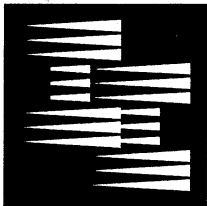


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Give the Taxpayer a Lobbying Break – a Little TLC !

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Give the Taxpayer a Lobbying Break — a Little TLC !

by Fred Holden

We do have representative government don't we? Sure we do, but who is being represented depends on the time, the place and the situation.

If it's two or three weeks before an election, it's you — taxpayer, citizen, and especially, voter. Candidates will answer your questions, ask your concerns, seek your opinions, even kiss your babies.

After the election, back at the city hall or capitol, those questions, concerns, opinions and baby kisses are gone and forgotten. Public officials, by proximity, represent a new constituency: a horde of special interests, a legion of lobbyists, a pack of persuaders — and no pesky, testy taxpayers.

Super-conspicuous by their absence are lobbyists for the taxpayer — the unrecognized, unacknowledged, unthanked and unappreciated mother of all government bill payers.

One of the most important commandments of the American political system is "Thou shalt

In Brief ...

- *Although American political heritage teaches the importance of representative government, in practice the best representation comes to those with the best lobbyists.*
- *Over half (52%) of all lobbyists registered in Colorado represent government or quasi-government entities.*
- *As a result, taxpayers are forced to support a large cadre of lobbyists who push for even higher taxes.*
- *To provide better balance — and more truly representative government — a stronger taxpayer lobbying voice is needed.*
- *One remedy would be to impose a 4% surcharge on lobbying expenditures of government entities. The revenue would be placed in a Taxpayer Lobby Trust Fund, to support pro-taxpayer lobbying.*
- *Alternatively, or additionally, place a check-off box on the Colorado income tax form, so that taxpayers can voluntarily designate a portion of their refund to support lobbyists with a lower-tax, smaller-government viewpoint.*

have representative government.” It is so important that the United States Constitution, Article IV, Section 4, warrants it:

THE UNITED STATES SHALL GUARANTEE TO EVERY STATE IN THIS UNION A REPUBLICAN FORM OF GOVERNMENT ...

The strict meaning of a republic is little known and even less understood. One dictionary defines the specifics:

Republic: a government in which supreme power resides in a body of citizens entitled to vote and is exercised by elected officers and representatives responsible to them and governing according to law. (*Webster's New Collegiate, 1979*)

Therefore, the republic that our Constitution guarantees consists of elected representatives “governing according to law,” who vote the best interests of the people, and who are “responsible to them.”

Lobbyists-to-Elected Officials: Five-to-One

That's not how it is. To check it out I got “Registered Professional Lobbyists,” published by the Secretary of State (1560 Broadway, Denver, CO 80202, 894-2680, \$6.00). All professional lobbyists are listed by name and client, pursuant to Colorado's Sunshine Act (Title 24, Art 6, Part 3, Colorado Revised Statutes).

The February 24, 1995 edition has 520 listings, more than five lobbyists for each of Colorado's 100 elected officials, 35 Senators and 65 Representatives. Updated weekly during each legislative session, its table of contents is in two parts: I. Registered Professional Lobbyists; and II. State Official/Employee Lobbyists. Yes there are “State Official/Employee Lobbyists” — 94 of them, 66 of whom are labeled “assistants.”

A lobbyist-by-lobbyist examination showed that 42%, 177 of the 426 Section I listings, directly or indirectly represent government or government-related organizations. So if we add the 94 lobbyists employed by the State to the 177 lobbyists who represent government or quasi-government interests, there are 271 government lobbyists, 52% of the 520 listed lobbyists.

Previous years are similar. February, 1993 figures reported by the Secretary of State showed 45% of all lobbyists to be government or quasi-government. For 1992 the level was 53%. In other words, over half of the registered professional lobbyists at the Capitol represent government interests.

Government-Related, Government-Created, and Quasi-Government

The “government or government-related” category is an in-between organization that seems independently funded but rather is indirectly funded by taxpayers. A popular example is an education union such as the Colorado Education Association (eight registered lobbyists), where a school district deducts union dues from employee paychecks and sends the money to the union. The money comes from taxpayers via property, state income and other taxes; then routed through the school district and into union coffers, used generously for lobbying activities. Another example is the Colorado Federation of Public Employees (4).

An example of a government-created bureaucracy is the Colorado Commission on Higher Education. It was formed in the early 1980’s to bring order out of chaos in Colorado’s colleges and universities, better define their missions, prevent duplication and waste, and to assure a higher-higher education bang for the taxpayers’ and students’ buck.

Instead of acting as a lobbying organization *for* the taxpayer, CCHE has become just the opposite, a publicly-funded, \$1.7 million (Long Bill Appropriation, p 76) lobbying organization *against* the taxpayer. A few years ago, in bleak budget times, their director boldly requested an additional \$75 million a year more on top of its existing half billion dollars in funding. A few lawmakers were shocked, and observed that CCHE was engaged in publicly-funded lobbying, with no equal and opposite input by or for the taxpayer.

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Expenditure data indicates the clout of effective lobbying. According to the 1993 Colorado Annual Financial Report (CAFR) the Combined Expenditures for Higher Education in fiscal 1993 were \$1,600 million (p. 9) of which \$526 million were funded by general purpose revenues (p. 92). For the seven fiscal years 1986 through 1993, full time equivalent (FTE) employees in “general government” grew 8.9% to 21,900, compared to higher education’s 17.4% growth to 25,458 FTEs (pp. 94-95). Average growth in monthly salaries was similar. Starting within \$32 a month, while general government salaries grew 25% to \$2,876, higher education salaries grew 36% to \$3,167.

Another government-created and -financed organization is the Public Employees Retirement Association. CAFR explains, “PERA was established for the purpose of providing present and future retirement, disability, or survivor benefits for state, school, and municipal employees within Colorado. It is financed by employer and employee contributions” (p 19) (of course employer and employee contributions are both funded, ultimately, by tax revenues). Elaboration is provided under “Pension System and Obligations” (p 39):

Virtually all State of Colorado employees participate in a defined benefit retirement plan. The plan's purpose is to provide income to members and their families at retirement or in case of death or disability. The plan is a cost-sharing, multiple-employer public employee retirement system administered by the Public Employees' Retirement Association (PERA), established by State statute in 1931.

This State-created association, with 1992 "contributions" of \$360.2 million from the "employer" (p 19), has five registered professional lobbyists listed, obviously paid to lobby for higher spending, funded by the taxpayer with no equal and opposite taxpayer input.

Quasi-government institutions are not part of the private sector, but are closer to the government sector. Examples, and number of registered lobbyists, include the Colorado Municipal League (6), Colorado County Treasurers Association (2), Colorado High School Activities Association (1), Colorado District Attorneys Council (2), Colorado Counties Inc (5), and the Colorado Association of School Boards (1) — all of which have registered professional lobbyists at the capitol.

Voluntary Organizations and Individual Funding of Lobbyists

Contrast these organizations with those such as business or constitutional lobbying groups. National Federation of Independent Business (NFIB) represents relatively small business. The Colorado Association of Commerce and Industry (CACI) represents larger businesses. The National Rifle Association (NRA) seeks to protect Second Amendment guarantees of freedom to bear arms. The American Civil Liberties Union (ACLU) concentrates of First and Fourteenth Amendment rights, and criminal procedure issues. All of these rely on voluntary and continuing membership dues for financial support, from member organizations and individuals.

All of these groups do a good job of representing their membership and philosophies. But there is almost no lobbying voice for the unorganized, individual taxpayer who wants to keep a little more of what he or she earns. Indeed testimony in favor of reduced spending is so rare that the Joint Budget Committee once offered to buy coffee and donuts for anyone who wanted the legislature to spend less money.

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When I testified in favor of lower spending in February 1991, the event of a real taxpayer actually testifying in favor of less taxes was so unusual that the *Capitol Reporter* wrote a story on it. ("JBC passes coffee test," *Capitol Reporter*, Feb. 25, 1991). (Senator

Michael Bird, by the way, kept the promise and supplied my daughter and me with "Mister Donuts"; private funds, rather than tax revenues, were used for the purchase.)

That's how rare taxpayer input is, to the lobbying process. In the same issue was the larger story, "JBC hears plea for freeze on spending" -- my presentation.

The Taxpayer Lobbying Disadvantage, Key Points

Four major points come out of those categorized as "government" or "quasi-government" groups and individuals who are lobbying:

- No paid lobbyists represent the ordinary taxpayer.
- Through power-of-government and force-of-law the taxpayer is coerced to fund people and activities to raise his or her taxes even higher.
- No government-funded lobbyists represent the taxpayer.
- There are more than five lobbyists for each of Colorado's 100 legislators (65 in the House and 35 in the Senate).

It is not to the best interests of those in or connected with government to want a smaller pie or smaller piece of the pie. Translated, wanting ever more money, their posture is to raise taxes to increase government spending, size and power.

The taxpayer is at a distinct disadvantage with virtually no voice or representation to counter the clamor for more and bigger government, and consequently, higher taxes and more regulation.

Organized Election Lobbying Pre-empts the Disorganized Taxpayer

Power comes from the purse too. Here's what some of these quasi-government entities spent in the 1992 election according to the Secretary of State: Colorado Education Association (teachers union) \$553,957; Colorado Association of School Executives-\$93,900; Jefferson County Education Association-\$78,148. The major external, out-of-state money power to influence Colorado's election was \$304,500 contributed by the National Education Association. Total contributions amounted to over one million dollars.

Taxpayer resistance to well-organized, generously-financed and superbly-executed campaigns has been loosely organized, under-funded and often amateurish.

For the three elections of 1986, 1988 and 1990, big money was spent in opposition to

tax-and-spending limitation by four types of organizations: quasi-government, government-regulated, financiers and businesses who may benefit directly or indirectly from expanding government operations.

Among the quasi-government organizations which spent heavily to defeat tax-and-spending limitation are:

Colorado Education Association - \$176,000;
Colorado Association of School Executives - \$43,000;
American Federation of State, County and Municipal Employees - \$33,000;
Colorado Association of Public Employees - \$27,000.

Government-regulated companies included:

US West/Mountain Bell - \$83,500 and
Public Service Company of Colorado - \$25,000.

The third category is involved with public financing and bonded indebtedness:

Colorado Municipal Bond Dealers - \$165,000;
Dain Bosworth & Company - \$39,000;
Hanifen-Imhoff & Company - \$38,500; and
E. F. Hutton & Company - \$25,000.

The fourth category included large businesses such as:

Gates Company - \$22,500;
Martin Marietta - \$15,000; and
Colorado Realtors/PAC - \$20,000.

The total of the contributions listed here is \$712,500.

Initiative: Another Diminished Power of the Citizen/Taxpayer

Another abuse of power by government entities is lobbying specifically against citizen initiatives. With so many government employees and those dependent upon government, the power shift is considerable.

The use of taxpayer resources to defeat taxpayer initiatives violates Colorado law. The Colorado Campaign Act [CRS 1-45-116(1) (a)] states:

NO AGENCY, DEPARTMENT, BOARD, DIVISION, BUREAU, COMMISSION, OR COUNCIL OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF SHALL MAKE ANY CONTRIBUTION OR CONTRIBUTION IN KIND IN CAMPAIGNS INVOLVING THE NOMINATION, RETENTION, OR ELECTION OF ANY PERSON TO ANY PUBLIC OFFICE, NOR SHALL ANY SUCH ENTITY EXPEND ANY PUBLIC MONEYS FROM ANY SOURCE, OR MAKE ANY CONTRIBUTIONS IN KIND, TO URGE ELECTORS TO VOTE IN FAVOR OF OR AGAINST ANY ISSUE BEFORE THE ELECTORATE.

There is an exception for public officials spending \$50 or less to communicate with the press or public. The next section says that nothing prevents government organizations "from expending public moneys or making contributions in kind to dispense fair and balanced information on any issue of *official* concern before the electorate?" (emphasis added).

Regarding the meaning of the term "official concern," the 10th Circuit Federal Court of Appeals (whose rulings are law in Colorado) has ruled that a proposed constitutional amendment is *not* "of official concern." *Campbell v. Joint Dist.* 28-J, 704 F.2d 501 (10th Cir. 1983).

Citizen Disadvantage in Committee Testimony, a PERA Example

In 1992 I was invited by my representative to testify to the House Finance Committee regarding a five-year phaseout of Colorado's corporate income tax. I and three others had taken time out of making a living to be so available. At the scheduled time, four nattily-dressed PERA people preempted the time slot for an hour to testify to the committee regarding adjusting their existent 12.2 percent annual funding stipend to meet new budget realities. How they got that much in the first place was a curiosity, and their preempting scheduled taxpayer input clearly demonstrated the taxpayer vs state-funded lobbying clout disparity. With PERA testimony at that time, citizens already scheduled had to return the next week, and did, to offer their prior requested and scheduled testimony.

Colorado Power Players Cited and Found Guilty

Following the November, 1992 elections, a dozen or so Colorado school districts were cited for lobbying with government resources to influence ballot initiatives — *against* Colorado's Amendment 1 tax-and-spending limitation, and *for* Governor Romer's "Children First" one-cent sales tax increase for education. Half the districts were found by the Secretary of State to have committed violations. Since there were no penalties, fines or time-served, there is little incentive for the violators not to continue to flout the law in future elections.

A Colorado Taxpayer Power Shift

The playing field must be leveled for the disarranged, disenfranchised taxpayer. Private citizens, predictably, concentrate on surviving economically. It is not beneficial in time, energy or money, to fight a tax hike of say, \$20 a year per person; in contrast, there are great incentives for government and quasi-government entities to get the resulting \$74 million to dole out and control. Multiply that a hundred times over a decade and real money changes hands, through lobbying which mobilizes power-of-government and force-of-law.

Ideally, no taxpayer moneys should be expended to finance lobbying by government entities or personnel, when the object of the lobbying, directly or indirectly, is higher taxes. It will be a long time, if ever, before such taxpayer-funded lobbying for even more taxes is prohibited. Accordingly, it makes sense to consider other avenues to at least partially balance the situation, by providing some taxpayer lobbying clout (TLC).

The obvious remedy is to create a lobbying force that directly represents and benefits the taxpayer, paid by the same entity that funds government lobbying activities. Both funding and organization must be addressed.

Funding can come from at least two sources, the already-existing lobbying entities and the taxpayers themselves.

1) **Lobbying Surcharge.** Lobbyists that represent government must already make monthly accounts of lobbying expense to the Secretary of State. The monthly reports detail which bills were lobbied, how much money was spent, and how many hours of government employee time were consumed. A lobbying surcharge of say, 4%, would be assessed and placed in a Taxpayer Lobby Trust Fund. If the cost of Lobbyist A for salary, benefits and expense for a monthly period were \$5,000, \$200 would be paid by the government agency into the Taxpayer Lobby Trust Fund. For simplicity in calculating the amount of government lobbying expenditures, it could be assumed that the hourly salary of all government lobbyists was a standard figure, such as \$24/hour.

2) **Income Tax Check-off.** A new box on the Colorado Income Tax form would allow taxpayers to allocate a portion of their refunds — their own hard-earned money — to a taxpayer lobbying effort that would help represent the lower-tax/smaller-government point-of-view.

It could be argued that option one — the tax on government/quasi-government lobbyists — is inconsistent with freedom of speech. One speaker (the government lobbyist) is being assessed to pay for someone else's speech (the taxpayer lobbyist), that the first speaker opposes and does not wish to support. Without delving into the complex Constitutional arguments for or against this viewpoint, one point should be understood: governments do not have free speech rights. Thus, application of the surcharge to purely government entities (as opposed to quasi-government entities, such as public employee unions), would raise no freedom of speech issues.

The second option — the taxpayer check-off — raises different issues. Some taxpayers who support high taxes and more intrusive government might object that the income tax form does not offer them the opportunity to provide a check-off for a lobbyist to support higher taxes. This is true, although, as detailed above, everyone's taxes are already used to lobby for even more taxes.

Moreover, it is not necessarily true that tax check-offs must be structured so as to represent all viewpoints. There is a non-game wildlife check-off, but no check-off for per-

sons who want to reduce wildlife habitat and increase available space for humans. There is a check-off for battered women and children, but no check-off for supporters of patriarchal dominance; and there have been check-offs for the Olympics, but no check-off for persons who support non-competitive sports.

Taxpayer Representation for Equity

A taxpayer commission, board or authority could be created to initiate and administrate the independent taxpayer lobby effort. Known limited-government/lower-tax entities would be represented on that board, to assure Taxpayer Lobbying Clout (TLC).

Examples that come to mind would be representatives appointed or selected by such groups as Colorado Union of Taxpayers, Colorado Conservative Union, TABOR Committee (Taxpayers Bill Of Rights), Colorado Taxpayer Party, Tenth Amendment Committee, Colorado Coalition of Economic Education, and others who would apply, qualify, be accepted and represented.

The end result would be a more level playing field with taxpayers more fairly and adequately represented in the lobbying efforts of various levels of Colorado government, state, county and local — municipal, education and special district.

Representative government is a wonderful idea. It is time to let all the players, especially those who pay the bills with their hard-earned dollars, be more fairly, equitably and powerfully represented.

Give the taxpayer a little TLC — Taxpayer Lobbying Clout.

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