money could buy. One of the things they told him was to reframe the gun issue.

No more “gun control.” No more “gun safety.” The new terms would be “gun violence” and “gun violence prevention.” Of course the mainstream media adopted the Bloomberg language. The more accurate term for the agenda of Bloomberg et al. is “gun prevention.”

The Colorado legislature has gone downhill since 1989. Back in the 1980s, citizen witnesses who testified in the legislature did not have a specific time limit. Timing was left to the discretion of the committee chair to tell a witness who had run out of informative things to say to conclude the testimony.

Later, one committee chair, Lynn Hefley (wife of the GOP US Rep. from Colorado Springs) began using an egg timer and limiting witnesses to three minutes. It quickly caught on. Now, a two-minute limit is common.

Colorado is still better than Congress, where committee hearings are usually kabuki theater. But today in Colorado compared to earlier decades, committee hearings are usually performances where legislators patiently pretend to listen to short presentations from citizens, and ignore any new information presented. The number of legislators who actually take citizen testimony into account when voting is ever-smaller.

One of the things Bloomberg figured out was a necessary first step in his prohibition agenda was to convert the Democratic party into 100% opposition to the civil rights of gun owners. In this objective, Democrats who might have a “C” voting record on the gun issue were a big problem. Bloomberg and his fellow malefactors of great wealth began investing heavily in Democratic Party politics, to drive out everyone who was moderate on the gun issue.

At the same time, the oligarchs began shoveling vast sums into the institutional Democratic party. Some of the party leaders might not have cared much about the gun issue, one way or another, but they appreciated the enormous amounts of new cash. And so they happily went along with making the Democratic party institutionally very hostile to Second Amendment rights.

The timing has worked out well for Bloomberg. For a variety of reasons, it's harder and harder to find legislators, at any level, who deviate from the party line. Or even to find legislators who always vote with the party but are intellectually curious and open-minded. Compared to the olden days, a visit to the Capitol is more like walking into an episode of *The Stepford Wives*. That's one of the reasons that passing gun prevention laws in Colorado is easier than ever.

Let's Sabotage the "Tax on Sacks"

By Rob Natelson

It's time for civil disobedience against the lefty state legislature's anti-plastic bag "law." The measure is of questionable legality, based on a lie, sloppily written, the product of crass partisan politics, and potentially dangerous to public health.

The measure—originally House Bill 21-1162—purports to impose a permanent 10-cent levy on paper retail bags and, during 2023, a temporary 10-cent levy on plastic retail bags. It purports to ban carry-out plastic and Styrofoam entirely after 2023.

This "tax on sacks" was not submitted for voter approval, as required by TABOR. True, the legislature called the tax a "fee"—but in reality, it's a tax. Four cents of every dime pays off retailers (assuring them a tidy profit on every bag sold), while the rest goes to local government. Part of the local government portion goes toward disseminating (even more!) environmentalist propaganda.

Aside from TABOR, the Colorado constitution guarantees voters a right of referendum on new state laws. The legislature circumvented this by adding a "safety clause" alleging that "the act is necessary for the immediate preservation of the public peace, health, or safety."

But the safety clause is a transparent lie. The governor signed HB 21-1162 in July, 2021—but it didn't come into full effect for two-and-a-half years! Obviously, it could not have been "necessary for the immediate preservation of public peace, health, or safety." There was no legitimate reason to deny Coloradans their right to referendum.

There's more: The "law" is filled with sloppy drafting. Its legislative findings don't support its text. It purports to address plastic pollution, but is directed at paper bags as well. According to CBS Colorado, its sponsors never bothered to check to see if local governments were equipped to receive and appropriate their share of the tax. Many retailers have no clue where to send the money they collect from selling plastic and paper bags.

The measure also contains an unintended loophole: It applies only at the "point of sale." Retailers can avoid it by stacking sacks elsewhere in their store.

The bag law seems to be mostly about partisan politics. It rewards Democrat constituencies and punishes everyone else in senseless ways. To cite only one example: A retail outlet at a public school (including, apparently, public universities) is exempt. But an outlet at a private school is subject to the plastic ban and the tax. If you buy at the University of Colorado, you are free. If you purchase at Colorado Christian University—then they nail you.

Finally, a purported goal of the law—forcing everyone to cart stuff in reusable bags—is bad for the public health. Don't take my word for it: During the COVID-19 pandemic, Gov. Jared Polis himself asked Colorado municipalities with similar ordinances to suspend them because reusable bags spread disease.

WAYS TO PUSH BACK

1. Buy retail bags from Amazon or from another e-retailer. That will save you 4-6 cents per bag. Not only will you save money, but you won't be funding government or environmentalist propaganda.
2. Import plastic bags from other states and take them to the store when shopping.
3. Insist that retailers use the law's loophole by offering free bags at points in the store other than by the cash register.
4. If you are buying only a few items in a grocery store, use large produce bags to carry out your purchases.
5. Join in a voter initiative to overturn the measure.
6. If you have influence with your local officials, tell them to refuse to participate in this despicable scheme.



Rob Natelson

Rob Natelson practiced law for over a decade and served as a law professor for 25 years. He is II's Senior Fellow in Constitutional Jurisprudence, and has been affiliated with II since 1994.

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National Review Columnist John Fund describes how the “shine has come off” the once great city of Denver. Will Jared Polis’ presidential bid get derailed by his state’s capital?



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Kyle Clark of 9News refused to interview Jared Polis in return for quid pro quo. Is it ethical for our governor or any politician to demand favors in return for press access?



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Sherrie Peif, Investigative Reporter for Complete Colorado, talks about a proposed Colorado bill that would allow you to keep your guns, provided you have the receipt. Of course if your firearm is inoperable, you get to keep it regardless.



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Tracey Bernett, State Legislator for House District 12 (Boulder County), won reelection. Only problem, she lives in House District 19. **Theresa Watson**, Boulder County GOP Chair, uncovered the deception and explains how this investigation led to three felonies and two misdemeanors.



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TRAINING WORKSHOP

DATE: Thursday, April 20, 2023

TIME: 6:00 - 7:30 pm

LOCATION: Online

COST: \$5 suggested donation

REGISTER: i2i.org/local-gov

We will discuss the importance of activism, why you need to be part of the solution, and the practical how to find information about being appointed to a board or commission. Do you know there are over 4,000 governments up and down the front range? Did you know you can help reign in the government overreach by just volunteering your time? Is that too much to ask of you as you defend our liberty and the future of Colorado?

Come join us as we explore how you can take the initiative and curtail the maddening overreach of government.

Contact Kathleen Chandler
(kathleen@i2i.org)
for more information.



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SAVE THE DATE: SEPTEMBER 16

Join us as we joyfully thumb our nose at the nanny-state and enjoy the perks of adulthood—including drinking, smoking, and shooting; the same kind of fundamental rights the left works to take away from us every day.

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