

The Case for Florida to Enact A Taxpayer Protection Amendment

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Foreword

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Historically the per capita state and local tax burden imposed on Florida residents ranked in the lowest quartile among the 50 states. Moreover, the *actual* burden on Florida's permanent residents was further lightened because the state lacked a tax on personal income and instead relied heavily on consumption taxes, which generated significant revenue from tourism.

In recent years, however, several consecutive years of double-digit growth in property values were not accompanied by commensurate reductions in property tax rates. Although homeowners sheltered by the Save Our Homes Amendment were spared much of the direct impact of these inordinate tax increases, some found themselves "trapped" in their homes because moving to another home would have caused them to lose the tax advantage they had accumulated thanks to the Amendment's cap on the annual increase in the taxable value of homestead properties.

Other taxpayers were even less fortunate. Many Florida cities, counties, school boards, and independent taxing districts ratcheted up their spending, keeping pace with the revenue windfall. Ultimately the drain on the private sector affected Florida's economic climate, especially its important real estate

element. Moreover, the tax-related problems in Florida's real estate market came at an especially inopportune time because they were further exacerbated by the rising cost of property insurance and by the nationwide problems in the sub-prime mortgage market. The volume of real estate transactions – and the taxes those transactions generate – slumped sharply.

Property taxes were at the heart of the problem. As property values rose without commensurate reductions in tax rates, the inevitable result was a rapid rise in the property tax burden, especially on properties that do not qualify for homestead exemption and, thus, are ineligible for the Save Our Homes Amendment's protection. This meant that much of the growing property tax burden was shifted to renters, seasonal residents, and the owners and tenants of commercial properties.

The result, according to credible surveys of public opinion, is a simmering tax revolt. Property owners are seeking relief. This study by the noted economist and tax-policy expert Dr. Barry Poulson analyzes the underlying structural causes of Florida's current problems and outlines a viable tax-and-spending limitation that could provide significant and *enduring* tax relief, with enough flexibility to allow an appropriate response should a genuine emergency arise.

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Introduction

In 1973, California Gov. Ronald Reagan introduced Proposition 1 – the nation’s first tax and expenditure limitation (TEL). It was designed to restrain state government growth. Proposition 1 was voted down at the polls in November 1973. Days after the defeat, Governor Reagan wrote in the pages of *National Review*: “We have lost a battle, but this struggle will go on. The people will find a way to bring big government under control, to put a reasonable limit on how much of their income government may take in taxes. This idea will become a reality.”¹

Mr. Reagan was right. Tax and expenditure limits inspired by Proposition 1 have become a reality. Proposition 1 led to a nationwide tax revolt that, four decades later, has resulted in the passage of 28 tax and expenditure limitations. The most successful of the nation’s TELs is Colorado’s Taxpayer’s Bill of Rights (TABOR) amendment. Passed in 1992, Colorado’s TABOR (dubbed by Milton Friedman, “Proposition 1 look-alike”²) limits the growth of state spending to the rate of population plus inflation. As a result, Colorado taxpayers have received more than \$3 billion in surplus revenue since 1992.

In 1994, Florida enacted a constitutional limitation on state revenues. It linked the growth of government revenues to an average of personal income growth – a far more generous limit than Colorado’s Taxpayer’s Bill of Rights. That constitutional limit has not proven to be an effective constraint on the growth of state revenues and expenditures. This study explores why Florida’s existing tax and spending limit has failed to constrain the growth of state government. The study also examines how Florida would benefit from a more effective tax and expenditure limit; this proposed measure will be referred to as the Taxpayer Protection Amendment (TPA).

The Taxpayer Protection Amendment proposed for Florida would: 1) limit the growth in state spending to the growth of population plus inflation, 2) ensure surplus revenue above this amount is invested in emergency and budget stabilization funds or returned to taxpayers, and 3) require voter approval for tax increases above and beyond the limit and for any measure that would weaken the amendment’s limits.

The proposed Taxpayer Protection Amendment would constrain the growth of revenue and spending, while also stabilizing the budget over the business cycle. This amendment would also establish a firm budget constraint that would create incentives for tax reform. Florida could begin to provide significant and enduring property tax relief above and beyond the proposals that the 2007 special legislative sessions were able to approve.

The Increasing Tax Burden on Floridians

Taxes in Florida are at an all time high.³ In the last few years state and local taxes have captured about 10 percent of the state’s income.⁴ At no other time in the state’s history have state and local governments imposed such a heavy tax burden on citizens. With taxes at an all time high, Floridians need a better way to hold their elected officials accountable for the tax burdens they impose. The first step is to provide some transparency in the burdens that Florida’s residents and businesses now bear. This study will explore how Florida ended up with this tax burden, and how a Taxpayer Protection Amendment is essential for citizens to escape this growing problem.

The Tax Foundation has compiled data on state and local tax burden as a percent of personal income for the fiscal years 1970-2006.⁵ Historically, Florida has had a low tax burden compared to other states. In 1970, the state and local burden was 8.9 percent of personal income.⁶ At that time, Florida ranked 36th among the states with very low state and local tax collections as a share of income.⁷

From the mid 1980’s to the early 1990’s, the tax burden, as a share of personal income, varied between 8.5 and 10 percent. Since then the tax burden has varied between 9.5 and 10 percent of personal income.⁸ Florida is currently ranked 38th nationally, well below the national average of 11 percent in state and local taxes as a share of income.⁹ The record indicates that, while Florida has had a low state/local tax burden as a share of income, it has also experienced periods in which that tax burden has increased sharply, and that is especially true in recent years.¹⁰

A Discontinuous Increase in the Property Tax Burden

As in most states, property taxes are a major source of revenue for local governments, account-

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ing for 71 percent of total local revenue.¹¹ Local property taxes are also the major source of revenue used to finance public education, accounting for 37 percent of funding for that purpose.¹²

Local governments collect taxes on the assessed value of real estate. During the economic boom of the 1990's personal income grew more rapidly than local property taxes. However, since the recession hit in 2001, local property taxes have increased more rapidly than personal income. From 1991 to 2004 local property taxes more than doubled, from less than \$10 billion to more than \$20 billion.¹³

Much of the increase in local property taxes can be attributed to the housing bubble. During the early years of this decade, property values in many parts of Florida increased at double digit rates. As property values increased, assessed values increased as well. In the last year or so, increases in property values have moderated, and in some communities property values have declined. In Broward County, for example, the assessed value of property increased 11 percent in 2007.¹⁴ That is down from the 19 percent increase the previous year, but still in excess of the single digit growth prior to the real estate boom that began in 2001.¹⁵

At the same time some local jurisdictions in Florida have been increasing property tax rates. For example, residents in Jacksonville pay a little over \$2 in property taxes for every \$100 in assessed value.¹⁶ With an assessment rate of 98 percent of market value the effective rate is \$1.98 per \$100 in market value.¹⁷ That is the 13th highest property tax rate among larger U.S. cities.¹⁸ Other cities in Florida may not have property tax rates as high as Jacksonville's, but they are nonetheless among the highest in the country.

The Fatal Flaw in Local Property Taxes

The fatal flaw in local property taxes is the ratchet-up effect. Like most local jurisdictions across the country, most of Florida's city and county governments ratcheted up spending to match the increased property tax revenues during boom periods in real estate values. This is a case of irrational exuberance on the part of local officials who assumed the real estate bubble would last forever. With the onset of serious problems in the real estate market, reality has set in. This correction in real estate prices

has hit Florida especially hard, and it is projected to continue for some time to come.

The irrational exuberance of local officials in Florida has created many problems for homeowners and businesses. The assessed value of their property remains at peak levels, because there is a lag in adjusting assessed value to reflect market value. As assessed values fall, it reduces the property tax revenue available for local governments. The result is a shortfall between the tax revenue and the higher levels of spending ratcheted up during the real estate boom. This slowdown in the value of properties previously on the tax rolls is only partially offset by newly constructed properties being added to the tax rolls.

In a few cases local officials in Florida have reduced spending to offset revenue shortfalls; but in most communities they have spent every dollar of property tax revenue they can get their hands on and then some. Local officials are reluctant to reduce spending to match the lower levels of revenue, especially for education, police, and fire protection. Therefore there is pressure to increase property tax rates in order to offset the revenue shortfall and sustain the higher levels of spending. Many communities have increased property tax rates to sustain higher levels of spending.

There is also pressure to increase funding from the state for education and other public services. Local officials have often lined up with public sector unions to lobby for increased state funding. This is accompanied by calls for "tax reform" to generate more revenue for state and local governments. The argument is that the existing tax system is antiquated and fails to generate the revenue required for expanded public services. It is sometimes argued that the sales tax should be replaced by an income tax or that sales tax "loopholes" should be closed. It has also been suggested that the portion of local property currently devoted to financing public education should be replaced by a state sales and/or income tax.

The Property Tax Revolt in Florida

There is currently a property tax revolt in Florida not unlike the one that occurred in California in the 1970s. Residents and businesses are responding to the unprecedented increase in

property tax burdens linked to the ratchet-up effect of property taxes. They are demanding property tax relief and have even converged on the Capitol to demand that the Legislature provide some form of property tax relief.

The Florida Legislature initially responded to this taxpayer revolt with a flurry of bills. When the dust settled, several laws were enacted to reduce property tax burdens. One law requires local governments to roll back property tax collections by varying amounts, with the average rollback estimated at 7 percent.¹⁹ The law also caps the growth in local government revenue collections to the combination of construction and household income growth.²⁰

The Legislature also passed a constitutional amendment that would have offered those residents who are eligible for homestead exemption a choice. They could keep their tax break under the "Save Our Homes Amendment," which caps annual increases in the taxable value of homestead property at 3 percent or the rate of inflation, whichever is less. Or they could give up that protection in exchange for a "super exemption" that could be worth up to \$195,000 on a \$500,000 home.²¹ (The "super exemption" would not apply to commercial property or to residential property that does not qualify for homestead exemption.)

This proposed Amendment was to have gone to the voters on January 29, 2008, but a circuit court judge ordered it removed on the grounds that the wording of the ballot language was vague and confusing and did not adequately inform the voters that the measure would repeal the Save Our Homes Amendment.²² A subsequent special session in October of 2007 voted to replace it with a similarly complex amendment, with its major provision being a doubling of the homestead exemption. To be ratified, it must pass muster with the courts and then be approved by 60 percent of those who vote on the proposal in the January election. Its fate is thus uncertain as of this writing.

Flaws in the Legislative Approach to Property Tax Relief

To appreciate what still needs to be done, it is important to understand the flaws in existing laws and in the Legislature's various recent attempts to provide property tax relief, however well intended they may have been.

One major problem stems from the unintended consequences of the Save Our Homes Amendment. As we noted above, this citizen initiative that was enacted in 1992 caps the annual increase in the assessed value of homestead property to 3 percent a year or the change in the consumer price index, whichever is less.²³ Thus homeowners eligible for homestead exemption have been protected from the escalation in property tax burdens. However, others, including owners of commercial property and second homes, bear a disproportionate share of the increased property tax burdens.

Those eligible for the homestead exemption are locked into their homes if they want to continue to take advantage of the protection created by the Save Our Home Amendment. If they move within the state, the property they purchase is assessed at current market value for tax purposes, and they lose that benefit. One of the quirks in the Amendment is that assessed values may continue to rise even in years when property values are falling.

The Legislature has taken a populist approach to property tax relief, in part because the parliamentary rules for placing an amendment on the ballot sooner than the November 2008 general election made it difficult to achieve a bipartisan and bicameral consensus. Here is the summary that is scheduled to appear on the ballot on January 29, 2008, unless it is blocked by another judicial decision:

CONSTITUTIONAL REVISION ARTICLE VII, SECTIONS 3, 4, AND 6 ARTICLE XII, SECTION 27

PROPERTY TAX EXEMPTIONS; LIMITATIONS ON PROPERTY TAX ASSESSMENTS

Ballot Summary:

This revision proposes changes to the State Constitution relating to property taxation.

With respect to homestead property, this revision: (1) increases the homestead exemption except for school district taxes and (2) allows homestead property owners to transfer up to

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“In the final analysis the most effective way to constrain the growth in tax burdens, including property tax burdens, is to impose an effective tax and spending limit.”

\$500,000 of their Save-Our-Homes benefits to their next homestead. With respect to non-homestead property, this revision (3) provides a \$25,000 exemption for tangible personal property and (4) limits assessment increases for specified non-homestead real property except for school district taxes.

This approach is fundamentally flawed and has some perverse effects. The proposed doubling of the homestead exemption continues the preferential treatment for some homeowners at the expense of other property owners. Making this benefit “portable” merely perpetuates the inequity. The owners of commercial property, including landlords, are not eligible for the exemption. The higher property taxes paid by these property owners will be passed along in the form of higher prices. In the case of landlords the result will be higher rents. A high proportion of low-income families rent because they cannot afford the cost of home ownership. The higher taxes paid on rental properties amounts to a regressive tax to the extent that the incidence of the tax is passed on to low-income families who pay the higher rents. Owners of second homes are also not eligible for the exemption. It is not surprising that the tax revolt is fueled in part by out of state homeowners who bear a disproportionate share of the higher property taxes.

It is also important to point out that other limitations in the Save Our Homes Amendment’s appraisal caps limit only one source of increased property tax burdens. Property taxes may increase either due to an increase in appraised values or to higher property tax rates. Even if the growth in appraised value of homestead property is capped at 3 percent, local jurisdictions may increase the property tax rates applied to that and other property. Unless they are constrained, local officials can be expected to adjust property tax rates to sustain increases in property tax revenues, especially when appraised values are falling. We also expect local officials to shift the property tax burden to commercial and other properties that are not eligible for relief under the Save Our Homes Amendment. This is why it is important to cap the total increase in property tax revenues in order to constrain the growth in property tax burdens.

The rollback provisions enacted by the Leg-

islature earlier in 2007 also have drawbacks as a source of property tax relief. This amounted to one time, temporary property tax relief. Due to the fungible nature of local revenues, we would expect local officials to increase other taxes and fees not subject to the rollback. We would also expect local officials to offset any temporary loss of revenue by increasing property tax rates in the long run.

In the final analysis the most effective way to constrain the growth in tax burdens, including property tax burdens, is to impose an effective tax and spending limit. In Florida it is especially important to apply the limit at the local level as well as the state level. It is at the local level where Floridians have experienced the sharpest increase in their tax burdens and where the greatest agitation exists for tax relief. If Florida is to provide property tax relief, it should provide it to all property owners, rather than to a group of homeowners with the greatest political clout. The best way to do that is to reduce property tax rates on all property. A tax and spending limit can be designed to provide property tax relief and reduce property tax rates.

Florida’s Ineffective Constitutional Revenue Limit

Florida citizens may be surprised to learn that the state Constitution already has a revenue limit. Surprise is certainly understandable because the current limit has been ineffective in constraining the growth of government. In order to understand the need for a Taxpayer Protection Amendment in Florida, it is first important to understand the flaws in the existing revenue limit.

Florida passed a revenue limit in 1994. Faced with the threat of a citizen initiative to enact a constitutional tax and spending limit, the Legislature placed a constitutional amendment on the ballot to limit the growth in state revenue. Florida’s revenue limitation specifies that the revenue cap increases each year by the average annual growth rate in Florida personal income over the previous five years. This revenue limit has not constrained the growth of state revenue and spending because of several loopholes in the design of the limit.²⁴

The most important loophole is linking the limit to the growth of personal income.

In effect, this is no limit because it locks state appropriations in as a share of income. In periods of rapid economic growth, this limit permits a rapid growth in revenue and spending. A more effective limit is one based on the rate of inflation and population growth.

The revenue cap uses as its base the previous year's cap, even if current revenues are well below the cap. In the early 1990s, Florida's economy entered a recession in which revenues fell below the cap. Since then the cap has been increasing at a rate well above actual revenue growth, rendering the cap completely ineffective as a constraint on the growth in revenue and spending. To be effective, the limit should be based on the previous year's cap or the previous year's revenues, whichever is less.

Another loophole is that the limit does not cover all revenues. The amendment specifies which revenues are included and which are exempt from the cap. The cap applies only to "own source" revenues, and not to revenues received from the federal government. The cap also exempts revenues necessary to meet the requirements of state bonds, revenues used to provide matching funds for Medicaid, revenues used to pay lottery prizes, receipts of the Hurricane Catastrophe Fund, balances carried forward from prior years, local government taxes, fees, and charges, and revenues required to be imposed by constitutional amendments

after 1994. When the cap was initiated, about 82 percent of net revenues were covered under the cap.²⁵ More recently, however, less than 76 percent of net revenues were covered.²⁶ Even though the cap is substantially less than total expenditures, the percentage of those net revenues covered by the cap shows a downward trend over the years. The cap should apply to a very broad measure of revenue and spending.

Finally, the existing cap applies only to state revenue and spending. It is especially important in Florida to apply an effective tax and spending limit at the local level as well as the state level. It is at the local level where the sharpest increases in tax burdens have occurred and where there is the greatest pressure for reforms to provide property tax relief and reduce property tax rates.

The following table reveals the flaws in the current tax and expenditure limit. The revenue limit has exceeded the receipts subject to the limit in the years in which the limit has been in effect. Over time this gap between the limit and receipts subject to the limit has increased. Although Florida has a constitutional tax and expenditure limit, that limit has been ineffective as a constraint on the growth of revenue and spending. Further, this limit is becoming irrelevant as the gap between the limit and receipts subject to the limit has increased.

There are some positive features of Florida's revenue cap. Revenues in excess of the limit

“To be effective, the limit should be based on the previous year's cap or the previous year's revenues, whichever is less.”

Table 1: Florida's Current Constitutional Limit on State General Revenue
(Figures in millions of dollars)

Year	Receipts Covered by the Revenue Cap	Constitutional Limit	Limit Exceeds Actual by
1995-1996	19,507	20,120	3.1%
1996-1997	20,968	21,299	1.6%
1997-1998	22,150	22,577	1.9%
1998-1999	23,080	24,033	4.1%
1999-2000	23,944	25,415	6.1%
2000-2001	24,131	26,945	11.7%
2001-2002	24,960	28,516	14.2%
2002-2003	25,269	30,233	19.6%
2003-2004	27,379	31,920	16.6%

Source: Barry W. Poulson and Randall Holcombe, *Empowering Florida's Taxpayers*, Backgrounder Number 47, The James Madison Institute, November 2005, p.12.

“The Constitution prohibits Florida from imposing an income tax.”

are to be transferred to the budget stabilization (“rainy day”) fund until that fund reaches 10 percent of the previous year’s revenues, after which excess revenues are to be refunded to taxpayers. The Legislature can increase revenues beyond the cap only by a two-thirds vote of both houses. Such an increase must be offered in a separate bill that contains no other subject, and that specifies the dollar amount of the increase. Unfortunately, because the limit has been ineffective as a constraint on the growth in revenue and spending, these positive features of the limit have never been triggered.²⁷

Florida has enacted several other amendments to the Constitution that are designed to constrain the growth of government. The Constitution prohibits Florida from imposing an income tax. Several amendments to the Citizen’s Initiative Act are designed to constrain the growth of government. One is the requirement of a supermajority, two-thirds vote of the Legislature, to add a new state tax or fee to the Constitution. Another provision eliminates the single-subject rule for citizen initiatives to limit the power of government to raise revenue.

Why Florida Needs a Taxpayer Protection Amendment

It is not surprising that Florida is experiencing a property tax revolt similar to the one that led to Proposition 13 in California in the late 1970’s. Florida citizens have found their property taxes increasing at double-digit rates due to the “stealth tax” of rising property values. Existing tax and spending limits have failed to constrain the increasing burden of property taxes in Florida.

Floridians can no longer be complacent about the heavier tax burdens that have been imposed on them. The impact of higher property taxes is most evident in decisions made by mobile factors of production. The central concept is that of a tax price. The assumption is that residents know both the level of taxes and the level of government services. Residents are rational in searching for the highest level of government services consistent with the lowest possible tax price.

The tax price concept is especially relevant for local governments because residents can vote with their feet. If residents perceive that

the tax price is too high in relation to the government services offered, they will move to another jurisdiction.

The tax price concept also helps to explain businesses’ location decisions. Businesses also consider the taxes they pay relative to the government services they receive. If those services are not worth the taxes, businesses will relocate to another jurisdiction.

The mobility of residents and businesses in response to higher tax rates is an important factor in constraining the power of both state and local governments to impose taxes. If residents and businesses respond to higher taxes by moving out of the jurisdiction, this will reduce the tax base.

When individuals and businesses “vote with their feet,” this will impact the rate of economic growth in those jurisdictions. Local jurisdictions with high property taxes will lose population and businesses. That in turn will reduce the tax base and decrease the revenue generated by a given tax rate. Profligate local governments often find themselves in a vicious cycle in which they respond to a declining tax base with even higher taxes, which causes even greater retardation in economic growth.

When property tax rates are high, increasing property tax rates can actually reduce tax revenues. The higher property tax rates induce residents and business to leave the jurisdiction. The reduction in the tax base more than offsets the increase in tax rates, thereby reducing total tax revenues. At this point the jurisdiction could actually promote economic growth and generate more revenue by lowering property tax rates. Cities such as Jacksonville have probably raised their property tax rates to this inordinate level because of the irrational exuberance that has characterized their fiscal policies.

Conversely, jurisdictions with low property tax rates will attract population and businesses. In these jurisdictions the expanded tax base will generate even more revenue for a given property tax rate. Prudent state and local governments may enter a virtuous cycle in which an expanding economy and tax base permit even lower property tax rates; that in turn stimulates a higher rate of economic growth.

High property tax rates will also be reflected in the prices of non-mobile factors of production.

One of the best measures of high tax rates is in the price of capital assets in a given jurisdiction. Some capital assets are not mobile, but rather specific to a given jurisdiction, at least in the short run. In local jurisdictions with high property tax rates, retardation in economic growth will result in decreasing demand and falling prices for those capital assets.

On the other hand, jurisdictions with low property tax rates and high rates of economic growth will experience increased demand and rising prices for those capital assets. Owners of these immobile capital assets will reap the benefits of low property tax rates thanks to the appreciation in the value of their capital assets.

The tax price concept helps to explain the property tax revolt in Florida. The question is why cities such as Jacksonville would increase their property taxes to such a high level that they drive out residents and businesses. If Jacksonville's government were maximizing the welfare of the residents, it would raise property taxes only when residents and businesses value the government services provided as at least equal to or greater than the cost of those services in the form of higher taxes. Why do so many local governments nonetheless raise taxes to an extent that it harms the local economy? The explanation is that city governments often exert a kind of monopoly power, not unlike that exercised by monopoly firms in the private sector. The difference is that the government may impose a legal monopoly that persists in the long run. In contrast, monopoly power in the private sector will tend to be eroded by competition in the marketplace, unless protected by legal restrictions on competition.

To the extent that Jacksonville's government can exert monopoly power, it can capture a portion of the revenue generated by property taxes in the form of a surplus. The surplus is equal to the difference between the revenue generated by the tax, and the value of services provided to citizens by the government.

How that surplus is divided up depends upon the success of special interest groups in seeking privileges through the public sector. Part of the surplus may be captured by elected officials and bureaucrats in the form of bribes, kickbacks, and other forms of corruption. Public employees

also may receive wages and non-wage benefits in excess of the market value of the services they provide. This is especially likely to be true when public sector employees are unionized. The wages, pensions, and non-pension benefits received by employees in the public sector often exceed those received by employees in comparable positions in the private sector. Future obligations linked to pension and health benefits promised by contract to public-sector employees have emerged as a major problem for both state and local governments in Florida.

Special interest groups in the private sector may also capture a portion of the surplus. When private contractors are paid by governments in excess of the value of the services they provide, they capture a portion of the surplus. A portion of these payments may also be fraudulent. For example, it is estimated that one in four Medicaid bills is fraudulent, and only recently has Florida's state government begun to audit such payments. Finally, much of the surplus is transferred through entitlement programs. While these entitlement programs are defended as transferring wherewithal to low-income individuals, in reality much of the income being transferred is captured by others.

At all levels of government in Florida, the taxes imposed and the revenue generated by those taxes, have little relationship to the value of government services provided. The explanation for these taxes is redistributive politics. Florida has become a transfer society in which special interests dominate fiscal policy decisions. Residents and businesses that pay taxes are engaged in a battle with special interests who view the government as a source of special privilege and income transfers.

Designing a Taxpayer Protection Amendment (TPA) for Florida

Until recently, efforts to provide property tax relief at the state level have been largely unsuccessful. There are a number of reasons for this failure, but the fatal flaw appears to be in the ineffectiveness of the current tax and spending limit. Floridians are now demanding that the state impose an effective tax and spending limit that would limit the growth in state spending while also providing property tax relief.

We at Americans for Prosperity have worked

“Why do so many local governments nonetheless raise taxes to an extent that it harms the local economy?”

closely with the newly formed Tax Cap Committee (TCC) and Property Rights Committee (PCC) to design two proposed constitutional amendments for the November 2008 ballot.

The proposed Taxpayer Protection Amendment (TPA) is the best tax and spending limit ever proposed for the state of Florida (see Appendix 1). It draws on the experience with tax and spending limits in 28 states over three decades. There are several provisions of this proposed amendment that would make it an effective tax and spending limit.

1. It is a constitutional rather than a statutory provision.
2. It would impose a stringent limit on the growth in spending equal to inflation and population growth.
3. This limit would be applied to a broad measure of state revenue and spending with few exceptions.
4. This limit would be applied at the local as well as the state level.
5. Some surplus revenue would be allocated to a budget stabilization fund. Thus, the limit would both constrain the growth in government and stabilize the budget

over the business cycle.

6. Some surplus revenue would be allocated to tax relief, including property tax relief.
7. Voter approval would be required for any increase in taxes or debt, or for any expenditure of surplus revenue

This TPA is designed to both constrain the growth of government and stabilize the budget over the business cycle. A TPA links the stringent limit of population growth and inflation to an emergency and budget stabilization fund. In periods of prosperity, when revenue exceeds the limit, surplus revenue is allocated to the emergency and budget stabilization fund. When the economy enters a recession, money is transferred from the budget stabilization fund to offset the revenue shortfall (see the model legislation in Appendix A).

In the following table, a TPA is simulated for the Florida economy. Several assumptions are introduced into the analysis. A 10 percent cap is placed on the emergency and budget stabilization fund. When the 10 percent cap is reached on this fund, additional surplus revenue is allocated to a property tax relief fund. In periods of recession, money is allocated from

Table 2. Simulating a Taxpayer Protection Amendment (TPA)
(millions of dollars)

Year	Total State Revenue	TPA Limit	TPA Surplus	Emergency and Budget Stabilization Fund	Property Tax Relief Fund
1995-96	33,782	35,226			
1996-97	34,861	35,380			
1997-98	37,059	36,591	468	468	
1998-99	39,595	37,985	1,610	2,078	
1999-00	41,768	39,432	2,336	3,943	471
2000-01	44,082	41,569	2,513	4,157	2,295
2001-02	47,416	43,955	3,461	4,396	3,222
2002-03	50,319	45,647	4,672	4,565	4,503
2003-04	53,500	47,706	5,794	4,771	5,588
2004-05	57,300	49,791	7,509	4,979	7,301
2005-06	63,076	52,524	10,552	5,252	10,279

Source: U.S. Census Bureau data for general fund revenue and population growth; U.S. Bureau of Labor Statistics data for inflation.

Table 3. Simulating Property Tax Relief
(millions of dollars)

Year	Property taxes	Property Tax Relief Fund	Property Tax Relief/Property Taxes
1999-00	13,336	471	3.5%
2000-01	14,373	2,295	16.0%
2001-02	15,372	3,222	21.0%
2002-03	16,702	4,503	27.0%
2003-04	18,224	5,588	30.7%
2004-05	20,089	7,301	36.3%

Source: U.S. Census Bureau data for property taxes; Table 2 for property tax relief fund.

the emergency and budget stabilization fund to offset the revenue shortfall. At that point the limit is held constant until revenue again exceeds the limit.

In this simulation to demonstrate the effects of such a limit, it is first imposed in 1995-1996. In 1995-1996 and 1996-1997 the TPA limit exceeds actual revenue. In 1997-1998 actual revenue exceeds the TPA limit. In 1997-1998 and 1998-1999, all of the surplus is allocated to the emergency and budget stabilization fund. In 1999-2000, revenue growth again exceeds the limit, and in that year part of the surplus is allocated to the emergency and budget stabilization fund, and the remainder is allocated to the property tax relief fund. In the remaining years surplus revenue is allocated to the emergency and budget stabilization fund; additional surplus revenue is allocated to the property tax relief fund.

Over the period as a whole, more than \$5 billion would have been accumulated in the emergency and budget stabilization fund. More than \$29 billion would have been allocated to the property tax relief fund.

Property Tax Relief

The following table compares this property tax relief fund to the actual local property taxes paid over this period. In this analysis it is assumed that property tax relief is provided through a lump sum rebate to property owners. An alternative would be to permanently reduce or eliminate some property taxes.

The share of property taxes offset by property tax relief varies from 3.5 percent in 1999-2000 to 36.3 percent in 2004-2005. This analysis

demonstrates that a TPA limit would provide significant property tax relief to Floridians.

A Taxpayer Protection Amendment would impose a limit on the amount of property tax revenue that local jurisdictions could collect. That limit is equal to inflation and population growth. If property tax revenues exceed that limit, local jurisdictions would have to reduce property tax rates to keep within the limit. In the following table, this limit is calculated for property tax revenue growth over the period 1995-1996 to 2004-2005. If this limit had been applied, then by the end of the period property tax revenues would have been reduced by 17.8 percent. That would have provided almost \$3.6 billion a year in property tax relief.

This demonstrates that, at the local level, property taxes could have been reduced significantly. It is clear from this study that it is crucial to impose a limit on the growth of local revenue and spending. It is the unconstrained growth of property taxes that is driving the higher tax burdens on Floridians. It is not enough for the state to provide property tax relief. Only when local governments are constrained in the amount of property taxes they are able to collect will Floridians achieve property tax relief in the long run.

Requiring Voter Approval for Increases in Taxes, Debt, or Expenditure of Surplus Revenue

One of the most important provisions of a TPA is the requirement for voter approval for any increase in taxes, debt, or expenditure of surplus revenue. One might question whether

“One of the most important provisions of a TPA is the requirement for voter approval for any increase in taxes, debt, or expenditure of surplus revenue.”

Table 4. Simulating A Property Tax Limit
(millions of dollars)

Year	Property taxes	Property Tax Limit
1995-96	11,058	
1996-97	11,543	11,581
1997-98	12,146	12,116
1998-99	12,940	12,589
1999-00	13,336	13,081
2000-01	14,373	13,791
2001-02	15,372	14,582
2002-03	16,702	15,143
2003-04	18,224	15,826
2004-05	20,089	16,518

Source: U.S. Census Bureau data for property taxes and population growth; U.S. Bureau of Labor Statistics data for inflation.

“A TPA replaces ambiguous fiscal contracts between citizens and elected officials with an explicit contract.”

this provision is needed in Florida. A recent Amendment to the Florida Constitution requires a supermajority vote (2/3) of the Legislature to incorporate a new tax in the Constitution. There are a number of reasons why a more stringent voting requirement is needed in Florida.

A TPA changes the debate over fiscal policy decisions. Usually the debate over fiscal policy is dominated by those most directly affected, i.e. the special interests that benefit from increased government expenditures. When elected officials respond to these special interests, the question is how to increase taxes and debt to finance higher levels of government spending.

A TPA gives the taxpayers a new voice in fiscal policy. They may exercise this voice at several stages of fiscal decision-making. They first set a limit on the growth in government spending, imposing a hard budget constraint on their elected officials. Those officials, in turn, must then set spending priorities consistent with that limit. If officials wish to spend in excess of the limit, they must seek voter approval. Voters, rather than their elected officials, then determine whether the benefits of government programs justify the additional expenditures. If the officials violate the limit, the taxpayers have recourse through the legal system to recover

the excess spending. Voters must approve any increase in taxes or debt.²⁸

For more than a decade Colorado has had a similar amendment, the Taxpayer’s Bill of Rights (TABOR). The state’s fiscal policies reflect this new voice for the voters. The state has rebated more than \$3 billion in surplus revenue.²⁹ Taxpayers have received rebate checks for hundreds of dollars from both state and local governments. Local property tax rates have been reduced across the state because of the TABOR.

Critics argue that voters should not be given this new voice in fiscal decisions. These critics argue that fiscal decisions should be left to the discretion of elected officials. In their view, those officials are better informed and better able to pursue the public interest without the constraints imposed by tax and spending limits. But taxpayers know that too often those decisions reflect special interests rather than the public interest.

A TPA replaces ambiguous fiscal contracts between citizens and elected officials with an explicit contract. Taxpayers must be informed regarding any proposed increase in taxes or debt, what the money will be spent for, and what it will cost them. Most importantly, it is the voters rather than elected officials and special interests who directly determine whether taxes and debt

will be increased. When voters have been given this voice, they overwhelmingly support the constraints that this imposes on fiscal policy decisions.

Colorado residents have been exercising their voice in fiscal policy decisions for more than a decade under TABOR. This has proven to be an important experiment in direct democracy. The election results, when Colorado citizens vote on tax and debt increases, are very revealing. When these elections are held in small jurisdictions, such as special districts, the approval rate is very high, in excess of 90 percent in most years.³⁰ One explanation is that the turnout for these elections is usually light. But another explanation is that at this level citizens are better able to hold the government accountable. The jurisdiction must identify a specific project and the cost of that project to individual citizens.

When these elections are held at the municipal level, they pass about half the time. The state has sought voters' approval to increase taxes and spend surplus revenue several times since TABOR was enacted. Last year, for the first time, voters approved state expenditure of surplus revenue over the next five years.

The experience with direct democracy in fiscal policy in Colorado under the TABOR Amendment is in some ways not surprising. The Colorado Tax Commission conducted a survey of the public's attitudes toward the tax system and government spending.³¹ Respondents answered that they thought significant amounts of tax dollars are wasted at all levels of government, but they viewed government waste the greatest at the federal level, less at the state level, and least at the local level. From their perspective they are better able to monitor the expenditures of tax dollars and hold government officials accountable at the local level.

A TPA establishes a nexus between those who vote for tax increases and those who must pay the cost of the higher taxes. Almost every resident, even those who pay little or nothing in taxes, is confronted with the decision to allow the state to spend surplus revenue and forgo the rebate checks or else to keep the rebates. A TPA creates both the opportunity and incentive for residents to become involved in fiscal decisions. All residents, including those who pay little or nothing in taxes, have an incentive to

become informed regarding these ballot issues, to vote, and to monitor how their tax dollars are spent.

In Colorado those who vote on new taxes or debt and on the expenditure of surplus revenue are also likely to be the individuals who will have to bear the burden of these fiscal decisions. The experience under TABOR in Colorado is that giving voters a voice in fiscal policy results in more prudent fiscal decisions and constrains the growth of government. TABOR has also achieved an egalitarian outcome, not by transferring income and wealth from a minority to the majority, but rather by vesting each resident with a stake in the outcome of fiscal decisions.

A recent survey found that more than 60 percent of Coloradans support the Taxpayer's Bill of Rights amendment – a higher level of support than when it was passed a decade ago. This suggests that TABOR has become more popular over time.³² Another recent survey commissioned by the Independence Institute and the Colorado Club for Growth found that the majority of Coloradans still support the Taxpayer's Bill of Rights Amendment

The voting provisions of the TPA proposed for Florida are not a radical departure in the state's fiscal policy decisions. Florida has a long history of laws requiring voter approval for increases in taxes. The state law governing local-option taxes requires that voters must approve any increase in the local portion of the sales tax. In 58 of Florida's 67 counties, voters have approved such tax increases. Florida law, until 1968, required that property taxes for school districts' operating expenses receive voter approval. Voters approved most of these proposed property taxes. Experience in Florida is that when public officials can make a strong case for increased taxes or debt, voters will generally approve the proposed tax increases. Jurisdictions that fail to provide good government services for the tax dollars paid have a more difficult time raising taxes. This direct democracy in fiscal decisions would be greatly strengthened under a TPA.

Conclusions

Tax burdens in Florida have increased significantly in recent years. This may come as a surprise to some who view Florida as a

“Florida has a long history of laws requiring voter approval for increases in taxes.”

“Higher property tax burdens will continue to drive residents and businesses from the state.”

low tax state. It is true that the average tax rate in Florida is still significantly below the national average. However, in recent years the tax burden has increased significantly, and state and local governments have captured a larger share of personal income.

The major culprit in this increasing tax burden in Florida is a sharp increase in the property tax. There is now a property tax revolt underway in Florida, not unlike that in California in the 1970s. Taxpayers across the state are demanding more stringent caps on property appraisals and property taxes.

Floridians now have a unique opportunity to enact an effective tax and spending limit through the initiative process. We have designed a Taxpayer Protection Amendment that would both constrain the growth of government and stabilize the budget. The limit would apply at the local level as well as the state level. It would provide for property tax relief and reductions in property tax rates.

You can be sure that special interests will be under tremendous pressure to defeat this legislation or to substitute a weak and ineffective limit. Opponents will argue that we should leave fiscal policy decisions to the discretion of elected officials. They will argue that those officials are better informed and better able to pursue the public interest in making these decisions. What is clear in Florida is that when these decisions are left to such officials, too often they pursue special interests rather than the public interest.

Opponents will probably outspend supporters of the initiative by a magnitude of ten to one. However, Colorado’s experience shows that with grassroots support, an effective tax and spending limit can be enacted through the initiative petition process, despite this opposition. Polls show that a greater majority of Colorado citizen support the TABOR Amendment today than when it was passed in 1992. It is time for Florida citizens to have a similar voice in the tax and spending decisions of their government.

Florida is clearly at a crossroad. If the state continues to muddle along with its current fiscal policies, the expectation is that citizens will continue to experience higher property tax burdens. Higher property tax burdens will continue to drive residents and businesses from

the state.

If, on the other hand, the state enacts a more effective tax and spending limit, it could jump-start the economy. This would enable the state to provide much needed property tax relief, with lower property tax rates. It would improve the opportunities for home ownership for all Floridians, not just those able to afford high and burdensome property taxes. Most important, this would create a more favorable tax climate that Florida needs to attract business investment and create jobs. If Florida takes this path, it could begin to compete more effectively with other states, improving incomes and standards of living.

Appendix

Model Florida Taxpayer Protection Act (State and Local)

SECTION 1. SPENDING LIMITS

State appropriations shall be subject to a limit equal to total appropriations in the preceding fiscal year increased by a percentage equal to the result obtained by adding any positive increase in the rate of inflation for the calendar year ending during the preceding fiscal year, plus any positive percentage change in state population during the calendar year ending during the preceding fiscal year. This state appropriations limit is the binding constraint on total appropriations in any fiscal year in which revenue exceeds the appropriations limit.

For any fiscal year in which state revenue from all sources is less than the appropriations limit for that year, the appropriations limit for that fiscal year becomes the binding constraint on the amount of revenue the state can spend in all subsequent fiscal years until revenue again exceeds that state spending limit.

The maximum annual percentage change in each local jurisdiction’s fiscal year spending equals inflation in the prior calendar year plus annual local growth. “Local growth” for a non-school district means a net percentage change in that jurisdiction’s population. For a school district, “local growth” means the percentage change in its student enrollment.

SECTION 2. REVENUE LIMITS

The maximum annual percentage change in each local jurisdiction's property tax revenue equals inflation in the prior calendar year plus annual growth, adjusted for property tax revenue changes approved by voters.

Regardless of reassessment frequency, valuation notices shall be mailed annually and may be appealed annually, with no presumption in favor of any pending valuation. Past or future sales by a lender or government shall also be considered as comparable market sales and their sales prices kept as public records. Actual value shall be stated on all property tax bills and valuation notices and, for residential real property, determined solely by the market approach to appraisal.

SECTION 3. BUDGET STABILIZATION FUND

For any fiscal year in which a jurisdiction's revenue exceeds that jurisdiction's spending limit, the jurisdiction shall deposit into a budget stabilization fund all of the excess revenue, except that the total amount in the budget stabilization fund may not exceed an amount equal to 10 percent of the jurisdiction's spending limit for that fiscal year.

For any fiscal year in which the jurisdiction's revenue is less than the amount of the spending limit for that year, the jurisdiction may transfer money from the budget stabilization fund in the minimum amount necessary to offset a shortfall of revenue below the spending limit. The jurisdiction may also make expenditures from its budget stabilization fund, only by a majority approval of the voters to provide relief from taxes imposed by state or local government. Under no other circumstances shall money be transferred from the budget stabilization fund.

SECTION 4. TAX REFUNDS

Jurisdictions shall return to the taxpayers the amount of any excess revenue received in any fiscal year that is not deposited into the budget stabilization fund. If the revenue received by the jurisdiction in any fiscal year exceeds the jurisdiction's spending limit, it shall return to the taxpayers the amount of the excess revenue received in that year. The tax refund shall be made in the fiscal year immediately following the calendar year or the fiscal year in which the jurisdiction has the excess revenue.

Subject to judicial review, jurisdictions may

use any reasonable method for refunding surplus revenue. This may include tax rebates and/or rate reductions. When possible these refunds should be proportional to the excess taxes paid; however, refunds need not be proportional when prior payments are impractical to identify or return.

SECTION 5. EMERGENCY SPENDING AND SUSPENSION OF SPENDING LIMITS

The state spending limit may only be exceeded in an emergency, as defined herein, or by a voter-approved suspension. The state spending limit may be exceeded only during the fiscal year for which the emergency is declared or suspension is approved. In no event shall any part of the amount representing a refund be the subject of an emergency request.

- (a) Emergency spending may occur only if all of the following conditions are met: (1) The governor determines that an imminent threat to public health or safety exists and requests the legislature to declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; and (3) the legislature thereafter declares an emergency in accordance with the specific terms of the governor's request by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this section prior to incurring any of the expenses which constitute the emergency request. Emergency excludes economic conditions, revenue shortfalls or fringe benefit increases. Emergency expenditures shall be made only when funds are available in the budget stabilization fund. When the above conditions are met the State Treasurer shall transfer funds from the budget stabilization fund to the general fund in the amount of emergency expenditures authorized. The funds so transferred must be replaced in the budget stabilization fund from surplus revenue in the next fiscal year in which surplus revenue is available. Emergency spending does not modify the state spending limits applicable in subsequent fiscal years.
- (b) A voter-approved suspension of the state spending limit may occur only if all the following conditions are met: (1) two-thirds of the members of each house vote to refer a suspension of the limits, up to a predetermined maximum, to the voters; (2) a ballot advisory in bold capital

“The state spending limit may be exceeded only during the fiscal year for which the emergency is declared or suspension is approved.”

“Local jurisdiction spending limits may only be exceeded in an emergency which meets the same criteria as for state emergencies, or by a voter-approved suspension.”

letters directly above the ballot title instructs voters: ‘a “yes” vote on this measure will authorize the state to retain extra taxes and spend them in excess of constitutional limits by [insert amount of predetermined maximum additional spending.]’; And (3) the suspension is approved by a majority of eligible voters participating in a statewide general election.

Local jurisdiction spending limits may only be exceeded in an emergency which meets the same criteria as for state emergencies, or by a voter-approved suspension.

- (a) Emergency spending may occur only if the local jurisdiction makes a specific request to the state legislature stating the dollar amount needed, and that request is approved by a two-thirds vote of each house, and by the Governor. Funds may then be transferred from the local jurisdiction’s budget stabilization fund for that dollar amount. The funds so transferred must be replaced in the budget stabilization fund from surplus revenue in the next fiscal year in which surplus revenue is available. Emergency spending does not modify the local jurisdiction’s applicable spending limits in subsequent fiscal years.
- (b) A voter-approved suspension of a local jurisdiction’s spending limit may occur only if all the following conditions are met: two-thirds of the members of the governing body (e.g., city or county commission) vote to refer a suspension of the limits, up to a predetermined maximum, to the voters; (2) a ballot advisory in bold capital letters directly above the ballot title instructs voters: ‘a “yes” vote on this measure will authorize the jurisdiction to exceed its constitutional spending limit by [insert the amount of predetermined maximum additional spending]’; and (3) the suspension is approved by a majority of the eligible voters participating in a general election in that jurisdiction.

SECTION 6. STATE MANDATES

The legislature may, by law, adjust any spending limit imposed under this section:

- (a) To accommodate the transfer of services from any jurisdiction subject to a spending limit under this section to any other such jurisdiction, including the transfer of services that results from annexation. Any increase to a jurisdiction’s spending limit under this paragraph shall be offset with a corresponding decrease to the spending limit of other entities affected by the transfer of services.
- (b) To reflect the elimination or reduction of a state-

mandated service.

The state spending limit under this section for any year shall be reduced by the amount of any reduction in that year in the aggregate amount of state aid to any of the categories of county, city, special purpose district, or school district, as compared to the previous year.

A state law or administrative rule that increases a local governmental unit’s expenditures may not be enacted or adopted on or after the ratification of this subsection unless the state pays the reasonable costs incurred by the entity to comply with the law or rule. This subsection does not apply to any law or rule that is enacted or adopted in order to comply with a requirement of federal law, including a requirement related to receiving federal aid.

No local governmental unit may be required under state law to increase its annual compensation for any employee or group of employees by a percentage that exceeds the allowable percentage increase in the spending limit for that local governmental unit under this section.

Except for public education through grade 12 or as required of a local government by federal law, a local government may reduce or end its subsidy to any program delegated to it by the state legislature for administration. For current programs, the state may require 90 days notice and that the adjustment occur in a maximum of three equal annual installments.

SECTION 7. ELECTION PROVISIONS

Starting (insert date) all jurisdictions must have voter approval in advance for:

- (a) Any new tax, tax rate increase, mill levy above that for the prior year, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain to any district.
- (b) Except for refinancing bonded debt at a lower interest rate or adding new employees to existing jurisdiction pension plans, creation of any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years.

Election provisions are as follows:

- (a) Ballot issues shall be decided in a state general election, local jurisdiction election, or on the first Tuesday in November of odd-numbered years. Except for petitions, bonded debt, or charter or constitutional provisions, jurisdictions may consolidate ballot issues and voters may approve

a delay of up to four years in voting on ballot issues. Jurisdiction actions taken during such a delay shall not extend beyond that period.

- (b) At least 30 days before a ballot issue election, jurisdictions shall mail at the least cost, and as a package where jurisdictions with ballot issues overlap, a titled notice or set of notices addressed to "All Registered Voters" at each address of one or more active registered electors. The jurisdictions may coordinate the mailing required by this paragraph (b) with the distribution of the ballot information in order to save mailing costs.

Titles shall have this order of preference: **"NOTICE OF ELECTION TO INCREASE TAXES/TO INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE."** Except for local government voter-approved additions, notices shall include only:

- (i) The election date, hours, ballot title, text, and local election office address and telephone number.

- (ii) For proposed tax or bonded debt increases, the estimated or actual total of fiscal year spending for the current year and each of the past four years, and the overall percentage and dollar change.

- (iii) For the first full fiscal year of each proposed tax increase, estimates of the maximum dollar amount of each increase and of fiscal year spending without the increase.

- (iv) For proposed bonded debt, its principal amount and maximum annual and total repayment cost, and the principal balance of total current bonded debt and its maximum annual and remaining total jurisdiction repayment cost.

- (v) Two summaries, up to 500 words each, one for and one against the proposal, of written comments filed with the election officer by 45 days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The election officer shall maintain and accurately summarize all other relevant written comments.

Except by later voter approval, if a tax increase or fiscal year spending exceeds any estimate in (iii) for the same fiscal year, the tax increase is thereafter reduced up to 100% in proportion to the combined dollar excess, and

the combined excess revenue refunded in the next fiscal year. Bonded debt shall not issue on terms that could exceed its share of its maximum repayment costs in (iv). Ballot titles for tax or bonded debt increases shall begin, **"SHALL (JURISDICTION) TAXES BE INCREASED** (first, or if phased in, final, full fiscal year dollar increase) **ANNUALLY...?"** or **"SHALL (JURISDICTION) DEBT BE INCREASED** (principal amount), **WITH A REPAYMENT COST OF** (maximum total district cost)?"

SECTION 8. ENFORCEMENT PROVISIONS

This amendment to the constitution takes effect (insert starting date) Its preferred interpretation shall reasonably restrain the growth of government. All provisions are severable and supersede conflicting state constitutional, state statutory, charter, or other state or local provisions. Other limits on jurisdiction revenue, spending, and debt may be weakened only by future voter approval.

Individual or class action enforcement suits may be filed and shall have the highest civil priority of resolution. Successful plaintiffs are allowed costs and reasonable attorney fees, but a jurisdiction is not unless a suit against it be ruled frivolous. Revenue collected, kept, or spent illegally since four full fiscal years before a suit is filed shall be refunded with 10% annual simple interest from the initial conduct.

SECTION 9. DEFINITIONS

Term definitions are as follows:

- (a) "Ballot issue" means a non-recall petition or referred measure in an election.
- (b) "Jurisdiction" means the state or any local government, excluding enterprises.
- (c) "Emergency" excludes economic conditions, revenue shortfalls, or district salary or fringe benefit increases.
- (d) "Enterprise" means a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all state and local governments combined.
- (e) "Fiscal year spending" means all jurisdiction expenditures except, as to both, those for refunds made in the current or next fiscal year or those from gifts, federal funds, collections for another government, pension contributions by employees and pension fund earnings, damage awards, or property sales.

Fiscal year spending does not include 1) any appropriations to fund “emergencies” as defined in this section; 2) any appropriations funded by a suspension vote pursuant to this section; 3) any surplus revenues transferred or rebated pursuant to this section; 4) the payment of principal and interest on bonds contracted specifically for the acquisition of tangible assets or the construction of public projects which are amortized over a period of at least 20 years; 5) the proceeds of any bonds expended before the end of the 2006-2007 fiscal year and the proceeds of any bonds contracted specifically for the acquisition of tangible assets or the construction of public projects which are amortized over a period of at least 20 years issued after November 7, 2006; 6) revenue from licenses and fees, if the money does not exceed the cost of issuing the license or providing the service associated with the license or fee.

- (f) “Local growth” for a non-school district means a net percentage change in actual value of all real property in a jurisdiction from construction of taxable real property improvements, minus destruction of similar improvements, and additions to, minus deletions from, taxable real property. For a school district, it means the percentage change in its student enrollment.
- (g) “Inflation” means the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for all items, all urban consumers, or its successor index.
- (h) “Population” means the number of people residing in the state, excluding armed forces stationed overseas, as estimated by the annual census conducted by the Federal Census Bureau, and such number shall be adjusted to match the federal decennial census.
- (i) “Bonds” means any form of multi-fiscal year indebtedness, including non-recourse, limited tax general obligation bonds, or limited liability bonds.

burden. Florida is ranked 5th highest, ranking above all the neighboring states in business climate. Florida levies no personal income taxes. Because most small businesses in Florida are either S Corporations (partnerships) or sole proprietorships, they pay the business tax at the rate for individuals. This makes the environment for small business in Florida very competitive. Florida imposes a corporate income tax with a flat rate of 5.5 percent, ranking as the 5th lowest among the states that impose a corporate income tax. The major source of revenue for the state is the state sales tax. The state sales tax rate of 6 percent is well above the national median of 5 percent. State and local sales taxes rank as the 8th highest in the country. Excise taxes in Florida are below average compared to that in other states. The gasoline tax is 14.9 cents per gallon, ranking as the 5th lowest in the country. The cigarette tax is 33.9 cents per pack, ranking as the 7th lowest nationally.

- 11 Randall G. Holcombe, Florida’s Fiscal Constitution: Opportunities for Reform,” Backgrounder Number 50, The James Madison Institute, December 2006 p.12.
- 12 “Property Tax Collections Surged With Housing Boom,” Special Report Number 146, Tax Foundation, October, 2006, p.2.
- 13 U.S. Census Bureau.
- 14 “ Broward Sees Another Double-Digit Jump in Property Values, Fueling Tax Worries,” South Florida Sun Sentinel, May 31, 2007.
- 15 Ibid
- 16 “Florida Property Tax Reform Debate Continues,” Tax Foundation Tax Policy Blog, April 20, 2007.
- 17 Ibid
- 18 Ibid
- 19 “Citizen Tax Plan Gains Momentum,” Herald Tribune, June 20, 2007.
- 20 Ibid
- 21 Ibid
- 22 Ibid
- 23 “Crist Signs Part 1 of Tax Reform Bill, OKs Vote Date,” Tallahassee Democrat, June 22, 2007.
- 24 Barry W. Poulson and Randall Holcombe, “Empowering Florida’s Taxpayers,” Backgrounder Number 47, The James Madison Institute, November 2005, pp.13-14.
- 25 Ibid p.12.
- 26 Ibid
- 27 Op. Cit. “Empowering Florida’s Taxpayers,” pp.13-14.
- 28 One of the criticisms often leveled against TABOR is that an effective limit on taxes will lead local and state jurisdictions to rely more heavily on fees. There is certainly evidence for this in Colorado. However, note that only true user fees are exempt from the limit. The exemption for fees states that “revenue from licenses and fees, if the money does not exceed the cost of issuing the license or providing the service associated with the license or fee.” When jurisdictions impose fees that exceed the cost of the government services delivered they in effect impose a tax which is subject to the limit. The criticism of many fees imposed in Florida, such as impact fees charged to developers by local governments, is that these fees far exceed the cost of government services and amount to a hidden tax. To that extent such fees would be subject to the TPA limit.
- 29 Barry W. Poulson, “Colorado’s TABOR Amendment: Recent Trends and Future Prospects, Americans for Prosperity Foundation, July, 2004.
- 30 Ibid
- 31 Even in Budget Crises Coloradans Support TABOR Amendment Limits on Taxes and Government Spending, Poll Analysis, Ciruli Associates, Denver, Colorado, April 15, 2003.
- 32 Ibid

Endnotes

- 1 Ronald Reagan, “Reflections on the Failure of Proposition #1,” National Review, December 7, 1973.
- 2 Milton Friedman, “Freedom’s Friend,” The Wall Street Journal, June 11, 2004.
- 3 “The Facts on Florida’s Tax Climate,” The Tax Foundation, August 5, 2007
- 4 Ibid
- 5 Ibid
- 6 Ibid
- 7 Ibid
- 8 Ibid
- 9 Ibid
- 10 The Tax Foundation also ranks the business tax climate in the states using five different indices of the tax

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Americans for Prosperity (AFP) and Americans for Prosperity Foundation (AFP Foundation) are committed to educating citizens about economic policy and mobilizing those citizens as advocates in the public policy process. AFP is an organization of grassroots leaders who engage citizens in the name of limited government and free markets on the local, state and federal levels. The grassroots members of AFP advocate for public policies that champion the principles of entrepreneurship and fiscal and regulatory restraint.

AFP Foundation is committed to educating citizens about economic policy and a return of the federal government to its Constitutional limits. AFP Foundation's educational programs and analyses help policymakers, the media and individual citizens understand why policies that promote the American enterprise system are the best method to ensuring prosperity for all Americans. To that end, AFP and AFP Foundation supports:

- Cutting taxes and government spending in order to halt the encroachment of government in the economic lives of citizens by fighting proposed tax increases and pointing out evidence of waste, fraud, and abuse.
- Tax and Expenditure Limitations to promote fiscal responsibility.
- Removing unnecessary barriers to entrepreneurship and opportunity by sparking citizen involvement in the regulatory process early on in order to reduce red tape.
- Restoring fairness to our judicial system by stemming the tide toward "over-criminalization" of economic activity spurred by over-active attorneys general.
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| <input type="checkbox"/> \$100-\$499: Federalist | <input type="checkbox"/> \$5,000-\$9,999: Montpelier Fellow |
| | <input type="checkbox"/> \$10,000+: Chairman's Circle Society |

Name(s) _____

Mailing Address _____

City _____ State _____ ZIP _____

Home Phone _____

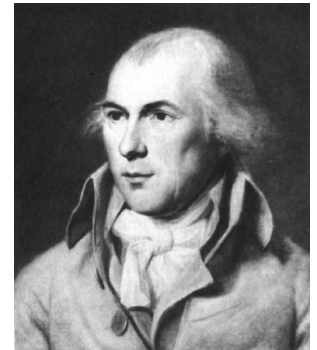
Office Phone _____

Office Fax _____

Email Address _____

Yes! I would like to receive JMI updates via email.

Yes! I'm interested in the JMI Planned Giving Program.



For those giving by credit card:

Name on Card _____

Master Card / Visa (circle one)

Acct # _____

Expiration Date _____

Signature _____

Please make checks payable to: The James Madison Institute
