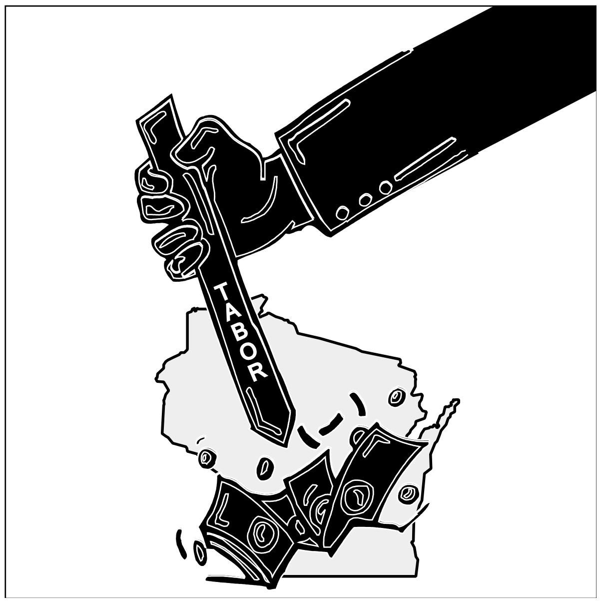
# After The Freeze
## *Wisconsin's Taxpayer Bill of Rights*

Charles J. Sykes

Sometime in 2006, Wisconsin voters could enact some of the toughest spending limits on government of any state in the country.

Early this year, legislators will vote on an amendment to the state constitution known as the Taxpayers Bill of Rights (TABOR). Modeled on the decade-old spending limit in Colorado, the amendment would need the approval of two consecutive legislatures and would then go to the voters in a referendum, probably in 2006.




Unlike the property tax freeze, the amendment is not subject to the governor's veto, but like the freeze, it enjoys strong public support.

As written now, Wisconsin's TABOR would:

- Limit spending growth for the state and schools to the growth in population plus the growth in inflation and limit the growth of county and municipal spending to inflation plus new growth.
- After creating a rainy day fund, require that all tax surpluses be returned to the taxpayers.
- Require a two-thirds vote in each house of the legislature to declare an emergency to exceed spending limits and then a two-thirds vote in each house to approve a tax hike.
- Require referendums any time the state or local government wants to either exceed the spending limits outlined in the constitution or raise the rates of taxes affecting individuals or businesses, such as income, sales, or corporate taxes.

Similar proposals have been around for years, until now generating little momentum. But last year's debate over the property tax freeze and rising evidence of a tax revolt seems to have galvanized support behind a broader, more comprehensive, and permanent solution to Wisconsin's chronic addiction to taxation and spending.

Despite Governor Doyle's attempt to put a happy face on last year's 4.3 percent property tax increases, Wisconsin remains a tax island and probably will remain one. Indeed, this

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year's increases may actually be only a temporary pause as officials and interest groups wait for the spring elections to pass and support for a tax freeze to fade. Wisconsin's property tax continues to rank as the 11th highest in the country and, absent a legislative or constitutional mandate, Wisconsin is likely to remain among the top five most heavily taxed states, even though per capita personal income has fallen 4 percent below the national average.

The introduction of TABOR sets the stage for a fundamental debate between those who believe that we can grow Wisconsin's economy by growing the size of government; and those who believe that the best chance to grow the economy is to limit government spending and taxes.

While not as rigid as the freeze, the proposed constitutional limit has several notable advantages over the budget measure: it applies to spending and not merely taxes and it applies to all units of government, not simply local governments, putting the brakes on the political game that claims to cut spending, while simply shifting taxes. More than 60 percent of state revenues are returned to local units of government as "property tax relief," a practice that has become a perennial incentive for increased spending. Any attempt to get a handle on Wisconsin's runaway spending without addressing both state and local spending is doomed from the beginning, but TABOR caps both. It also dramatizes the stake that voters have in those spending decisions by rebating surplus revenues directly to taxpayers.

Perhaps most important of all, though, is TABOR's permanence. As a constitutional amendment, the spending limits become a permanent feature of state political and economic life, permanently changing relations between the public and private sectors. For the first time the state's fiscal policy would have an element of predictability. Not only would Wisconsin likely slip from the top ten list for taxation, but taxpayers, businesses, and investors could have confidence that Wisconsin would not easily revert to its tax hell status. We can expect supporters to argue that in addition to holding down taxes, the amendment will also boost the economy by making the state more competitive.

Recent polls suggest that voters will find this highly appealing.

A poll conducted by Public Opinion Strategies for Wisconsin Manufacturers and Commerce last October found that nearly three quarters of state voters — 73 percent — say they would support a state constitutional amendment that would limit government spending increases to the rate of inflation. Support is both broad and deep: the measure was supported by 82 percent of Republicans, 67 percent of Democrats and 72 percent of independents. An overwhelming 81 percent of voters ages 18 to 44 say they would support such an amendment. The poll found support was the strongest in the Green Bay / Appleton area and in Milwaukee, where 75 percent of voters favored the limits on government spending.

Even so, the popularity of the spending lids will likely come as a surprise, since media coverage is likely to be minimal and editorial comment dismissive and negative. Organized opposition will be extensive, loud, and widely covered, with story after story detailing the dire consequences of the amendment. Even so, the GOP-dominated legislature is likely to pass the amendment this year and odds favor its passage in the next legislature as well (assuming continued Republican control after this November's election). If the amendment is placed on the November 2006 ballot, it will guarantee that the issue of taxes and spending will dominate that year's gubernatorial election.

The push for a Wisconsin Taxpayers Bill of Rights comes at a crucial time in the debate over the growth of government spending: the state continues to face nagging deficits despite some of the highest levels of taxation in the country, largely brought on by spending that grew more than twice as fast as inflation for much of the 1990s.

But a growing body of evidence suggests that much of the growth in government spending has gone to grow the government itself and fatten the pockets of government employees rather than growing the services offered to the public. Fittingly, Milwaukee's tax revolt was set off by a scandal over massive pension payouts, but more recent reports suggest that Milwaukee's pension grab, while different in scope, was not all that different from what was happening throughout the state's public sector. Milwaukee County and the Milwaukee Metropolitan Sewerage District, for example, both spend 50% more than the national average on employee benefits per salary dollar. Nationally, state and local governments spend about 43 cents on benefits for every salary dollar. In 2004, the Milwaukee Public Schools are expected to spend 55 cents for every salary dollar on benefits.

The exponential growth in benefits will continue to put growing pressure on governments to cut services, raise taxes, or modify its benefits. TABOR would not only focus that pressure on officials to find ways to consolidate and streamline their operations, but would force those politicians to deal with the level of benefits rather than simply pass on the added costs to taxpayers.

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**Colorado's Fiscal Revolution**

Wisconsin's amendment is modeled after one adopted in Colorado in the early 1990s. The strictest spending cap of any state in the country, Colorado's TABOR limits state spending to inflation plus population growth, requires referendums for extra spending, and requires the state to refund surplus revenues. Between 1997 and 2001, Colorado's TABOR was responsible for rebates of $3.25 billion, or about $3,200 for average family of four.

At the same time, the amendment has succeeded in holding down the rate of spending growth. Last June, a study by the Independence Institute found that in the ten years prior to its passage in 1992, Colorado's state spending had grown at a rate more than twice as fast as the state's growth in population plus inflation. TABOR brought spending, population growth, and inflation into line. Concluded the Institute: "Though TABOR was part of the 'go-go' nineties, its measured effects on government and non-government employment and distribution were quite impressive. Pre-TABOR, government jobs grew slightly more than business or total employment. After TABOR, business job growth doubled that of government job growth."

Because of this long-term success, Michael New of the Cato Institute wrote in 2002: "Colorado's TABOR may well surpass California's Proposition 13 in terms of effectiveness. In 1978, Proposition 13 did an excellent job of providing taxpayers and homeowners with some much needed short-term tax relief. However, since it failed to restrain expenditures, the California state legislature eventually increased other taxes to compensate for the loss in property-tax revenue."

Of course, TABOR is not without its critics. As the Independence Institute noted: "TABOR enjoys a love-hate relationship. Polls show that strong majorities of taxpayers and small business owners, leaders and managers love TABOR. Those who like to control and expand state spending, or are its recipient, hate it."

**If at first you don't succeed. . .**

The passage of Colorado's TABOR is a monument to the power of persistence. Efforts to limit taxes had been on the ballot in Colorado since the mid-1960s. Tax limiting initiatives were defeated with regularity: going down in 1972, 1976, and again in 1978.

In 1986, a citizen-taxpayer initiative that would have required all tax increases to be approved by taxpayers also failed, but won 37% of the vote. That was enough to embolden activists to begin a series of Taxpayer Bill of Rights petition drives to put the constitutional amendment on the ballot in 1988. As the Independence Institute notes, "The TABOR initiatives brought together a strange agglomeration of opponents. The Six Bigs — big government, big business, big labor, big media, big education and big everything else . . ." succeeded in blocking the first TABOR amendment — but it still was able to garner 43 percent of the vote.

To the surprise of the victorious coalitions, however, TABOR supporters were undaunted and put a "new, improved" version of the amendment on the ballot in 1990. Again the Big Six mobilized to defeat the initiative, allying themselves with then Governor Roy Romer, who mobilized all the power of his office to defeat the measure. As support for the tax limit grew, Governor Romer's rhetoric became increasingly shrill, saying that beating TABOR was the "moral equivalent of defeating the Nazis at the Battle of the Bulge." Cato's Michael New recalls that Romer personally attacked TABOR's author Douglas Bruce, calling him "a terrorist who would lob a hand grenade into a schoolyard full of children." Romer predicted that TABOR would devastate Colorado's economy, predicting that if it were passed, signs would have to be posted declaring: "Colorado is closed for business."

Once again, TABOR was defeated, but this time by the narrowest of margins. Despite the governor's apocalyptic rhetoric and the histrionics of opponents, TABOR had won a stunning 49.5% of the vote.

Sensing that the political mood had swung dramatically, legislators tried to appease angry taxpayers by passing a six percent spending limit, which the Independence Institute notes, was often called "Swiss cheese" limit "because it was so full of holes. TABOR supporters were not mollified.

Riding a tide of taxpayer anger, Douglas Bruce and his supporters put Amendment 1 — TABOR — on the ballot once again in 1992, and this time succeeded, winning with 54 percent of the vote. It has been part of Colorado's constitutional fabric since. (In 2001, voters approved a measure that would allow spending for schools to rise one percent above the rate of inflation. But the rest of the TABOR mechanism is intact.)

TABOR was not designed either to stop or cut government spending; its aim was to slow that growth. And in the years since it went into effect it has done just that by limiting state spending to inflation plus population growth. The dividends have been impressive. According to the Independence Institute, since TABOR's implementation: (1) private sector job creation more than doubled while government job growth held steady, (2) the average Colorado family paid $6,700 less in state taxes during TABOR's first decade than they otherwise would have; (3) the extreme rate of tax and spending growth pre-TABOR has been halted.

Despite Romer's doom and gloom scenario, notes Cato's Michael New, Colorado ranks first among all states in gross state product growth and second in personal income growth in the years 1995 to 2000.

TABOR's lead legislative advocate in Wisconsin, State Representative Frank Lasee, cites similar statistics, noting that between 1995 and 2000, personal income in Colorado grew 51%, more than twice Wisconsin's rate. And while our gross domestic economy grew by 72 percent in the boom years of the late 1990s, Colorado's grew by a staggering 127 percent.

Despite those successes, Colorado did experience some budget shortfalls in FY 2002-2003, leading to cuts in a variety of program and services. Some critics tried to blame TABOR for the budget woes, but Nancy

McCallin, the director of Colorado's Office of State Planning and Budget, dismisses any link whatsoever. "TABOR," she says, "has had no impact on the state's budget situation during the past two years. Since there was no budget surplus, no rebates were triggered. Even without TABOR, Colorado would have seen its revenues fall in the wake of September 11."

Other critics worry about the so-called "ratchet effect" of TABOR which would not allow the state to spend all of the money it will get when revenues once again rise. But, as McCallin notes, "the 'ratchet effect' is not new and even when TABOR ratcheted down state spending in the early and mid-1990s, the state prospered."

**The Wisconsin debate**

As the debate begins on Wisconsin's TABOR, both sides will recognize that the amendment is the next Big Idea, a single stroke that will change Wisconsin's fiscal policy and its politics for a generation or more.

Because the stakes are so large, the opposition will be fierce and the denunciations at least as incendiary as the rhetoric Colorado's former governor Romer used to derail that state's TABOR. Critics will vacillate between dismissing TABOR as a "gimmick" and portraying it as Armageddon. As they did during the last budget debates, Wisconsin's Iron Triangle — the bureaucracies with a vested interest in spending, special interest advocacy groups, and the news media — can be expected to paint the direst picture of devastated services and destitute schools. In a chorus of opposition, state and local politicians will insist that they ought not to be required to live within their means; and editorial writers will warn against putting government in a "straitjacket."

What may be lost in the fusillade is that for all of its radicalism the amendment itself is surprisingly moderate, allowing for generous spending increases while accommodating growth, and providing outlets for emergency appropriations through voter referenda. TABOR does not mandate spending cuts and leaves local control intact, applying roughly the same rules to state government as it does for local City Halls.

Even so, we are already getting a taste of what lies ahead. "This proposed constitutional amendment," rail the liberal activists at Wisconsin Citizen Action "undermines our values on community, on democratic decision-making, and on the quality of our lives."

But TABOR supporters are not backing away from the fight. Answering the charge that TABOR is somehow undemocratic, Frank Lasee points to the provisions that require voter approval for spending and tax increases. "This is the essence of democracy," Lasee says. "It will require that elected officials explain what they're doing more often to the people they represent. If anything, this will make government more transparent, more accountable, and more democratic — not less."