



Give the Taxpayer a Lobbying Break, a Little TLC

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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 is 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 capital, 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, un-thanked and unappreciated mother of all government bill payers.

One of the most important commandments of the American political system is “Thou shalt have representative government.” It's 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 definition of a republic is little known and little 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 Dictionary, 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, Suite 200, attn.: Elections, Denver, CO 80202, 303-894-2680, \$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*).

Update weekly during legislative sessions, its table of contents has two parts: I. Registered Professional Lobbyists; and II. State official/ Employee Lobbyists. Yes, there are “State Official/ Employee Lobbyists”--73

In Brief. . .

- *Although American political heritage teaches the importance of representative government, in practice the best representation comes to those with the best lobbyists.*
- *Almost half (45%) 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, paid for by taxpayers.*
- *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 Lobbying 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, less-government viewpoint.*

of them. According to the Feb. 4, 1994 edition of the Secretary of State's book, 52 of the 73 are "assistants."

Further, a lobbyist-by-lobbyist examination of the 405 listings in Section I (Professional Lobbyists) shows that 35% of the professional lobbyists (104 of 405) directly or indirectly represent government or

government-related organizations. So if we add the 73 lobbyists employed by the government to the 140 lobbyists who represent government or quasi-government interests, there are 214 government lobbyists, 45% of all lobbyists at the Capitol. The April 1992 figures reported by the

Secretary of State showed 53% of all lobbyists to be government or quasi-government. In other words, about half of all lobbyists at the Capitol represent governmental interests.

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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 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; the money is then routed through the school district and into union coffers, and used generously for lobbying activities.

An example of a government-created bureaucracy is the Colorado Commission on Higher Education. It was formed in the early 1980s 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 \$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.

Expenditure data indicates the clout of effective lobbying. According to the latest 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 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).

Another government-created and financed organization is the Public Employees Retirement Association. CAFR explains: "PERA was established for the purpose of 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 two 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 include the Colorado Municipal League, Colorado Counties Treasurers Association, Colorado High School Activities Association, and the Colorado Association of School Boards—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. The National Federation of Independent Business represents relatively small business. The Colorado Association of Commerce and Industry represents larger businesses. The National Rifle Association seeks to protect second amendment guarantees of freedom to bear arms. The American Civil Liberties Union concentrates on First and Fourteenth Amendment rights, and criminal procedure issues. All of these groups rely on voluntary and continuing membership dues for financial support, from member organization 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. When I testified in favor of lower spending in February 1991, the event of an actual taxpayer 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.)

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 almost five lobbyists for each of Colorado’s 100 legislatures (65 in the House and 35 in the Senate.).

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 Preempts 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 limitations 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--\$85,000 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;
- 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 against citizen initiatives. With so many government employees and others 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).

Colorado Power Players Cited and Found Guilty

Following the November 1992 elections, a dozen or so Colorado school districts were investigated for lobbying with government resources to influence ballot initiatives—*against* Colorado’s Amendment 1 tax-and-spending limitation, and *for* Governor Romer’s 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 disarrayed, disenfranchised taxpayer. Private citizens, predictably, concentrate on surviving economically. It’s not beneficial in time, energy or money, to fight a tax hike of say, \$20 per person; in contrast, there are great incentives for government and quasi-government entities to get the resulting \$72 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.

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%, could be assessed and placed in a Taxpayer Lobby Trust Fund. If the cost of a government agency's lobbying expenses for a monthly period were \$5,000, then \$300 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 \$22/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/less-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 persons who want to reduce wildlife habitat and increase available space for humans. There is a check-off for battered woman 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 on 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 in various levels of Colorado government, state, county and local—municipal, education and special district.

Representative government is a wonderful idea. It's 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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