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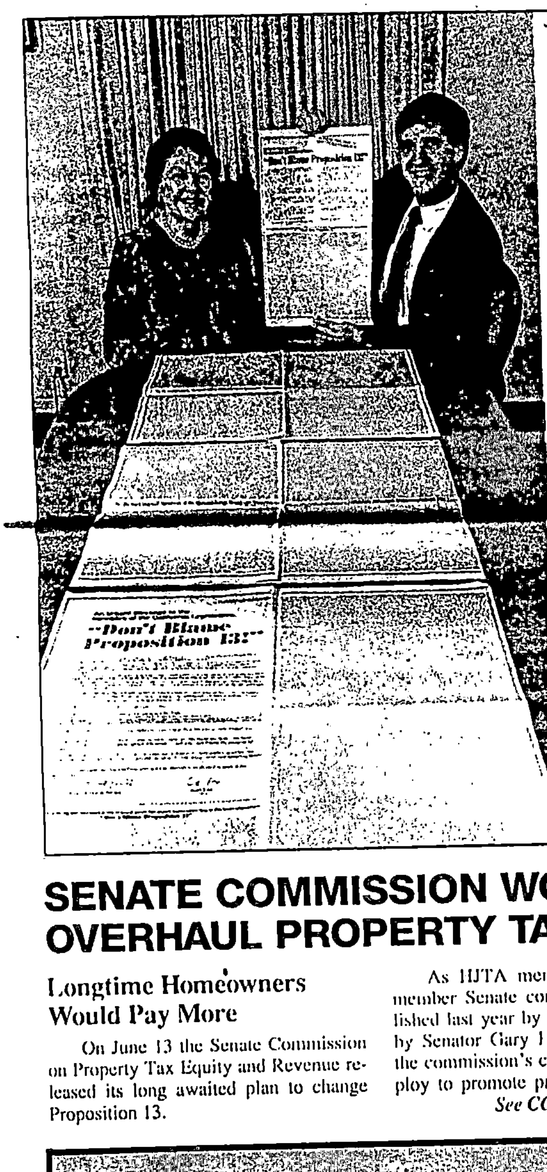
"California's Organization of Tax Fighters"

Taxing Times

The Official Newsletter of the Howard Jarvis Taxpayers Association ★ Howard Jarvis, Founder ★ Fall 1991

PROP. 13 IS 13; WILL IT SEE 14?

John Barr for Taxing Times



HJTA goes on the offensive.

Estelle Jarvis and Joel Fox with copy of the six page "Don't Blame Proposition 13" ad that ran in the Sacramento Bee on June 13. Joel holds a seventh page, with additional names, which ran in both the Bee and Sacramento Union on July 8.

High Court Agrees To Hear Prop. 13 Challenge, Then Macy's Withdraws Suit

TAXPAYERS WAGE 100 HOUR WAR ON DEPT. STORE CHAIN

On June 3, word that the United States Supreme Court would hear the R.H. Macy and Co. challenge to Proposition 13 sent shock waves through California homes.

Macy's suit was one of three challenges filed against Proposition 13 after the U.S. Supreme Court had ruled in a 1989 West Virginia case that a county tax policy, with similarities to Proposition 13, was in violation of the equal protection clause of the United States Constitution.

The Macy's suit, charging unfair tax treatment after the company's 1986 reorganization forced a reevaluation of its property at Sunvalley Mall, had been rejected by three California courts including the state Supreme Court. Legal experts agreed that if Macy's prevailed, they would succeed in overturning Proposition 13 protections for homeowners as well.

On learning the Macy's case would be heard by the U.S. Supreme Court, there was a spontaneous eruption of outrage by California taxpayers that would have made Howard Jarvis and Paul Gann proud. Macy's was deluged with angry calls and

See PROP. 13 IS 13, Page 8

HJTA GOES TO COURT TO FIGHT SCHOOL ASSESSMENT DISTRICTS

Districts Begin To Back Down

HJTA has filed suit against the Orange Unified School District to overturn a recently created maintenance assessment district for school facilities.

"This is an arrogant attempt by the school district to circumvent Proposition 13's requirement for a vote of the people for special taxes," stated HJTA president Joel Fox at a July 30 news conference at the Orange County Court House.

Commenting on the escalating growth in the number of these school assessment districts in recent weeks, Fox said, "Our lawsuit is the penicillin for the raging tax assessment epidemic running wild in California. We filed against the Orange Unified because, to our knowledge, it was the first to approve this new burden for taxpayers. If the court rules for the taxpayers, we expect this to invalidate assessments by other districts as well."

HJTA is also preparing other suits. The day after HJTA filed against Orange, the Fullerton school district cancelled efforts to impose an assessment. A week later, Huntington Beach and three other school districts that had combined to create an assessment district, rescinded their action under threat of HJTA legal challenge and continuing citizen protest.

Proposition 13 requires a two-thirds vote for local special taxes, those taxes which are earmarked for a particular purpose. The Orange Unified School District and nearly a dozen other school districts are attempting to use the authority of the 1972 Landscaping and Lighting Act to levy a "fee" for the maintenance of school facilities. "We believe this is an outrageous perversion of the Landscaping and Lighting Act, and we are confident the court will agree," said Fox.

The 1972 act was intended to allow assessment districts to be formed for property related services such as street lighting. The measure's author, State Senator Robert Beverly, has called these

See ASSESSMENT, Page 7

SENATE COMMISSION WOULD OVERHAUL PROPERTY TAXES

Longtime Homeowners Would Pay More

On June 13 the Senate Commission on Property Tax Equity and Revenue released its long awaited plan to change Proposition 13.

As HJTA members know, the 18 member Senate commission was established last year by legislation sponsored by Senator Gary Hart. HJTA opposed the commission's creation, seeing it as a ploy to promote property tax increases.

See COMMISSION, Page 6

Taxing Times

Published quarterly by the Howard Jarvis Taxpayers Association (HJTA) and the American Tax Reduction Movement (ATRM). Kris Vosburgh, Editor.

Members of HJTA and ATRM enjoy dual membership.

HEADQUARTERS
621 S. Westmoreland Ave., Suite 202
Los Angeles, CA 90005-3971

GOV. WILSON WRITES TO HJTA MEMBERS

See Page 6

Howard Jarvis Taxpayers Association
621 S. Westmoreland Avenue Dept. 2526
Los Angeles, CA 90005-3971

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THE LEGAL FRONT

By Trevor Grimm, HJTA General Counsel

HJTA Files Lawsuits Over New Property Taxes

As part of the ongoing fight to preserve the integrity of Proposition 13, HJTA has filed suits against the City of Los Angeles and the Orange Unified School District.

The suit against the City of Los Angeles was made necessary when the city increased its real estate transfer tax by over 800 percent! Bringing the lawsuit for HJTA are attorneys with the Pacific Legal Foundation, its longtime tax fighting ally.

The plain language of Proposition 13 prohibits real estate transfer taxes. Section 4 permits local government to increase "special taxes" with a two-thirds vote *"except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district."*

Until recently, local governments obeyed Section 4 and did not impose new or increased real estate transfer taxes. Then, relying on another court created loophole in Proposition 13, a Court of Appeal in Oakland said that real estate transfer taxes were legal as long as the revenue was placed into the "general fund" of the city or county levying the tax. HJTA believes that case, Cohn v. City of Oakland, ignored the specific language of Proposition 13 and violated several rules of legal interpretation.

Because of the devastating effects of the *Cohn* case, HJTA tried unsuccessfully to convince the California Supreme Court to review it.

When the City of Los Angeles imposed its own tax hike, HJTA saw this as an opportunity to challenge not only an ill-advised, grossly excessive new property tax, but also an opportunity to challenge the *Cohn* decision. Simply put, the City of Los Angeles is not bound by the Court of Appeal in Oakland. Moreover, if HJTA can create a "conflict" among the Courts of Appeal, this would increase the chance that the California Supreme Court would have to resolve the issue once and for all.

Why should HJTA members be concerned about this issue? Even if you have no current plans to sell your house, chances are you will eventually. A real estate transfer tax is really a tax imposed on your property now, even though it won't be collected until your sell your house. Moreover, higher tax burdens reduce the value of your property. In short, by imposing this onerous tax hike, the City of Los Angeles has lowered the value of property as well as unfairly hurt the current real estate market.

To cut off another end-around Proposition 13 by local officials, HJTA attorneys have filed suit against the recently created maintenance assessment district (MAD) through which the Orange Unified School District is attempting to impose an annual $50 levy to maintain school facilities.

Proposition 13 permits local governments and special districts to impose "special taxes," *but only with a two-thirds vote of the people.* The school district has attempted to circumvent Proposition 13 by using the authority of the 1972 Lighting and Landscaping Act which allows assessments for certain property related services.

In three causes of action, HJTA's suit charges the maintenance assessment districts lack statutory authority, violate the constitutional special tax provisions of Proposition 13 and constitute an illegal double property tax.

Since HJTA filed suit against Orange Unified, several other districts that approved MADs have rescinded them, and several more that were considering creating MADs, have had a change of heart.

As "Taxing Times" goes to press, HJTA has just filed suit against the Whittier Union High School District, which has also imposed a MAD on local taxpayers.

(For more on assessment districts see "HJTA Goes to Court..." page 1. For update on HJTA efforts to defend Prop. 13 against "equal protection" suits see "High Court..." page 1.) □

PRESIDENT'S MESSAGE

The Tax Revolt is rising again.

On the heels of the recession, state and local government have made the decision to turn to the taxpayer for more funds to balance their budgets. It is a truism that government budgets are always balanced by cuts. The question is, will government cut its budget or will the taxpayers have to tighten their belts? Unfortunately, the taxpayers usually end up as the victims. This year is no exception.

HJTA is fighting back.

The assessment district problem we have warned about for years is starting to get some media attention. School districts have latched onto the "lighting and landscaping" assessment district as a way to raise funds. We think this is an illegal and outrageous use of the law and HJTA has begun filing lawsuits against it.

In Ventura County's Port Hueneme, the city council used the same law to raise what amounts to a "view tax." The better view you have of the ocean, the higher tax you pay. Our attorneys are assisting in a lawsuit against the view tax. If this is not stopped, who knows what will be taxed next?

In other communities, we have given advice and support to local activists. We have found from experience the most influential lobbyists of local governmental bodies are local residents who will be forced to pay the new tax or assessment.

HJTA is also supporting a bill introduced by Senator John Lewis (R-Orange) which will require a two-thirds vote of the people for the school assessment districts. We are asking all HJTA members to write their legislators in support of the Lewis school assessment bill, which, unfortunately, did not have a bill number at press time.

The final solution is an initiative to firmly give the taxpayers a right to vote on these newly created assessment districts. Our lawyers are studying the ways to write such a law and we are determining if the practice has spread to the point where enough outraged taxpayers will support a costly initiative effort.

The state tax situation is well known to HJTA members. A record $7.5-billion was raised to help close a $14.3-billion deficit. The money will come from sales tax, vehicle fees, and income tax increases on higher earners.

We have invited Governor Pete Wilson to address the issue of the budget deficit and the tax increase for Taxing Times readers. His article appears on page 6. Judge the Governor's case for yourself.

(To find out how your representatives voted on the new taxes, please see the Sacramento Report on page 4.)

I believe there will be a move to lower some of the new taxes as the economy breaks out of recession, and to guarantee the right to vote on assessment districts as the 1992 election year approaches. HJTA will be active in these efforts.

A final note. I want to thank all of those who contacted state representatives protesting bills that would undermine Proposition 13. Your cards and letters are critical to our effort to preserve Proposition 13. □

This column appeared in the May 31, *San Diego Union*

Don't Blame Prop. 13

by Joel Fox

With California now facing over a $14-billion deficit, supporters of big government are certain where to place the blame: Proposition 13.

Proposition 13 passed as an initiative in 1978, cutting property taxes by nearly 60% and setting up restrictions for property tax increases, as well as tough barriers for increased state and local taxes.

Since that time, Proposition 13 has been a handy scapegoat for those who feel government does not get enough of the taxpayers' money. Proposition 13 co-author Howard Jarvis once said government officials would blame the eruption of Mt. Saint Helens on Proposition 13 if they could, and he was right.

Ugly charges continue to be made against it. At a recent Sacramento rally, sponsored by the state teachers' union, Jesse Jackson declared Proposition 13 a "Scud missile which must be blown from the sky."

The truth is Proposition 13 has been good for the taxpayers of California. Not only did it save people's home and property, it relieved them of the fear of rising, out-of-control taxation, while giving the assurance that even those on fixed incomes can remain in their homes.

Before Proposition 13 passed Californians were in the same predicament President Bush now finds himself. Recently, an assessor announced the President's Maine home had increased in value about 250%. Without a major decrease in the tax rate, the President's property tax bill is about to sky-rocket. In California, because of Proposition 13, property owners are protected against such unpredictable increases.

It also has provided substantial and stable funding for local government. New figures compiled by the business-sponsored California Taxpayers Association from records in the state Board of Equalization and the state Controller's office paint a clear picture of healthy revenue streaming into local coffers.

Property taxes for cities, counties, and special districts were $4.7-billion the year before Proposition 13 passed. The first year under Proposition 13 property tax collection for these government divisions statewide dropped to $2.3-billion. However, in 1988-89 property taxes have swelled to $8.5-billion, or a 271% increase despite Proposition 13's restrictions.

But that's only a part of the local revenue picture. Bureaucratic creativity turned to other methods of raising revenue when Proposition 13 checked the unrestricted flow of property taxes. While property taxes provide $8.5-billion a year (1988-89) for cities, counties and special districts, other taxes and fees, not including sales taxes, supply an additional $6.5-billion a year.

Business license taxes, hotel/motel taxes, and utility user taxes have jumped. The utility user tax revenue has gone from just over $200-million before Proposition 13 passed to over $777-million in 1988-89, a 250% increase in increase. Service

See BLAME, Page 11

See Page 4 for Sacramento Report

CORRECTIONS

In our rush to get out the summer 1991 issue of "Taxing Times" and keep our members abreast of fast moving events in the Capitol, we made the following errors:

Page 7. In the story on the California Poll we incorrectly reported that a 1/2 cent sales tax increase was opposed by 57% of respondents. In fact, 57% found a 1/2 cent sales tax increase acceptable while 40% did not. The other figures we published were correct — 56% objected to a 10% income tax increase and 67% were opposed to a 10% property tax increase.

Page 8. In typesetting the column "The Bomb in Wilson's Budget Plan," which had appeared in the Los Angeles Times, Joel Fox's by-line was inadvertently deleted.

Sacramento Report

By Steve Carlson
HJTA Legislative Advocate

BLOODY BUDGET BATTLE

In a very rough debut for Governor Wilson, the 1991-92 budget was approved minutes before midnight on July 16th, over a month after the constitutional deadline and more than two weeks after the beginning of the 1991-92 fiscal year.

Faced with a deficit exceeding $14 billion, Wilson pushed through a combination of spending cuts and tax increases. Needing a two-thirds vote for approval of new taxes — as required by Proposition 13 — the Governor was able to corral the votes of barely enough lawmakers to pass his program.

The major elements of the state tax increases were contained in two bills, SB 169 (Alquist) and AB 2181 (Vasconcellos). What good news there is, is that in the final tax package there is no general utility tax increase, no limits on the home mortgage interest deduction, and, most important, no new property based taxes.

The major provisions of SB 169 include:

* An increase in personal income tax rates to 10 percent for single persons making over $100,000 and couples making over $200,000 and 11 percent for singles making over $200,000 and couples making over $400,000. The new rates expire at the end of the 1995 tax year.

* Reduction of the renter's credit for high income taxpayers.

* Increase in the withholding rate for supplemental wages.

* Conformity to many provisions of the federal tax law.

Also approved were increases in the vehicle registration fee, the drivers' license fee and the vehicle license fee.

AB 2181 is the one-and-a-quarter percent sales tax increase that also removes previous exemptions for items such as snack foods, candy, bottled water, newspapers, magazines, and bunker fuel.

Votes of your Senate and Assembly representatives on SB 169, AB 2181 and AB 758 (Bates), the vehicle license fee increase, are shown in the accompanying chart. →

BILLS HOSTILE TO PROP. 13 AWAIT ACTION

At press time we had just entered the month-long summer legislative recess. The legislature is due to return August 19th and adjourn on September 15th. Although we have disposed of or delayed most of the bills hostile to Prop. 13 and the initiative process, there are still some very important measures pending which we oppose.

As we have reported to you in the past, the three anti-Proposition 13 measures of greatest concern are ACA 4 (Klehs), ACA 6 (O'Connell) and SCA 8 (Hart). These will be considered at the end of the session. You will recall that these bills deal with reduction of the two-thirds vote requirement at the local level for special taxes or increases in property taxes, either directly or through bonding authority. ACA 4 also reduces from two-thirds to majority the vote necessary for the Legislature to impose new state taxes. *Your cards and letters opposing these bills have had a major impact.* We will continue our vehement opposition until these ill-conceived measures are defeated.

Most of the bills hostile to the initiative process have been killed except for ACA 17 (Farr), which would increase the number of signatures needed to place a constitutional amendment on the ballot, and SCA 9 (Roberti), which would remove the ability to have a "severability clause" in an initiative. If SCA 9 were to pass this would mean that if even one minor provision of an initiative were found invalid by the courts, the entire initiative would be invalidated. We are strongly opposed to ACA 17 and SCA 9 and will continue to oppose these and future attempts to obstruct the access of California's citizens to the ballot.

Another bill that we, along with CalTax and the Contra Costa Taxpayers Association, strongly oppose is AB 394 (Campbell) which would permit a number of cities and counties to impose or increase property tax rates above Proposition 13's one percent limit to fund costs of their pension system. Our strong opposition was responsible for the bill being tabled for this year, although it will be back in January.

In our next edition of "Taxing Times" we will report to you on how your representatives voted on the anti-Proposition 13 bills still awaiting action. ☐

HOW THEY VOTED

	INCOME TAX SB 169			SALES TAX AB 2181			VEHICLE TAX AB 758		
SENATE	YES	NO	NOT VOTING	YES	NO	NOT VOTING	YES	NO	NOT VOTING
Alquist	•			•			•		
Ayala	•					•	•		
Bergeson		•		•			•		
Beverly	•			•			•		
Boatwright		•		•			•		
Calderon	•			•			•		
Craven			•		•		•		
Davis	•			•			•		
Deddeh	•			•			•		
Dills	•			•			•		
C. Green	•			•			•		
B. Greene	•					•			•
L.Greene	•			•					•
Hart	•			•			•		
Hill		•			•				•
Johnston	•			•			•		
Keene	•			•			•		
Killea	•				•			•	
Kopp	•				•			•	
Leonard		•			•			•	
Leslie		•			•			•	
Lewis		•			•			•	
Lockyer		•		•				•	
Maddy	•			•			•		
Marks	•			•			•		
McCorquodale	•			•			•		
Mello	•			•			•		
Morgan	•			•			•		
Petris	•			•			•		
Presley	•			•			•		
Robbins			•	•			•		
Roberti	•			•			•		
Rogers		•			•			•	
Rosenthal	•			•			•		
Royce		•			•			•	
Russell		•		•			•		
Torres	•				•				•
Thompson	•			•			•		
Vuich	•			•			•		
Watson		•		•			•		
ASSEMBLY	YES	NO	NOT VOTING	YES	NO	NOT VOTING	YES	NO	NOT VOTING
Allen	•				•			•	
Alpert	•			•			•		
Archie-Hudson	•			•			•		
Andal		•			•			•	
Areias	•			•			•		
Baker		•			•			•	
Bane	•			•			•		
Bates	•			•			•		
Becerra	•			•			•		
Bentley	•			•				•	
Boland		•			•			•	
Bronzan	•			•			•		
Brown	•			•			•		
Brulte		•			•		•		
Burton		•		•			•		
Campbell	•			•			•		
Cannella	•			•			•		
Chacon	•			•			•		
Chandler		•		•				•	
Clute	•			•				•	
Connelly	•			•			•		
Cortese	•			•			•		
Costa	•			•			•		
Eastin	•			•			•		
Eaves	•			•			•		
Elder	•			•			•		
Epple	•			•			•		
Farr	•			•			•		
Felando	•			•			•		
Ferguson		•			•			•	
Filante	•			•			•		
Floyd	•			•			•		
Frazee	•			•			•		
Friedman	•			•			•		
Frizzelle		•			•			•	
Gotch	•			•			•		
Hannigan	•			•			•		
Hansen		•			•			•	
Harvey		•			•		•		
Hauser	•			•			•		
Haydon	•			•			•		
Horcher		•			•			•	
Hughes	•			•			•		
Hunter	•			•			•		
Isenberg	•			•			•		
Johnson		•			•			•	
Jones	•			•			•		
Katz	•			•			•		
Kelly	•			•			•		
Klehs	•			•			•		
Knowles		•			•			•	
Lancaster		•			•		•		
Lee	•			•			•		
Lempert	•			•			•		
Margolin	•			•			•		
Mays		•			•			•	
McClintock		•			•			•	
Moore	•			•			•		
Mountjoy		•			•			•	
Murray	•			•			•		
Nolan		•				•			•
O'Connell	•			•			•		
Peace	•			•			•		
Polanco	•			•			•		
Quackenbush	•			•				•	
Roybal-Allard	•			•			•		
Seastrand		•			•			•	
Sher	•			•			•		
Speier	•			•			•		
Statham		•			•				•
Tanner	•			•			•		
Tucker	•			•			•		
Umberg	•				•			•	
Vasconcellos	•			•			•		
Woodruff		•			•			•	
Wright		•			•		•		
Wyman		•			•			•	

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Perry Como

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Eddy Arnold

Wings Of A Dove
Dolly Parton

I Love To Tell The Story
Pat Boone

Me and Jesus
Tammy Wynette & George Jones

Abide With Me
Don Hustad Chorale

He Touched Me
Bill Gaither Trio

Nearer My God To Thee
Jack Halloran Male Chorus

Great Speckled Bird
Roy Acuff

I'll Fly Away
Charley Pride

Standing On The Promises
Johnson Family

Church In The Wildwood
Mike Curb Congregation

When They Ring Those Golden Bells
David Houston

Lily Of The Valley
Wayne Newton

Blessed Assurance
George Beverly Shea

In The Sweet By and By
Johnny Cash

Amazing Grace
Willie Nelson

One Day At A Time
Cristy Lane

May The Good Lord Bless And Keep You
Kate Smith

Sweet Hour Of Prayer
Jim Nabors

The Bible Tells Me So
Roy Rogers and Dale Evans

When The Roll Is Called Up Yonder
Marty Robbins

The Family That Prays
Porter Wagoner

I Need Thee Every Hour
Scott Singers

What A Friend We Have In Jesus
Norma Zimmer & Jim Roberts

Precious Memories
Jimmy Dean

Beautiful Isle of Somewhere
The Three Suns

How Great Thou Art
Jim Roberts

Brighten The Corner
Anita Kerr

Rock Of Ages
B.J. Thomas

Old Rugged Cross
Ray Price

Family Bible
George Jones

Jesus Loves Me
Tennessee Ernie Ford

Peace In The Valley
Floyd Cramer

Will The Circle Be Unbroken
The Carter Family

Beyond The Sunset
Red Foley

Crying In The Chapel
Elvis Presley

I Saw The Light
Hank Williams, Sr.

Jesus Is Coming Soon
Oak Ridge Boys

Softly and Tenderly
Guy & Raina

A Beautiful Life
Statler Brothers

Swing Low, Sweet Chariot
Doris Ackers

Whispering Hope
The Browns

Someone To Care
Jimmie Davis

Bringing In The Sheaves
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The Lord's Prayer
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Gov. Wilson Writes To Taxing Times

As taxpayers begin to feel the pinch of the new state levies, many are asking about the thinking of the man they helped elect Governor last November. Pete Wilson ran as a fiscal conservative, proudly pointing to his record as a tight-fisted administrator during the eleven years he was mayor of San Diego. But in his first seven months as Governor, he has overseen one of the largest tax increases in state history. While the rate of increase in state spending has been cut from the 12.8 percent of last year, spending is still up 7 percent.

How did this come about? Will the taxpayers receive something substantial in return for their additional sacrifices? Will reforms in the operation of state government assure that more tax increases will not be necessary next year?

HJTA has asked the Governor to respond to the legitimate concerns of taxpayers and HJTA members. The following column by Governor Wilson is an exclusive for "Taxing Times" readers.

"To raise taxes goes against my every instinct."

By Pete Wilson

Call 1991 the year of living dangerously. During my first six months as Governor, California has faced a major earthquake, a killer freeze, a searing fifth year of drought and, most recently, a deadly herbicide spill. But none of these challenges compares in magnitude or severity to that posed by the largest state budget gap in American history.

In January, I took office to discover that California faced a $7 billion budget gap. Lest anyone forget, let me emphasize that I did not create this gap. I inherited it.

Let me also remind readers of the wise requirement in our state constitution for a balanced state budget. Unlike the Congress, we in California wisely and properly balance our income and spending. We can't and don't want to run a deficit to mortgage our children's future.

But that means that a new governor must balance the budget in one year — even if that means closing a gap you inherited and even if that gap is one-third of the whole budget!

So, first you logically cut spending as much as you can without imposing hardship.

In January, I proposed a plan to balance our budget that included more than $4 billion in cuts and *no general tax increases.*

But as the months passed and as the recession deepened and state tax revenues continued to fall, the state's fiscal hole deepened from $7 billion to $12.6 billion. It bottomed out at $14.3 billion — a shortfall of nearly a third of our state's entire general fund. In fact, it was greater than the entire budget of all but ten other states.

To balance this budget we continued to look for cuts, but the more we cut the more it became obvious that this budget couldn't be balanced by spending cuts alone. In fact, if we were to close all our state universities, shut down every state prison, and even fire every worker on the state payroll, we still would not have cut enough spending to balance this budget.

And while many programs suffered deep cuts, I rejected more extreme measures. I refused to release dangerous felons back to the streets or to jeopardize aid for the blind, disabled and elderly.

To raise taxes goes against my every instinct, and against a long record as a fiscal conservative opposed to taxes and spending. As Mayor of San Diego, I cut property taxes substantially. In fact, when I was Mayor of San Diego, Howard Jarvis said, "If they had all run their cities the way Pete Wilson has run San Diego, we wouldn't have needed Proposition 13." And during my eight years as a United States Senator, I won the Watchdog of the Treasury Award every year.

And I'm the same Pete Wilson who first imposed a spending limit on San Diego and then helped Paul Gann put into place a similar limit on state spending.

And you and I last shared a common cause last year when I endorsed Proposition 136.

But this wasn't the first time a conservative Republican governor was forced to raise taxes to close an inherited budget deficit. During his first year in office, then-Governor Ronald Reagan was forced to sign a tax increase that, proportionally, was more than twice as large as the one facing California this year. The increase in 1967 took the top income tax bracket from 7% to 10% and also raised sales taxes and the bank and corporations tax.

This year we rejected out-of-hand Democratic proposals to repeal income tax indexing, which would have automatically raised the income taxes of middle-class Californians. After cutting spending by $5 billion, we were compelled to raise taxes but chose only those taxes that would do the least harm to our state's economy and competitiveness.

I stood firm against all attempts to raise property taxes through the notorious split-roll. And I rebuffed attempts to repeal the present sales tax exemptions on food, medicine, and prescription drugs, or to extend taxes to services like dry cleaning, the preparation of taxes, hair care, and medical treatment.

To protect California jobs, we rejected a proposed increase in bank and corporation taxes but secured a five-year extension of the research and development tax credit. We also took the first step toward workers' compensation reform, and secured a five-year extension of the net operating loss carry-forward — tax relief of great importance to new small businesses struggling to survive.

In fact, during this year's budget negotiations we achieved far more reform in the way state government does business than ever before in California's history.

To control costs, we demanded spending reform — and we got it. In fact, we've suspended cost-of-living increases throughout state government.

To make government more efficient, we are transferring health and social services to the county level, so that we can trim bureaucracy and cut red tape. It will both improve the quality of service and produce enormous taxpayer savings.

We are also reforming the state's public pension system to bring it in line with similar benefits in the private sector. And I've appointed a taxpayers' watchdog to keep the board honest, and to gain control over what taxpayers are required to contribute as the employer.

Finally, we reformed welfare so that the system will reward, not punish, those who want to work. By reducing grants, for the first time in California history, we have rolled back part of the welfare state. Reform will save taxpayers $5 billion over the next five years. But more important, working mothers will be allowed to work another 8 hours a month and keep their additional earnings. They will be able to teach their children that welfare isn't an acceptable, permanent lifestyle.

No budget is perfect, and this — by common consensus — was far and away the most difficult and challenging in California's history. Neither taxes nor spending cuts are welcomed by many Californians. But by acting fairly and responsibly now, we have avoided even more painful taxes and spending cuts later. We have not only balanced this year's budget but brought major reform, so that we can now set a new course for California — a course that will allow us to achieve the golden promise of our Golden State...effective and affordable public expenditures and prosperity for private citizens.

COMMISSION, from Page 1

The commission's recommendations proved HJTA to be correct.

In the event that Proposition 13 is overturned by the U.S. Supreme Court, the Senate commission recommends a return to an inflation driven system, or as it is known, "market valuation" for property. To accomplish this, the commission would increase the annual reassessment cap for longtime homeowners by two percent per year so that taxes would increase by four percent the first year, six percent the second year, eight percent the third year and so on, until the assessment reached market value.

The commission claims that revenue neutrality for residential property could be maintained by lowering the countywide tax rate to a level which would generate an amount of revenue equal to the prior year's revenue, "to be adjusted annually for growth in population and an appropriate inflation index." In other words, taxes would increase with inflation and population growth, and homeowners would lose the predictability they enjoy under Proposition 13, which limits tax increases to no more than two percent.

While some recent home buyers might see a modest decrease in their taxes at the expense of long time homeowners, their saving would be temporary as inflation pushes everyone's taxes higher.

The commission would also allow property taxes to be increased at the local level with a simple majority vote, increasing the likelihood that tax increases on property owners could be approved by voters who, because they own no property, would not be obligated to pay the tax.

Finally, the Senate commission recommends immediately reassessing all business property, including apartment buildings, at market value (a split roll) for a total tax increase of $5.9 billion. The commission did not deal with the effect this could have on small businesses, the economy, jobs or price increases.

The commission justified its recommendations for a tax increase saying that overturning Proposition 13 would cause over $11 billion in property tax increases.

Three members of the commission, including the chair and vice chair, opposed splitting the tax roll saying it would drive industry out of the state. Seven commission members, who supported the plan, recommended that the Legislature initiate the changes without waiting for action by the U.S. Supreme Court.

Regular readers of Taxing Times will know that HJTA President Joel Fox led a team of experts that defended Proposition 13 before the commission during hearings last December (see Spring 1991 Taxing Times). HJTA members will be pleased to know that the six page "Don't Blame Proposition 13" ad was run in the Sacramento Bee on the same day

See COMMISSION, Page 11

Gann Proposes Initiative to Protect the Initiative

Proposition 137, HJTA's 1990 measure to protect the initiative process from destruction by the legislature was defeated at the election, a victim of the backlash against the long ballot.

Now Richard Gann, president of the Paul Gann's Citizens Committee, has announced he will circulate for the 1992 ballot a new initiative to protect the initiative process.

HJTA is strongly endorsing this proposition.

Gann's measure calls for a 75 percent vote in the legislature to pass any statutory changes to the initiative process. (Constitutional changes already require a two-thirds vote, plus a vote of the people.) Further, the Gann initiative will repeal the infamous Chacon bill passed in 1988 which required a greater number of signatures to qualify initiatives for the local ballot. Finally, the Gann measure allows for advisory initiatives which would allow the people to express their feelings to the government about important matters without setting a law. This would be akin to the power of Resolution now enjoyed by the legislature.

The Gann initiative to preserve and protect the initiative could not come at a more important time.

The initiative process is under threat of drastic change from legislators who feel abused by the process. About 40 bills to change the initiative were introduced into the legislature. Most have been defeated. Steve Carlson, HJTA Legislative Advocate is lobbying to defeat those that remain.

The most often declared justification for changing the initiative process is the lengthy ballot faced by the voters last November. Voters and commentators expressed frustration with both the number of decisions to be made, and the complexity of the issues presented on the ballot.

The number of ballot propositions does not mean we have too many initiatives. Twenty-eight propositions appeared on the state ballot in November. After subtracting those measures placed on the ballot by legislative action, and those initiatives sponsored by elected officials, only six of 28 ballot propositions were sponsored by citizens.

If legislators claim the process is out of control, they should look to their own house and colleagues for a reason.

Perhaps the legislative attack against the initiative is prompted by resentment over the term limit initiative.

However, the real issue is one of power. The legislators don't want to share law making power with the citizenry.

Two noteworthy initiative "reform" measures are still under consideration as of this writing. One, by Senator David Roberti, among other things, would do away with the severability clause. The clause, added to most initiatives, declares that if a section of the initiative is found deficient by the courts, it shall be severed from the remaining law, which will stay in force. Roberti wants the whole law thrown out if one section is found wanting.

Roberti's bill declares that the citizen lawmaker must adhere to a stricter standard than legislators who employ an experienced army of consultants and lawyers to draft a law. Recently, Attorney General Dan Lungren stated California's law banning assault rifles is so technically flawed that enforcement is not practical. The law was co-authored by Senator Roberti, and he has introduced "clean-up" legislation to fix the problems. If he were operating under the provisions he wants initiative writers to work under, his law would be stricken from the books.

A second bill requiring drastic changes on qualifying initiatives for the ballot is also still alive. Assemblyman Sam Farr wants to increase the number of signatures required to qualify a constitutional amendment from 8% of the number of votes cast in the last gubernatorial election to 10%.

Richard Gann's initiative will protect the citizens' right to make law in the face of these threats.

If you want more information about the initiative or want to sign a petition, please write to Richard Gann at:

Paul Gann's Citizens Committee
9848-B Business Park Drive
Sacramento, CA 95827

This column appeared in the June 13, *Los Angeles Times*

If Prop. 13 Gets Changed, Back to Basics

by Joel Fox

Although the R. H. Macy Co. lawsuit challenging the constitutionality of Proposition 13 has succumbed to a grinding bombardment of angry phone calls and cut-up credit cards, two other lawsuits arguing that Proposition 13 violated the equal protection clause of the U.S. Constitution are making their way to the nation's highest court.

Because the court has expressed an interest in challenges to Proposition 13, the justices are likely to consider the matter sooner or later.

So as Proposition 13 passed its thirteenth birthday on June 6, some in the state were making plans to replace it.

But, it won't be easy to develop a plan that can be sold to a voting public that has come to expect a simple, predictable property tax system.

One proposal was made public today by a divided state Senate Commission organized more than a year ago to study property tax equity.

The plan relies on the two most often discussed "remedies" to fix Proposition 13: a split tax roll separating commercial and residential property, and a reassessment of residential property to full market value with a floating tax rate below the current 1%, which will produce no more revenue than is now collected from homeowners.

The split roll system would place an even greater burden on income producing property, which already shoulders two-thirds of the property tax collected in California. The split roll may be the last straw for many businesses as they weigh the excessive cost of doing business in California against the siren song of out-of-state business recruiters.

A higher commercial property tax will be a tremendous obstacle to small businesses, which often operate on a small profit margin and cannot easily absorb the tax or pass it on to customers.

The plan dealing with homeowners is even more disturbing. The floating tax rate and reassessment to full market value means that long time homeowners would pay more taxes and newer homeowners, less. The protection of Proposition 13's inflation cap would be removed for all and, once again, property taxpayers would be at the mercy of an out-of-control real estate market. There would be no reasonable relationship between ability to pay and a property tax based on home value.

Increasing the taxes on long time homeowners could place homeownership in jeopardy for people on low and fixed incomes. The solution, we are told, is to let these people live in the house until they die, with the government claiming pastdue tax revenue upon the sale of the home.

It is a heartless state which deprives citizens who have lived in, improved and paid taxes on their homes for years to be denied the pleasure of leaving them to their children or using their equity for retirement or health emergencies.

As news spread of this threat to Proposition 13, the Howard Jarvis Taxpayers Assn. was inundated with calls from senior citizens asking whether they should sell their homes now — before taxes go up and they lose them to the taxman.

Proposition 13 was Howard Jarvis' fourth attempt to change the property tax. His first effort, eliminating the property tax, will be re-considered in light of the court challenges. However, this would seem to be a political impossibility because of the need to impose a replacement tax, probably on income or consumption.

Selling a new tax to the voters to replace the property tax appears politically impossible.

Yet, looked at in the context of the history of property taxes, it may not be hopeless.

Property taxes originally were a good test of people's wealth before the advent of intangible property which evaded the tax collector, such as stocks and bonds. Farmers, whose land was readily available for the tax collector to assess, started the movement toward income and other taxes to ease the burden of property taxes.

Proposition 13 also eased the burden of property taxes by reflecting an ability to pay property taxes at the time property was purchased. In retrospect, Proposition 13 may be just a step toward the end of an archaic property tax system.

If the court decides against Proposition 13, the property tax law will fall back into the chaos of the political arena where best laid plans have met uncertain fates before. □

ASSESSMENT, from Page 1

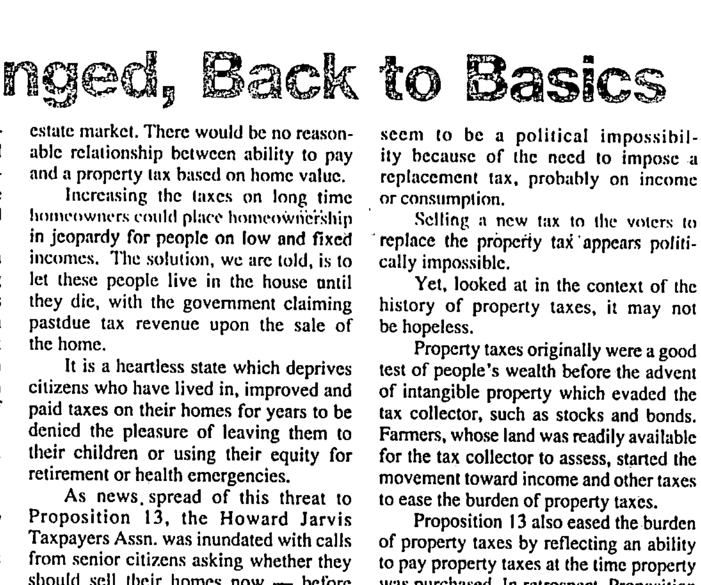
school assessments farfetched, saying, "I never intended this for the act."

HJTA will be battling school assessment districts on the legislative front as well. HJTA is throwing its support behind legislation by State Senator John Lewis which would specifically require a two-thirds vote of the people before the imposition of any future school maintenance assessment districts as well as requiring a vote to renew any existing districts. Because the deadline for introducing new legislation has passed, Lewis must get a waiver from the Senate Rules Committee when the Legislature reconvenes August 19. *(We will keep our members informed on the progress of Senator Lewis' bill.)*

Another outrage on the assessment district front has taken place in the coastal community of Port Hueneme, where the city council has voted to impose a fee based on residents' view of the ocean. HJTA is providing assistance to local citizens and legal action is pending.

The special assessments will vary from $66 to $184 per year depending on proximity to the beach and will be used for beach clean up. Mayor Orvene Carpenter has denied that the assessment is a "view tax," saying "Even a blind man living in an oceanfront home would have to pay." Local HJTA members have no doubt. "This city would tax a potato if its eyes were on the beach," one resident commented.

(For more on view taxes see Joel Fox's column "The Sweet Things in Life Will Cost You Dearly" page 9.) □



Joel Fox and Senator John Lewis spoke to the press outside the Orange County Court House after HJTA filed its suit against the Orange Unified School District maintenance assessment district.

PROP. 13 IS 13, from Page 1

letters, some containing cut up credit cards, from angry customers who vowed never again to shop in any Macy's owned stores (which include Bullock's and I. Magnin).

After a hundred hours of this bombardment, Macy's New York based management announced on June 7 that it was withdrawing its suit. "It has become clear to us...that there is no way to guarantee that pursuing this through the courts would not ultimately have some effect on homeowners," said Macy's representative.

"Sometimes it pays to raise hell," said Estelle Jarvis, in tribute to those who had contacted Macy's.

HJTA President Joel Fox said, "We are a little surprised but very pleased to see that Macy's has come to their senses. We were prepared for any eventuality, but this public outpouring of support for Proposition 13 shows how important Proposition 13 is to the average California homeowner. I hope our elected officials are making note of this."

SECOND SUIT PENDING BEFORE HIGH COURT

The Macy's case was the first to be appealed to the U.S. Supreme Court. The case of Los Angeles attorney Stephanie Nordlinger has also been appealed to the high court and a decision on whether or not to hear her case is expected this fall. The Nordlinger suit maintains that Proposition 13 violates the equal protection clause of the U.S. Constitution. She argues that because a person buying a new home would be taxed on the purchase price, and this could result in having to pay more taxes than longtime owners of neighboring homes, this interferes with the "right to travel."

Proposition 13 supporters would be quick to point out that the new resident is equally protected by Proposition 13 because taxes on the new home would be capped at one percent of the value and increases limited to two percent annually, just as for other homeowners. Before Proposition 13 the tax rate averaged 3 percent and property was regularly reassessed upward as other homes in the neighborhood sold at higher prices. Thanks to Proposition 13 taxes are held at a reasonable level and the homeowner will always know what his or her taxes are going to be.

HJTA WILL BE READY

Attorney Jonathan Coupal, holder of the Howard Jarvis Chair of Citizen/Taxpayer Law with the Pacific Legal Foundation, has prepared an *amicus curiae* — friend of the court brief — that has been submitted to the U.S. Supreme Court on behalf of HJTA and the Paul Gann's Citizens Committee. The brief argues that the Court should let stand the ruling of the state courts in support of Proposition 13 by not agreeing to hear the case. If the Court does agree to hear the suit, Coupal will file a second brief in support of Proposition 13.

Additionally, HJTA has hired attorney Jay Curtis, a nationally recognized expert on tax policy with the firm of Baker & Hostetler, McCutchen, Black. Curtis is assisting Los Angeles County Assessor Kenneth Hahn in preparing the county's response to the Nordlinger challenge. Although elected to the assessors' post just last year, Hahn has proven a stalwart supporter of Proposition 13 and HJTA will continue to work closely with his office to assure that Proposition 13 gets the best legal defense possible. ☐

No. 90-1912

In The

Supreme Court of the United States

October Term, 1990

STEPHANIE NORDLINGER,

Petitioner,

v.

KENNETH HAHN, in his capacity as Tax Assessor for Los Angeles County and the COUNTY OF LOS ANGELES,

Respondents.

Petition for Writ of Certiorari to the Court of Appeal of the State of California

BRIEF AMICUS CURIAE OF HOWARD JARVIS TAXPAYERS ASSOCIATION AND PAUL GANN'S CITIZENS COMMITTEE IN OPPOSITION TO PETITION FOR CERTIORARI

Ronald A. Zumbrun
Anthony T. Caso
*Jonathan M. Coupal
*Counsel of Record
Pacific Legal Foundation
2700 Gateway Oaks Drive
Suite 200
Sacramento, California 95833
Telephone: (916) 641-8888
Attorneys for Amici Curiae

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Cover of the 19 page amicus curiae brief filed with the United States Supreme Court on behalf of HJTA and Paul Gann's Citizen Committee.

This column appeared in the July 25 editions of the *Los Angeles Daily News* and the *San Francisco Chronicle*

BUDGET THAT RELIES ON LUCK IS RISKY BET FOR TAXPAYERS

by Joel Fox

The box score on the state budget reads taxes up; spending up, but slowed; and errors made all around.

Reading the fine print you find the public employees claim they caught Governor Wilson stealing (from their pension fund); Assemblyman Tom McClintock's "no new taxes" pledge was considered a wild pitch; Assembly Republican leader Ross Johnson was tossed from the game; and while the tax on peanuts in the stands didn't go up, the tax on crackerjacks did.

There were no homeruns, but plenty of sacrifices—by those who pay the taxes and those who receive public monies.

It was a difficult game to follow and perhaps even more difficult to analyze after it was over.

Taxes and fees were raised a record $7.5 billion, which will undoubtedly slow the bounceback from recession and keep California's extraordinary high unemployment rate up for some time.

Wilson, learning from the experience of his predecessor, Ronald Reagan, pushed for some temporary taxes to bridge the gap. When Reagan raised taxes to cover a huge deficit in the 1960s, the income tax change was permanent, with the result that money continued to pour into the state treasury after the shortfall was fixed, helping to set the stage for the tax revolt a decade later.

However, not enough of the new taxes will sunset. The Governor says two-thirds of the deficit problem is recession driven, yet only one-third of the taxes and fees, the income tax increase and a half-cent of the sales tax, were made temporary to deal with the recession problem.

The budget plan calls for an end to the income tax increase in five years. At the same time a freeze placed on the automatic cost-of-living increases paid to people on welfare would also end. In other words, state spending will rise just when tax revenue drops off. What happens then? Do we end up in the same fix? And, why didn't the legislators and Governor deal with this irony? Could it be that five years in politics is a lifetime, and many will be gone if the term limit initiative takes effect?

Reforming the budget was a major part of the Governor's agenda. He is proud of the reforms he forced through the Legislature, but are they enough for the price paid by the taxpayer? Will they cut the cost of government in the future and therefore, be a worthwhile investment? If you don't get concessions in times of crisis, they cannot be won in more sedate periods.

Governor Wilson did get cutbacks in welfare payments, the highest in the 48 contiguous states. And, as noted, he stopped the automatic spiraling of cost-of-living increases—for awhile, at least. He did start his prevention programs to control future costs by arresting problems now. He also got a small victory in modest reform of the workers compensation program for stress claims.

But, he didn't end the Proposition 98 guarantees for school funding, thus leaving intact the idea that certain government services can earmark a portion of the state general fund for themselves, with no oversight from elected representatives. Other government services were watching and may take to the ballot for similar guarantees. Health care seems lined up to do just that.

This is a budget based on faith and luck. Faith that the economy will rebound, and luck if it does. If the economy doesn't recover to the extent of the rosy forecast made by administration officials, a deficit and more taxes will be on the docket next year.

Meanwhile, taxpayers budgets are already stretched to the breaking point. Their pockets are turned inside out and they are empty. If budget reform is to have meaning, then government must be streamlined, waste and duplication must be cut, and innovative new ways to provide services must be found. Look for the Governor to search for savings in this direction. And, if the economy doesn't recover, the Governor should propose a tax cut to stimulate business.

Much of the focus in the media was on the Governor convincing members of his own party to go along with the budget compromise. Wilson was faced with a Democratic majority. How different would his program have been if his own party controlled the Legislature?

That is why coming budget battles, tax increases, and budget reforms will not necessarily be won or lost in future summer tussles under the capitol dome, but right now, when the Legislature and Governor hook up to determine how to reapportion the seats of elected officials.

When it comes to the politicians home turf, the box scores are quite different. Sacrifices never happen. ☐

This column appeared in the July 22, *Los Angeles Times*

The Sweet Things in Life Will Cost You Dearly

by Joel Fox

The Port Hueneme City Council has passed a tax on ocean views to offset its city budget crunch. Assessments to pay for beach upkeep would vary depending on how close the homeowner is to the strand. City officials think this makes sense considering the market value of the breathtaking views of the Channel Islands from the beachfront. The question is, will the Port Hueneme residents have a rebate coming on foggy days?

It seems there is no end to the expanding use of assessment districts in the hands of bureaucrats. Assessment districts are revenue devices, historically used to pay for capital improvements, from Roman roads to medieval English sea-walls to California irrigation projects of the early 1900s.

The creative use of assessments for maintenance and services has mushroomed in recent years because they have been ruled outside Proposition 13's restrictions. Although the assessments are levied against property and appear on the property tax bill, on the theory that the property benefits from the new greenbelt or updated street lighting, the assessment is not counted against Proposition 13's 1% property tax limit. Nor is a vote of the people required before assessments are levied. Both characteristics put assessments at the top of city hall wish lists.

Benefit assessments have stretched like Pinocchio's nose beyond their original size and intent. Recently, school districts were advised that they, too, can use special tax assessments to build and maintain pools, play yards and the like under the Landscape and Lighting Benefit Assessment Act. This "discovery" flashed around the state over computer networks and instantly found itself No. 1 on school board agendas. The act assumes that the schools' neighbors will receive benefits from these facilities and well-kept yards — that is, if they can climb over the locked fences in the dead of night.

It's anybody's guess where this will end?

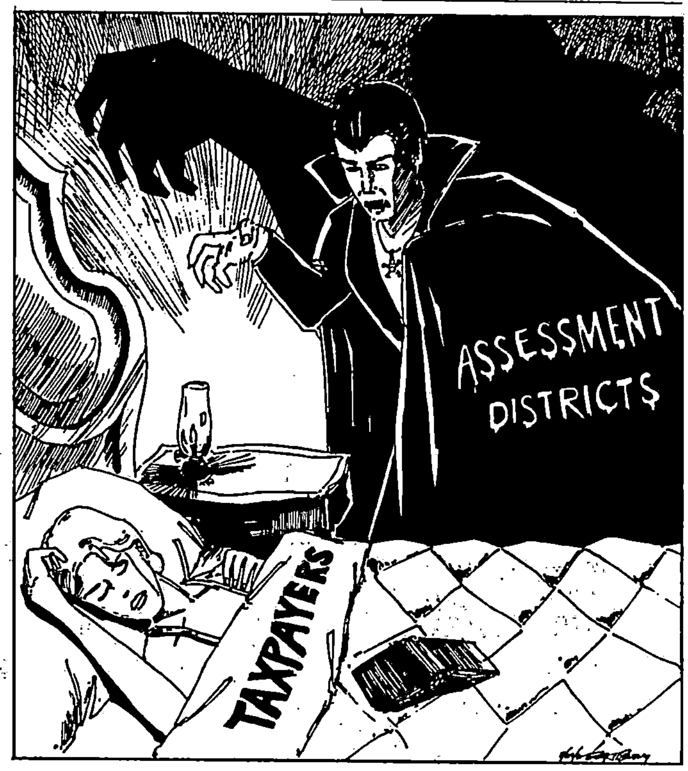
If Port Hueneme officials get away with their ocean view assessment, up and down the coast we may soon see toll booths collecting fees for a peek at the ocean. Taking deep breaths of salt air would demand a surcharge.

If assessments are appropriate for ocean views, why not assessments for certain city views? Doubters should remember that beauty is in the eye of the beholder who sets the rates. There could be an assessment on mountain views for those in Los Angeles. There would be a smog discount, of course, for the days the Hollywood sign is lost in the haze or altered by pranksters. But, don't spend that money you get back for the smoggy days — you'll need it to pay the assessment levied to clear away the smog.

Rationales for assessments appear endless. As long as there is a remote connection between a taxpayer and the object to be built, protected, maintained, cleaned, observed or enjoyed, there is a potential assessment lurking.

Assessments have gone from land to sea, and probably will turn up in space. Is it so hard to imagine an assessment to protect against a killer asteroid destroying Earth?

One thing is certain: the chances of our wallets getting hit by an assessment district are improving by the day. □



CFRL REPORT

By: Mark Dolan, Chairman

Californians For Fair Rent Laws (CFRL), a special project of HJTA, was formed in direct response to the CALIF-data outlining the horrendous impact on landlords and rent-paying tenants of the current and recurring abuse of the state's unlawful detainer (eviction) system. CFRL's legislative approach to the problem was the financing and creation of SB 270, the pre-trial rent deposit law now carried by Senator Quentin Kopp, and sponsored/supported by: Apartment Association of Greater Los Angeles, California Association of Realtors, California Apartment Association, Apartment Owners Association, Apartment Association of California Southern Cities, Apartment Association of San Fernando Valley/Ventura, among others. A hearing deciding the fate of the legislation will be reported on in the next issue of "Taxing Times." □

RESULTS OF TAXPAYERS OPINION POLL

Thank you to those HJTA members who took the time to complete the Taxpayers Opinion Poll we sent you several months ago. Here are the results.

Question 1: Should California's state taxes be higher, lower or should they remain the same?

Higher: 4% Lower: 38% Stay the same: 58%

Question 2: Do you support or oppose a 10% increase in the state income tax which would raise 1.5 billion dollars in new government revenue?

Support: 5% Oppose: 95%

Question 3: Do you support or oppose a one cent increase in the state sales tax?

Support: 28% Oppose: 72%

Question 4: Do you support or oppose a new tax on services such as lawyer services, dry cleaning and auto repair?

Support: 10% Oppose: 90%

Question 5: Do you support or oppose plans to raise property taxes above the limits set by Proposition 13?

Support: 2% Oppose: 98%

CALIF REPORT

By: Leonard Walsh, Chairman

As mentioned in prior articles, with HJTA's support, the California Apartment Law Information Foundation ("CALIF") was itself founded as a research source/litigation arm to service the many landlords and tenants who help make up the hundreds of thousands of HJTA members. Since its inception, and with the direct financial contribution of HJTA members and members of the apartment industry, including the Apartment Association of Greater Los Angeles, CALIF has: (1) produced two statewide studies establishing that taxpayers are saddled with paying the cost of courts necessary to handle an annual 236,000 eviction actions, or 40% of all municipal court filings, and that rent-paying tenants pay about 1/3 of a billion dollars in higher rents *each year* because of the recurring annual losses caused by the non-payers; and, (2) filed 5 major lawsuits against public entities, alleging the imposition of illegal ordinances on the tax-paying public. CALIF's most recent and dramatic success was its obtaining of a judgment from Los Angeles Superior Court Judge Carol Fieldhouse (7/31/91) invalidating a Los Angeles ordinance requiring the payment of interest on tenant security deposits, meaning untold administrative-cost savings for Los Angeles rental property owners. *(Apartment Association of Greater Los Angeles v. City of Los Angeles)* CALIF attorneys are also assisting HJTA with the current "MAD" lawsuits, attacking the spread and taxing appetites of municipal assessment districts. Contributions to CALIF are tax-deductible. □

QUOTES WORTH NOTE

"I keep telling people that two days after the budget passes everybody forgets it. People don't know what's in it. Later, when they have to dig for some higher taxes, they may think about it for awhile, but that passes."

Senate Republican Leader Ken Maddy

"The reason school districts are having trouble is bad budget management. They overspent what they didn't have."

Treasurer Kathleen Brown in remarks to the Los Angeles Taxpayers Association on May 17.

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COMMISSION, from Page 6
the commission released its report. (For more information see photo and caption, page 1.)

Following are the names and affiliations of the Members of the Senate Commission on Property Tax Equity and Revenue.

Chairperson
Robyn Phillips
Assistant Professor of Economics
University of California, San Diego

Vice Chair
Kirk West
President, California Chamber of Commerce

David E. Anderson
Former CEO, GTE California

Irene Angelo
President, Angelos Marketing Properties

Senator Ruben Ayala
State of California

Jack Baugh
Vice President, Operating Engineers Local Union No. 3

Senator Marian Bergeson
State of California

Gerald Cochran
County Assessor, Del Norte County

Maureen G. DiMarco
President
California School Boards Association
(Now California Secretary of Child Development and Education)

Patsy Estrellas
Teacher, Nuffer School

Melvin Gagerman
CPA/Managing Partner
Good, Gagerman & Berns

Michael Glaze
General Manager, Lake Oroville Area Public Utility District

Senator Gary K. Hart
State of California

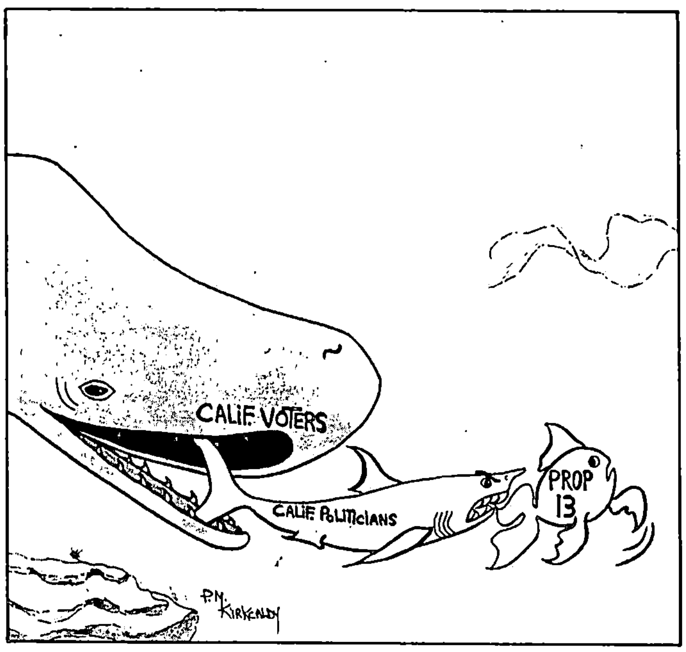
Michael A. Kahn
Attorney, Folger & Levin

Marla B. Marshall
Special Projects Coordinator
Office of the President, CSU
San Marcos

Tom Rogers
Supervisor, County of Santa Barbara

Jack Theimer
Principal, Jack Theimer & Associates

Iola Williams
President, League of California Cities □



BLAME, from Page 2
charges and fees have increased 260% from the year following Proposition 13, to $3.3-billion.

Benefit assessments, a traditional device to pay for capitol improvements which dates back to pre-medieval England, have been creatively altered to take in services normally paid for out of the general fund such as street lighting and landscaping. These non-voted assessments have grown from $36-million in 1978-79 to $279-million in the latest figures, a rise of 672%. In special districts, set aside to perform individual functions such as flood control, benefit assessments have increased 2506%.

Compare these figures with the revenue produced for local government by the sales tax, which has been a steady revenue source during this time period. Sales tax revenue has increased 118%.

It is true the schools no longer rely on the property tax as they did before Proposition 13. However, the California Supreme Court decision in Serrano vs Priest — handed down before Prop. 13 passed — stated that "spending on schools could not be a function of wealth." The effect of that ruling was that property taxes would no longer be the backbone of education revenue. This forced the state to take over the major portion of school funding. The state school budget today is larger than the entire state budget when Proposition 13 passed.

Proposition 13 is not the cause of California's budget crisis, just as it is obviously not the cause in the 30 other states facing budget deficits. Mix too much spending — spurred on by the providers of government services — together with a national recession, and you'll find the reason for the budget shortfall. □

CITIZEN TAXPAYERS, A POWERFUL FORCE

Howard Jarvis always believed in the power of the individual to shape politics. And he believed that if informed, motivated individuals were to join forces to pursue a common goal, this could be an irresistible political force.

While the taxpayers have been receiving much bad news lately, we still see many successes achieved at the local level because citizens are willing to step forward and fight efforts to impose unjust taxes or assessments.

The following letter from Al Goeppinger of Escondido illustrates the point.

Dear Mr. Fox:

Thank you for your letter of June 13th with some helpful suggestions on fighting the assessment district as proposed by the Escondido Union High School District.

We are happy to report that through the efforts of a grass roots public protest with petitions, telephone calls and attendance at the school board meeting, the school board saw fit to postpone indefinitely any formation of the tax district.

The district spent between $36,000 and $40,000 for engineering and legal fees which we feel is a great waste of school district funds.

Perhaps the best chance of retaining Proposition 13 will be an awareness by the public at the local level.

Thank you for your interest and help!

We appreciate Mr. Goeppinger's remarks and agree with his comments on the importance of awareness at the local level. Our HJTA hat is off to Al and the other Escondido residents who proved what can be accomplished by an aroused citizenry.

While we are on the subject of active citizens we would like to mention another dedicated tax-fighter from the other end of the state, Ralph Morrell of Dixon. Almost single handedly, Ralph and his Committee to Reform Spending Practices in the California Legislature (known as Operation Slush Fund) has exposed such practices as "phantom voting" where legislators who are not in attendance are recorded as voting, or where recorded votes are changed after the vote is concluded so legislators can deceive constituents on how they actually voted.

Ralph is continuing his efforts to shine light into dark corners by pressing to have the Legislature's own budget audited as well as that of the Governor's office.

In spite of some reverses, citizen taxpayers continue to be a powerful force to correct irresponsible, corrupt, or abusive government practices. □

TAX BYTES

EXERCISING YOUR TAX MONEY

The Associated Press reports that the IRS is paying for employee memberships to an expensive private fitness center next door to its Washington, D.C headquarters. This spares workers the six block walk to a free, government gym. About 125 memberships, each costing approximately $700 a year, are being purchased.

IT STARTS AT THE TOP

When Bill Anton became Superintendent of the Los Angeles Unified School District last year, one of the first things he did was give up the chauffeur enjoyed by his predecessors. With the School district facing spending cuts, this May he volunteered to take a 10 percent cut in his $161,390 annual salary to set an example for district employees that all should work to cut spending — a rare gesture of economy on the part of a public official.

WON'T TAKE "NO" FOR AN ANSWER

Last November, Pasadena voters overwhelmingly rejected a pay raise for the City Council. This July the council voted to create a subcommittee to propose pay increases for members of the Community Development Commission, whose pay can be raised without a public vote. The seven members of the Community Development Commission also happen to be the seven members of the City Council.

M-I-C-K-E-Y M-O-N-E-Y

The Disney Development Company is seeking $395 million in taxpayers aid to support the expansion of Disney theme parks. Among the projects Disney would like to see federal highway funds used for would be transportation improvements, parking facilities and a people mover. Critics, who object to taxpayers being asked to finance projects that primarily benefit a single private enterprise, include Congressman Robert K. Dornan who represents the district that includes Disneyland. "Disney, as much as I love them, is a commercial enterprise," the *Los Angeles Times* quoted Dornan as saying.

DING DONG, SNACK TAX CALLING

Many are confused by the new California "snack tax" under which popcorn, brownies and Ritz crackers are taxed, but peanuts, doughnuts and saltine crackers are exempt. Brad Sherman, chairman of the state Board of Equalization, is urging taxpayers to protest this new tax by deluging the Governor with taxable Hostess Ding Dongs.

Compiled by HJTA Executive Director, Kris Vosburgh □

2) **Require able-bodied welfare recipients to work or perform community service** in exchange for benefits received.

3) **Increase the financial rewards available to low-income working families,** both married and single, relative to the rewards to non-working parents on welfare by providing tax relief to low-income working families.

4) **Increase the financial rewards available to low-income working families,** both married and single, relative to the rewards to non-working parents on welfare by providing tax credits and vouchers for medical insurance to working families who currently lack medical coverage.

Of these four tools for reforming the welfare incentive system, the work requirement is the most important. Under the current welfare system a non-working single mother receives an income from the government for free; if she becomes employed she must give up all or part of this free income. However, if the welfare recipient is required to work in exchange for benefits, a new cost is attached to welfare dependence and the attractiveness of welfare relative to employment is greatly reduced. Indeed, if the work requirement can be coupled with other government policies which ensure the family will be somewhat better off financially when the mother is employed than when the family is on welfare, then the anti-work incentives of welfare would be utterly eliminated. However, as long as the welfare recipient has the option of receiving a sizeable income from the government without work, then it will be impossible through other means to reduce significantly welfare's anti-work incentives.

Surprisingly, a work requirement also eliminates the anti-marriage incentives of the current welfare system. Under the current welfare system, when a single mother marries a fully employed male she loses most of her welfare benefits. Under a welfare system with a work requirement, a single mother still would lose her benefits upon marrying—but she would now be losing benefits which she had to earn rather than a free income, so the loss would be far less significant. As long as the mother could obtain a private sector job which paid roughly as much as welfare, then marriage would no longer impose a significant financial or personal cost on the mother or her prospective spouse. Indeed, if required to work for welfare benefits, some welfare mothers would prefer to marry and be supported by a husband's income rather than enter the labor force. By converting welfare from free income to income which must be earned, a work requirement eliminates most of welfare's anti-marriage incentives and would make marriage economically rational once again for millions of low-income parents.

While few states have attempted to establish serious work requirements for AFDC parents, those experimental programs which do exist indicate that work requirements can have a significant impact in reducing welfare dependency. As part of a workfare program operated on an experimental basis in six Ohio counties, AFDC mothers were required to perform community service for twenty hours per week. While only 25 percent of all AFDC mothers were required to participate, the work program reduced overall number of families on AFDC by some 12 percent. In other words, for every hundred mothers that were required to work in exchange for benefits, over forty mothers left welfare entirely.[22]

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22 Bradley R. Schiller and C. Nielsen Brasher, "The Effects of Saturation Workfare on AFDC Caseloads,"

While a serious work requirement will change the welfare incentive structure and reduce dependency, it is also vital for other reasons. Society should provide aid to those in need. But aid which is merely a one-way handout is harmful to both society and the recipient. Such aid undermines the individual's ability to take responsibility for his or her own life. If the habit of dependence becomes entrenched, it limits the individual's capability to become a fully functioning member of mainstream society.

Welfare is currently a check in the mail with no obligations. This is wrong. Instead, welfare should be based on reciprocal responsibility: Society will provide assistance, but able-bodied recipients will be expected to contribute back to society in exchange for the benefits they receive.

TOWARD COMPREHENSIVE WELFARE REFORM

What is needed is a comprehensive welfare reform strategy. Many elements of comprehensive reform can be implemented at the state level; however, state actions should be complemented by tax relief and an overhaul of the U.S. medical system at the federal level. Although tax policy and medical reform are formally outside the welfare system, reforms in these areas will have a significant impact on the opportunities and behavior of low-income families, and therefore are an important part on any welfare reform strategy.

Comprehensive welfare reform must strike a balance between two key themes. First, it must seek to increase the rewards for work and marriage among low-income families. Second, it must reduce the incentives currently provided by welfare for non-work and single parenthood. Reforms which fail to follow this balanced approach will be unsuccessful. Comprehensive reform would have seven parts:

1) Reduce Benefits. Welfare benefits for families on AFDC should be reduced. This is particularly true in states with high benefits levels. AFDC recipients are eligible for benefits from nearly one dozen major welfare programs. In all but five states, the combined value of benefits received by the average AFDC family exceeds the federal poverty income threshold. Moreover, there is considerable inequality in welfare benefit levels within each state. Because some families receive aid from many programs, they will have overall benefits much greater than other welfare families of the same size and characteristics within the state. Example: AFDC families that also receive housing aid will have overall benefits some $4,000 to $5,000 higher than other AFDC families within the state. In almost every state such families will have combined welfare benefits well above the poverty threshold. States should reduce AFDC payments to families that also receive housing aid.

2) Require Work in Return for Benefits. States should require some but not all welfare recipients to work in exchange for benefits received. Recipients of Food Stamps and General Assistance who are not elderly and not disabled and who are not directly caring for children should be required to perform community service for at least twenty hours per week.[23] Within

unpublished paper, November 1991.

23 Requiring someone to perform community service means that they would perform useful functions in government or in non-profit private sector organizations. Community service is also called "work experience." Many legislators argue that they would like to require welfare recipients to work in for-profit private sector jobs, but this expectation is unrealistic because few private sector employers are willing to employ persons who literally have to be forced to work. However, requiring the recipient to perform community service with a government organization removes the recipient's option of receiving welfare income without labor. The work requirement makes welfare less attractive relative to employment and will thereby induce many recipients to take real private sector jobs.

the AFDC program, mothers who do not have children under age five or who have received AFDC for over five years should be required to perform community service for at least 35 hours per week in exchange for benefits. In all two-parent families receiving AFDC, one parent would be required to work. For all programs the work requirement should be permanent, lasting as long as the individual or family receives benefits.

This policy specifically exempts most mothers with pre-school children from the work requirement. Because of the high costs of providing day care, work requirements for mothers with pre-school children would almost certainly increase rather than cut welfare costs. Moreover, great caution should be exercised toward any policy which separates young children from their mothers, as this will often have a significant negative effect on the child's development. Thus a well designed work program generally would not include mothers with young children; however, a second rule requiring work from mothers who have received AFDC payments for over five years, either continuously or in separate periods, is needed to discourage mothers from intentionally having added children in order to avoid their work obligation.

If a work requirement of the sort outlined here were established, roughly 50 percent of AFDC mothers would be required to work as a condition of receiving benefits. This would be an enormous improvement from the present situation; in the average state only 6 percent of AFDC mothers currently participate in job search, work, or training programs.

3) Require Responsible Behavior. States should require responsible behavior as a condition of receiving welfare benefits. This would include policies such as insisting that unmarried minor mothers reside with their parents or in some other adult supervised setting, and reducing payments to mothers who fail to provide their children with free immunizations. Most important, mothers who bear additional children while they are already receiving welfare should not receive an increase in welfare benefits.

4) Enforce Education Requirements. States should rigorously enforce the current federal law requiring all AFDC mothers under age eighteen who have not completed high school or passed a GED to attend school. To avoid the negative affects of separating infants from their mothers, however, mothers with infant children should not be required to participate more than twenty hours per week.

5) Experiment with Wedfare. More mothers leave AFDC through marriage than through employment. States should experiment with "wedfare" programs which provide bonuses to AFDC mothers who marry, leave AFDC and remain off the welfare rolls. However, since the real effects of wedfare programs are uncertain, any such program should be rigorously evaluated through controlled experiments.

6) Provide Tax Credits or Vouchers for Medical Coverage to All Working Families. The current welfare system which provides free medical coverage to single parents and non-working two-parent families on AFDC, but does not provide medical assistance to low income working families, discourages both work and marriage. The federal government could reduce the anti-work/anti-marriage effects of welfare by enacting the comprehensive medical reform proposed by The Heritage Foundation in *A National Health System for America.*[24] This plan would, among other reforms, provide federal tax credits and vouchers for the purchase of medical insurance to low-income working families not eligible for Medicaid. A proposal similar to the Heritage plan recently was introduced by President Bush.

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24 Stuart M. Butler and Edmund F. Haislmaier, eds., *A National Health System for America* (Washington, D.C.: The Heritage Foundation, 1989).

7) Provide Tax Relief to All Families with Children. The federal government currently imposes heavy taxes on low-income working families with children. A family of four making \$20,000 a year currently pays \$3,780 in federal taxes.[25] This heavy taxation promotes welfare dependence by reducing the rewards of work and marriage relative to welfare. A crucial step in welfare reform is broad family tax relief along the lines proposed in The Heritage Foundation's *A Prosperity Plan for America: How to Strengthen Family Finances, Revive the Economy, and Balance the Budget.*[26] This plan would provide a \$1,000 tax credit for each school-age child in a family and a \$1,500 tax credit for each pre-school child; the tax credits could be used to reduce the family's income tax liability and both the employee and employer share of the Social Security payroll tax. The effect of this plan would be to eliminate all federal taxes on working families with children with incomes below 120 percent of the poverty threshold. The revenue loss of these tax credits would be offset by corresponding spending constraint through capping the growth of total federal domestic spending at 5 percent per annum. Thus the plan would not add to the federal deficit.

CONCLUSION

Any attempt to reform the current structure of public welfare must begin with a realization that most programs designed to alleviate "material" poverty lead to an increase in "behavioral" poverty. While the poor were supposed to be the beneficiaries of War on Poverty's transfer programs, they instead have become its victims. If policy makers fail to recognize or respond to this relationship, the welfare state will continue to worsen, rather than improve, the lives of America's poor.

The rule in welfare as in other government programs is simple: You get what you pay for. For over forty years the welfare system has been paying for non-work and single parenthood and has obtained dramatic increases in both. But welfare which discourages work and penalizes marriage is a system which ultimately harms its intended beneficiaries.

Comprehensive welfare reform must combine toughness and refusal to reward negative behavior with positive rewards for constructive behavior. Reforms which fail to include both sides of this equation will not succeed.

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25 Figures are for 1991.

26 Scott A. Hodge, ed., *A Prosperity Plan for America: How to Strengthen Family Finances, Revive the Economy and Balance the Budget* (Washington, D.C.: The Heritage Foundation, 1992).

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NATIONAL TAXPAYERS UNION

A NONPARTISAN, NONPROFIT ORGANIZATION DEDICATED TO THE PUBLIC INTEREST
325 PENNSYLVANIA AVENUE, SOUTHEAST WASHINGTON, DISTRICT OF COLUMBIA 20003 TELEPHONE: AREA CODE (202) 543-1300

543-1300

NATIONAL TAXPAYERS UNION CONFIRMS COUNT ON 32 STATE LEGISLATURES WHICH HAVE PASSED A RESOLUTION CALLING FOR A CONSTITUTIONAL CONVENTION ON A BALANCED FEDERAL BUDGET AMENDMENT

The 32 state legislatures which have passed balanced budget amendment resolutions are:

Alabama 1	HJR 227, Act 302	1976
Alaska	HJR 17	1982
Arizona	SJR 1002, HCM 2003	1978, 1977
Arkansas	HJR 1	1979
Colorado	SJM 1	1978
Delaware	HCR 36	1975
Florida 2	Sen. Memorial #234, HM 2801	1976, 1976
Georgia	Res. Act. #93, HR #469-1267	1976
Idaho	HCR 7	1979
Indiana	SJR 8	1979
Iowa	SJR 1	1979
Kansas	SCR 1661	1978
Louisiana 3	SCR 4, SR 73, HCR 269	1979, 1978, 1975
Maryland	SJR 4 (Original), HJ JR 77 (Enrolled)	1975
Mississippi	HCR 51	1975
Missouri	SCR 3	1983
Nebraska	LR 106	1976
Nevada	SJR 8, SJR 2	1979, 1977
New Hampshire	HCR 8	1979
New Mexico	SJR 1	1976
North Carolina	Resolution 5	1979
North Dakota	SCR 4018	1975
Oklahoma	HJR 1049	1976
Oregon	SJ Memorial #2	1977
Pennsylvania	HR 236	1976
South Carolina	SCR 1024, SCR 670	1978, 1976
South Dakota	SJR 1	1979
Tennessee	HJR 22	1977
Texas	HCR 13, HCR 31	1978, 1977
Utah	HJR 12	1979
Virginia	SJR 36	1976
Wyoming	HJR 12 (Original) JR 1 (Enrolled)	1977

Certified copies of these resolutions are on file at the National Taxpayers Union.

1 Alabama voted to rescind 4/28/88.
2 Florida voted to rescind 5/25/88 (SM 302).
3 Louisiana voted to rescind 7/90.

DRII:67

Contact Al Cors
202/ 543-1303

6TH STORY of Level 1 printed in FULL format.

ABC NEWS

SHOW: THIS WEEK WITH DAVID BRINKLEY
This is an uncorrected copy. Not a final version.

May 24, 1992

LENGTH: 9024 words

BODY:
ANNOUNCER: From ABC News, This Week with David Brinkley. Now, from our Washington headquarters, here's David Brinkley.

DAVID BRINKLEY, ABC News: In 1969, the U.S. Government spent $3 billion less than it collected in taxes and so did not have to borrow a nickel. In the 23 years since, that has not happened again, not once. Instead, government has spent more and borrowed more every year, which the debt has risen into the trillions and the estimate for this year alone is to borrow $400 billion more. Congress is already in deep trouble with the American people. It thinks it might redeem itself if it can put a stop to this with a constitutional amendment to force federal budgets to be balanced and an end to the borrowing. And they say this year, after years of talking about it, they may actually do it. Even if they do, it'll not be simple and it will not be easy. Well, why not? [voice-over] We'll ask today's guests- Representative Tom Foley, a Democrat, Washington, Speaker of the House; Senator Phil Gramm, Republican, Texas, a member of the Senate Budget Committee; and Representative Leon Panetta, Democrat, California, Chairman of the House Budget Committee. Some background from our man, Jack Smith, and our discussion here with George Will, Sam Donaldson and Tom Wicker- here on our Sunday program. [on camera] First a little news since the Sunday morning papers. General Suchinda in Thailand tried to shoot his way in the office of Prime Minister without being elected and by having his troops fire on people who protested, killing a hundred or more. He did not succeed. Here's ABC's Bill Redeker in Thailand.

BILL REDEKER, ABC News: [voice-over] The Thai Prime Minister's brief and bloody rule came to an end in a nationally televised announcement. "I have submitted my resignation to the king," said former General Suchinda, "to show my political responsibility." On the streets, thousands of Thais gathered at Democracy Monument where, only a few days ago, hundreds of their countrymen had been killed or wounded by soldiers. Many said they were relieved Suchinda had stepped down.

THAI WOMAN: We don't want him out, but we want to kill him here.

REDEKER: [voice-over] The man who ruled Thailand for only 48 days appeared briefly in public today after visiting a Buddhist shrine and Thailand's supreme patriarch. [on camera] Suchinda's resignation has defused a lot of tension here, but after 60 years of military interference in Thai politics, no one here expects a truly representative democracy to emerge overnight. Bill Redeker, ABC News, Bangkok.

Mr. BRINKLEY: In anger over the continued civil war in what used to be Yugoslavia, Secretary of State James Baker says he will ask the United Nations to invoke Chapter Seven. That is a resolution allowing formation of a military force like that used against Iraq. We'll be back with all the rest of today's program in a moment.

[Commercial break]

Mr. BRINKLEY: Balancing the budget would require less spending or higher taxes or both. Some economists oppose it, saying government should have some flexibility in taxing and spending to get out or stay out of recessions. That may be true, but it's had that flexibility for years and we have had recessions as usual. Of every dollar we all pay in taxes, one-fifth goes to interest on the debt. It will soon be the biggest single item in the federal budget, doing nothing for health, for education, the environment. It is a massive transfer of wealth from working people to those rich enough to buy government bonds. Jack Smith has background on all of this. Jack?

JACK SMITH, ABC News: [voice-over] David, meet Pat and Bob Worniewski [sp?], two Americans getting help planning their financial future.

FINANCIAL CONSULTANT: Save as much as you can out of your cash flow.

SMITH: [voice-over] They are balancing their budget, something millions of Americans every day, but which the government in Washington hasn't been able to do in 23 years. And with Washington now spending a billion more every day than it takes in, the deficit is out of control.

1st MAN ON STREET: It's infuriating. I have to balance my budget. Why shouldn't they?

BOB WORNIEWSKI: [sp?] I can't see how we can continue- how the country could continue to spend the way it is without having some kind of, you know, balanced budget.

PAT WORNIEWSKI: [sp?] And at some time, we're going to have to sort of bite the bullet and just do it.

SMITH: It's because of sentiment like this than an amendment to the Constitution, requiring a balanced budget, is now making its way through the Congress and, for the first time ever, it's expected to pass with the required two-thirds majorities in both houses and then be ratified by three-quarters of the states within two or three years.

Rep. CHARLES STENHOLM, (D) Texas, House Budget Committee: It seemed to us, 278 of us, that the time has come for a constitutional amendment to give us the backbone, to give us the courage, to give us whatever is necessary to deal with our nation's fiscal problem.

SMITH: [voice- over] Democrat Charles Stenholm of Texas is sponsoring an amendment in the House. Democrat Paul Simon of Illinois is doing the same in the Senate and lobbying his colleagues. What's making this possible is the large number of liberals, traditionally opposed to restraints on government spending, who've changed their minds. Why? Well, for one thing, despair of ever controlling the federal deficit that today stands at a record $400 billion and is slowly bleeding the country dry. Interest payments on the national debt now siphon off one-fifth of federal spending.

Sen. PAUL SIMON, (D), Budget Committee: interest is going to be the number one expenditure of the federal government this next fiscal year.

Rep. BOB WISE, (D), Budget Committee: It's competing directly with education, infrastructure, health care- all the vital domestic programs- job training, economic growth, that are vital to make our country and our economy grow.

SMITH: [voice-over] And politics is involved, too. A balanced budget amendment gives political cover to incumbents in a year when voters are angry with do-nothing government.

WOMAN ON STREET: They just want to get reelected and that's all. And I think most people feel that way. We're all disgusted- and powerless. We feel powerless.

2nd MAN ON STREET: At the rate that this country is into deficit spending, how in heaven's name can the economy improve?

SMITH: [voice-over] But is a constitutional amendment the right way to go? Skeptics and opponents think not and believe a balanced budget amendment will rank with prohibition as misguided and even dangerous.

IRWIN KELLNER, Economist: There are times in the economic cycle where you don't have to have a balanced budget. In recessions, the government should be spending more and taxing less to make up for the reduction in spending by the private sector.

SMITH: [voice-over] But what mainly animates skeptics is the belief that a constitutional amendment is unworkable, just a hoax by politicians who lack the courage to really cut the deficit.

CHARLES KRAUTHAMMER, "Washington Post" Columnist: You can be sure that, faced with a choice of a radical rise in taxes or huge cuts in entitlement spending - which are going to be the only says to really do this and the way that we ought to do it - that they will choose some kind of trick and the tricks are out there.

SMITH: [voice-over] Remember the Gramm- Rudman deficit-reduction law to balance the budget by 1991? It only missed by $269 billion and the same techniques used to emasculate it are still available today to Congress and the White House - things like phony economic forecasting and declaring items off-budget, which is what's been done with the cost of the S&L mess - and skeptics don't expect anything different this time.

MOLLY IVINS, "Fort Worth Star-Telegram": People are smart enough to understand that passing a constitutional amendment is not going to solve the deficit. When you find a politicians who is willing to look you in the eye and say, "OK, I'll tell what we'll do about the deficit, we'll put a dollar-a-gallon tax on gasoline," then you're talking to a politician who's leveling with you.

SMITH: There is no free lunch, but no politician is going to risk his job by saying that. In fact, in a year when voters want to throw the bums out, scared incumbents are likely to point to a constitutional amendment, even if it ends up accomplishing nothing, as a real accomplishment. David?

Mr. BRINKLEY: Jack, thank you. Coming next, Representative Leon Panetta, Democrat, California, Chairman of the House Budget Committee; and shortly, Senator Phil Gramm, Republican, Texas, a member of the Senate Budget Committee; and the Speaker of the House, Tom Foley, Democrat, Washington- in a moment.

[Commercial break]

Mr. BRINKLEY: Mr. Panetta, I believe you're at the Quail Valley Lodge in Carmel Valley, California. Is that right?

Rep. LEON PANETTA, (D), California, Chairman House Budget Committee: That's correct.

Mr. BRINKLEY: It looks awfully pretty. If you live there-

Rep. PANETTA: It's in the middle of my district.

Mr. BRINKLEY: If you live there, why would you want to be sent to Washington? I withdraw the question. Here with us in the studio in Washington are George Will and Sam Donaldson, both of ABC News. Now, Mr. Panetta, tell me this. Here in Washington, we've been hearing talk for years about balancing the budget and an amendment to require it and so on. Now, suddenly, it seems to have acquired some life. Why?

Rep. PANETTA: Well, for a number of reasons. Obviously, the most important is that we're in a political years and there are a lot of members that are running scared from this issue, afraid that the public is looking for some kind of symbol that they really are serious about taking on the deficit, and also because, obviously, we're looking at $400-billion deficits. So the fact is that all of those issues are now driving the institution towards trying to get some kind of amendment in place.

Mr. BRINKLEY: Well, if you got some kind of amendment in place, is the Congress able and willing to deal with it. It would be very hard.

Rep. PANETTA: That's my concern. My concern is that what we're looking at is the prospect of changing this country's most important governing Constitution - that deals with the rights of people, that deals with the powers of government - when the fact is this is not a constitutional problem. We have the powers now. The President has the power, the Congress has the power to deal with balancing the budget. The problem is getting the leadership to make the touch choices necessary in order to get that done. And no constitutional amendment is going to assure that kind of leadership.

GEORGE WILL, ABC News: Congressman, it can't assure it, of course, but when one looks at the groups that are adamantly opposed to a constitutional amendment to require a balanced budget - organized labor, particularly public employees unions, lobbies for the elderly in the cities and others - they seem to think that it really might work all too well.

Rep. PANETTA: You know, obviously, there are going to be groups that are looking at their own personal interests in terms of what does or does not happen. My view is that if you're going to get a balanced budget, there's no reason why the President of the United States can't start now, present a proposal to get us to a balanced budget, deal with the issues that have to be confronted in order to get us there- the spending cuts, the entitlement savings, the issues related to defense savings or taxes, the combination that you're going to need. The Congress Budget Office tells us that we need to achieve almost $600 billion in deficit reduction if we want to a reach a balanced budget by 1997. That means about another $40 billion that we would have to do in deficit reduction this. We want to know the answer to how you get there, not just simply do an amendment and hope that somebody down the road will deal with issues themselves.

Mr. WILL: Well, you're absolutely right, of course, that political will would obviate the need for this amendment, but is it not the case that political will might be instilled by raising to the level of a constitutional infraction what we now all recognize to be an immoral use of the country's resources?

Rep. PANETTA: That's the primary argument, obviously, George - is that somehow there'll be the moral force now, with the Constitution, to do the right thing - but I'm not so sure that really is going to be the result. I mean, the fact is that you can find ways around laws that have been enacted, such as Gramm-Rudman. You can find ways around constitutional amendments. The states do that all the time.

Mr. WILL: Yet- Congressman, that is another argument one hears, is that we daren't trivialize then Constitution because the current leadership and political class in Washington would be corrupt regarding this, tricky and devious and cook the numbers and all the rest. What does that tell us, that argument against a balanced budget amendment, about the political class's assessment of itself?

Rep. PANETTA: Well, look, it still comes down to one thing, which is the will of the President and the will of the Congress to confront the tough choices that you have to make to deal with this. That means you have to take risks. The President, in 1990, showed us that you can do this without a constitutional amendment. He basically challenged the Congress to come up with a deficit reduction package of $500 billion. It took us five months of negotiating, but we came up with what I think is probably the best discipline we've put in place in a long time. Why can't the President do that again? Why do we have to resort to a constitutional amendment in order for the President and the Congress to exert that kind of leadership?

SAM DONALDSON, ABC News: Mr. Panetta, last week, you wanted to tie a vote on the constitutional amendment in the House to actual guidelines about how you would achieve the reduction if it became part of the Constitution. You lost that. The people who want the constitutional amendment said, "Now, let's have that first and then we'll tell you how we're going to do it." But that's the crux of it. How are you going to do it? If that constitutional amendment were in place today, how would you do it?

Rep. PANETTA: Well, Sam, first of all, it tells you a lot about those who are advocating a constitutional amendment and their motives. I mean, the problem is it's easy to pass a constitutional amendment. It's tough, again, to make the policy decisions. My approach was, "Why don't we make those policy decisions at the same time that we're considering a constitutional amendment?" But the reason why people don't want to do it obviously because it means offending a lot of constituencies out there. If you're going to do it, if you're going to achieve this $600 billion in deficit reduction just to reach a balanced budget by 1997, you're talking about probably doing something in the vicinity of $200 billion in the savings in the entitlement areas. That largely means that you have to deal with health care costs, which are the greatest villain right now, and it means establishing some very tough cost controls on health care. Secondly, you got to deal with retirement programs, either limiting-

Mr. DONALDSON: Social Security?

Rep. PANETTA: That's correct- limiting cost-of-living increases or taxing Social Security benefits. You've got to get additional defense savings above and beyond what the President has already called for and you also have to look at taxes. You've got to look at the possible of a gas tax or a VAT tax or increasing the rates. You need a combination of all of those if you're going to be serious about taking on the deficit. That's where the crux is of the challenge. If the President's not willing to confront those issues, if the Congress is not willing to confront those issues, you can pass all the constitutional amendments in the world and you're not going to get a balanced budget.

Mr. DONALDSON: Now, what's going to happen if the constitutional amendment is in place and on a Monday morning, the Treasury reports that, in fact, the government has slipped over into deficit, into red ink? I take it, by law, the government is required to shut down.

Rep. PANETTA: Well, unless you can get a three-fifths vote under these constitutional amendments we're dealing with. One of the other problems you have is the requirement for a three-fifths vote in order to be able to have an unbalanced budget. We already have witnessed the kind of constructions the Senate can place on itself when it allows the minority to basically run the show. I think that's one of the problems with this constitutional amendment, is that it could put a straight-jacket on what is a $5 trillion national economy. There's no other Industrialized country in the world that has this kind of constitutional amendment requiring that kind of balanced budget. The other problem you have is that we may wind up putting very sensitive economic decisions not in the hands of the elected leadership of this country, where it should be, but in the unelected judges of the federal court, who will then have to decide issues related to constitutional amendment. We could have a constitutional crisis as a result of doing this kind of amendment.

Mr. BRINKLEY: Mr. Panetta, thank you. That's quite a bees' nest you're describing th

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Mr. BRINKLEY: Now, you've heard what has gone before. The Gramm-Rudman - a third of it is yours, the name is yours - and it was a spending limitation law. Members of Congress found a way to get around it. Why wouldn't they find a way to get around this constitutional amendment?

Sen. GRAMM: Well, first of all, David, if you're looking for a four-sided fort where you can pull up the drawbridge and the citizenry can go to sleep, you're not going to find it in American democracy. And when Jefferson said the price of liberty is eternal vigilance, he wasn't talking about the British coming over the water or the Indians coming over the mountain. He was talking about vigilance abortions government. The advantage of a balanced budget amendment to the Constitution is it strengthens the hands of those in the Congress and the country that want to balance the budget. It tilts the debate in their favor. Gramm-Rudman made a great progress for 4-1/2 years, but the S&L bailout and the recession killed it. The problem with it was it was a law. It's like pulling a trailer up a hill. When the chain got too tight, you either had to back off or it broke. The strength of a balanced budget amendment to the Constitution is it's a contract between the people and their government and Congress cannot undo it and that's why we need it.

Mr. WILL: But the other side of that is is that if Congress scoffs at fundamental law, then the Constitution is trivialized and brought into disrespect, so let's go to what Mr. Panetta was dealing with and that is the problem of enforcement. Congress, under this amendment, would be required to get outlays and revenues in synch. Congress really controls neither in a great welfare state. Suppose we come to the end of the fiscal year, the budget isn't balanced. Who has standing to sue? How do you keep the courts out of this? They've made enough of a hash of the school system, we don't want them in this. How do you answer those questions?

Sen. GRAMM: Well, David, I've already started to work on it with a balanced budget implementation act and how I would do it is I would give the President, every member of Congress and every Attorney General of every state and all the territories standing in court, give them the ability to file a suit in the Appellate Court of the District of Columbia is they claim that the budget was out of balance. If that court found that they had a case, it would go to the Supreme Court. If the Supreme Court determined that the constitutional amendment had been violated, then they would be empowered by Congress or directed by Congress to cut all programs, projects, activities and entitlements across the board.

Mr. WILL: Time out. Who gives that order to cut- judges? The Supreme Court?

Sen. GRAMM: Well, the Supreme Court- the way the enabling legislation would work is that it would say, in preserving Congress's relative priorities, it would pare back all programs, projects and activities through a federal court order. Now, Congress obviously would respond to this, the public would demand it and it would force Congress to go back and to do it right. That's the enforcement mechanism I see.

Mr. WILL: Well, might you not avoid that potential mare's nest if you simply said, "The balanced budget amendment will require a super majority to raise the debt ceiling"? The government-

Sen. GRAMM: Well, that's what I- you've got several versions of the bill, but one ingredient [that], I think, is indispensable, is a 60-vote, 60-percent margin to raise the debt ceiling. I think, in doing that, you get an enforcement not only in terms of balancing the budget, but also, you get a protection against people taking programs off- budget to avoid the constitutional amendment.

Mr. DONALDSON: I take it the fundamental objective is to force legislature to do what it has been unwilling to do on its own because it has a constitutional mandate to do it. But I'm not certain how that would work and I'd like you to explain it to me. I think all of the members of the Senate are for reducing the deficit, but in someone else's area. Senators from states that have large farming communities, livestock communities, oil interests, have not been in the forefront, for instance, of balancing the budget that way. So, if you have this amendment, but you have a three-fifths vote escape clause, how do you force each other to vote for your own programs?

Sen. GRAMM: Well, Sam, I think the strength of the constitutional amendment is that it forces choices. You have the three-fifths vote to deal with emergencies that you can't foresee, where you've got three- fifths of the members of both houses and the President who believe that there is a crisis. But the idea is that that raises the threshold you've got to get over, forces Congress to make hard choices and gives congressmen from agricultural districts the ability to go to their district and say, "Look, I don't want to redo this farm program, but we have a constitutional prohibition, there's going to be an across-the-board cut if we don't do it and therefore, I've got to vote to do it."

Mr. DONALDSON: And you think their constituents would buy that any more than the constituents would buy the same members saying, "We've got this problem, this deficit problem and everyone has to contribute"?

Sen. GRAMM: Well, the reason that we need this in the Constitution is to force choice. People say, "Well, Congress can do it already." Well, Congress can protect freedom of religion, freedom of the press. Congress can do everything in the Constitution, but the founders recognized that people are imperfect and they set out prohibitions limiting the power of Congress. When Jefferson first saw the Constitution - he'd been in France during the debate - he said, "It has one flaw and that is it doesn't limit the power of government to borrow money." I believe this amendment closes that loophole in the Constitution.

Mr. DONALDSON: Well, it closes it by making the threshold a little higher from the vote. It does not close it.

Sen. GRAMM: There isn't a perfect solution. Ultimately, citizens have to be involved. They have to determine who the good people are and the bad people are and they have to vote on the basis of it. But it puts a stone wall to your back in a gunfight, as opposed to a four-sided fort. That's a big advantage. It affects the debate.

Mr. DONALDSON: Senator, I'm simply unclear as to how strong that gunfight would be. In the face, for instance, of the elderly, if you try to cut back Social Security- today, you could do it by a 51-49 vote or 50-50 with the Vice President breaking the tie. Now, you would require 60 votes and I'm not so certain that the elderly would let you get away with that.

Sen. GRAMM: Well, let me respond by saying it's the 60 votes you've got to have to raise the debt ceiling. That then forces you to come back and make hard choices- Medicare, for example.

Mr. DONALDSON: By your plan, but there's three-fifths plan, for instance, that doesn't embroider what you propose.

Sen. GRAMM: Well, but Medicare, for example- everybody knows we can't go on with that program growing at 14 percent a year, yet Congress does not want to take the political heat of dealing with it. What I'm saying is, with a balanced budget, you're going to force hard choices.

Mr. BRINKLEY: Sam-

Mr. DONALDSON: Well, one- I know- I really have to nag about this. One final questions- you don't want to take the political heat, but how can you stand the heat if you say, "I had to do it," and your constituents say, "You could have voted to raise the ceiling. You could have been part of that 60-vote majority to exempt that program and you didn't make that vote"?

Sen. GRAMM: You've made the threshold higher. Again, you can't make the system perfect. We're not going to reinvent democracy with the amendment, but I think we're going to strengthen it and I think America will gain from it. And I think the people who are against it do not want to see the growth of government slowed.

Mr. BRINKLEY: George, we have a few seconds left.

Mr. WILL: Some conservatives say that a balanced budget amendment without a super majority requirement to raise taxes will simply guarantee tax increases. The representatives will go to their constituents with the alibi you've just given them, saying, "I had to raises, the Constitution made me do it."

Sen. GRAMM: George, I would rather have the two-thirds majority to raise taxes, but I don't agree with that thesis. Remember, catastrophic health care was adopted at the peak strength of Gramm-Rudman. It's the first entitlement that we ever had to pay for. People hated it. Socialism is popular when somebody else pays for it. It's terrible when you have to pay for it and Congress came back and repealed it. That is living proof, in my opinion, that if people have to pay as they go, there are many cases in which they will not go.

Mr. BRINKLEY: They had a head-on collision with human nature, Senator.

Sen. GRAMM: That's right.

Mr. BRINKLEY: Thank you very much for being with us today. Pleasure to have you.

Sen. GRAMM: Thank you.

Mr. BRINKLEY: Good luck to you. Coming next, the Speaker of the House, Representative Tom Foley, Democrat of Washington- in a moment.

[Commercial break]

Mr. BRINKLEY: Mr. Speaker, thanks for coming.

Rep. THOMAS FOLEY, (D), Washington, House Speaker: Pleasure.

Mr. BRINKLEY: Pleased to have you with us. You heard what has gone before. Tell us, how politically horrible would it be if there were a constitutional amendment, as discussed, and all those cuts had to be made?

Rep. FOLEY: Well, I'm not sure all the cuts would be made. I think the problem would be that we would constitutionalize, as George Will said very well 10 years ago, economic policy-

Mr. BRINKLEY: You remember George Will from 10 years ago?

Rep. FOLEY: Yes, indeed.

Mr. BRINKLEY: That's not fair.

Rep. FOLEY: July 25, 1982. In that column, he said it was wrong to pass a constitutional amendment to balance the budget. I think it's still wrong. It would complicate our fiscal policy, might create increased costs, would certainly lead to inflexibility in dealing with economic problems, could threaten actually raising the specter of default, which would force U.S. government securities to stream upwards in rates and cost the American people billions of dollars. Beyond that, it would, as Senator Gramm just indicated, almost necessarily involve the courts. A year ago, Judge Bork wrote me a letter opposing a constitutional amendment to balance the budget and spoke of this possible judicial intervention as either a vain hope or a dismal prospect and I agree with him on this issue.

Mr. BRINKLEY: Which way- dismal prospect?

Rep. FOLEY: Dismal prospect. To have the courts, unelected, decide to file suits, either through hundreds of district courts or in the Circuit Court for the District of Columbia, try to give orders to either raise taxes or cut spending- we're doing our whole constitutional support-

Mr. BRINKLEY: If it is as you say-

Mr. DONALDSON: Well now, you really fight dirty, don't you?

Mr. BRINKLEY: -and George was right 10 years ago, what do we do? You don't let the defi

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entirely different than mandate a fiscal policy.

Mr. WILL: I understand, but it-

Rep. FOLEY: And what we're dealing with here is making a fiscal problem, an economic problem into a constitutional problem and a constitutional crisis, altering the nature of American government. Minorities- the 60-percent, three-fifths rule changes the nature of fundamental democracy. It leads to minorities of every kind in the Congress. In each House and Senate, there would be a 60-percent requirement to either eliminate the balanced budget limit or to raise the debt ceiling. That will lead to a crisis almost inevitably-

Mr. WILL: Congressman-

Rep. FOLEY: -in which each small group of interests in the Congress will hold out to get its particular objectives met until it provides the help to get the 60-percent majority.

Mr. WILL: Congressman, there are super-majority provisions all through the Constitution. This is not a novelty.

Rep. FOLEY: No, but it's a novelty for the direct implementation of fiscal policy, the day-to-day business of meeting obligations and paying costs.

Mr. WILL: When you bring up the problem of enforcement - and all sides recognize it as a problem - you seem to be assuming that Congress will not fulfill what will become a constitutional obligation, so you're assuming that Congress will sort of "disobey" the Constitution. It won't have-

Rep. FOLEY: I think the same pressures are going to be there, with or without a constitutional amendment, to find easy ways for various groups in the Congress and the executive branch- we don't want to forget that [neither] this President nor his predecessor ever, not once, recommended a balanced budget to the Congress. President Bush has been for just about every constitutional amendment I can think of, from protecting against burning the flag to abortion to dealing with term limits and now, a balanced budget amendment.

Mr. WILL: But aren't you really saying that we daren't put this in the Constitution because the Constitution would be brought into disrespect because the political class in Washington - Republicans, Democrats, executive and legislative branches - is so corrupt and spineless that it will misbehave under this?

Rep. FOLEY: Not corrupt, but obviously, under great pressure to avoid very difficult things to the constituencies they represent. That's not the only problem. It's not just the problem that there will be efforts to get around it, but the problem is you might not be able to get around it and if you can't get around it; will make recessions; will lead to defaults on government obligations; will create circumstances where the country's national economic interests will be perverted by the operation of this amendment if it works and if it cannot be superseded or be-

Mr. DONALDSON: Mr. Speaker, the people who are for the amendment - whether they were for it previously or not - have a very powerful argument, which is, "You are not doing it on your own." Now, without going in the blame game some more, what assurance could you give the American people today that if they will not support a constitutional amendment, Congress will get its act together, will, in fact-

Rep. FOLEY: It's not just Congress, Sam.

Mr. DONALDSON: Well, there you are.

Rep. FOLEY: It's Congress and the President that have the joint responsibility for fiscal policy in the country.

Mr. DONALDSON: All right, that the two of you-

Rep. FOLEY: All right. If President Bush-

Mr. DONALDSON: -that the two of you would get your act together. There is no evidence that you'll do it.

Rep. FOLEY: -or his successor or all the candidates who are running to be his successor today will pledge that on their election, they will call a meeting of the Congress to devise a means to deal, over a reasonable period of time - I would say five or six years - a balanced budget process-

Mr. DONALDSON: You mean another study commission, Mr. Speaker?

Rep. FOLEY: Not another study commission, but specific hard choices. Everybody likes this amendment because it's absolutely painless. It doesn't say anything except, "Sometime in the future, we'll do this." Nobody's particular benefits have to be cut, nobody's taxes have to be increased. Nobody loses anything by a constitutional amendment vote. We need the hard choices, hard, difficult choices that the Administration, the President and the Congress have to make jointly. If we get about doing that, rather than dealing-

Mr. DONALDSON: Well, with all due respect, I think campaign promises are worth what, in the past, they have demonstrated that they were worth- nothing, often. So, for all the candidates'-

Rep. FOLEY: Well, I used to have a saying that some of the worst things about campaign promises, [were] if they're kept, not that they're violated, but-

Mr. WILL: True.

Rep. FOLEY: -the practical problem we have here is that the amendment itself will do nothing without the implementation language. The implementation language could be adopted if the President and Congress came together to devise a policy over a reasonable time - I would say five years, six years to get the budget deficit down - without imposing upon the Constitution- what President Johnson, the first President Johnson, suggested was a way of trivializing the document and leading to its eventual demise.

Mr. BRINKLEY: If the amendment were passed, it would be four, five, six, seven years before it took effect.

Rep. FOLEY: Oh, I don't think so. I provides two years after its ratification or, in some cases- no, I think its ratification, if we passed it and sent it to the states this year, its ratification would probably be next year.

Mr. DONALDSON: Mr. Speaker-

Rep. FOLEY: I think we'd have the provisions imposed in about three years' time.

Mr. WILL: There's another-

Mr. BRINKLEY: We've got a little time left, George.

Mr. WILL: There's another constitutional amendment, now bottled up by a 20-term congressman in the Judiciary Committee, preventing term limits from coming to a vote on the floor. There are those who say, "If you had term limits" - thereby reducing the career legislator's incentive to spend borrowed money, pleasing this year's voters, burdening coming generations - "if you had term limits, you wouldn't be having this pressure for a constitutional amendment to balance the budget." Why don't you just let the term-limit amendment come to the floor and see what happens?

Rep. FOLEY: Well, in the first place, this is another one on which you used to be right, George, and have changed your mind, regrettably.

Mr. WILL: I saw through a glass darkly, now face to face.

Mr. BRINKLEY: He's been going through your old columns.

Rep. FOLEY: As a matter of fact, the idea for term limits proceeds from the notion that the Congress is full of professional members that never leave-

Mr. WILL: Where'd they get that idea?

Rep. FOLEY: After this election, in particular, I think you're going to see a very substantial turnover in the Congress and I think-

Mr. WILL: Would you just come to the question, though? Why not bring out term limits and-

Rep. FOLEY: Because I think it's a bad idea. I don't think we ought to propose bad ideas to the Constitution. It limits the democracy of the country by preventing people from making choices.

Mr. WILL: Would it pass if it came to the floor?

Rep. FOLEY: I'm not sure. It might be like this amendment, passed more in defense than for reasons that are sound.

Mr. BRINKLEY: Sam, we have a few seconds.

Mr. DONALDSON: Mr. Speaker, on May 6th, subpoenas came up Capitol Hill for three sitting members of the House, Democrats, and two members of your staff, and you suppressed that knowledge. Why? Why didn't-

Rep. FOLEY: I did not suppress the knowledge. The United States Attorney subpoenaed certain documents of three members and the Sergeant-at-Arms and the Clerk, who are custodians. They're not involved in any way- in any other way.

We were in discussions with the U.S. Attorney about what he actually needed and as soon as that was determined, the subpoenas were laid down and the-

Mr. DONALDSON: Well, the view is that you kept that from public view which you got your ducks in order because Congressman Rostenkowski, a very powerful member of Congress, was one of those whose records were subpoenaed.

Rep. FOLEY: There was no, in any way, violation of any of the rules of the House and there was no effort to keep it from anyone's attention. I explained this fully in the House on the day that the subpoenas were-

Mr. DONALDSON: Well, will you now pledge that any more subpoenas will be immediately divulged?

Rep. FOLEY: We have just created new procedures so that the Republican leader and I and the Democratic leader are all informed at the same time the moment any subpoenas arrive in the House.

Mr. BRINKLEY: Mr. Speaker, thank you.

Rep. FOLEY: Thank you.

Mr. BRINKLEY: Thanks very much for being with us.

Rep. FOLEY: Pleasure to be here.

Mr. BRINKLEY: Pleasure to have you. Come again.

Rep. FOLEY: Thank you.

Mr. BRINKLEY: Coming next, our discussion here, dealing with what else is happening in the world, and joining us will be commentator Tom Wicker- in a moment.

[Commercial break]

Mr. BRINKLEY: An actress on a television program called Murphy Brown had a baby out of wedlock. This is the way the story went. Would that have happened, could that have happened five, six, eight, 10 years ago and if not, why? George, what do you think?

Mr. WILL: Well, it couldn't have happened a decade ago, I think, probably, because popular culture follows values and values have changed in the country and that, in a way, is what the argument's been about this week- some people saying popular culture merely reflects values, that if the values hadn't already moved, television wouldn't have dared to put it on. Others say, the Vice President among them, that it's more complicated than that, mass culture not just reflects but shapes values and that we ought to be very careful about what we put on the air, particularly in a era when we are seeing, at all hands, the evidence of the cost of unwed parenthood.

Mr. DONALDSON: Well, mass culture shapes values, but, George, I must reveal something to you here. Women were having babies out of wedlock and men were fathering them long before television was invented. I must tell you that that practice was not shaped by television and-

Mr. WILL: You're right. As you know perfectly well, the rate has gone up rather a lot recently.

Mr. DONALDSON: Well, the rate of illegitimate children is another thing. [It has] always been with us. But what the Vice President did - and if you read his speech, there's a lot in it that people may agree with, as far as family values - was shoot himself in the foot quite clearly. He never watched the television show, he says, and if this is the way he makes decisions, I think that's scary. He wanted to criticize Murphy Brown for deciding not to have an abortion, but to have the child and I thought the Vice President was on the other side of that issue. I think what he simply did was show that, in trying to enhance his message's prominence, to get it on the front page, he chose a route that, in fact, like the Australian boomerang, came around and knocked him in the head.

Mr. BRINKLEY: Tom, what are your ideas?

TOM WICKER: It seemed to me he wanted Murphy Brown to "just say no" and I think that's not very likely to happen in modern times. As you point out, it didn't happen in past times. But what's really struck me about that episode was that Murphy Brown is a fictional character, this is a fictional episode and yet, you would have thought that the Vice President had attacked Martha Washington. And I think it shows the extent to which television has become a reality in our lives, a reality that's greater, let us say, for most Americans than the reality of life in the ghettos of Los Angeles. What happens on television, that's a true reality. When the Vice President or anybody mentions that sort of thing. I mean, the country either goes up in arms or else it comes to his defense, as the case might be, but-

Mr. DONALDSON: But if you accept George's argument, which I do not, that television shapes our lives, then the shaping from this show must be not to have an abortion.

Mr. WICKER: I don't think that's the case. As George said, the Murphy Brown episode-

Mr. BRINKLEY: When you say "this show," you mean the Murphy Brown show?

Mr. DONALDSON: Yeah, yeah.

Mr. WICKER: Yeah, the Murphy Brown episode wouldn't have happened 10 years ago because that wasn't common in popular culture. On the other hand, I think the fact that it did happen on the Murphy Brown show now tends to - to this extent, I would agree with the Vice President - tends to reinforce that as an acceptable fact of modern life. Again, it's a reality on television, rather than the true reality that it's all about us, that has the importance.

Mr. WILL: Surely, Sam, you are not enjoining, upon public officials or anyone else, indifference about what messages are contained and what is pumped into 100 million American living rooms. Surely, this is something we can talk about without dissolving into the sniggering hysteria that a good bit of the media lavished on Dan Quayle.

Mr. DONALDSON: Well, they need not be indifferent and the Vice President certainly has not only the constitutional right, but, I would urge, the public duty to say whatever he thinks about any television show.

Mr. WICKER: Yeah, and surely-

Mr. DONALDSON: But if he's a smart guy and he wants his message on family values to be read and debated on its merits, then smart guys don't attack Murphy Brown. I mean, I think this is another example. of the Vice President simply going off half-cocked.

Mr. BRINKLEY: Don't we know, Sam, that children growing up without fathers - and there are increasing numbers of them - are far more likely to wind up uneducated, in trouble, in crime, in jail?

Mr. DONALDSON: Absolutely, and the Vice President's message there seemed to be one that, on the surface, we'd all adhere to. It is far preferable to have a two-parent home. It is far preferable not to have illegitimate children. I would agree with that. But the way he would achieve that, of course, is the old Republican bootstrap- "Let them pull themselves up by their bootstraps, if they will."

Mr. BRINKLEY: That's a rather long leap, isn't it, Sam?

Mr. DONALDSON: No. Read his speech, David. That's what people haven't been able to do because we've all be talking about Murphy Brown.

Mr. BRINKLEY: OK. Anything further on this? I think not. Let's raise a question about Ross Perot, who, by one poll, anyway, is leading for President of the United States - ahead of George Bush, ahead of Governor Clinton - and he's almost unknown until, what, two months ago. How did this happen? Is he running a new kind of campaign for President?

Mr. WICKER: That's why he's leading.

Mr. BRINKLEY: Because no one knows anything about him?

Mr. WICKER: The more he's defined in the public mind, the less- the more he'll lose votes from various factions who don't like whatever the definition is that they see. I'm not suggesting that Ross Perot will decline into insignificance here, but the fact that he seems such a powerful figure now is due, to a great extent, to the fact that people can read into him anything they want to read into him.

Mr. BRINKLEY: Well, don't you think he will try to continue working that way, without actually offering any position?

Mr. WICKER: Yes, I'm sure he will, if he's smart, but he won't be able to, as time goes on. For example, at some point, constitutionally, if he runs for President - and I'm not persuaded that he will, finally, but if he does - he's going to have to choose a Vice Presidential candidate. Now, most people would think, "Well, you know, that'll strengthen him," but it won't. Choosing Vice Presidential candidates tends to hurt presidential candidates.

Mr. DONALDSON: Well, his news management is brilliant in the way they're going about it, because no one wants to come to election day, running for the presidency, having all of his positions out there - or her positions, some day

- because then, you anger a lot of people who are on the other side. If Ross Perot had been on this program this morning and we'd asked him the same questions about the balanced budget amendment we asked both supporters and detractors of that amendment, he would have said - judging from his past interviews recently - "Well, what is a sound bite? I don't have time here. Give me a long time and I will. You want me to think through my position." He would have dodged every intricate question of enforcement, of mandating, of three-fifths. Now, if you want to buy that, folks, go ahead.

Mr. WICKER: Well, you raised another interesting question about Perot, which is that TV interviews show that he has a very short fuse and over the long pull of campaigning, that's likely to hurt him, too, because he'll lost his temper in such a way - I mean, he might - that the public would be disaffected.

Mr. DONALDSON: Well, you know, they think they can get a certain- all politicians think they can get a certain mileage out of losing their temper, in the sense, to something like me. "Well, we showed him. I mean-" but if they don't have the answers, what they win, in a superficial sense, of having bested, what, little old me, they lose because they don't come with a solution that people like.

Mr. WILL: Right now, Ross Perot is a national Rorschach [sp?] test. The country sees it and we learn about the country, not about Ross Perot and what they're seeing in him. I don't think that the persona that Perot is showing is going to wear well because I think what the country wants now is a little seemly modesty from the political class. The country says, "Look, we have a lot of problems and none of you has the answer, so quit running around pretending that you do." Ross Perot has one message and it is that all problems are simple; they exist because everyone but Ross Perot lacks courage; "Give me the reins of government for four years and I'll solve them." That is, (A) preposterous. (B), it's vain as the day is long because it means that he's the only honest man in America and I think, over time, people will find that cloying.

Mr. WICKER: Well, yes, and that leads to another-

Mr. BRINKLEY: Well, he has got the lead in the polls. Is that- does that- what we earlier were talking about, television shaping our habits, values-

Mr. DONALDSON: Well, could I just say something about what George-

Mr. BRINKLEY: -he's our television candidate, period.

Mr. DONALDSON: What George just said- I mean, it does require, as you know, a huge ego and a certain vanity to run for the presidency. You don't want, really, Mr. Caspar Milktoast, the guy next door, to run, George.

Mr. WILL: I understand, but I don't think the public, in this of all years, is going to rally 'round a man who says, "All these problems are simple," 'cause the public knows better.

Mr. WICKER: And that leads to another point about his high standing in the polls and that is the deep unpopularity of the other two candidates. Ordinarily, our parties produce at least one candidate that the public is enthusiastic about. This time, the parties are producing - assuming Governor Clinton is the nominee - candidates that the public seems to be deeply- they either mistrust or they don't-

Mr. DONALDSON: Well, do you think it's going to the House of the Representatives?

Mr. WILL: I think it's possible, but unlikely because I think the best way for Ross Perot to maximize his strength is for him to come out and say, "Look, you got Bush, you have Clinton- are you telling me that four years of Ross Perot would be worse than these two guys?"

Mr. DONALDSON: Yes.

Mr. WILL: He can underscore that by saying, "By the way, I'll only stay there four years., Wild horses couldn't drag me back for a second term, so take a risk for four years." The country just might say, at that point, "How wrong can we go?"

Mr. DONALDSON: If you still think he doesn't have to enunciate what he stands for and how he would solve the problems.

Mr. WILL: Well, he'll have to do a little bit of enunciating, but you know, throughout the 19th century, men running for the presidency were almost under a constitutional ethic not to spell out their programs and we might be heading back for that.

Mr. DONALDSON: I mean, don't you think women are going to want a definitive answer - he's sort of slid by it - on the question of freedom of choice? I mean, don't you think the people out there want it?

Mr. WICKER: Well, that's one of the few things he's been pretty explicit about, as a matter of fact.

Mr. WILL: Yeah, he's clear on that.

Mr. WICKER: I still think that American political history would suggest that the importance of Ross Perot by next November is going to be that he may change the outcome-

Mr. BRINKLEY: Make it quick.

Mr. WICKER: -as between Bush and Clinton, not the man himself.

Mr. BRINKLEY: We're almost out of time. Thank you all very much. In fact, we are out of time. We'll be back with a few words about one of television's great moments and great figures- in a moment.

[Commercial break]

Mr. BRINKLEY: Finally, it took 30 years of Johnny Carson doing his show almost every night. It took how many jokes? I don't know- half a million and not all of them about Dan Quayle. And in all those years, he became a part of show business history. Indeed, he became a part of history history because, for several nights a week for 30 years, blanketing 50 states, over time he had an audience larger than anyone ever and he held it for all those years- a formidable record, unlikely to be matched. Johnny Carson and I have been friends for a long time and in his years of great success, I have seen that he kept his head and his good humor through it all. On Thursday night, Bette Midler sang to him an old song from the '40s by Harold Arlen and Johnny Mercer, "One for My Baby and One for the Road." It was an electric moment.

BETTE MIDLER: ["Tonight Show," May 22, 1992] [singing] For all of the years / For the laughs, the tears / For the class that you showed / Make it one for my baby / And one more for the road / That long, long road.

Mr. BRINKLEY: For the occasion, the perfect song, so perfectly sung it had Carson in tears, along with maybe half the American people, including me. Johnny, we'll miss you and I hope we'll see you around. For all of us here at ABC News, until next week, thank you.

4TH STORY of Level 1 printed in FULL format.

The Independent

May 14, 1992, Thursday

SECTION: INTERNATIONAL NEWS PAGE; Page 13

LENGTH: 734 words

HEADLINE: US dusts off its 'last weapon' to balance budget

BYLINE: From RUPERT CORNWELL in Washington

BODY:

THE WISHFUL thinking of advocates of Reaganite supply-side economics has failed. So too has the Gramm-Rudman Act, which imposed strict limits on the runaway budget deficit. Now a Congress basking in unparalleled disrepute is dusting off its last weapon to bring the country's shambolic finances into order - the venerable US constitution itself.

For years now, the notion of a ''balanced budget amendment'' has lurked in the backrooms of Capitol Hill, as executive and legislature have failed to halt a spiralling federal deficit which will reach $ 400bn (pounds 221bn) in fiscal 1993, and which has quadrupled the national debt to $ 4,000bn (pounds 2,210bn) in barely a decade.

Suddenly though, a pipe-dream of the few has become the fashionable rage of an apparent majority. Congressional leaders of both parties now predict that within a month or two, both House and Senate will deliberate and approve a change in the Constitution, obliging the country to balance its books.

Nor are any problems envisaged at the White House. Without such extra discipline, the Budget Director, Richard Darman, said recently, there would be no protection ''for all the Americans yet to be born and all the Americans who are not now of voting age, who are going to pick up the bills if we don't address this''.

By 1995, promoters of the measure are confident, the required amendment will have been ratified by the required three-fourths majority of the 50 states - all but one of which are already bound by law to produce balanced budgets of their own.

That, at any rate, is the theory. In practice a host of issues have not been settled. Not one of the several versions of the proposed amendment spells out the painful details of how such fiscal rectitude would be achieved. Interest groups are meanwhile queuing up to have particular areas of spending exempted.

In fact, according to the most widely backed variant, the amendment would not outlaw a deficit but simply make one harder to pass. An unbalanced budget would require approval by a three- fifths majority of both houses instead of the simple majority at present. No one, however, has seriously examined what would happen if the President and Congress still disagreed: almost certainly a constitutional crisis played out in the Supreme Court.

Today, however, as critics of the scheme have been quick to point out, such considerations are of less concern to congressmen than the overriding need, in an election year, to convince their rebellious and disgusted voters that Washington politics signifies more than the lurid scandal at the House Bank.

The whole idea was a ''cop- out'', according to a withering editorial in the Washington Post this week. ''These sloppy, dangerous proposals are the ultimate expression of the weakness and flight from responsibility they purport to correct.'' Difficult decisions would be further postponed, ''the Constitution should not become the permanent monument of a temporary failure of political will''.

For their part, congressional opponents of the amendment dwell on what it would mean in practice. Conservative Republicans raise the spectre of large tax increases. Democrats have the opposite fear, that huge cuts would be made in welfare programmes accounting for half of the pounds 1,500bn of federal spending each year, most notably social security and health care. Thus far, however, all objections have been in vain. The '' balanced budget amendment' ' is a nostrum whose hour has come.

As expected, President George Bush and Governor Bill Clinton, his all-but-certain Democratic challenger this autumn, scored easy victories in Tuesday's primaries in Nebraska and West Virginia. Mr Clinton, who has begun consultations to choose a vice- presidential running mate, now has almost 1,800 of the 2,144 pledged delegates needed to be selected as the candidate.

Both, though, are increasingly threatened by the candidate-in- waiting, H Ross Perot. A new survey shows the Texas billionaire carrying California in a three-way contest. According to the California Poll, Mr Perot is backed by 37 per cent of Californian voters, ahead of Mr Bush with 31 per cent and Mr Clinton with only 25 per cent. The Arkansas Governor, however, is credited with a narrow lead over the former California governor, Jerry Brown, in the state's Democratic primary, which is due on 2 June.

THE WHITE HOUSE
WASHINGTON

DATE: 6-8

TO: Joe Dugan in

FROM: **HANNS KUTTNER**
Associate Director for Health and Social Services Policy
Office of Policy Development
Room 219, OEOB, x6563

As we discussed — a summary of Wilson's plan.

State of California
HEALTH AND WELFARE AGENCY
1600 NINTH STREET, ROOM 460
SACRAMENTO 95814

PETE WILSON
GOVERNOR

TELEPHONE
(916) 654-3454
FAX
(916) 654-3343

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May 19, 1992

Jo Anne Barnhart, Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

Dear Ms. Barnhart:

Attached is California's Welfare Reform package demonstration project proposal pursuant to Section 1315 of Title 42 of the United States Code which has been the topic of discussion during our meetings this past winter. Due to our anticipation that State legislation will be enacted shortly in support of the provisions, we request that the package be reviewed and any identified issues be resolved as soon as possible. In the meantime, we will continue to work with members of your staff on details of the evaluation design.

This proposal is a historic attempt to alter the policy underpinnings of California's welfare program. Proposal components are aimed at providing work incentives, promoting individual responsibility, supporting/reinforcing the policy of family preservation, and addressing disturbing trends related to teen pregnancy and school dropouts. We believe all of these problems significantly contribute to the growing phenomenon of government dependency. If successful, the proposal will help hundreds of thousands of Californians to reduce or eliminate their dependence on governmental support. California's welfare population is growing at an alarming rate with increases of more than ten percent per year. Less than eight percent of AFDC recipients have earned income. The current AFDC program has very few built-in incentives to work and, in most cases, works as a disincentive for able-bodied recipients to find and maintain employment. The result is that welfare recipients are relegated to a life style dependent on government support, without opportunity to realize their true potential and become productive contributing members of our society. The proposed changes will enhance and motivate these people to become self-supporting and to break the cycle of dependency. This will result in tremendous personal benefit to these individuals and their families and also address several very perplexing State/national economic societal problems.

We estimate that the proposal will immediately save $1.2 billion annually ($579 million Federal, $580 million State, and $26 million County with administrative costs taken into account) in welfare costs in California. Given the current fiscal condition of the State and Federal governments, it is imperative that these reforms be implemented as soon as possible. Currently, basic services are being sacrificed in order to sustain over 2 million people on AFDC. In making welfare recipients more responsible and productive members of society, funds currently used to support them on welfare can be diverted to other essential services and benefits which will ultimately improve the quality of life for Californians as a whole.

The proposal makes several major changes in California's AFDC program. These and other changes are discussed below.

WORK INCENTIVE

The proposal increases the work incentive in California's AFDC program in three ways.

First, by reducing the Maximum Aid Payments (MAP) by 10 percent for recipients in their first six months and by an additional 15 percent after six months, the proposal will reduce the financial incentive to choose welfare over work. In his "Work and the U.S. Welfare System: A Review," May 1987 (DHHS contract No. HHS-OS-100-86-0021), Robert Moffitt states that "in the economic model, the offer of a payment to nonworkers decreases the need to work to generate consumption (the 'income effect')." He goes on to state that the fact that "1986 monthly AFDC maximum levels are in excess of monthly earnings from full-time minimum wage" earnings in eight states (including California) strongly suggests that such work disincentives are present. Currently in California, households of four or more with one full-time minimum wage worker would receive more in an AFDC grant than they would earn from employment. If the total economic benefits (i.e., the wage plus the Earned Income Tax Credit, less work expenses, including child care, less taxes, especially FICA) of work are compared to the total welfare benefits (i.e., AFDC, Food Stamps, and Medicaid), many households of two and three are also better off on welfare than with employment. This work disincentive has existed throughout the 1980's and undoubtedly accounts for much of the rapid increase in California's AFDC caseloads as evidenced by the fact that less than eight percent of AFDC recipients have earned income. We therefore believe that the proposed reduction in the MAP, for which we are requesting a waiver of Title 42 of the United States Code, Section 1396a(c), is an essential component of our welfare reform proposal.

Second, by leaving the Minimum Basic Standard of Adequate Care (MBSAC) at the 1990 levels, the proposal will allow recipients to retain net non-exempt income from all sources, including work, in an amount equal to the difference between the MBSAC and the MAP. This equates to 14 percent of the MBSAC for recipients in their first six months and 27 percent after six months. It is noteworthy that the heads of most AFDC households would only have to work a few hours per week in order to generate enough net non-exempt income to take full advantage of these work incentives. This type of work incentive is also key to our proposal because, by encouraging recipients to work, even while they remain on welfare, it will (1) raise their self-esteem, since they will be contributing to their own support, (2) increase acceptance of the AFDC program by the general population, since much of the current objection to the program surrounds the perception that it supports able-bodied adults without asking anything of them in return, and (3) allow recipients, through exposure to the labor market and through actual work experience, to increase their "human capital formation", and thereby increase their future potential earnings. As you know, these are all themes at the cutting edge of recent works on welfare reform by such divergent thinkers as David Ellwood (Poor Support), Lawrence Mead (Beyond Entitlement), and Stuart Butler and Anna Kondratas (Out of the Poverty Trap).

Third, by eliminating the time limits on the $30 and 1/3 earned income disregard, the proposal will allow for a smoother transition to total independence from welfare for families as their incomes from employment increase. Without the extension of this disregard, AFDC families have only minimal financial incentives to increase their earned income over a broad band of potential incomes. The disregard gives them a financial incentive to work more hours and to seek higher wage jobs by allowing them to retain one third of any increase in their earnings (at least up to the point where the 185 percent gross income limit causes them to leave aid altogether).

In addition to increasing financial incentives to work, the proposal would also eliminate a major barrier to employment, the 100-hour work rule, for which we are also requesting a waiver. This rule is inconsistent with the basic thrust of our welfare reform proposal. For larger AFDC households, the 100-hour work limit could actually prevent the household from earning enough income to take full advantage of the work incentive that would result from the proposed gap between the MBSAC and the MAP.

Our proposal recognizes that some recipients are not able to work due to the incapacity or age of the head of household. Thus, these recipients would be exempted from the 15 percent MAP reduction that would otherwise occur after six months on aid.

MEDICAL CARE

We also recognize the key role that the availability of Medicaid services without a share of cost plays for many low-income households, especially those newly terminated or about to be terminated from AFDC due to increases in earnings. For some, the prospect of losing eligibility to Medi-Cal could overwhelm any other financial incentives provided by our welfare reform proposal. We are therefore seeking the Secretary's concurrence and approval that, if California retains the current Medicaid maintenance need levels, the lower spenddown (a result of the higher maintenance need levels) is an appropriate cost of the demonstration project, and Federal financial participation would be made available under Title 42, United States Code, Section 1315a(2).

To further alleviate concerns about potential loss of medical benefits and also to provide additional incentives for California's low-income families to free themselves from the "welfare trap," California will implement CheckUp, a new State-supported health insurance program which will provide low-income pre-schoolers up to the age of six with access to prevention and primary care services.

The CheckUp program is designed to provide subsidized private health insurance to an ever-increasing segment of the population -- uninsured low-income children, many of whom are the dependents of working parents. More than 300,000 uninsured children under age six will be eligible for this coverage in California. Implementation of CheckUp will begin in FY 1992/93.

A second, longer-term goal of CheckUp will be to integrate children currently served by Medi-Cal into the streamlined private insurance system established by CheckUp to offer prevention and primary care services to all of California's pre-schoolers. This long-term integration will ultimately reach more than one million additional children under age six.

The longer term integration of Medi-Cal and CheckUp will begin as Federal waivers are obtained and as provider capacity and financial resources allow. In the short-term, the State will use residual funds (CheckUp program funds not used to subsidize participation for the uninsured) to enhance Medi-Cal prevention and primary care services for pre-schoolers.

In addition to the obvious health benefits of such a program, we also expect it to relieve the pressure that some working families feel to reduce their incomes in order to qualify for Medicaid.

EMPLOYMENT SERVICES

We recognize that financial incentives to work may not be enough for some recipients, especially those who lack job search skills and those who are simply having trouble finding work on their own. To address this, we are also proposing a new JOBS component to provide voluntary up-front job club workshops to recipients in their first six months on aid who are not being served by GAIN. As you know, job club workshops have been proven to be cost-effective in the past and we believe that they will prove extremely beneficial when combined with significant financial incentives to work. We believe that the proposed job clubs will be more beneficial on a solely volunteer basis. The individuals subject to the grant reductions under this proposal will be highly motivated to increase earned income through work and will volunteer. It is under this basic concept that we are requesting waiver of the good cause, conciliation and sanction sections of the Federal laws and regulations for these job club workshops. We intend that these workshops be a strong, positive support of our work incentives. We also believe that our current GAIN (JOBS) program can be better tailored to serve clients in the new more work-oriented AFDC environment that will result from our proposal. Thus, we are currently exploring several options for redesigning GAIN to make it more work-oriented.

CALIFORNIA RELOCATION GRANT

The proposal reduces the incentive for families to migrate to California for the purpose of obtaining higher aid payments. This would be accomplished by limiting (for a 12-month period) the grant level for families moving to California to the lesser of California's grant level or the MAP of the State of previous residence.

MAXIMUM FAMILY GRANT

The proposal encourages family responsibility by capping the MAP to exclude any children conceived while the mother or father was receiving aid. It is important to note that such children would be counted in determining the appropriate MBSAC for the family and would be covered by Medicaid.

TRANSITIONAL GRANT

As indicated above, the proposal would reduce a family's MAP after six months on aid by 15 percent. We believe that it is important to provide six months of financial assistance at the higher transitional level in order to allow able-bodied adult recipients to overcome temporary economic and family setbacks.

This 15 percent reduction will not be imposed on families in which the adult caretaker is disabled and receiving SSI/SSP or over 60 years of age nor will it apply to a minor parent living independently and regularly attending school.

CAL LEARN

Cal Learn will encourage pregnant and parenting teens to stay in school by providing a $50 per month incentive payment or a $50 per month grant reduction based on school attendance. In addition, Cal Learn participants living independently will not be subject to the 15 percent transitional grant reduction referenced above if they are regularly attending school. We believe that, in the long run, keeping these children in school will increase their parenting skills, enhance their earning potential and reduce their chances of long-term welfare dependency. To further assist the teen parent, child care services, necessary transportation to and from the child care provider, ancillary expenses and case management will be provided to Cal Learn participants under the JOBS Program, but outside of the GAIN program.

TEEN PREGNANCY DISINCENTIVE

The proposal also includes a provision which restricts the conditions under which minors who have children can receive AFDC. The additional condition of eligibility is that such minors can be eligible for AFDC only if they remain at home with their parent(s) or legal guardian. Current requirements provide that the income of the parent(s) would also be considered in determining the minor's eligibility. The provision also requires that the AFDC payment be made directly to the parent or guardian on behalf of the minor. The provision also recognizes certain specified exceptions to the requirement that the minor live with his/her parent. These exceptions were developed to ensure that the minor is not forced to live in an unsafe or inappropriate environment. We believe that this welfare reform component will discourage teen pregnancy and encourage families to stay intact.

Though not a part of this demonstration project, the Wilson Administration currently has the following three major family planning initiatives under development which will also help address the teen pregnancy problem. "Education Now and Babies Later" is a multifaceted preventive health information and education initiative that targets teens between the ages of 12-14 to help them postpone sexual activity. "Expanded Office of Family Planning (OFP) Teen Counseling Services" targets AFDC, GAIN, Foster Care and other teens at risk of pregnancy due to ineffective use of contraceptives or lack of access/knowledge of OFP Services. "Expanded Adolescent Family Life Program" (AFLP) expands AFLP case management services in counties with the highest teen birth rates.

CHILD SUPPORT

State legislation signed by the Governor in 1991 will increase most child support awards due to a revised statewide mandatory formula; prohibit State licensure of professionals (e.g., realtors, contractors) who refuse to come into compliance with court-ordered support obligations; require labor unions and public utility companies to provide information to child support agencies; and mandate maintenance of Social Security Numbers as part of the Department of Motor Vehicles' driver's license and vehicle registration data bases. A major statewide automation project, now in the procurement process, will significantly increase the effectiveness of locate, enforcement and collection actions on behalf of single parent families, thus decreasing their need for public assistance. These activities will complement the overall welfare reform effort by increasing child support collections on behalf of AFDC recipients and former recipients, as well as other single parents needing assistance enforcing support orders.

We have attached amended sections of the IV-A State Plan to implement portions of the welfare reform proposal. In addition, we will propose State legislation to modify California's GAIN program and to make it more employment oriented and remove program barriers to employment in an effort to help welfare recipients move more quickly to paying jobs.

We are convinced that our comprehensive statewide proposal will significantly reduce welfare dependency in California. Yet many of its features, the extension of $30 and 1/3 and the Cal Learn component, for example, involve significant investments which will further Governor Wilson's commitment to preventive government. In combination with other initiatives that we are proposing in the Health and Welfare area, we believe that our welfare reform proposal will not only result in savings to the taxpayer but in reductions in poverty and improvements in the quality of life for California's less fortunate families.

All cost/savings estimates are subject to revision as part of our April Subvention revision of the Governor's Budget; revised numbers will be provided to you as soon as the Subvention process is completed.

To facilitate expeditious review of the proposal, we have separately addressed each proposal component. If you have any concerns about any of the concepts, we would like to discuss them with you as soon as possible in order to assure a rapid approval date. Questions should be directed to me at (916) 654-3345, or John Healy, Interim Director of the Department of Social Services, at (916) 657-2598. Questions concerning Medicaid should be directed to John Rodriguez, Chief Deputy Director of Programs, Department of Health Services at (916) 654-0391.

Sincerely,

RUSSELL S. GOULD
Secretary

Attachments

cc: Ms. Christine Nye, Director
Medicaid Bureau
Health Care Financing Administration
East High Rise Building, Room 200
6325 Security Blvd.
Baltimore, MD 21207

Ms. Mary Kennison, Director
Office of Demonstrations
and Evaluations
Health Care Financing Administration
2430 Park Meadows Building
6325 Security Blvd
Baltimore, MD 21207

Mr. Lawrence L. McDonough
Associate Regional Administrator
Division of Medicaid
Health Care Financing Administration
75 Hawthorne Street, Fourth Floor
San Francisco, CA 94105

Sharon Fujii
Regional Administrator
Administration for Children and Families
50 United Nations Plaza, Room 450
San Francisco, CA 94102

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☒ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

2. DATE SUBMITTED — Applicant Identifier

3. DATE RECEIVED BY STATE — State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY: N/A — Federal Identifier

5. APPLICANT INFORMATION

Legal Name: State of California

Organizational Unit: Department of Social Services

Address (give city, county, state, and zip code):
744 P Street
Sacramento, CA 95814

Name and telephone number of the person to be contacted on matters involving this application (give area code):
Kathy B. Lewis, Chief
AFDC Program Branch
(916) 657-2128

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) ______

8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es). ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):
N/A

9. NAME OF FEDERAL AGENCY:
Department of Health and Human Services
Administration for Children and Families

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 13-812

TITLE: Assistance Payments
Research & Demonstration Project

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
California Welfare Reform
Demonstration Project

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):
Statewide

13. PROPOSED PROJECT: Start Date — Ending Date

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant: 3, 4
b. Project: Statewide

15. ESTIMATED FUNDING:

a. Federal	$ 7,500,000	.00
b. Applicant	$	.00
c. State	$ 7,500,000	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$ 15,000,000	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE ______
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative: John D. Healy
b. Title: Interim Director
c. Telephone number: (916) 657-2598
d. Signature of Authorized Representative: John D. Healy
e. Date Signed

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Standard Form 424 (REV 4-88)
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OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED

Applicant Identifier

3. DATE RECEIVED BY STATE

State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY N/A

Federal Identifier

1. TYPE OF SUBMISSION:

Application
- ☐ Construction
- ☒ Non-Construction

Preapplication
- ☐ Construction
- ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: State of California

Organizational Unit: Department of Health Services

Address (give city, county, state, and zip code):
714 P Street
Sacramento, CA 95814

Name and telephone number of the person to be contacted on matters involving this application (give area code):
John Rodriguez
(916) 654-0391

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) ______________

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es). ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:
Department of Health and Human Services
Health Care Financing Administration

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐–☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
California Welfare Reform Demonstration Project – Medicaid Elements

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF

a. Applicant: 3, 4

b. Project: Statewide

15. ESTIMATED FUNDING:

a. Federal	$ (See accompanying	.00
b. Applicant	$ SF 424 submitted	.00
c. State	$ by Calif. Dept. of	.00
d. Local	$ Social Services.)	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

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a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE ______________

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative: John Rodriguez

b. Title: Deputy Director of Programs

c. Telephone number: (916) 654-0391

d. Signature of Authorized Representative: John Rodriguez

e. Date Signed: 4/7/92

Previous Editions Not Usable

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Authorized for Local Reproduction

Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
John D Healy	Interim Director
APPLICANT ORGANIZATION	DATE SUBMITTED
Department of Social Services	

SF 424B (4-88) Back

Attachment - U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
GRANTEES OTHER THAN INDIVIDUALS

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the U.S. Department of Health and Human Services determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of the grant, or governmentwide suspension or debarment.

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the grantee's policy of maintaining a drug-free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) make it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) abide by the terms of the statement; and

(2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted;

(1) taking appropriate personnel action against such an employee, up to and including termination; or

(2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), and (f).

B. The grantee shall insert in the space provided below, the site(s) for the performance of work done in connection with the specific grant (Street address, city, county, state, zip code):

Statewide
____

____

____

Joe Dugan -

More information from Hanns Kuttner. The second piece is a draft of what will eventually be a background paper on welfare.

-Stephanie Fossan

<u>Welfare Reform</u>

- Important because the number of people on welfare is growing and is now at the highest number ever.

- The recent history of welfare reform has focused on welfare-to-work initiatives.

  - Implementing the JOBS [Job Opportunities and Basic Skills] program has been an important activity of this Administration.

  - JOBS means that [250,000] welfare recipients are today engaged in some kind of activity to get them into or ready for the workforce, participating in "job clubs" to provide mutual support for job seekers, in a literacy program, etc.

- Now we are making a significant turn in welfare reform.

  - Welfare-to-work effort is a descendant of the income hypothesis: what makes people poor is that they don't have enough money. Therefore, job training or job search will increase incomes.

  - Now we are confronting a new agenda: an agenda that focuses on values. Our society is saying it wants people on welfare to share the values of mainstream society: work, family, and striving for success in many ways.

- And, consistent with our American way of doing things, this new agenda is moving forward because of actions at the state level, not in Washington.

  - Wisconsin: Two years, "Learnfare." This year: Parental and Family Responsibility [White House event in March.]

  - This week: Maryland's waiver approved [we hope.] Focus: Provide incentives to welfare parents to see that their children get health care and make sure their children attend school.

  - And also Governor Wilson's proposal.

- We are in a new stage of welfare reform, designed in the states and being carried out by the states. The federal role is largely one of getting out of the way, although there is a leadership role as well -- point to the place on the horizon where we should be headed.

- Where to go:

  - independence, not dependence - therefore target those on/likely to be for a long time.

  - responsibility while on welfare -- enforcing social obligations.

incl. child support by fathers

June 8

The three largest means-tested federal programs are Medicaid, Food Stamps, and Aid to Families with Dependent Children (AFDC). Those who receive assistance from these programs are the focus of the welfare reform effort. Each is growing rapidly.

Bev 248-[illegible]
Godwin

	Participants	Estimated Federal Cost (FY 1993) (in millions)	Combined Federal/State
AFDC	13,649,000	$14,652	
Food Stamps	25,042,000	$28,000	$28,000
Medicaid	25,255,067	$84,401	$140,896

AFDC and Food Stamps participants as of 1992; Medicaid as of 1990

John Klemm
FTS
646-7914
(301) 966-7914

AFDC provides cash assistance to children and adults who are in need; Food Stamps provides vouchers that can be used to purchase food; Medicaid pays for medical assistance. The programs have significant overlap. All AFDC recipients are eligible for Medicaid; 85.2 percent of AFDC families receive Food Stamps. Beyond this inner core of welfare programs exists more than a hundred other federal programs targeted to the poor. Among AFDC recipients, 9.6 percent live in public housing. All AFDC children are eligible to participate in Head Start before they start school. Once in school, the federal school lunch program provides free or subsidized school lunches. During the summer, older poor children are eligible for the summer youth employment program.

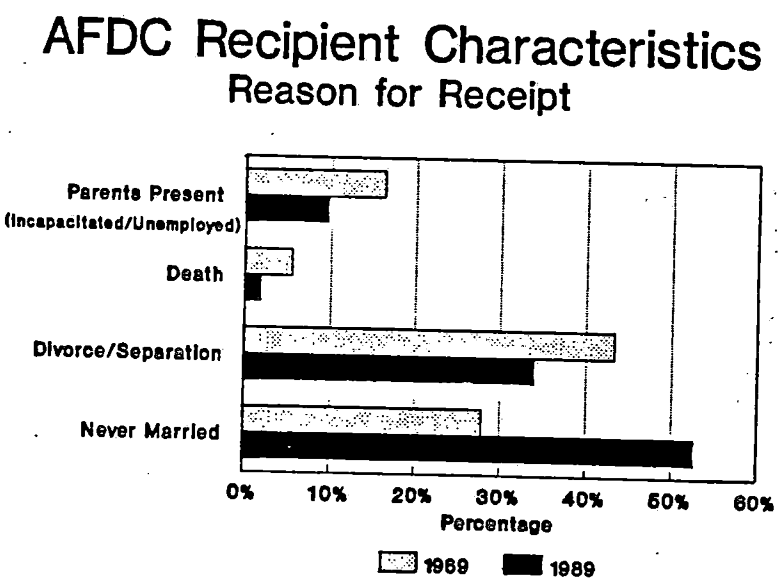
Who gets welfare?

AFDC gives cash assistance to families and children with income and assets below specified levels when a parent, usually the father, is absent or incapacitated. Each state sets the income level at which people begin to receive AFDC benefits as well as the overall level of benefits.

Table on '~~89~~ '93 increases???

never not death of a parent

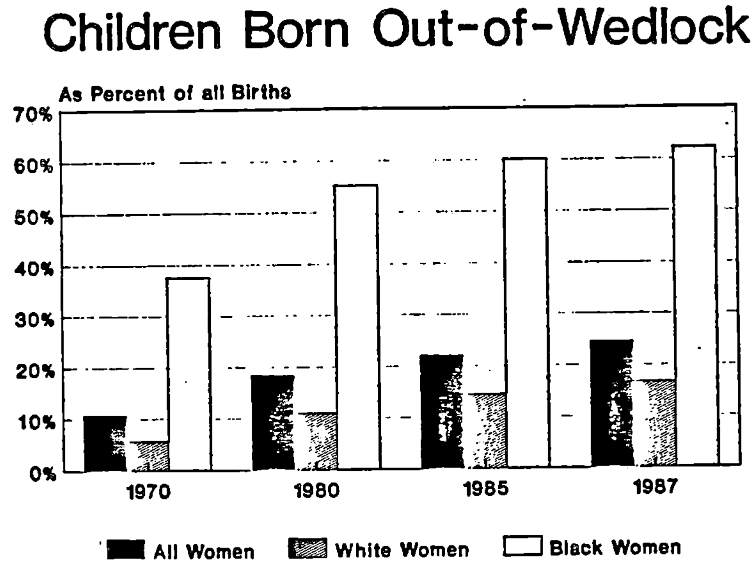
The absence of two parents because of divorce, separation, or never marrying together provide the basis of eligibility for more than 85 percent of families that receive AFDC.



The proportion due to out-of-wedlock births has almost doubled since 1969.

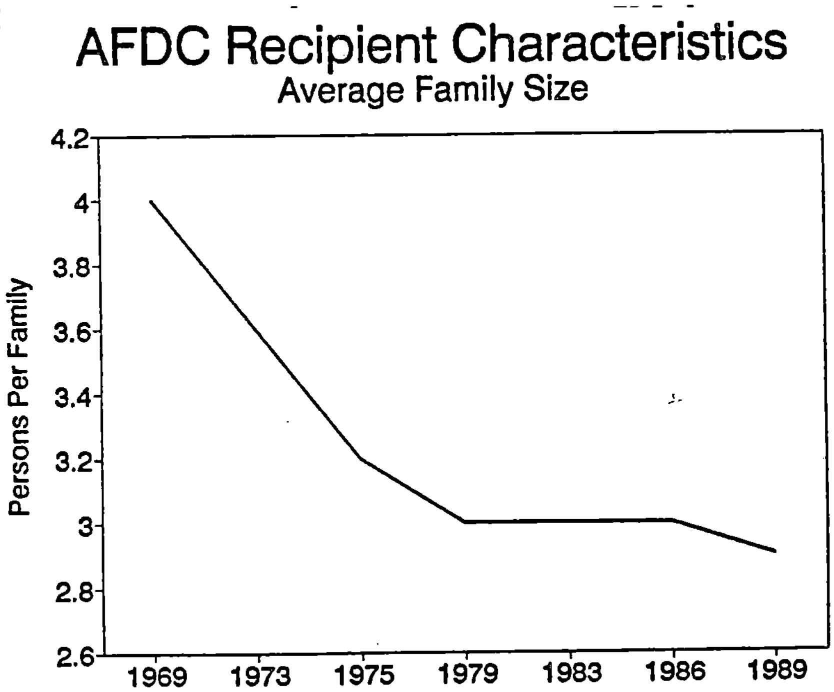
The rising share of AFDC households headed by never-married parents follows the demographic trend toward a higher proportion of children being born outside of marriage.

[CHART: Trends in percent born out of wedlock.]



Growth in the proportion of never-married AFDC parents compared to divorced or separated parents has produced a decline in the average size of an AFDC household.

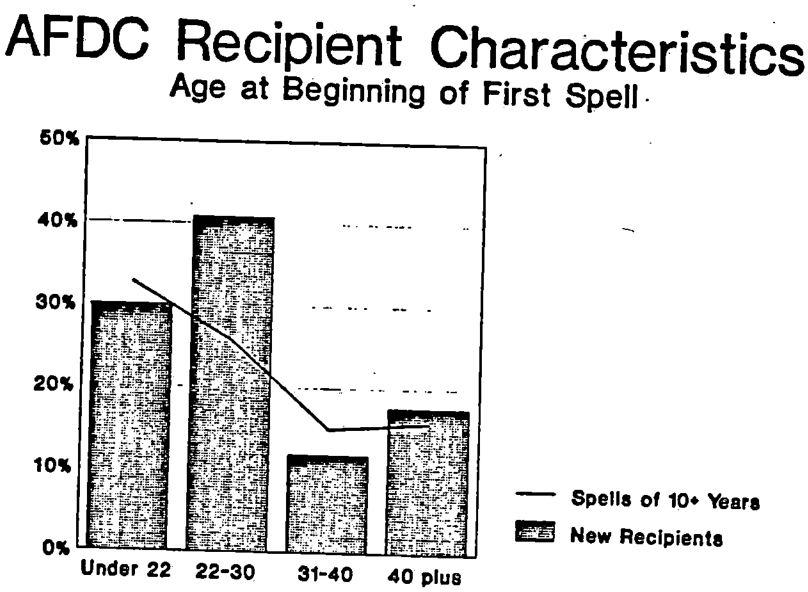
[(s.



Teen mothers are more likely to have their babies out-of-wedlock than older mothers. This contributes heavily to welfare receipt. Among AFDC recipients in 1988, 59 percent were 19 or younger when they gave birth to their first child. Among non-poor mothers, 25 percent were 19 or younger.

The age at which a parent begins to receive AFDC is significant in predicting how long he or she will receive AFDC. Younger first-time recipients are more likely to become long-term recipients.

[CHART: Age



Work

The most important variable that determines whether a child is poor or on welfare is whether or not the child's parent's work.

Only 8.5 percent of AFDC households reported any earnings in 1989. Recent expansions in the Earned Income Tax Credit (EITC) have increased the returns to work. This year a single mother with a child who works full time, even at the minimum wage, will, with the EITC payment, have an income above the poverty level. Such a minimum wage earning parent can expect an EITC payment of $1,311. Those who qualify for the maximum EITC will receive $2,189 this year.

Education

Education is an important factor in determining what a single mother can earn and whether she is likely to need to turn to welfare.

Among female heads of AFDC households, 57 percent have completed high school or obtained a General Equivalency Diploma (GED.) Among non-poor women with children, 88 percent have completed high school.

CHART

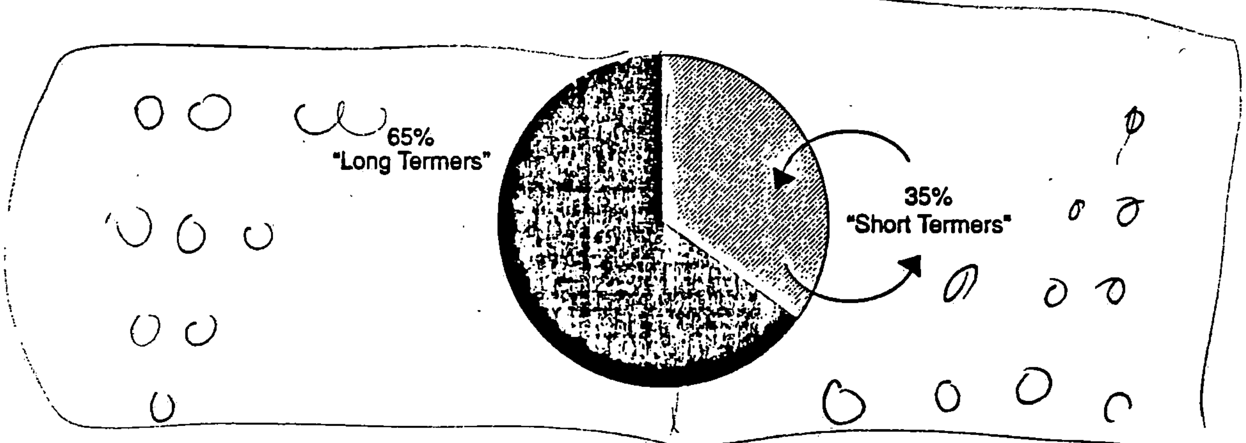
Short-term Receipt v. Long-term Dependency

For some, welfare programs provide temporary assistance. For others, receiving welfare continues so long that it can be termed a way of life. Welfare reform is unlikely to affect the changes in life circumstances that lead to relatively short stays on welfare, for example, women who find themselves suddenly abandoned by their husbands. But, welfare reform can change the circumstances and incentives faced by those who make up the greatest share of the welfare rolls at any one time, those who are the long-term dependent, likely to be receiving welfare for eight years or more.

Two views provide very different pictures of dependency. Of a group of mothers <u>beginning</u> to receive AFDC, those for whom welfare will be a short-term experience make up the largest share. About one-half can be expected to leave AFDC within two years. However, a snapshot view of all those receiving AFDC at one moment in time provides a very different picture of the recipients. More than half are in the midst of a period of receiving welfare that will last eight years or more.

[CHAI ecipients]

LENGTH OF TIME ON WELFARE



At any point, 65% of recipients have been on welfare for 8 or more years

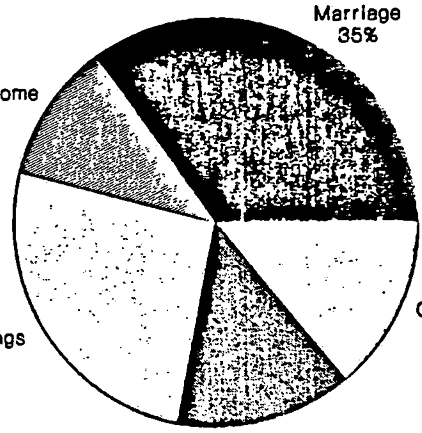
[put food stamps chart here or in later Food Stamp-specific part?]

<u>Getting off welfare</u>

While the AFDC rolls are dominated by long-term recipients, nearly half of those coming on the welfare rolls will be off in two years. Reasons for leaving are lead by marriage and increased earnings.

AFDC Recipient Characteristics
Events Associated with Endings of Spells

[CHART:



Other factors that distinguishes short-term from long-term recipients (when long-term recipients are defined as those recipients who have received welfare benefits for three out of the last five years) are:

- <u>Number of children</u>. The more children, the less likely a family will get off the rolls. Three in ten long-term recipients have three or more children, compared to two in ten short-term recipients, and one in ten non-poor mothers.
- <u>Teen motherhood</u>. 43 percent of long-term recipients were 17 or younger at the birth of their first child, compared to 25 percent of shorter term recipients.
- <u>Work experience</u>. Those who have some work history leave welfare faster than those who never worked before. — what are the numbers on this?

Food Stamps/Medicaid (different demographics)

Alex White
Rena Lee

1 readable / advocacy
2 June 21 – family value week
3 will have a spea announcing
4 paper / popular approach

A STRATEGY FOR WELFARE REFORM

A STRATEGY FOR WELFARE REFORM

Americans are the most generous people on earth. But we have to go back to the insight of Franklin Roosevelt who, when he spoke of what became the welfare program, warned that it must not become 'a narcotic' and a 'subtle destroyer of the human spirit.'

Welfare was never meant to be a lifestyle; it was never meant to be a habit; it was never supposed to be passed from generation to generation like a legacy. It's time to replace the assumptions of the welfare state and help reform the welfare system.

President George Bush

State of the Union address

January 28, 1992

Introduction

Welfare benefits and income assistance can help those in need. For the elderly and disabled individuals, welfare programs provide needed financial assistance. However, for too long, such assistance has entangled able-bodied welfare recipients in a safety net. For the able-bodied, these streams of assistance must change from operating as part of a welfare state to being ladders to an opportunity society. Their objective must be to assist recipients to move into the economic mainstream, to achieve greater self-reliance, and to become a part of their community. All Americans should have the opportunity for productive and meaningful lives, and the talents and abilities of all individuals are needed to meet the challenges of the next century. To achieve that end, the President pledged to improve the welfare system in his 1992 *State of the Union* address.

This paper presents the Administration's strategy and plans for welfare reform. It begins with a statement of principles for goals of welfare policy, describes the current welfare system, and presents the Administration's achievements to date. Finally, the paper provides a set of policy options for the future to carry forward the President's commitment to comprehensive reform.

Principles for Welfare Reform

The Administration believes that an effective welfare system should create conditions of greater economic opportunity and personal responsibility for able-bodied welfare recipients -- to enable them to leave the welfare system at the earliest possible time, and thereby participate fully in their community. Achieving this goal obviously would not end the need for public assistance programs, but rather would mean that all those who find themselves on the welfare rolls would have opportunities to become self-sufficient.

An effective welfare system consistent with this goal would operate as a ladder as well as a safety net. It would help able-bodied welfare recipients receive education and training to find jobs, and hence achieve the dignity and self-respect that flow from economic self-sufficiency.

Consistent with these objectives, the Administration's welfare policy is intended to promote:

- Personal responsibility and independence -- to end welfare dependency, to create opportunities for all low-income Americans to become productive members of society;

- Family responsibility -- to educate individuals to understand the responsibilities of the childbearing decision, to encourage the rearing of children within the structure of the family, to encourage marriage and encourage families to stay together, and to promote school attendance among children in welfare families.

- Economic opportunity -- to encourage welfare recipients to enroll in job training programs, to help people start their own enterprises, to give individuals greater incentives to save money, and to create new jobs in areas where welfare recipients are concentrated; and

- Sound administration -- to make every effort to administer programs efficiently, to prevent fraud, and to deter those who would abuse these programs and undercut taxpayers' support for these public assistance services.

In order to achieve these goals, the Administration looks first to states' proposals to develop innovative welfare programs. Many such programs exist or are under discussion. Comprehensive programs for teenage parents encourage these individuals to attend school, live with their parents, and avoid bearing children outside marriage. Plans that strengthen work requirements help recipients move from the welfare system to the workplace. Policies that promote parental responsibility require that parents exercise their parental role to promote the well-being of their children in exchange for receiving benefits. The Administration seeks to encourage states to develop programs reflecting these principles.

The Current Welfare System

Individual states currently operate welfare programs under guidelines from Federal agencies. The Department of Health and Human Services (HHS) administers Aid to Families with Dependent Children (AFDC), the child support enforcement program, Supplemental Security Income (SSI) program, and Medicaid; the Department of Agriculture manages Food Stamps and other food assistance programs; and the Department of Housing and Urban Development (HUD) oversees housing programs.

Current law allows states substantial flexibility in the design of the AFDC and Medicaid components of their welfare programs. Hence, innovations in welfare have concentrated on changes in these programs.

The Administration's Welfare Reform Strategy: Achievements

Since 1989, the Administration has undertaken a number of initiatives that seek to reform the current welfare system. Consistent with the objectives identified earlier, these efforts have provided education and job training for able-bodied recipients as well as requiring work as a condition for receiving benefits. In addition to improving the welfare programs themselves, these initiatives have also improved other programs that serve our poorest citizens.

Implementation of the Family Support Act

A major Administration project in changing the operation of the AFDC program has been implementation of the Family Support Act of 1988 (FSA). The FSA began to change the focus of AFDC from income maintenance to education, employment, and child support enforcement. It provides states with broad flexibility to design basic education and work-to-welfare programs that meet the needs of individual families. In response to the legislation, states have begun to design programs to link the payment of welfare benefits to education, employment, and changes in behavior. Child support enforcement is also being strengthened through a variety of changes.

Expansion of the Earned Income Tax Credit (EITC)

A large expansion of the Earned Income Tax Credit (EITC), included in a comprehensive advanced as a child care initiative proposed by the President, was signed into law in 1990. It increases the incentives to work for low-income family heads, including those who leave welfare for a job. Because the credit is refundable, individuals who pay no income tax still qualify for the benefit. The EITC provides a work incentive by insuring that low-income workers with children receive payments from the Federal government, even if they do not owe any tax on their earnings.

The 1990 changes in the EITC have two primary effects. The changes substantially increasing the size of the maximum benefit, providing a greater return to work for low-income families with children. More importantly, the changes further lowered the tax rate on the first dollars in income, thus making it easier for individuals to leave welfare and join the labor force.

Job Training 2000

The Job Training 2000 proposals, announced in 1991, would provide a new, market-driven system for job-training programs that serve welfare recipients. The

President's Job Training 2000 initiative, currently proposed in the Fiscal Year 1993 Budget, seeks to reform vocational training. It restructures the current Federal job training and vocational education system, which has more than 60 programs, operating at a cost of about $18 billion per year. The Job Training 2000 proposal will bring greater coordination and efficiency to these programs and will also foster more private sector involvement in meeting the needs of a community.

To facilitate the transition from welfare to work, Job Training 2000 also calls for demonstration projects linking the private sector with welfare-to-work programs. These projects will allow states to use private and non-profit firms to provide basic training and job placement for welfare recipients. These firms would function in a similar manner to an employment agency, but would not receive payment for services until the worker held a job for a specified period of time.

Other current welfare-related initiatives

The Administration's FY 1993 budget submission to the Congress proposed to:

- Permit States to raise the AFDC assets limit from $1,000 to $10,000 for families, thereby removing disincentives to savings for those already on the welfare rolls;

- Allow AFDC recipients to participate in a Plan for Achieving Self-Support (PASS). At the State's option, income and resources related to achievement of a recipient's approved plan to move from dependency to self-employment could be excluded when calculating AFDC eligibility and the amount of AFDC benefits.

- Establish, through a demonstration, "escrow" savings accounts for long-term AFDC recipients working their way off the welfare rolls. Such a demonstration would test the effects of setting aside the amount by which a long-term AFDC family's benefits are reduced once the family head takes a job, then paying it in a lump-sum to the family if they succeed in working their way off the rolls.

The budget also contains proposals indirectly affecting the current AFDC program. Those proposals would:

- Create enterprise zones in our most troubled communities, looking to the degree of welfare dependence as one indicator of which communities merit such zones;

- Widen opportunities for public housing tenants to change the management of troubled projects;

- Eradicate unsafe and unhealthy conditions for public housing residents.

Not directly affecting the welfare system, but affecting the integrity of benefits and the administration of benefit programs are proposals for:

- Continued implementation and testing of multiprogram Electronic Benefits Transfer (EBT) pilot projects to demonstrate the application of technology to the electronic delivery of Federal benefits to eligible recipients, reduce the incidence of welfare fraud, and decrease long range administrative costs.

don't oversell it - it's Moynihan's bill and it ~~hasn't~~ has not accomplished much and cannot accomplish much

Laboratories of Democracy: The States

While the Family Support Act has already proven very beneficial, state interest in further experimentation continues. States are showing a new interest in furthering a basic principle of the Family Support Act by requiring responsible behavior as a condition for receiving benefits. The reforms, which are at various stages of development in the States, include:

- Paying AFDC benefits for a specified time period at the level of the state in which the recipient previously lived, to reduce incentives to migrate in search of higher benefit levels;

- Reducing AFDC payments to families headed by non-disabled adults, either after an initial transitional period, or after refusal to participate in appropriate work, training or education, or both;

- Limiting AFDC payments based on the size of the family at application for benefits;

- Expanding AFDC eligibility to two-parent families; and

- Requiring specific parental responsibilities, including receipt of preventive health services, regular school attendance, and regular payment of rent, as a condition for benefits.

<u>Where We Are</u>

In his State of the Union address, the President pledged the assistance of the federal government in approving waivers required for state welfare reform efforts, saying:

> We are going to help this movement. Often, state reform requires waiving certain federal regulations. I will act to make that process easier and quicker for every state that asks for help.

Flexibility comes in several forms. As an example to states, the Administration is committed to eliminating unnecessary variation in the rules of the myriad of Federal assistant programs through interagency cooperation and application of waiver authority where applicable. First, the law governing some programs allows for program waivers that are routinely granted to allow states to pursue cost-effective alternatives to current practices. These waivers relax some limitation in law or regulation, and allow a state to pursue a different course in a defined area. For example, states often obtain "home and community-based waivers" in the Medicaid program to allow people who can be treated at home at less expense than in a hospital or institution to be treated at home.

Second, the Federal government can grant research waivers for demonstration projects. The Social Security Act provides broad authority to waive rules governing a broad array of programs whose governing legislation is found in that statute -- including AFDC, child support enforcement, and Medicaid. In contrast to waivers granted to provide flexibility, research waivers change rules in order to test hypotheses in the "laboratories of democracy." For example, hypotheses about the effects of restricting payments for additional children and payments for children with regular school attendance are currently being pursued in state demonstrations. To the extent that the laws allow, demonstration projects can receive waivers from the relevant agency when criteria of good evaluation design and cost neutrality are met. In the past, these waivers have run for predetermined lengths of time, have met the criterion of cost neutrality, and have required an evaluation at the end of the experiment.

Third, a state can obtain flexibility without a waiver by using a state plan amendment. A state plan amendment represents a change in what services, benefits, or payments a state chooses given the flexibility and options available under current law. The largest welfare programs, AFDC and Medicaid, are operated under state plans that describe how those programs are structured. Some innovations in structure can thus be accomplished by approving a state plan amendment.

Finally, Congress can enact waivers. For Minnesota's welfare reform proposal, the state obtained a statutory waiver of provisions of law that would conflict with the state's approach.

To encourage state experimentation with different forms of welfare policy, the Administration is committed to reviewing states' waiver proposals in a timely manner. Senior officials from the relevant agencies are brought together soon after a waiver request is submitted. That interagency group tracks proposals closely as they are received to ensure speedy review by the appropriate agencies.

Since the State of the Union, four states -- Wisconsin, Oregon, Maryland, and California -- have submitted AFDC research waiver proposals. Using the coordinating process, Wisconsin's request was approved within 30 days of submission. Its proposal included an expansion of the Learnfare program that requires all teenagers on AFDC (dependent children and heads of families) who have not graduated from high school or earned a high school equivalency diploma to attend school on a regular basis. Wisconsin's Parental and Family Responsibility Demonstration Project (PFR) provides new incentives for teenage welfare recipients to work and marry. The program broadens AFDC eligibility for married teenagers; limits additional payments for additional children; increases earnings that can be received before welfare payments are reduced; and requires participation in education and employment-related services. It was reviewed consistent with an agreement that the review process begin with a meeting among White House, HHS, and Office of Management and Budget officials to look at difficult issues as early as possible. The Administration's strong belief in federalism means that, in some cases, it will approve waivers even where it does not support certain aspects of the proposal.

The Administration's current waiver criteria are designed to reduce approval obstacles. These criteria, presented as Appendix A, "Achieving a Balance Between State Innovation, Research Standards and Budget Neutrality," reflect the following:

1. The rigor of evaluation required should be proportional to the financial and programmatic risk posed by a demonstration. A high standard of rigor is

required for a project that, if broadly implemented, could have significant effects on family structure, work effort, or costs.

A rigorous evaluation can be costly. The cost of an evaluation is shared by a single state and the Federal government, while the benefits of the knowledge gained are available to all states. This problem is exacerbated for small states, which are unlikely to have the expertise to prepare both a waiver proposal and a rigorous evaluation plan. Hence, the Administration proposes to identify additional sources of Federal domestic discretionary funds that could be awarded to supplement the 50/50 match currently available for evaluation costs.

2. Waivers must be budget neutral for the period of experimentation, with interim comparisons of actual demonstration costs versus costs that would have occurred in the absence of the demonstration.

3. Waiver projects may include a significant proportion of program participants in a state, provided that an appropriate evaluation approach is maintained.

The Administration's Goals for the Future: Policy Options

The Administration has made substantial strides in coordinating welfare payments with work and education in order to encourage individuals to view welfare as a stepping stone to a more productive life. More must be done, however, if welfare reform is to improve individual, family, and community life.

Employment is the best way to reduce welfare dependence, and getting a job -- even a low-skilled job -- provides work experience, encourages good habits, and may lead to a better job in the future. Encouraging welfare recipients to finish high school or to enroll in further vocational training or apprenticeship programs will help bring about that outcome. Reform efforts must build on the Family Support Act, strengthening work requirements and extending requirements for responsible behavior to areas beyond their traditional ties to employment and child support enforcement.

In order to facilitate state-level innovation, the Administration will pursue steps that can be accomplished within current law as well as propose legislation that will allow for further progress.

<u>Actions that can be accomplished under current law</u>

1. Work with states to encourage an interest in welfare reform, and the development of waiver proposals that fit their needs.

2. Encourage specific waiver proposals that we believe offer promise in advancing the overall cause of welfare reform.

Current demonstration waiver authority within the Social Security Act and the Food Stamp Act is not intended to permit States to make permanent changes to their programs. However, successful demonstrations can lead to legislative changes to give States the option of adopting the alternative practices proved to be effective. The Family Support Act permits States to limit the benefits provided under their AFDC–UP programs to as few as six months out of a year and to make benefit payments like a paycheck, after satisfactory completion of assigned activities. These provisions resulted from successful demonstrations by the State of Utah. The Administration supported legislation to permit States to adopt Utah's approach on a permanent basis. Similarly, the Administration would tend to support legislation to provide States with options to adopt other practices proved effective in demonstrations.

Working with states to develop waivers that fit their needs

The President should immediately send a letter to all Governors informing them of steps we are now taking to facilitate waivers. Through various means, states would be provided with information on the waiver process and waivers that the Administration seeks to encourage.

Administration representatives will consult with Governors as a follow–up to the President's letter, and encourage grass roots interest that can shape state proposals.

Waivers affecting welfare programs will also become part of the Administration's strategy fulfilling the National Education Goals and pursuing the objectives of the America 2000 program.

Encouraging specific waiver proposals

The Administration will encourage states to request specific waivers involving approaches to reform welfare that we particularly wish to test. Those approaches include providing comprehensive services for teen parents, promoting parental responsibility, and encouraging independence. For state programs involving any or all of these approaches, a waiver will be reviewed in thirty days, subject to the States including an appropriate evaluation plan and cost neutrality mechanism.

The Administration believes comprehensive programs for teen parents must be pursued. Elements of comprehensive programs, not all of which require waivers, include:

- Requiring teen parents to attend school, as the Family Support Act requires and Wisconsin has demonstrated;

- Requiring teen parents to live with their parents, as has been discussed in California;

- Requiring teenagers to receive parental training, as has been proposed in the recent Wisconsin waiver;

- Providing necessary childcare and comprehensive services for children of teen parents, as is done in several states, such as Minnesota;

- Allowing bonuses to teen parents who attend school, and penalizing those who do not attend, as is the case in Ohio; and

- Cooperating with school systems to test model educational programs to encourage at-risk teenagers to stay in school.

Such programs will help end the cycle of dependency that begins with teenagers having children and not completing high school.

The Administration also encourages waiver proposals that promote parental responsibility. States could require that absent fathers who receive Food Stamps or general assistance from state-run programs participate in work or training. The effects of allowing non-custodial parents of AFDC children to volunteer to participate in JOBS are being tested and could be expanded.

Parents must be held accountable for their responsibility to their children. For example, states could sanction recipients who do not ensure that their children:

- Receive recommended immunizations;

- Receive appropriate health screening and preventive health services; and

- Attend school regularly, as required in Wisconsin and Ohio.

The Administration supports waiver requests for proposals encouraging independence. In particular, states are encouraged to extend the current JOBS work requirements for the AFDC population. Consistent with cost neutrality principles, waivers could allow additional Federal funds for States that are currently at their cap for JOBS funds.

Actions that require legislation

1. Expanding waiver authority;

2. Enacting specific waivers and program options that would expand the range of reforms States could undertake on their own; and

3. Removing obstacles to opportunity.

Additional Waiver Authority

Under Section 1115 of the Social Security Act, the Secretary of Health and Human Services may waive compliance with AFDC, child support enforcement, and Medicaid state plan requirements and provide matching funds for costs associated with the waivers.

The Administration proposes to expand waiver authority for states. First, the Administration has proposed to expand demonstration authority in Section 1115 of the Social Security Act to include all Federal-State programs authorized in that statute. The Administration also proposes to expand similar waiver authority to the Food Stamp Act and the Housing Act of 1937. This would encourage cities and states to undertake service integration projects, making use of several types of programs on a demonstration basis.

While incremental additions to waiver authority are useful, the Administration believes that the process of making federal programs work as part of an opportunity society rather than a welfare society requires broader waiver authority. Last year the Administration proposed the Community Opportunity Act as a means to break down the walls between Federal programs and state and local institutions.

Former President Carter recently met with President Bush to discuss The Atlanta Project, an effort to address many of the social problems that affect Atlanta. Flexibility in the application of federal rules and requirements (rather than more resources) tops Atlanta's list of how the federal government can be helpful. Were the Community Opportunity Act to be enacted into law, the broad flexibility that Atlanta seeks would be possible.

The Administration reaffirms its support for the Community Opportunity Act. However, there are serious institutional impediments to favorable Congressional action on legislation that cuts across several committees. The Administration will submit new legislation, called the Limited Authority for Local Solutions Act (LALSA), that applies the principles of the Community Opportunity Act on a more limited basis. Through the LALSA initiative, innovative programs will be fostered at the local level. Sites will be selected through a competitive process on a limited basis, by limiting the number of sites in which community opportunity projects could operate or by limiting the number of projects that could be approved in a specified time frame.

Expanding Options for Program Waivers

The Administration would seek expanded program waiver authority where alternative practices have been shown to be effective, States would be provided with waivers to continue or adopt them through waivers free of research requirements.

These options include:

- strengthening work requirements for welfare recipients;
- focusing JOBS programs on attachment to employment rather than classroom training;
- waiving Federal regulations that pose a barrier to employment; and
- mandating regular school attendance in exchange for benefits;
- allowing states to vary AFDC benefits by county to reflect regional disparities.

These options promote the principles of encouraging individual responsibility and economic independence.

The Administration seeks to encourage waivers that attempt to move able-bodied welfare recipients from welfare to work, either through incentives to work or through disincentives to remain on welfare. This approach could include placing more recipients in paid jobs or in unpaid work in public or non-profit agencies. Waivers could allow additional Federal funds for states whose current JOBS spending is at the state's JOBS cap.

Successful programs that emphasize job placement are the San Diego, California, Saturation Work Incentive Model (SWIM) and the Riverside, California, GAIN program. These programs provide an alternative to models that focus heavily on classroom education rather than first encouraging job search activities. These programs could be encouraged through a legislative proposal that would simplify their implementation by any state.

The Family Support Act requires older teen parents to be in JOBS. Expanding this requirement to younger parents is a possible option for state plans. New Jersey and Illinois have required this in demonstration projects. Experiments of this type are underway in Wisconsin. Ohio combines bonuses for regular school attendance with penalties.

Removing Obstacles to Opportunity

Certain Federal limitations pose barriers to effective work programs. Their repeal would help welfare recipients attain independence. First, current law prohibits workfare assignments for AFDC recipients if these assignments supplant work of regular public employees. The Administration supports repeal of this provision because it means that States cannot fund workfare programs through economies in spending for the same kinds of work. Second, the Administration proposes to allow states to calculate workfare hours based on the combined value of AFDC, food stamps, and Medicaid that the family is receiving, up to 40 hours. (need clarifying sentence) Third, the Administration proposes to allow states to pay AFDC to single-parent families in similar form to a paycheck, based on satisfactory attendance and performance in a JOBS activity. Finally, the Administration believes that current limitations on duration of job search should be removed.

The Davis-Bacon ~~regulations~~ and the Fair Labor Standards Act are programs that keep wage levels artificially high for certain occupations. Building on agreements that allow Davis-Bacon to be waived for self-help programs, the Administration proposes that ~~the~~ Fair Labor Standards Act also be waivable.

legalized featherbedding

Summary

It is time to reform our welfare system and break the cycle of dependency that for too long has poorly served our neediest citizens. Instead of creating dependency, we must promote personal responsibility and economic independence for all Americans. We must ensure that our welfare system encourages family responsibility. And we must create economic opportunities for welfare recipients by providing them with job training and education. Through flexibility and innovation at the State level, welfare program such provide all Americans with the opportunity for productive and meaningful lives. The talents and abilities of all individuals are too precious to waste as we meet the challenges of the next century.

Appendix A: Achieving a Balance Between State Innovation, Research Standards, and Budget Neutrality

Summary statement of the issue

The Administration currently has the high ground in State welfare reform demonstrations. It is providing States with broad flexibility, but in a responsible way. States are required to do rigorous evaluations and keep their demonstrations cost neutral to the Federal government. Even Senator Moynihan, who opposed some of the policies in Wisconsin's welfare reform demonstration, affirmed that the waivers were worthwhile because a rigorous evaluation would be performed.

One State, Wisconsin, has received waivers consistent with these high standards. A number of other states have submitted waiver applications or are in the process of doing so. These States will show that the Administration is living up to the President's promises to make it quicker and easier to get waivers.

On the other hand, if rigorous evaluation and cost–neutrality were not required, there is no doubt that more States would apply for waivers. The number of States that will apply for waivers only if rigorous evaluation and cost–neutrality are not required is unknown. So far, only New Jersey has been very resistant to these standards, probably because the State's demonstration is almost sure to involve higher spending and probably will increase the welfare rolls.

The question is whether the benefit from giving waivers to more States outweighs the cost of abandoning the high standards for welfare waivers set out in the President's 1993 Budget and applied to all States so far.

<u>Background</u>

Current broad waiver authority in Sec. 1115 of the Social Security Act and Sec. 17(b) of the Food Stamp Act is research and demonstration authority. It is not intended to let the Executive Branch permit States to make permanent changes in their programs that do not comply with statute. (In fact, the demonstration waiver authority in the Food Stamp Act prohibits this explicitly.) Evaluation of demonstration waivers is not mentioned in either statue, but is assumed. cost-neutrality for the Federal government is not required.

HHS has approved many waivers where only minimal evaluation was planned. These have tended to be demonstrations where a State wanted to try a relatively minor change in only a few sites, rather than Statewide.

Beginning with evaluations of mandatory job search and workfare in the early 1980s, a higher standard of evaluation has been applied to demonstration waivers. High standards generally benefitted the Administration. Policies such as work requirements that the Reagan Administration supported were found by rigorous evaluations to work, while program liberalizations the Administration opposed did not prove to be effective.

Like the current effort, the 1987 White House Low Income Opportunity Board (LIOB) also sought to encourage State welfare reform demonstrations, and about a dozen significant demonstrations were approved. Despite a desire to make it as easy as possible for States to get waivers, the LIOB adopted rigorous evaluation and Federal cost-neutrality as its principle. Rather than viewing the principles as constraints on State flexibility, the Administration viewed evaluation and cost-neutrality as the guarantees that made broad flexibility possible.

Although advocates of welfare reform always expect savings, the more common outcome is higher costs. For example, Washington's Governor promised the State legislature that his Family Independence Program demonstration would be cost-neutral by the second year, and save money after that. In fact, as Federal analysts predicted, the demonstration had cost overruns beyond $100 million in the first two years.

The LIOB could have argued about future costs and savings with States that wanted waivers, and turned down requests when it looked like they would cost money. That was essentially the policy the individual agencies followed before the LIOB. Instead, the LIOB decided to go ahead and approve waivers the States wanted, even if they were likely to involve additional costs, as long as the Federal government was protected from overruns.

Similarly, a high standard for evaluation permitted the LIOB to approve demonstrations of policies to which the Administration was opposed. Without rigorous evaluation results that command credibility, States could be expected to make exaggerated claims about the effectiveness of their demonstrations -- Massachusetts' liberal Education and Testing Program is a prime example. Rigorous evaluation made it possible to permit States to test virtually any legal policy with minimal risk of future unfounded claims of success.

In short, a strong desire for real federalism, allowing States maximum policy flexibility, led to adoption of high standards of evaluation and cost-neutrality. The same standards were set out in the States as Laboratories section of the President's 1993 budget. It would not contradict statutory authority to adopt much weaker cost and evaluation standards. No doubt that would increase the number of States that would be interested in obtaining waivers. Whether it would increase the credit the Administration received for inspiring welfare reform is another question.

Currently, Wisconsin has received waivers for a demonstration with rigorous evaluation and cost-neutrality. Terms to provide Oregon with waivers for an AFDC demonstration that involves rigorous evaluation and cost-neutrality have been drafted. The State will probably will have its waivers in the next week or two. The State of California is expected to submit its waiver application very soon. The State will perform a rigorous evaluation and keep the demonstration cost-neutral to the Federal government.

So far, only New Jersey has been very resistant to the standards of rigorous evaluation and cost-neutrality, probably because the demonstration clearly will increase costs and probably will not be shown to be effective in getting families off welfare.

The Administration currently has the high ground on welfare reform. It is giving States wide latitude to experiment, even with controversial policies, but in a responsible way. A rigorous evaluation is required, so that when the demonstration is over, we are sure we know whether it made any difference. And, because welfare reforms, that intend to save money often end up costing money, cost-neutrality is required.

If the Administration backs away from the principles in the 1993 Budget, and approved waivers without rigorous evaluation and cost neutrality, it will approve more waivers. Whether the incremental increase over the number it would approve without abandoning these principles will have a positive impact on the public's perception about the President's support for welfare reform is not clear. On the cost side, the Administration could expect partisan charges of misusing research authority for political ends and abandoning its stated principles.

1ST STORY of Level 1 printed in FULL format.

The Boston Globe

May 21, 1992, Thursday, City Edition

SECTION: NATIONAL/FOREIGN; Pg. 1

LENGTH: 1126 words

HEADLINE: Swipe at 'Murphy' snarls White House

BYLINE: By Michael Kranish, Globe Staff;
Walter V. Robinson of the Globe staff contributed to this story from California.
Material from the Associated Press was included.

DATELINE: WASHINGTON

KEYWORD: GEORGE BUSH TELEVISION UNUSUAL NAME-MURPHY BROWN

BODY:

President Bush, stunned by the intense reaction to Vice President Dan Quayle's criticism of a television character who had a child out of wedlock, tried yesterday to distance himself from the controversy but wound up in the fray anyway, unable to say definitively whether it was better to have an abortion or a fatherless child.

Bush's comments were the latest in a series of missteps that might have seemed to mirror the antics on CBS's popular "Murphy Brown."

Quayle initiated the events on Tuesday when, in a speech in California, he said the fictional Brown, played by Candice Bergen, was "mocking the importance of fathers by bearing a child alone and calling it just another lifestyle choice."

In the show's season finale Monday, Brown - a single, independent-minded, forty-something television reporter - gave birth to a baby boy after choosing to go ahead with a pregnancy. An estimated 38 million Americans watched the show.

But Quayle, in his comments on Tuesday, did not mention that Brown had had the baby only after deciding against an abortion. Quayle's critical comments prompted a sharp response by the show's producer, who noted that Quayle should ensure that abortions are legal if he does not want fatherless children. The Bush administration opposes abortion except in the case of rape or if the health of the mother is endangered.

White House advisers, sensing that the abortion issue was about to backfire in a way they had never intended, set to work to minimize the effect of Quayle's comment.

Yesterday, Bush's spokesman, Marlin Fitzwater, a fan of the show, told reporters that the White House applauded the fictional character's decision not to have an abortion. "The fact is she is demonstrating prolife values which we think are good," Fitzwater said. He added, "We're not very comfortable getting involved in criticizing her show."

That upset Quayle's staff, which considered it a slap at the vice president just as Quayle was putting himself on a limb to appeal to the Republican Party's conservative base. Quayle's staff also provided a clue about why the vice president had targeted the popular comedy in the first place: The show's characters frequently tell Quayle jokes.

Quayle, told in Los Angeles that Fitzwater had said the show was prolife, said: "That is not correct. The Murphy Brown show does not represent prolife policies."

Quayle declined to say whether Brown should have had an abortion, saying: "Hey, this is a sitcom. My complaint is that Hollywood thinks it's cute to glamorize illegitimacy. Hollywood doesn't get it."

Finally, amid this confusion, Bush himself wandered into the ideological minefield yesterday afternoon.

At a sun-splashed press conference on the back steps of the White House with Canada's prime minister, Brian Mulroney, Bush was clearly itching to address the issue with a carefully worded response that his aides had spent the morning putting together.

"OK, everybody, give me a Murphy Brown question," Bush said, holding up a prepared statement. "I've got one answer right here for you."

Bush then tried to sidestep the issue by saying he wanted children to have both a mother and father, even though he said he knew that was "not always possible." He insisted he would say nothing more on the subject.

"I believe that children should have the benefit of being born into families with a mother and a father who will give them love and attention all their lives," Bush said. "That is the best environment in which to raise kids. Not always possible, but that's the best environment."

Bush continued: "That's really the kind of guidance I would place on that. I'm not going to get into the details of a very popular television show."

That was hardly a ringing endorsement of Quayle's statement, and Bush never did say whether he agreed with his vice president.

Then, asked whether it was a mistake for Murphy Brown to portray an unwed mother on the show, as Quayle had maintained, Bush angrily said he was not going to respond.

"I told you - you must have missed what I said," Bush said. "I said I've just taken the last Murphy Brown question and tried to put it in a serious context that I hope the American people can understand. That's it."

But Bush nonetheless went on to back away further from Quayle's comment. While saying that the country would be better off with two-parent households, he suddenly sounded sympathetic to Brown's fictional situation.

"It's not always easy, not always possible," Bush acknowledged, referring to two-parent families.

Still, a reporter pointed out that Bush had not addressed the question of whether it was better for Brown to have an abortion or to have a fatherless child.

"Well, as you know, I don't favor abortion," Bush said. "And I think that opting for life is a better path."

So does that mean he favors Brown's decision to have the child out of wedlock? In the end, Bush refused to say what he would advise a woman who had to choose between having an abortion or a fatherless child.

"I don't know that much about the show," Bush said. "I've told you I don't know any more questions about it. . . . I just can't go into details."

Bush's advisers seemed split over how the controversy would play out. Quayle made the comment as part of a law-and-order speech in California tailored to Bush's conservative base. But with Bush counting on getting a large female vote to win reelection, some advisers were concerned that Quayle's comment came off as a hypocritical tirade that showed little sympathy for a woman who was trying to follow the administration's policy against abortion.

In California, where Quayle touched off the firestorm with his speech on Tuesday, Republicans strategists searching for the motive behind Quayle's remarks said his rivalry with Housing Secretary Jack Kemp, a likely competitor for the White House in 1996, almost certainly explains the conservative oratory.

These sources said they believe Quayle has resented the recent spotlight on Kemp and his urban agenda and has been seeking an opportunity to to remind conservatives of his own credentials.

"What was Quayle thinking?" one Bush aide lamented back in Washington. "This isn't even a real person. He is attacking a fictional character in a television show that millions of people love."

Even though Bush had been forewarned that reporters would question him about Quayle's comment, Bush seemed exasperated that Murphy Brown was the issue of the day. Bush turned to Mulroney, who had dodged all questions, in French and English, about the show.

"See, I told you," Bush said, apparently alluding to a warning that there would be questions about Quayle's comment. "You thought I was kidding."

GRAPHIC: PHOTO, 1. Vice President Dan Quayle, the "Murphy Brown" critic, talks to students yesterday.REUTERS PHOTO 2. Actress Candice Bergen, in her title role on "Murphy Brown," cradles the newborn baby for the TV program's season finale Monday. CBS-TV PHOTO VIA AP

Mary or Cliff
X-6697

Table 3

State Balanced Budgets and Deficit Limitations: Constitutional and Statutory Provisions

State	Governor Must Submit a Balanced Budget	Legislature Must Pass a Balanced Budget	Governor Must Sign a Balanced Budget	May Carry Over Deficit For One Year Maximum	May Not Carry Over Deficit into Next Biennium	May Not Carry Over Deficit into Next Fiscal Year	Constitutional Limit on General Obligation Debt[1]
Alabama	C,S	YR ✓	YR	NP	NP	YR	YR
Alaska[2]							
Arizona	S	S ✓	S	NP	NP	YR	$350,000
Arkansas	S	NP	NP	NP	YR	YR	NP
California	YR	NP	YR	YR[3]	NP	YR[3]	300,000
Colorado	S	C ✓	C	C	C	C	YR
Connecticut	YR	YR ✓	YR	NP	NP	NP	NP
Delaware	C	C ✓	C	NP	YR	YR	NP
Florida	S	C ✓	NP	NP	NP	YR	NP
Georgia	YR	YR ✓	YR	NP	NP	NP	4
Hawaii	C,S	NP	C,S	NP	NP	NP	5
Idaho	C	C ✓	NP	NP	NP	YR	2,000,000
Illinois	C	C ✓	NP	NP	NP	NP	NP
Indiana	C	C ✓	C	NP	YR	YR	0
Iowa	C	C ✓	NP	NP	NP	NP	250,000
Kansas	S	S ✓	NP	NP	YR	YR	1,000,000
Kentucky	C	C ✓	C	NP	YR	YR	500,000
Louisiana	YR	YR ✓	YR	NP	NP	NP	6
Maine	YR	NP	NP	NP	NP	NP	2,000,000
Maryland	C	C ✓	NP	YR[7]	YR[7]	YR[7]	NP
Massachusetts	C,S	NP	NP	NP	NP	NP	NP
Michigan	C	C ✓	C	NP	YR	YR	0
Minnesota	C,S	C,S ✓	C,S	S	C,S	NP	NP
Mississippi	S	NP	NP	NP	NP	NP	8
Missouri	C	C ✓	C	NP	NP	YR	0
Montana	C	C ✓	NP	YR	YR	YR	NP
Nebraska	C	C ✓	C	NP	NP	NP	100,000
Nevada	S	C ✓	NP	NP	NP	NP	AV
New Hampshire	S	NP	YR	NP	YR	YR	NP
New Jersey	C	C ✓	C	NP	YR	YR	9
New Mexico	NP	NP	YR	NP	NP	YR	AV
New York	C	NP	C	C	NP	NP	V
North Carolina	C	C ✓	C	NP	YR	YR	YR
North Dakota	YR	YR ✓	YR	NP	YR	NP	NP
Ohio	YR	YR ✓	YR	NP	YR	YR	10
Oklahoma	S	NP	NP	NP	YR	YR	V
Oregon	C,S	C,S ✓	C,S	NP	NP	NP	50,000
Pennsylvania	C	C ✓	S	C	NP	NP	YR
Rhode Island	C,S	C,S ✓	C,S	NP	NP	YR	V
South Carolina	C	C ✓	C	NP	YR	YR	11
South Dakota	C	C ✓	C	NP	NP	YR	100,000
Tennessee	C	C ✓	C	NP	NP	YR	NP
Texas	C	C ✓	C	NP	NP	NP	200,000
Utah	S	C ✓	NP	NP	YR	YR	AV
Vermont	NP	NP	NP	NP	NP	NP	NP
Virginia	S	NP	NP	NP	S	S	V,T
Washington	S	NP	NP	NP	YR	NP	T
West Virginia[2]							
Wisconsin	NP	NP	NP	NP	NP	NP	AV
Wyoming	YR	YR ✓	YR	NP	YR	YR	AV

There are ~~31 states~~ currently, which have some provision calling for a balanced state budget.

State Balanced Budgets and Deficit Limitations: Constitutional and Statutory Provisions

Key

AV—Percentage of property value
T—Percentage of taxes
C—Constitutional provision
V—Popular vote required for any debt
NP—No provision
YR—Yes/restriction applies
S—Statutory provision

1 Different provisions may apply to other long- and short-term debts.

2 Information not available.

3 May carry over only with legislative concurrence.

4 Not more than 10% of prior year's net general revenues.

5 Not to exceed 20% of average of General Fund revenues for 3 fiscal years preceding; may not be exceeded by popular vote.

6 Limited to 10% of 3-year average of Bond Security and Redemption Fund.

7 General Fund must have positive balance at end of fiscal year of proposed budget.

8 5% of General Fund.

9 5% of General Fund.

10 Highway, $500 million; coal, $100 million.

11 Limited to 5% of last completed fiscal year revenue for capital improvement bonds.

Source: National Association of State Budget Officers, *Budgetary Processes in the States, 1987.*

"California's Organization of Tax Fighters"

Taxing Times

The Official Newsletter of the Howard Jarvis Taxpayers Association ★ Howard Jarvis, Founder ★ Winter 1991

HIGH COURT TO HEAR PROP. 13

JUSTICES TO DECIDE "LIFE" OR "DEATH" FOR TAX CUTTING MEASURE

On Monday, October 7, the U.S. Supreme Court announced it would rule on the constitutionality of Proposition 13. The decision of the court in the Nordlinger vs. Hahn (Los Angeles County) case could have far reaching effects on every homeowner in the state.

Hearings are expected to take place early next year and a decision to be rendered by July.

"It's the ultimate test for Proposition 13," said HJTA president Joel Fox. "There's no appeal from the U.S. Supreme Court, so this is life or death for Proposition 13 [illegible]

This challenge to Proposition 13 comes from Los Angeles attorney Stephanie Nordlinger. Nordlinger maintains that her constitutional right to equal protection is being violated because the taxes on her recently purchased home are higher than those of her neighbors, who have owned their homes for a longer period of time. Nordlinger's attorney, Carlyle Hall, calls it an "outrageous" equal protection violation.

At an afternoon press conference called to discuss the Supreme Court's acceptance of the Nordlinger case, Joel Fox told reporters that HJTA was ready for the challenge.

"We will prove once and for all time that Proposition 13 is constitutional. We will show the court that Proposition 13 is sound policy benefiting all California property owners. By basing property taxes on the ability to pay at the time of voluntary purchase, and guaranteeing certainty as to what taxes will be in the future, Proposition 13 protects taxpayers from losing their homes to the tax collector. These benefits are available

See COURT, Page 6

HJTA president Joel Fox is joined at Prop. 13 news conference in the State Capitol by (L to R) HJTF president John Suttie, Assemblyman Jim Brulte, Assemblyman Chris Chandler and Professor Clark Kelso.

RULING COULD BE RETROACTIVE

California taxpayers could be hit with $28 billion in back property taxes if the U.S. Supreme Court rules Proposition 13 unconstitutional.

At a Sacramento news conference, Professor Clark Kelso of the McGeorge School of Law discussed the possibility that an adverse ruling on Proposition 13 could be made retroactive. Professor Kelso was joined by HJTA president Joel Fox, HJTF president John Suttie and Assemblymembers Chris Chandler and Jim Brulte.

"If the court rules that Prop. 13 is, in fact, unconstitutional, there is a significant risk the court will apply its decision retroactively," said Kelso. "The result may well be to make California taxpayers liable for additional property taxes going back the last four years."

According to Kelso, "The court has been wrestling with the retroactivity issue for the last two terms and appears to be badly fractured."

Kelso said Justices Stevens, Blackmun and Scalia have said all cases should be applied retroactively, while Justice Souter has expressed some agreement. Justices Rehnquist, White, O'Connor and Kennedy have said some decisions should not be applied retroactively. The views of Justice Thomas on this issue are currently unknown.

See RETROACTIVE, Page 8

MAD TAX UPDATE

In the fall issue, "Taxing Times" reported on HJTA's suit to overturn illegal maintenance assessment districts (MADs) for school facilities in Orange County.

Last summer, a number of school districts throughout the state, including most of the districts in Orange County, listened to a consultant's recommendations and attempted to impose assessments on local property owners under the little known 1972 Landscaping and Lighting Act. The 1972 Act, which was intended to allow a Manhattan Beach neighborhood to install custom street lights, does not give authority to school districts to impose fees.

Responding to this violation of Proposition 13 — which requires a two-thirds vote of the people to approve special taxes — HJTA filed suit against Orange Unified School District. Orange was the first district to approve a MAD.

Before a month was out, every school district in Orange County that had passed or was considering a MAD responded to HJTA's legal challenge

See MAD, Page 9

Taxing Times

Published quarterly by the Howard Jarvis Taxpayers Association (HJTA) and the American Tax Reduction Movement (ATRM). Kris Vosburgh, Editor.

Members of HJTA and ATRM enjoy dual membership.

HEADQUARTERS
621 S. Westmoreland Ave., Suite 202
Los Angeles, CA 90005-3971

PROP. 13 LEGAL EXPERT JOINS HJTA

See Page 2

Howard Jarvis Taxpayers Association
621 S. Westmoreland Avenue Dept. 2527
Los Angeles, CA 90005-3971

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This column appeared in the October 13, *Los Angeles Times*

STATE'S TAX REVOLT IS FAR FROM OVER

by Joel Fox

The United States Supreme Court has decided to hear a unique death-penalty case — the court will decide the life or death of Proposition 13.

Good! Let's get on with it, and prove that Proposition 13 is constitutional.

The court will test Proposition 13 on legal principles. However, the court's decision will not be assessed by the national media as a technical interpretation of the law, but as a verdict on the tax revolt itself. Both the national media and many opponents of Proposition 13 care little if Californians are forced to pay more in property taxes. They care if the symbol for the tax revolt is torn down.

The legal test will be measured against the ambiguous standard of equity of taxation.

Proposition 13 freezes assessments at market value at the time of purchase and allows an increase for inflation of no more than 2% a year and a change to full market value when the property transfers ownership.

In an unanimous court decision written by Chief Justice William Rehnquist nearly three years ago, the Court ruled in a West Virginia case that taxing similar property based on the value at time of purchase was a violation of equal protection of the law.

Rehnquist included a footnote, however, that raised the question that the West Virginia decision may not apply to Proposition 13, a law enacted by the people of California to protect against taxation based on inflationary housing prices.

Historically, for the court, equity has meant equal treatment of equals. We believe Proposition 13 affords that protection by requiring everyone to pay 1% of the value of the property at the time of voluntary purchase.

When the case comes before the court we will argue that there is a reasonable policy established by Proposition 13. The court looks for reasonable policies behind state tax laws. Not only did Proposition 13 save property from loss to confiscatory taxation, it gave owners certainty in future property taxes.

We will remind the court of one of Adam Smith's maxims in his seminal work on taxation, "Wealth of Nations": The certainty of what each individual ought to pay in taxation is a matter of so great importance that a very considerable degree of inequality is not near so great an evil as a small degree of uncertainty.

We will remind the court that Justice Frank Richardson of the California Supreme Court declared, in ruling Proposition 13 constitutional:

See REVOLT, Page 6

PRESIDENT'S MESSAGE

Remember Ben Franklin

The ultimate challenge to Proposition 13 now faces us. The United States Supreme Court will determine if Proposition 13 is constitutional. We are doing everything possible to defend Proposition 13. As we have done in all the Proposition 13 court challenges, our attorneys will file briefs with the Court and assist in the defense put up by the defendant, Los Angeles County Assessor Kenneth Hahn.

We think the arguments are on our side and we will win. But there is no appeal from a decision by the Supreme Court, and we must be ready if the Court rules against Proposition 13.

When Ben Franklin said we must hang together or hang separately, he could just as easily have been talking to California taxpayers. In November, the Howard Jarvis Taxpayers Association hosted a meeting of leaders of many of the taxpayer groups in the state. Our goal was to discuss ideas and alternatives so that, if the court requires a change to Proposition 13, we can move forward on a united front.

We must work together because, if the court rules that Proposition 13 is invalid, the Legislature will propose its own alternatives, as will special interest organizations that favor higher taxes.

If a Proposition 13 replacement becomes necessary, it will take millions of dollars to run a successful campaign for a measure to protect the taxpayers. We may also, at the same time, have to oppose propositions which will raise taxes.

So, as we prepare our defense of Proposition 13, we are also looking toward the future. I guarantee we will be ready to protect the taxpayers no matter what the Court does. □

See Page 4 for Sacramento Report

QUOTES WORTH NOTE

"Those on the government payroll who speak of inequities and unfairness don't really care about inequities and fairness, what they really want is unlimited access to the public's money by reinstating their control of property taxes. Proposition 13 tied their hands and they have been crying ever since."
Jim Berry, columnist for West Coast Community Newspapers

"Prior to Prop. 13's passage, homeowners never knew from year to year how much they'd have to pay in property taxes. You trembled with fear when you opened your annual property tax bill. You hated it when the house next door sold for big bucks — it meant your home would probably be reassessed next year."
Columnist Raymond Brown in the San Francisco Examiner-Chronicle

Prop. 13 Legal Expert Joins HJTA Staff

Tax and term limitation expert Jonathan Coupal has been named Director of Legal Affairs for the Howard Jarvis Taxpayers Association.

Fresh from victory in defending Proposition 140 (term limits) before the California Supreme Court, Coupal comes to HJTA from the Pacific Legal Foundation where he held the Howard Jarvis Chair of Citizen Taxpayer Law — a position endowed by HJTA.

Coupal will be devoting his full attention to the defense of Proposition 13 before the U.S. Supreme Court. Coupal has successfully briefed and argued on behalf of Proposition 13, Proposition 62 and the Gann spending limit in numerous cases.

"Jon has one of the finest legal minds in the state," commented HJTA president, Joel Fox. "We are fortunate that he can now devote his full energies on behalf of taxpayers."

Jonathan Coupal, HJTA Director of Legal Affairs.

Coupal is a graduate of the Marshall-Wythe School of Law, at the College of William and Mary in Virginia. □

See Jon's report under "Legal Front," page 6.

Washington Report

ATRM Fights Gas Tax

If all that went on in Washington was midnight pay raises for Senators accompanied by the sound of House members bouncing checks, we might call ourselves lucky.

While California taxpayers' attention has been riveted on new state taxes and threats to Proposition 13, there has been a move in Congress to wring another nickel a gallon out of the motoring public.

H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991, would have added another 5 cents to the cost of a gallon of gasoline. This on top of the 5 cent increase Congress approved last year.

As Congressman Phil Crane (R-Ill.) told ATRM, "The bill contains nearly 460 "special" projects to feather the nests of various Senators and Representatives with a highly disproportionate number of these projects going to the states of the chairmen of the committees with jurisdiction." Added Crane, "Frankly, I find this whole process revolting."

The American Tax Reduction Movement (ATRM) lobbied strongly in opposition, contacting all 535 members of Congress. On September 1, Speaker Thomas Foley and Congressman Dan Rostenkowski, Chairman of the Joint Committee on Taxation, jointly announced that efforts to pass the gas tax would be abandoned.

Only for now, we suspect.

Members of HJTA and ATRM enjoy duel membership. □

Sacramento Report

1991 LEGISLATIVE WRAP UP
by Steve Carlson
HJTA Legislative Advocate

Taxpayers bashed by budget, but HJTA holds the line on Proposition 13 and the initiative process —

The 1991 legislative session was one of the most turbulent and difficult in recent memory due in large part to the budget crisis and the beginnings of the push and shove of reapportionment that will continue into 1992. Recent announcements indicate that despite the new tax increases, a deficit of between $2 and $3 billion is projected for the next fiscal year. Economists say that much of the shortfall is due to the loss of jobs in California, and many believe that tax increases contribute to the loss of jobs and reduction of tax revenue.

For the Howard Jarvis Taxpayers Association, however, the major non-budget issues in the legislature were focused in two major areas, assaults on Proposition 13 and attacks on the initiative process. Happily, HJTA's legislative record on these most important issues was highly successful.

Assaults on Proposition 13 —

Action on the three bills about which we have the greatest concern, ACA 4, ACA 6 and SCA 8, each of which would make it easier to raise property taxes, has been put over until next year. Of the other bills that attempted in various ways to circumvent Proposition 13, only a few survived the legislative process and arrived at the Governor's desk. We are glad to report the Governor vetoed *all* of them.

One of the most dangerous to taxpayers, AB 1505 by Assemblyman Sam Farr (D - Carmel), would have made the creation and implementation of county service areas (CSAs) much easier. CSAs are a form of benefit assessment district. Counties use these districts to assess property owners for the "benefit" of various services such as police, fire and others. HJTA views these CSAs as schemes to impose property tax increases without the requisite Proposition 13 vote of the people.

While backers of AB 1505 called it "user friendly," in fact, the bill would have radically increased the percentage of homeowners required to submit written protests in order to prevent the creation of a new CSA. This would have made a successful challenge a virtual impossibility.

Our efforts to derail AB 1505 tell an interesting story about the legislative process and how HJTA is viewed in Sacramento.

In each two-year legislative session nearly 8,000 bills are introduced and AB 1505 was a bill that, like a stealth aircraft, moved quietly though the legislative process with little attention or opposition.

We learned of the existence of the bill in the late afternoon of Aug 30th, the day before the end of the 1991 legislative session.

Once we analyzed the measure we knew we must vigorously oppose even though it would be extremely difficult to stop a bill at this late stage of the legislative process and such opposition is often viewed as a breach of "legislative protocol" (assuming that is not an oxymoron).

On the morning of Aug. 31st, the Assembly was only a few agenda items away from taking up the matter of concurrence in Senate Amendments, AB 1505's last legislative stop before the Governor's desk. I dashed off a two-line letter opposing the bill and FAXed it over to Assemblyman Mountjoy's office at the Capitol. Nancy, Mountjoy's top legislative aid, grabbed it and ran it down to the Assembly floor moments before final consideration of AB 1505.

As the front page story in the *Sacramento Bee* recounted, when AB 1505 was debated and Assemblyman Mountjoy rose to inform Assemblymembers that he had just received a FAXed opposition letter from the Howard Jarvis Taxpayers Association, "the red lights began to blink," which is legislative parlance for negative votes. The mere mention of HJTA's opposition to the bill garnered 31 NO votes, when the bill had previously received only 6 negative votes in its first trip though the Assembly.

After the measure passed the Assembly, we embarked on an intense and ultimately successful effort to secure the Governor's veto. We were joined by groups such as Cal-Tax, the Farm Bureau, friendly legislators and private citizens.

This story illustrates the complexity of the legislative process, but more importantly demonstrates that the Howard Jarvis Taxpayers Association has the respect and attention of the Governor and a significant portion of the Legislature. The credit for this belongs to the HJTA membership. Your petitions, postcards, personal letters and calls are a constant reminder to lawmakers that their votes are being watched by tens of thousands of very concerned citizens. Keep up the good work!

The Governor vetoes two more direct attacks on Proposition 13:

SB 164 (Mello) — HJTA opposed and ultimately obtained a veto of this bill which imposed an "excise" tax of $35 per parcel for open space areas in Monterey and Santa Clara counties. We advised the Governor

See SACRAMENTO REPORT, Page 11

YOU CAN WRITE LAWMAKERS ANYTIME

You can write your state senator, assembly representative, or the Governor, at the State Capitol, Sacramento, CA 95814.

This column appeared in the June 3, *Sacramento Bee*

Let Taxpayers Beware of the 'Fair-Share' Ruse

Robin Hood is back. On the silver screen, on the television tube, and in the political arena — and in this year's state budget debate. "Take from the rich and give to the poor" is the strategy of many Democratic politicians, the education establishment and public employee unions.

Governor Pete Wilson's budget plan does not include income tax increases. Wilson insists that raising the income tax on the wealthy will dry up investment capital and thus drive jobs from the state.

Those who want more government spending feel the wealthy can best afford to pay for it. However, instead of making the unpalatable argument that the rich have the money so we'll take it from them, they complain that the rich are not paying their fair share of taxes.

The tax fairness issue has become a successful political tool since it was used to back President Bush away from his no-new-taxes pledge last year.

The question is: Exactly what constitutes a fair share of taxes?

Statistics do not provide an answer. They are often contrary and confusing. For example, Citizens for Tax Justice, a group which favors higher income taxes on the rich, claims that the lowest family income group pays 14.1% of their incomes in state taxes, while the richest pays 10.6%.

However, other studies reveal this state already has the most progressive income tax in the country. The top 10% of California income tax payers pay 75% of the income tax revenue gathered in by the state. On top of that, these richest of Californians undoubtedly pay more sales tax dollars for they buy more goods, and, usually, at higher prices.

Statistics in the hands of a politician are like a lamp post to a drunk. They're used more for support than for illumination.

So, we deal with perception. One argument put forth by the tax fairness side is that the wealthiest residents must pay a larger proportionate share of their income since they have profited from the benefits of the California work environment and they must re-pay for their success. Ignored is the fact that California has benefited from the efforts and creativity of these people, who have brought jobs and produced more taxable revenue for the state.

If the fair share concept is clouded with emotion, is there any simple way to measure fair and equitable tax shares?

Probably the fairest income tax is a flat tax, with everyone paying the same percentage of income. Under such a scheme, those who made a larger income would pay more dollars.

However, the fair share debate is not really about fair share; it's about getting more money for government.

Will an income tax increase on the wealthy end the hollering for more tax dollars? Temporarily, at best. When the income tax was created by the 16th amendment to the United States Constitution, the promise was that only the rich would pay the toll. Over 98% of American families were exempted from its levies. Yet, we know that the income tax now catches most Americans in its net.

The fair share strategy is the advance guard for more tax increases. This is not Robin Hood redux.

Robin's victims were often the government — Prince John, the sheriff of Nottingham and his tax-collecting henchmen, who became rich by overtaxing the peasants. Robin Hood was taking the tax money confiscated by government and returning it to its rightful owners.

Beware spenders in false Lincoln green. □

THE LEGAL FRONT

By Jonathan Coupal, HJTA Director of Legal Affairs

Challenge To Proposition 13 Goes To United States Supreme Court

— *Nordlinger v. Hahn.*

A major attack on Proposition 13 will be heard by the United States Supreme Court early next year. The lawsuit is being financed by groups that claim the landmark measure is "unfair" and therefore want to destroy it at any cost. HJTA's lawyers argued the case in the California Court of Appeal, which rejected the challenge. The lower court agreed with HJTA's argument that California's property tax system is better than traditional tax schemes. For example, only a system like Proposition 13 provides protection against taxes on increases in property value (paper profits), guarantees certainty in future property tax bills and provides a stable revenue source for local governments. HJTA will submit its arguments to the court later this month.

A question on everyone's mind is, "What are the chances that Proposition 13 will be thrown out?" HJTA continues to believe that the chance of losing Proposition 13 is very small. However, if we are wrong, the results would be catastrophic. No matter how slight the possibility that Propsition 13 will be overturned, HJTA must take all precautions to protect its members and all California taxpayers.

CALIFORNIA SUPREME COURT SHOWS INTEREST IN PROPOSITION 62 — Rider v. San Diego. Justices of the California Supreme Court grilled government lawyers recently in a hearing on the constitutionality of Proposition 62, an HJTA sponsored initiative intended to plug some earlier court created loopholes in Proposition 13. HJTA has participated in several Proposition 62 lawsuits in the lower courts with only limited success. However, HJTA both briefed and argued Rider v. San Diego before the California Supreme Court in October and the questions from the justices indicated that they may agree with HJTA's arguments. If the validity of Proposition 62 is upheld, it would put some teeth back in the requirements found in both Proposition 13 and Proposition 62 for voter approval of many non-property related local taxes. A decision from the high court can be expected within several weeks.

CALIFORNIA SUPREME COURT TO HEAR IMPORTANT ASSESSMENT DISTRICT SUIT — Knox v. City of Orland. One of the ways local governments have gotten around Proposition 13 is through "benefit assessments," also called "special assessments." In fact, HJTA recently filed suit in Orange County against such a tax, forcing a school district to abandon its plans to use the Landscaping and Lighting Act of 1972 to impose new taxes on local residents. (HJTA v. Orange Unified School District). Now, the California Supreme Court has agreed to hear a case involving the 1972 Act, one of the main culprits in this new taxing scheme, in Knox v. City of Orland. HJTA had written a letter to the court urging that it accept the case for review.

HJTA ATTACKS REAL ESTATE TRANSFER TAXES — Fielder, et al. v. City of Los Angeles. HJTA as lead plaintiff, along with two home owners and realtor groups, has sued the city of Los Angeles over its huge increase in real estate transfer taxes. Proposition 13 flatly prohibits these taxes, bat a court of appeal in San Francisco validated the City of Oakland's tax two years ago. HJTA filed suit in Los Angeles as a way to challenge the other court decision, in the hope that the California Supreme Court will ultimately decide the issue.

HJTA TAKES ON VIEW TAX
HJTA and local homeowners have filed suit against the City of Port Hueneme to overturn the recently approved "view tax." The Port Hueneme City Council voted to impose a special assessment on local residents ranging from $66 to $184 per year, depending on the view from the property and its proximity to the ocean. HJTA maintains the assessment is really a special tax which, under Proposition 13, requires a two-thirds vote of the people.

PERSONAL NOTE: *For several years, I have represented HJTA in numerous lawsuits seeking to protect the interests of its members, and I have come to know the people at HJTA on both a professional and personal level. They are the most dedicated group of tax fighters I have ever seen. Howard Jarvis would be proud. Therefore, when they asked me to join the team as the Director of Legal Affairs, it didn't take long for me to say yes. I look forward to working with HJTA for many years to come.* □

REVOLT, from Page 2

"An acquisition value system...may operate on a fairer basis than a current value system."

We will remind the Court that Proposition 13 has not only given certainty in taxation and helped stimulate the economy by keeping dollars in the taxpayers' pockets, but it has also provided a 10% increase in property taxes for local government each year.

The property tax is a general tax, not a charge for certain services. An argument is often made that owners of similar properties should pay the same for similar services. This argument ignores the individual taxpayer's ability to pay.

Britain's Margaret Thatcher attempted to have services paid for equally by those who received them. Her idea was to show how much local government spending really cost. Despite this worthy objective, the political results were a disaster because she, too, ignored the important requirement of ability to pay.

What happens if Proposition 13 is thrown out by the Court?

Property taxes revert to current market value at 1%. According to a state Senate commission, that would amount to an $11 billion tax increase.

A new property tax plan will face a long, hard battle. There is no perfect solution. As the 18th century poet, Alexander Pope, discovered: "Whoever hopes a faultless tax to see, hopes what ne'er was, is not, and ne'er shall be."

Proposition 13's property tax system should withstand the equal protection challenge. However, if Proposition 13 is ruled unconstitutional, this will hardly be the end of the tax revolt, as some fervently wish. The spirit of Proposition 13 lives on. The spirit abounds in this past weekend's Connecticut anti-tax rally and the polls measuring the opposition to California's new tax increases.

If the court strikes down the old Proposition 13, a new one quickly will rise to limit taxation. Considering the anti-tax mood in the state, it will have the same support as the original.

Symbolically, and as law, Proposition 13 is far from finished. □

National Taxpayers Union president David Stanley presents achievement award to Joel Fox who accepts on behalf of HJTA. The plaque reads, "This award is presented to Joel Fox, the Board of Directors, Members and Staff of the Howard Jarvis Taxpayers Association for their outstanding work on behalf of all California taxpayers." The award was presented at the 1991 National Taxpayers Conference in Washington, D.C.

COURT, from Page 1

equally to all property owners," Fox stated.

One of HJTA's attorneys, Jay Curtis, a nationally recognized expert on tax policy with the firm of Baker & Hostetler, McCutchen, Black, joined Joel Fox in responding to questions from the press. Curtis, who has been hired by HJTA to assist Los Angeles County in preparing the response to the Nordlinger suit, told reporters that if Proposition 13 is struck down, Californians can expect much higher taxes. "The pressure in the Legislature is for higher taxes," Curtis said.

Joel Fox vowed that if Proposition 13 is struck down, taxpayers will be back with a new initiative to protect homeowners. "Those who want to raise our taxes may like the new one even less than Proposition 13."

Commenting from his Sacramento office, Rich Gann, president of Paul Gann's Citizen committee, agreed. The son of Proposition 13's co-author said a property protection constitutional amendment would definitely be placed on the ballot if Proposition 13 is overturned. "Right now the only way Proposition 13 could be improved would be to close the gates to stop the ways they have found to get around Proposition 13."

To make certain that the initiative process is available to the people for a new Proposition 13, if needed, Gann is working on an initiative to protect the initiative process from attacks by the state Legislature. HJTA is fully supporting the Gann effort.

To reinforce the defense of Proposition 13 before the Supreme Court, HJTA has hired attorney and Proposition 13 expert Jonathan Coupal on a full-time basis (see related story page 2). Coupal's first priority will be preparing a new *amicus* brief to support the landmark tax cutting measure.

The Nordlinger suit is one of three challenges filed against Proposition 13 after the U.S. Supreme Court ruled in a 1989 West Virginia case that a county tax policy, with similarities to Proposition 13, was in violation of the equal protection clause of the United States Constitution. All three challenges have been rejected by state courts.

In June, the U.S. Supreme Court agreed to hear the case filed by R.H. Macy and Co., but the giant department store chain withdrew its suit under pressure from customers. The third suit, by Northwest Financial, Inc. against San Diego County, has not yet been appealed to the nation's highest court. □

Fox Testifies Before Senate Committee on Misuse of Assessment Districts

The following statement was made by Joel Fox before the Senate Local Government Committee on October 30, 1991.

I have with me a report of the Landscaping and Lighting Act of 1972 put together by the Legislative Intent Service located in Sacramento. The Howard Jarvis Taxpayers Association commissioned this study this past summer when the school maintenance assessment districts began sprouting around the state.

Nowhere does this Act give the authority to school districts to establish the maintenance assessment landscaping district. The purpose of the Act was to streamline procedures in the 1911 Assessment Act, not make traditional assessment authority available to a new class of government entity.

Many benefit assessments and special assessments on property are property taxes. There is no distinction in the taxpayer's mind between these property taxes and other varieties, and the image is becoming blurred because of the way assessment districts are being misused.

There is a clear pattern that some government authorities and consultants have decided that assessment districts are the way to raise property taxes and escape the voting requirements of Proposition 13.

While a court ruled in 1979 that "true" assessments were not taxes in the meaning of Proposition 13, the expanded assessment districts of today are different from the assessment districts of 1979.

The court of 1979 looked at benefit assessments as they were traditionally used in this state; the jurists could not have imagined assessments levied as a benefit to property miles away from a park, as was the case in Orland; or an assessment to build a new police station, as they want to do in Alhambra; or for the benefit of an ocean view, as was done in Port Hueneme, over a majority protest of the people. In fact, a court in a 1980 decision expressly stated a government facility like a fire station could not be constructed with a benefit assessment. Tell that to the people in Alhambra.

Benefit assessments have stretched like Pinocchio's nose beyond their original size and intent. These expanding assessment districts, and, I would add, Community Service Areas, should be the focus of this committee's investigation, not just the Landscaping and Lighting Act.

If they are not checked, where will this lead? Is it so unreasonable to imagine a view tax on the Redwood Coast, or the mountains around Los Angeles?

If assessments are appropriate for ocean views, why not assessments for certain city views? Doubters should remember that beauty is in the eye of the beholder who sets the rates. Rationales for assessments appear endless. As long as there is a remote connection between a taxpayer and the object to be built, protected, maintained, cleaned, observed or enjoyed, there is a potential assessment lurking.

Our world renowned view tax in Port Hueneme could be the forerunner of taxes not only for those living by the ocean but for those who just come for a peek; and like Lot's wife, everyone who looks will be damned, in this case by the tax man.

As absurd as this may sound, imagine how absurd the uses of the current assessment districts would look to those legislators who passed the original California assessment acts at the beginning of the century.

If we intend to use service charges or user fees for each service rendered, such as an assessment on a parcel of property to provide for nearby landscaping and lighting, then perhaps we no longer need a general property tax. But, beware the political fates. Britain's Margaret Thatcher attempted to have services paid for equally by those who received them. Her idea was to show how much government spending really cost. While the logic for her community service charge was sound, the political results were a disaster.

We are headed in that direction. I have here a two year old tax bill from Alameda County. On this residential property the property tax is $494. Ten other assessments and charges total an additional $1408.

As this continues we will return to the atmosphere of the pre-Proposition 13 days when the match was set to the powder by government officials who decided what they wanted to run their agencies, and also decided how much the taxpayers could afford.

Like the property tax of those days, most assessments have no limits, nor is a vote of the people required before they are levied. Both characteristics make assessments welcomed at government halls like long lost children.

The notification system can be frustrating for the taxpayers. A contract city attorney boasted of his way to get around Proposition 13 when he suggested making the district as large as possible because it was harder to get a protest vote. He further advised to, "Put your public announcement of the creation of the assessment district in the newspaper where it gets lost with the divorces. If nobody notices within 30 days, you're home free."

The Committee's report notes one city used a benefit assessment to "launder" money for its general fund. I suggest that nearly all expanded assessments are used like that to free up general fund revenues.

Before I conclude, I would like to say a word about the criticism levied

See FOX TESTIFIES, page 9

CRAs Pose Hidden Burden for Taxpayers

By Norton Halper, Guest Columnist

The concept of redevelopment (urban renewal), as conceived in the 1940's, had the well-intentioned goal of cleaning up blighted neighborhoods, replacing rundown buildings with new homes and businesses that would serve the local community. To accomplish these ends laws were passed which allowed cities to form Community Redevelopment Agencies (CRAs) which would be semi-autonomous, the commissioners being appointed by local elected officials.

The CRA's were to obtain truly blighted urban property under threat of condemnation, paying the owners based on the agency determined value. To stimulate development, the CRA would use tax breaks, low cost loans and outright sale at less than true market value to attract private developers.

What is occurring now would be almost unrecognizable to the original proponents of urban renewal. Rather than a tool to eliminate pockets of real blight, the CRAs are used as a weapon for economic competition between cities at the expense of local residents, small businesses and taxpayers.

When Proposition 13 passed, cities looked for new sources of revenue. The sales tax from CRA initiated projects was seen as the answer. Cities tried to outdo each other in making lucrative offers to developers, using as bait the land purchased at below value or taken from local owners through the condemnation process.

When a redevelopment plan is adopted, citizens within the boundaries live under a cloud of uncertainty. Frightened property owners don't know if they should repair, improve, or sell at a reduced price to speculators.

Numerous abuses of redevelopment have occurred. Flooded areas, golf courses, communities needing only minor cosmetic improvements, cow pastures, and well-to-do areas like Hidden Hills in L.A. County, have been declared blighted.

Cities, through their development agencies, aggressively compete with each other to see who can give the most to lure autos, malls, shopping centers, even sports teams and stadiums.

The idea is to increase the city's sales tax revenue, while the agency gets the bulk of the increased tax on the property caused by the change in ownership. This additional property tax revenue, known as the tax increment, is used to further expand the redevelopment agency's activities. The original property tax base is available to local government to fund vital services like police and fire protection, schools and trauma centers. Howard Jarvis called it "an end run around Proposition 13." There were 179 redevelopment agencies when Proposition 13 passed in 1978; today there are nearly 400.

This diversion of property tax revenue places a tremendous additional burden on taxpayers. The state has to make up the loss to schools and other local programs. Last year the state paid an additional $450 million to schools alone to make up for the property tax shortfall created by CRAs.

The economic slowdown exposes the CRAs as a giant ponzi scheme with the taxpayers as its victims. While school districts, counties and cities throughout California are cutting back vital services, the CRAs' coffers are flush with billions of dollars diverted from regular taxing agencies.

The Legislature must critically examine the operation of CRAs and exact reforms curbing the cruel abuses of the redevelopment system or, better yet, scrap the whole thing.

Norton Halper is the president of SCRAP, Stop the CRA Plague. He may be reached at 213/467-1753 □

This column appeared in the August 15, Los Angeles Times

THE PEOPLE WANT A VOTE IN THEIR TAXATION

by Joel Fox

The "mob" opposing a school maintenance assessment district in Orange County was described as "almost maniacal" by Jerry Sullivan, a trustee of the Huntington Beach Union High School District.

The "mob" raging against Britain's infamous Stamp Act in Boston was described as full of "ill humors" by Francis Bernard, Royal Governor of the Massachusetts Bay Colony.

There are great similarities between the spontaneous outburst of California property owners to the imposition of taxes in the form of assessment districts in the summer of 1991, and the Colonists' reaction to the British Stamp Act of 1765.

Members of the Sons of Liberty tarred and feathered stamp agents to protest the tax which required stamps to be affixed on such things as business licenses, legal documents, diplomas, and newspapers. Modern day tar and feathering for officials who voted for a new tax on property comes in the form of recall petitions.

Proponents of the assessments don't understand what all the fuss is about; a consultant to one school district claimed to be mystified that a lawsuit was brought against an assessment that amounted to $2.50 per property per month. This strategy of breaking down a tax to a seemingly insignificant amount is not uncommon to those who seek more taxes. When the bonds to provide money for the 911 network were placed on the Los Angeles City ballot last spring, proponents argued that the tax would amount to three cents a day.

But, then the stamps required to be affixed to documents in 1765 started at a halfpenny a stamp.

A few pennies here, a few pennies there, and soon you're talking about a yoke of taxes.

Most of the new assessment districts were set up to aid education. Thus those in support of the tax try to change the focus of the debate from taxation to education. How could the tax protestors be opposed to funding education?

The Stamp Act was instituted to provide funds for defense of the Colonies. The primary function of any government is defense of its citizens. How could the tax protestors of two centuries ago be opposed to funding their own defense?

Neither education nor defense were the issues in the protests. The issue was and is taxes and how they are levied.

While the battle cry of the East Coast Americans was "no taxation without representation," the taxes on the West Coast have been levied by duly elected officials. Wasn't the revolution fought to establish a representative government?

Yes, but even Colonial leaders protesting the Stamp Act always expressed the idea that first the people had to consent to being taxed. The thought that representative governments make tax decisions came second.

In the Virginia House of Burgesses, Patrick Henry proposed seven resolutions against the Stamp Act. One called for "taxation of the people by themselves, or by persons chosen by themselves to represent them, who can only know what taxes the people are able to bear."

The Stamp Act Congress, the first intercolonial meeting in America, declared that "no taxes be imposed on them (the people) but with their own consent, given personally or by their representatives."

The Colonists complained of the arrogance of the taxing authorities. That is why they wanted to tax themselves. The same cries can be heard today under representative government. In Port Hueneme, last month, more than half the affected property owners objected to a beach-area assessment district; the City Council passed it anyway.

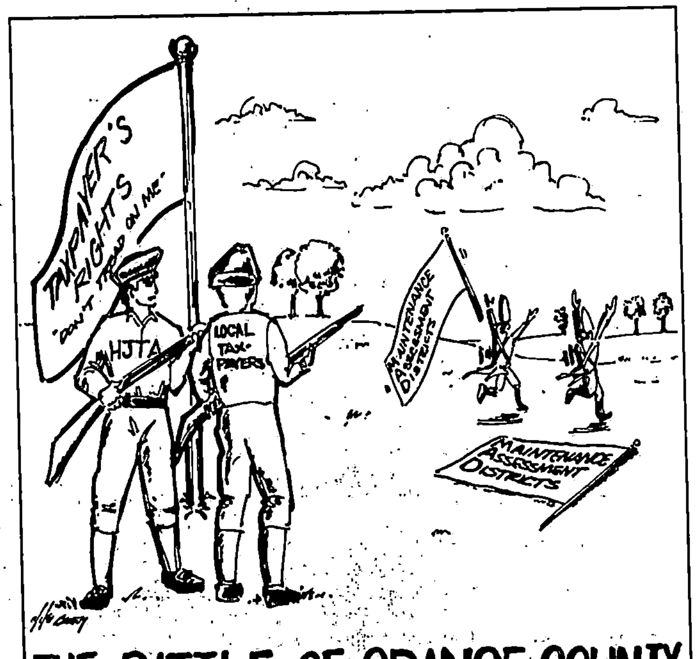
The people are demanding a vote to raise local taxes.

California School Superintendent Bill Honig jumped into the fray over maintenance assessment districts, supporting the idea of a majority vote of the people to approve the district in place of a vote of school trustees. However, the requirement of a two-thirds vote for tax increases was not only part of Proposition 13's property tax protection plan, it has also existed in the state Constitution since 1879 for bonds backed by property taxes.

The way we tax ourselves — how much is taken, and how it is taken — is an expression of our freedom.

Facing withering and continuing protests, many of the maintenance assessment districts have been rescinded. Facing an outraged populace, the Stamp Act was rescinded.

At the time, a New Yorker wrote that when people became "turbulent and uneasy" it showed "a certain sign of maladministration" in government. His words echo down through the years. □



THE BATTLE OF ORANGE COUNTY

RETROACTIVE, from Page 1

"In 1989, the U.S. Supreme Court put California on notice that Prop. 13 may be unconstitutional when it decided Allegheny-Pittsburgh Coal Company v. County Commission of Webster County," said Kelso. "This may suggest to the court that it would not be unfair to the state of California to apply its decision retroactively."

HJTA president Joel Fox said, "A retroactive decision by the court may cost California taxpayers $28 billion — $933 for every man, woman and child living in California." The $28 billion estimate is based on data supplied by state Board of Equalization member Matt Fong.

"While we're confident that the court will uphold the constitutionality of Proposition 13, we're not taking any chances," said Fox. "Obviously, a $28 billion property tax bill would be an economic disaster of historic proportions."

John Suttie, president of the Howard Jarvis Taxpayers Foundation, said his group will file its own brief with the court, this one arguing against a retroactive ruling.

"We're operating on the assumption the court will uphold Proposition 13," said Suttie, "but if it shouldn't, we'll be ready to defend against a retroactive ruling."

Suttie said he has sent letters to every member of the Legislature, the Governor, the state's other constitutional officers, and every tax assessor in California asking them to sign the foundation's legal brief.

"When looking down the barrel of a $28 billion tax hit, it's critical we stand together," concluded Fox.

Authored by tax crusaders Howard Jarvis and Paul Gann, Proposition 13 has saved California taxpayers an estimated $155 billion since its passage in 1978.

The HOWARD JARVIS TAXPAYERS ASSOCIATION (HJTA), formerly the California Tax Reduction Movement, was founded by Howard and Estelle Jarvis to serve as a legal and political watchdog over Proposition 13. Joel Fox serves as president.

The HOWARD JARVIS TAXPAYERS FOUNDATION (HJTF), formerly the American Tax Reduction Foundation, was also founded by Howard Jarvis. It is separate from the HOWARD JARVIS TAXPAYERS ASSOCIATION and is devoted to promoting economic education and the study of tax policy. The Foundation recently funded four major academic studies to provide alternatives that would protect taxpayers if Proposition 13 is overturned by the U.S. Supreme Court. John Suttie serves as president. □

QUOTES WORTH NOTE

"For 13 years Proposition 13 has protected Californians from a cruel tax. The ever-upward spiral of property taxation had been particularly unfair to seniors. For the sake of fairness and good economic policy, Californians ought not abandon the historic achievement of Proposition 13."

Congressman Tom Campbell

"During 19 years in the Solano County administrator's office, I learned about local duplications in services. Activities were allowed because elected officials did not want to offend other elected officials, and funds were spent that might not benefit all the county but would help an elected official in the next election."

Don Dowling

MAD, from Page 1
and the angry complaints of taxpayers by cancelling their efforts. These included school districts in Huntington Beach, Westminster, Fountain Valley, Midway City, and Fullerton, as well as the Placentia-Yorba Linda Unified and the Orange Unified.

MADs have also been rejected in Burbank, Escondido and Kern County, but pockets of resistance remain.

HJTA has followed up with a suit against the Whittier Union High School District which has imposed a MAD to pay for refurbishment of a football stadium. HJTA attorneys are studying the possibility of filing suit against the Jefferson Union High School District in Daly City, the Sequoia Union High School District in Redwood City and Bonita Unified in La Verne, all of which have approved MADs.

HJTA believes that success in one suit will eventually invalidate all MADs, but the concern remains that if these school districts are not challenged, other districts will think it is safe to impose assessments on local property owners. □

Joel Fox talked with political commentator Bruce Herschensohn before Taxpayer Action Day rally in West Los Angeles on Oct. 19. Later the same day, Fox spoke at rallies in Orange County (below) and in Ventura County (bottom). HJTA's Jonathan Coupal spoke at the Sacramento rally.

FOX TESTIFIES, from page 7
against the taxpayers for rallying against some of these assessments.

One of the consultants, who was making a tidy profit from pushing the school maintenance assessment districts, claimed to be mystified that a lawsuit was brought against an assessment that amounted to $2.50 per property per month. A school board member complained that those protesting the assessments were almost a "maniacal mob."

There are great similarities between the spontaneous outburst of California property owners to the imposition of taxes in the form of assessment districts in the summer of 1991, and the American Colonists' reaction to the British Stamp Act of 1765.

The British officials labeled the American patriots who protested the tax "mobs." And the tax which started at a half-penney, could be considered "insignificant."

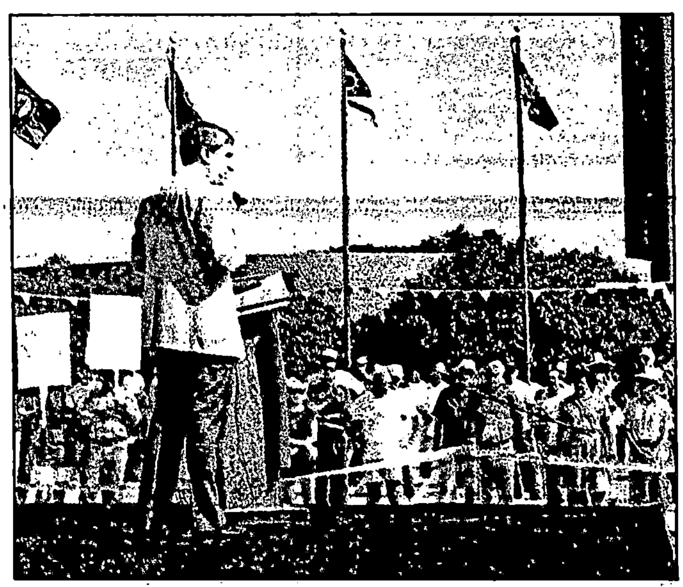
The Stamp Act was instituted to provide funds for defense of the Colonies. The primary function of any government is defense of its citizens. How could the tax protestors of two centuries ago be opposed to funding their own defense, and protestors of today

See FOX TESTIFIES, page 11

CITIZEN TAXPAYERS STRIKE AGAIN!

When new tax schemes are hatched by local government, it is HJTA's members that provide the early warning system. We at HJTA had never heard of maintenance assessment districts (MADs) for schools until they were brought to our attention by local tax fighters. As a result of the watchfulness of these citizens, HJTA was able to move rapidly against the MADs with legal action.

The many hundreds of Orange County residents who protested MADs in person at school board meetings, as well as the many others who protested by phone or letter, are an example for taxpayers everywhere. We would like to tip our HJTA hat to two tax fighters in particular. Carole Walters and Roland Krueger not only were stalwart in keeping the pressure on the Orange Unified School Board, but they stood tall for the taxpayers by volunteering to serve as co-plaintiffs in HJTA's lawsuit against the school district. □



TERM LIMITS UPHELD

LAWMAKERS' RETIREMENT SET

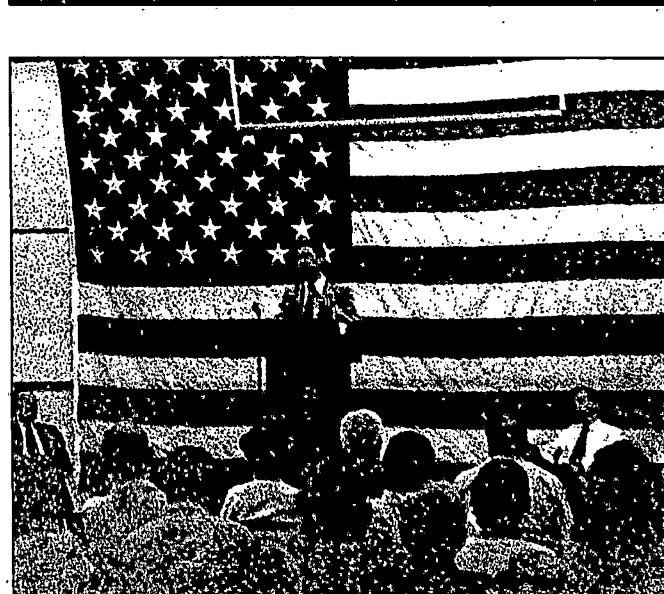
By a vote of 6 to 1, the California Supreme Court has upheld Proposition 140, voter approved term limits for state lawmakers and constitutional officers.

After Proposition 140 passed in November of 1990, indignant incumbent legislators filed suit claiming that Proposition 140 denied voters the right to re-elect candidates of their choice as well as infringed on the rights of candidates for re-election. The court rejected these arguments.

Term limits are justified by "the state's strong interest in protecting against an entrenched dynastic legislative bureaucracy, thereby encouraging new candidates to seek public office," wrote Chief Justice Malcolm Lucas for the majority. Justice Stanley Mosk was the sole dissenter. He challenged the right of voters to create a "legislature of 'citizens' in place of one of 'politicians'." Said Mosk, "The intitiative process is out of control."

Proposition 140 limits state constitutional offices and state senators to two four-year terms (eight years) and members of the Assembly to three two-year terms (six years). The court also upheld limitations on how much the Legislature can spend on itself, but limitations on pensions must begin with those elected in 1992.

Jonathan Coupal, who represented term limit sponsors in court, hailed the ruling as a "victory for the voters." Lee Phelps, co-author of the term limits measure, said, "This will rattle the foundations of that most unresponsive of all institutions, the U.S. Congress. And they're our next term limitation target." Phelps is the founder of the Aptos based Alliance of California Taxpayers and Involved Voters (ACTIV). □



TAX BYTES

NO PROP. 13 IN FLORIDA

President Bush's mother is challenging her latest property tax bill. Dorothy Walker Bush, 90, says the appraiser's $682,320 assessment of her Florida home is $173,000 too high. Mrs. Bush's total tax bill for her two-bedroom two-bath house with a swimming pool is $11,840.

CONGRATULATIONS!

According to the *Los Angeles Times*, lobbyists were asked to buy $1,000-a-page advertisements to extend their congratulations in a commemorative book for Assemblyman John Vasconcellos (D-Santa Clara), the chairman of the Ways and Means Committee, at his 25th legislative anniversary gala.

TAXPAYERS PAY FOR LOBBYISTS

At a time when many local government entities are pleading poverty, records on file with the Secretary of State's office show that local governments, special districts, government associations and public employee organizations spent $5.5 million lobbying the Legislature in just the first half of the year. Seventy-seven cities and twenty-nine counties have their own taxpayer - paid lobbyists. Needless to say, they aren't in Sacramento campaigning for lower taxes.

GRAVE BILLING ERRORS

Blaming bookkeeping errors, Stanford University has paid back $1.35 million to the federal government for inappropriate research bills. Among those things for which taxpayers were billed: Six years of upkeep on the Stanford family mausoleum at $1,300 per year.

FROM THE DEPTHS OF THE PORK BARREL

Since we are no longer paying for mausoleum upkeep, apparently Congress believes there is surplus to spend on other dead issues. The *Wall Street Journal* reports that there is $150,000 in the current federal budget to study the economic and social contexts of the 1878 feud between the Hatfields and McCoys. The feud, by the way, started with the theft of a pig.

Compiled by HJTA Executive Director, Kris Vosburgh □

FOX TESTIFIES, from page 9

be opposed to education funding?

Neither education nor defense were the issues in the protests. The issue was and is taxes and how they are levied.

The way we tax ourselves — how much is taken, and h*ow it is taken* — is an expression of our freedom.

Which leads to the issue: should these assessment districts be allowed if voted on by the people?

California has a crazy quilt of assessment procedures, protest mechanisms, and overrides.

To simplify the use of assessments, I recommend that a vote of the people be required for all expanded assessments and community service areas.

And, I believe this vote should be a two-thirds vote for the same reason our state constitution has had a two-thirds vote governing local general obligation bonds requirements since 1879. A simple majority vote means the property owners will carry an unfair burden of government. □

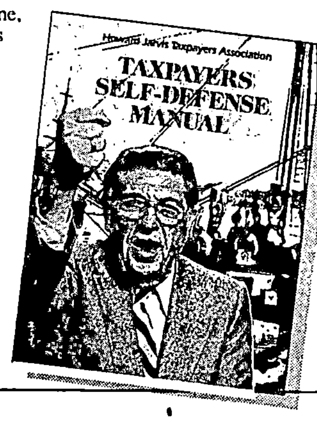
TAXPAYERS SELF-DEFENSE MANUAL

For those members who don't have one, we still have copies of the "Howard Jarvis Taxpayers Association Taxpayers Self-Defense Manual."

This useful 20 page booklet has tips on how to fight taxes at the grass roots level, as well as answers to some of the most commonly asked questions about state and local taxes.

While they last, the booklet is free to members who mail the coupon below directly to:

Booklet
c/o HJTA
621 S. Westmoreland Ave., Ste. 202
Los Angeles, CA 90005
No phone calls please.



NAME ____________________
ADDRESS ____________________
CITY AND ZIP ____________________
PHONE ____________________

SACRAMENTO REPORT, from Page 4

that this was merely a thinly veiled scheme to raise property taxes without a vote of the people, notwithstanding the fact that it was called a "parcel" or "excise" tax.

SB 246 (Presley) — Earlier in the 1991 session Assemblyman Robert Campell (D - Richmond) had introduced AB 394, which was yet another incarnation in a series of bills over the last several years attempting to allow counties to fund public employee pension benefits by *raising property taxes without a vote of the people.* (Opposition from HJTA, Cal Tax and the Contra Costa County Taxpayers Association had resulted in vetoes of two previous bills by Governor Deukmejian.) After we were successful in stopping this latest attempt to burden property taxpayers, a last minute legislative maneuver was pulled wherein the provisions of the moribund AB 394 were amended into an unrelated bill authored by Senator Robert Presley, Chairman of the powerful Senate Appropriations Committee. We strongly opposed this amendment and ultimately secured Governor Wilson's veto.

Big three await action —

Despite our success to date, we must continue to focus attention on these three major bills, ACA 4 (Klehs), ACA 6 (O'Connell) and SCA 8 (Hart), which will be considered next year. All of these bills would make it easier to raise property taxes and they have the support of powerful special-spending interests. We will continue to devote our efforts to the final defeat of these ill-conceived measures and keep HJTA members informed of our progress. As promised in our last report, we intend to publicize how lawmakers finally vote on these bills. This will provide an excellent litmus test on each legislator's support for Proposition 13.

Initiative process still intact —

In addition to the bills dealing with Proposition 13 there were many measures we have previously discussed aimed at weakening the people's right to use the initiative process to pass or change laws. Most of these bills were either delayed, made into two-year bills to be taken up next year, or killed in the Legislature. "Politics makes strange bedfellows was seldom more accurate than when we joined Common Cause, the Planning and Conservation League and the League of Women Voters to oppose these measures. Of the bills that made it to the Governor's desk, nearly all were vetoed, including those that HJTA strongly opposed. These included:

AB 1331 (Speier) — This bill established a pre-circulation review process, increased the initiative filing fee from $200 to $1,000 and set up a legal review team to review all initiatives *before* submission to the Attorney General for title and summary. The Governor agreed with our criticism that this was little more than an attempt to obstruct access to the initiative process and that the courts were the appropriate arbiter of the legality of initiatives.

Other initiative-assault bills vetoed by the Governor included one that required a ballot pamphlet to include a summary statement of the meaning of "yes" and "no" votes and one that required pro and con arguments on the petition itself.

Another threatening measure vetoed by the Governor in part at HJTA's request was SB 55 (Alquist). This bill established a Constitutional Revision Commission to study the budget and initiative reforms. Based on the potential makeup of the commission and the language of the bill, we saw this as a two-pronged attack on Proposition 13 and the initiative process.

Given the huge number of bills that targeted both Proposition 13 and the initiative process, we feel our legislative effort has been very successful. However, we must not forget to express our gratitude to the Governor and those members of the Legislature who stood with us.

The challenge ahead —

There are still many bills awaiting action next year, which threaten Proposition 13 and the initiative process. If we are to prevail, we must be prepared to continue a strong lobbying effort. Please continue to sign the petitions and post cards to elected officials that we send you. The grass roots support of HJTA members is vital to our success on behalf of all taxpayers. □

BEST WISHES FOR THE HOLIDAYS

Estelle Jarvis, Board of Directors
Dolores Tuttle, Board of Directors
Ralph Horowitz, Board of Directors
Mark Dolan, Board of Directors
John Suttie, Board of Directors
Joel Fox, President, HJTA
Trevor Grimm, General Counsel
Kris Vosburgh, Executive Director

"California's Organization of Tax Fighters"

Taxing Times

The Official Newsletter of the Howard Jarvis Taxpayers Association ★ Howard Jarvis, Founder ★ Spring 1992

GOVERNOR, LAWMAKERS PLEDGE SUPPORT FOR PROP. 13 AT HJTA PUBLIC HEARING

JOHN BARR FOR TAXING TIMES

Gayle Wilson and Estelle Jarvis at December HJTA hearing on Prop. 13.

WILSON ASKS SUPPORT FOR TAXPAYER PROTECTION ACT

HJTA BACKS GOVERNOR'S PLAN

"State Government is running up a bill that the people of California 'can't afford," Governor Pete Wilson told HJTA members attending the December 14 hearing on Proposition 13.

During his program opening remarks, Wilson said that unless action is taken to control autopilot spending on public assistance programs, California will be forced to reduce spending on both higher and basic education, public safety, and prevention programs that can make the difference between success or failure for children.

The governor outlined for HJTA members the Taxpayer Protection Act initiative he is proposing to rein in state spending through reforms in the budget process.

Major elements of the Taxpayer Protection Act include:

* Fiscal Emergencies — gives authority to the governor to declare a fiscal emergency if revenue drops or expenditures increase causing a budget imbalance of at least three percent. In a fiscal emergency, the governor may reduce spending that is not specifically protected by the state constitution.

* Ending Budget Impasse — allows the governor to declare a fiscal emergency if the budget is not passed and signed by July 1. The prior year's budget would continue to operate until the Legislature and governor pass a new budget bill.

* Forfeit Salaries — requires the Legislature to pass a budget by June 15, and if it fails to do so, the governor and Legislature forfeit their salaries until a budget is passed. (The state budget has come in on time in only six of the last 25 years.)

See TAXPAYERS, Page 12

FOX PROMISES NEW INITIATIVE IF PROP. 13 RULED INVALID

On December 14, HJTA examined the survival and future of Proposition 13 during a three hour public hearing. The Los Angeles Biltmore was the scene of the packed meeting of over 600 HJTA members and friends, including Estelle Jarvis and Richard Gann, son of Proposition 13's coauthor.

HJTA President Joel Fox introduced keynote speaker Governor Pete Wilson. Wilson pledged his continuing backing for Proposition 13. He told HJTA members he and Assembly Republicans are filing a brief with the U.S. Supreme Court in support of Proposition 13. The State Senate also voted to submit its own brief on behalf of the tax limiting measure. (The full Assembly, under the leadership of Willie Brown, has refused to follow the governor's and the State Senate's lead.)

If the high court rules Proposition 13 unconstitutional, the governor promised immediate legislative action to replace the current law with similar taxpayer protections which meet the court's standards. Wilson went on to describe his Taxpayer Protection Act of 1992, which he intends to put before voters this November. (See accompanying story.)

The legal session of the program began with Los Angeles County Assessor Kenneth P. Hahn, the defendant in the Proposition 13 case being considered by the U.S. Supreme Court. Hahn told Proposition 13 supporters that he is a taxpayer advocate. He said it would be chaos if Proposition 13 were overturned and he pledged to continue to work with HJTA on behalf of Proposition 13 and the taxpayers. (In addition to submitting its own brief to the Supreme Court, HJTA has provided legal assistance to Hahn and the County of Los Angeles in the defense of Proposition 13.)

Jonathan Coupal, HJTA Director of Legal Affairs, reviewed the Nordlinger Challenge to Proposition 13, which is based on a U.S. Supreme Court ruling in a 1989 case out of West Virginia. The court ruled a county policy, which taxed similar properties at differing amounts and had similarities to Proposition 13, was in violation of the equal protection clause of the 14th Amendment to the U.S. Constitution. Coupal pointed out there were also significant differences

See HEARINGS, Page 7

BULLETIN

SUPREME COURT TO HEAR PROP. 13 CHALLENGE ON FEB. 25

The U.S. Supreme Court will hear oral arguments in the Proposition 13 challenge on Feb. 25. Joel Fox and HJTA attorneys will be present and will report back to HJTA members.

THE DECISION WILL NOT BE RENDERED THE DAY OF THE HEARING.

It will be at least 30 days after the oral arguments that a final decision will be announced and it could take as long as four months. For more information see "President's Message" page 2.

Taxing Times

Published quarterly by the Howard Jarvis Taxpayers Association (HJTA) and the American Tax Reduction Movement (ATRM). Kris Vosburgh, Editor

Members of HJTA and ATRM enjoy dual membership.

HEADQUARTERS
621 S. Westmoreland Ave., Suite 202
Los Angeles, CA 90005-3971

HJTA PROPOSITION 13 HEARING PHOTOS

See Pages 10-11

Howard Jarvis Taxpayers Association
621 S. Westmoreland Avenue Dept. 2473
Los Angeles, CA 90005-3971

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THE LEGAL FRONT

By Jonathan Coupal, HJTA Director of Legal Affairs

UNITED STATES SUPREME COURT SETS HEARING DATE ON PROPOSITION 13 ATTACK.

— *Nordlinger v. Hahn.*

The major challenge to Proposition 13 will be heard by the United States Supreme Court on February 25th of this year. HJTA has worked closely with the County of Los Angeles and County Assessor Ken Hahn to ensure that Proposition 13 receives the best possible legal defense. We are pleased that the county has retained Rex Lee, former Solicitor General of the United States, to argue the case.

HJTA argued this important case in the state court proceedings. We remain confident that the highest court in the land will agree with our arguments that California's property tax system is better than traditional tax schemes. For example, only a system like Proposition 13 provides protection against taxes on increases in property value (unrealized profits), provides certainty in future property tax bills and provides a stable revenue source for local governments.

CALIFORNIA SUPREME COURT UPHOLDS VOTE REQUIREMENTS OF PROPOSITION 13. Rider v. San Diego. As originally intended by Howard Jarvis and Paul Gann, Proposition 13 limited both property taxes and other kinds of "special" taxes which might be raised to make up for lost property tax revenues. This was done by imposing a two-thirds vote requirement for local "special" taxes. Unfortunately, the Rose Bird court created two major loopholes in the clear language of Proposition 13. First, the court ruled in 1982 that the two-thirds vote requirement would not apply to any special district which was not previously empowered to levy a property tax. Therefore, a transportation district which levied only a sales tax was not legally obligated to submit its tax to the people as required by Proposition 13. Second, the Rose Bird court said that the two-thirds vote requirement would not apply to any tax which was placed in the general fund of a government entity. Both of these loopholes were exploited quickly by local governments to raise hundreds of millions of dollars in new taxes.

In **Rider v. San Diego**, decided in December, the California Supreme Court curtailed these two loopholes. It first ruled that local governments could not conspire with the legislature to create sham special districts whose only purpose was to avoid the two-thirds vote requirement of Proposition 13. Second, the court said that whether a tax is a "special" tax, depends on the purposes for which it is raised, not whether it is put into a "general" fund. Rider is one of the most important Proposition 13 cases ever decided. It will go far in slowing ever increasing special taxes and will directly help several of HJTA's other lawsuits currently pending in the courts. HJTA both briefed and argued the **Rider** case before the Supreme Court.

HJTA FILES NEW ASSESSMENT DISTRICT SUIT. Howard Jarvis Taxpayers Association v. Bonita Unified School District. One of the ways local governments have gotten around Proposition 13 is through "benefit assessments," also called "special assessments." HJTA recently filed suit in Los Angeles County against a school district for attempting to use the Landscaping and Lighting Act of 1972 to impose new taxes on local residents. Several school districts previously attempted this circumvention but most dropped their plans after being sued by HJTA (**HJTA v. Orange Unified School District**). HJTA has also brought suit against the Whittier Union High School District in a similar suit.

HJTA WILL SUE TO BLOCK SAN FRANCISCO SALES TAX INCREASE

As this edition of "Taxing Times" goes to press, HJTA is preparing to go to court to invalidate San Francisco's Proposition A, which will increase the local sales tax by 1/4 cent. (The new 8.5% rate would be the highest in California.) When the measure, appeared on the ballot in December, it failed to receive the two-thirds vote required by Proposition 13. This requirement was reaffirmed in the case of **Rider v. San Diego.** □

SEE PAGE 4 FOR SACRAMENTO REPORT

PRESIDENT'S MESSAGE

Nine Black Robed Justices

On February 25, the United States Supreme Court will hear oral arguments in the "equal protection" challenge to Proposition 13. Along with HJTA attorneys Trevor Grimm and Jonathan Coupal, I will be present.

This will be my second visit to the Supreme Court's chambers. In December of 1988, HJTA General Counsel Trevor Grimm and I heard the arguments in **Allegheny-Pittsburgh v. Webster County, West Virginia,** the case that gave rise to the current challenge to Proposition 13.

I remember feeling I was witnessing history in the making. Here were nine black robed justices acting as judge and jury in a matter that could prove critical to California taxpayers — and they would render a decision from which there could be no appeal!

As you now know, shortly thereafter, the justices found Webster County, West Virginia, had violated the U.S. Constitution when it imposed a tax policy with similarities to our Proposition 13.

Still, Proposition 13 supporters received some encouragement. HJTA had submitted a brief arguing the court should not tie a negative decision in the West Virginia case to California's Proposition 13. Chief Justice Rehnquist wrote, "We need not and do not decide today whether the Webster County assessment method would stand on a different footing if it were the law of a State, generally applied, instead of the aberational enforcement policy it appears to be. The State of California has adopted similar policy as Article XIIIA of its Constitution, popularly known as 'Proposition 13.'"

However, Rehnquist gave hope to Proposition 13 opponents when he also wrote, "the fairness of one's allocable share of the total property tax burden can only be meaningfully evaluated by comparison with the share of others similarly situated..." These words gave inspiration to three major lawsuits against Proposition 13 which HJTA has been battling ever since.

The hearing of February 25 will be the most important Proposition 13 has ever faced. As the justices ask questions of the attorneys in the case, I will be taking it all in — written notes are prohibited by court rules — so I can report back to you.

The first thing I will do when the hearing concludes is go to the phone to dictate a message to be sent immediately to HJTA members. I will give you my evaluation of the proceedings as well as the analysis of the attorneys.

Will the justices provide clues to their thinking? Possibly. Jon Coupal, who has argued Proposition 13 and term limits cases before the California Supreme Court tells me that the justices, through their questions, sometimes reveal their point of view.

I will not attempt to make a prediction. Keep in mind, the decision of the court will not be rendered for at least 30 days after the oral arguments and it may take much longer. Most of the work of the court is done behind the scenes through the legal briefs submitted by the interested parties. The oral arguments are only one hour in length. We will not have any idea how the justices will react to the hundreds of pages of written arguments that have been submitted on both sides of this issue.

Of one thing we can be certain. Thanks to the continuing support and confidence of HJTA members, we have done everything possible to see that Proposition 13 receives the best legal defense.

If we win, HJTA will continue as the guardian of taxpayers' rights as Howard Jarvis intended.

If we lose, HJTA will not stand idly by. We will be at the forefront of the battle with a new initiative to protect taxpayers. The spirit of Proposition 13 will prevail! □

Joel Fox, ACTIV's Lee Phelps, and HJTA's Jonathan Coupal during a break at November meeting of grass roots taxpayer groups. The meeting, sponsored by HJTA, Paul Gann's Citizens Committee, and ACTIV, brought together 36 representatives of 17 taxpayer organizations to build a united front in the face of the threats to Proposition 13.

Estelle Jarvis and Joel Fox joined Governor Wilson as he announced that he and Republican legislators would submit a friend-of-the-court brief on behalf of Proposition 13. The announcement was made at a Nov. 11 press conference on the lawn of the home of Muriel and Jim MacGregor in Bellflower. The MacGregors, who built their home in 1951, said they would probably have to sell their house if Proposition 13 is overturned.

This article appeared in the Nov. 25 Los Angeles Times

ONLY A TAX CUT WILL SLAY OUR FISCAL MONSTER

By Joel Fox

Imagine how Hollywood would handle it: "Just When You Thought It Was Safe to Count Your Money... Budget Crisis II!" Coming soon from your state government, a creature that has more lives than Frankenstein's monster.

After "solving" the $14.3-billion budget deficit, the largest in California history, with tax increases and some spending cuts, the governor and the Legislature now face the second largest deficit in the state's history—$5 billion and counting. Sorry, Jack, the taxman's back!

The Department of Finance issued a report last week that shows things will only get worse.

California's population is growing, but the bulk of the increase is made up of people who tend to use government services, such as the young and immigrants.

While the state is witnessing an overall growth in population, many people are leaving. The Finance Department study says that those on the way out are the producers, the taxpayers.

The report projects that in the year 2000 our state will have 2.02 taxpayers paying for every public-school student, down from the current ratio of 2.63 to 1. Each recipient of Aid to Families with Dependent Children is helped by 6.94 taxpayers today. In less than 10 years, only 2.94 taxpayers will be funding each recipient.

The report conjectures that the state's budget deficit at the turn of the century will be a whopping $20 billion in a budget of $105 billion, nearly twice today's budget. No projection is included for local government budgets. However, it is clear that they will be in the same boat, going down in a sea of red ink with too few taxpayer life preservers to save them.

The weapon suggested by the Finance Department to slay this resurrected monster is for California business to grow and create more jobs. Easier said than done, considering that many in the business community are prepared to abandon California. One in four companies is contemplating leaving the state, up from one in seven last year, according to a current survey of business leaders belonging to the Business Roundtable.

In the early 1970s, Seattle, in the midst of an economic slowdown, displayed billboards showing a single hanging light bulb with pull chain and a message: Will the last one out of Seattle please turn out the light. The California Chamber of Commerce may want to start a similar campaign here.

So, what do we do?

There are a number of things we can do, starting with—and don't stop me if you've heard this one—tax cuts.

Business leaders list the poor tax climate as a major reason to look for greener pastures—greener, as in keeping more money in the business for expansion. But it is not only business that needs money.

Nothing perks up consumer confidence more than money in the shopper's pocket. California consumers cannot be very confident or very eager to spend, given their increased tax burden. According to the nonpartisan, Washington-based Tax Foundation, California's per-capita state tax burden jumped about $220 a person to $1,679 in 1991, which vaulted California in one year from ninth on the list of comparative state tax burdens to fifth.

If taxes are cut, what will happen to people who rely on public services supported by tax dollars? As Senate Majority Leader George Mitchell said recently, the best welfare program is a job. We must stimulate the economy and create those jobs, and a tax cut is a way to do it.

While cutting taxes could be the

See FISCAL MONSTER, Page 7

Sacramento Report

by Steve Carlson
HJTA Legislative Advocate

1992 SESSION STARTS OFF WITH A BANG —

Despite the intense focus on reapportionment and the budget deficit, this second year of the legislative session has already seen a number of new proposals in anticipation of the U.S. Supreme Court's February 25 hearing in Nordlinger v. Hahn, and an attempt to pass an anti-Proposition 13 bill.

ACA 6 would undercut Proposition 13 by lowering the vote requirement to pass local bonds that must be repaid by property taxes. Last year we wrote HJTA members asking you to send postcards in opposition to ACA 6 to your Assembly and State Senate representatives. Thanks to the thousands of you who responded by writing, sending cards and calling, we were given a fighting chance to defeat this bill.

On January 23, with the briefest of notice, Assemblyman Jack O'Connell (D-Carpinteria) put ACA 6 before the full Assembly for a vote. Because Governor Wilson supported this measure, supporters of Proposition 13 were concerned Democrats could enlist enough Republicans to obtain the required 54 votes (a two-thirds vote of the Assembly is necessary to pass a Constitutional Amendment).

In discussing the measure with legislators and their staff immediately prior to the vote, we were gratified at the strong and virtually unanimous opposition to ACA 6 by Republican members. That support translated into the defeat of ACA 6 by a vote of 44 to 29, ten votes short of the requirement. The accompanying chart shows how your Assembly representative voted on ACA 6.

At press time, ACA 6 was on the Assembly inactive file, meaning that the bill is on life support but not yet completely dead. We will keep close track of this issue.

Two other anti-Proposition 13 measures, SCA 8 and ACA 4, are pending. However, given the treatment ACA 6 received in the Assembly, it is unlikely those bills will be moved without significant change in attitudes in the Assembly.

Other measures dealing with Prop. 13 include:

AB 851 (Klehs) — this bill, attempting to curb the retroactive impact of a possible overturning of Prop. 13 was passed unanimously by the Assembly Revenue and Taxation Committee and the full Assembly. During the hearing, the bill was amended at the recommendation of Assemblyman Phil Isenberg (D-Sacramento), who suggested that assessments be frozen for a two-year period after an adverse court decision to permit the legislature to craft adequate implementation measures.

As befits the born-again nature of some new Proposition 13 supporters, AB 851 garnered many co-authors from both parties. To understand why this is happening, one only needs to look at the new legislative district lines, confirmed by the State Supreme Court the day before this article was written. Redistricting will force many legislators to run in new, more competitive districts where the property taxpayer's vote could well mean the difference between victory and defeat. Thus we are seeing many instant converts to Proposition 13.

ACR 80 (Brulte) — this Assembly concurrent resolution requests Legislative Counsel, on behalf of the legislature, to intervene on behalf of Prop. 13 in the Nordlinger case. In a clear example of looking ahead to new districts, the Senate Rules Committee, chaired by Senate President Pro Tem David Roberti — hardly a Prop. 13 supporter during his years in the legislature — voted 4 to 1 with Roberti in support of the Senate's backing of Prop. 13 in the Supreme Court.

SCA 31 (Kopp) — this measure introduced by Senator Quentin Kopp (I-San Francisco) intends to deal with the potential overturning of Prop. 13. In this measure, if Prop. 13 were invalidated, all property would be reappraised as of the 1993 lien date but the homeowners' exemption, currently $7,000 of value, would change to 75 percent of the full cash value of the dwelling.

Another area of major concern to HJTA is assessment districts. We recently supported SB 773 (Bergeson) which sought to tighten some of the assessment procedures of the Landscaping and Lighting Act of 1972. Although we still believe in and continue to work for a popular vote requirement, we supported SB 773 as an incremental step to curb some of the abuses of assessment districts and return more due process rights to taxpayers. The bill, which passed the Senate Local Government Committee unanimously: 1) requires notices of proposed assessments to be mailed to taxpayers; 2) revises the definition of majority protest to represent 50 percent of the value of the lands in the district rather than 50 percent of the area and; 3) prohibits a local agency from imposing an assessment if there is a majority protest. This last provision repeals the current power of a local agency to override a majority protest with a four-fifths vote.

We have also heard there will be an attempt to revive legislation dealing with county service areas. Readers will remember our last minute efforts resulting in a veto of AB 1505 (Farr) which would have expanded the powers of county service areas. We are working on a proposal to tighten up the county service area provisions much as SB 773 does with landscaping and lighting districts. Counties may also attempt to revive their anti-taxpayers proposal from last year. We'll watch this closely.

Assemblyman Sam Farr (D-Carmel) has introduced AB 826. As was the case with SR 42 (Hart), which created the Senate Commission on Property Tax Equity and Revenue that was nothing more than an attack on Prop. 13, this bill provides for a study of local government finance needs by a Joint Commission on Property Tax Equity and Tax Revenue. We will keep a weather eye on this matter to assure that the composition of the commission and the charge of the commission are as fair as possible.

HJTA is supporting SB 267 (Kopp). This measure seeks to exempt magazine sales from the sales tax imposed on periodicals by the legislature last year. Industry representatives testified about the negative effect of the taxes and the competitive disadvantage to which they are put relative to out of state publishers. The bill was ultimately amended to narrow the scope of the exemption only to subscriptions.

HJTA also supports SB 177 (Deddeh), which would repeal the so-called "snack tax" on food items. We take the position that it is inappropriate to tax any of the necessities of life.

As part of an extensive re-alignment of committee assignments, Senator Leroy Greene (D-Sacramento) was named to replace Senator Wadie Deddeh as the chairman of the powerful and very important Senate Revenue and Taxation Committee. Comments by Senator Greene and his voting record in recent years have shown a propensity to oppose Proposition 13 and support tax increase proposals.

With February 21 as the last day to introduce bills, we will undoubtedly be seeing more proposals dealing with Proposition 13, assessment districts and many other subjects limited only by the very active imagination of legislators. It will be a very interesting year. □

HOW THEY VOTED

ACA 6 would undercut Proposition 13 by making it easier to pass local bonds that must be repaid by property owners. Because it is a constitutional amendment, it requires a two-thirds vote in each house of the Legislature. In the Assembly the vote was 44 yes to 29 no. Lacking 54 votes, the measure failed.

	ACA 6		
ASSEMBLY	YES	NO	NOT VOTING
Allen		•	
Alpert	•		
Achie-Hudson	•		
Andal		•	
Areias	•		
Baker		•	
Bane	•		
Bates	•		
Becerra	•		
Bentley		•	
Boland		•	
Bronzan	•		
Brown	•		
Brulte			•
Burton	•		
Campbell	•		
Cannella	•		
Chacon	•		
Chandler		•	
Clute	•		
Collins		•	
Connelly	•		
Conroy		•	
Cortese	•		
Costa	•		
Eastin	•		
Eaves	•		
Elder	•		
Epple			•
Farr	•		
Felando		•	
Ferguson		•	
Filante		•	
Floyd	•		
Frazee		•	
Friedman, T.	•		
Friedman, B.	•		
Firzzelle		•	
Gotch	•		
Hannigan	•		
Hansen		•	
Harvey		•	
Hauser	•		
Hayden	•		
Horcher		•	
Hughes	•		
Hunter		•	
Isenberg	•		
Johnson		•	
Jones		•	
Katz	•		
Kelly		•	
Klehs			•
Knowles		•	
Lancaster			•
Lee	•		
Lampert	•		
Margolin	•		
Mays		•	
McClintock		•	
Moore	•		
Mounjoy		•	
Murray	•		
Nolan		•	
O'Connell	•		
Peace	•		
Palonco			•
Quackenbush		•	
Roybal-Allard	•		
Seastrand		•	
Sher	•		
Speier	•		
Statham	•		
Tanner	•		
Tucker	•		
Umberg	•		
Vasconcellos			•
Woodruff			•
Wright		•	
Wyman		•	

HEARINGS, from Page 1

to Proposition 13. He declared his opinion that, based on the court's history of upholding state tax policies that are shown to be "reasonable," the court would ultimately uphold Proposition 13.

Reminding the audience it was lack of action by Sacramento that made Proposition 13 necessary in the first place, Fox introduced the legislative session of the program. This included brief remarks from each of three representatives of the Legislature, a Democrat, a Republican and an Independent.

Assemblyman Dick Mountjoy (R-Arcadia), an original Proposition 13 supporter, who was elected with the tax cutting measure, told of his efforts to persuade one candidate for governor to support Proposition 13 in 1978. The candidate didn't think Proposition 13 was that important or popular and asked what polls Mountjoy had seen. "The Bob's Big Boy Poll," Mountjoy told him. "What?" said the puzzled candidate. "That's when you go into Bob's Big Boy to get one signature for Proposition 13 and nine others volunteer," responded Mountjoy. Proposition 13 went on to overwhelming victory and the candidate, who failed to heed Mountjoy's advice, lost.

Proposition 13 is still overwhelmingly popular, stated Mountjoy, and if any portion is destroyed by the court, it should be patched and "put

See HEARINGS, Page 9

FISCAL MONSTER, from Page 3

silver bullet needed to destroy the creature, it wouldn't hurt to also drive a stake through the fiend's heart. Additional remedies will be needed. California's large and powerful congressional delegation must help restrict federal mandates so that California and other states can manage their own problems. Over-regulated, unproductive programs such as workers' compensation must be revamped.

As with the monsters in the movies, we can never be sure we've killed this creature. The spenders will continue to try and chop it out of the ice or sew it back together. But if we don't do a credible job of dealing with the monster in Budget Crisis II, Part III may play to an empty hall, because the audience to pay for it will simply have walked away. □

MORE MAD TAXES

HJTA TAKES ANOTHER SCHOOL DISTRICT TO COURT

As part of the ongoing effort to wipe out the illegal use of assessment districts by schools, HJTA has filed suit against the Bonita Unified School District in eastern Los Angeles County. The suit seeks to overturn a maintenance assessment district (MAD) for school facilities that was imposed last year by the district which serves the communities of San Dimas and La Verne.

In three causes of action, HJTA's suit charges the maintenance assessment district lacks statutory authority, violates the constitutional special tax provisions of Proposition 13, and constitutes an illegal double property tax.

Proposition 13 permits local governments and special districts to impose "special taxes," but only with a two-thirds vote of the people. The school districts are attempting to use the authority of the 1972 Lighting and Landscaping Act, which allows assessments, without a vote, for certain services that directly benefit property. This use by schools of the 1972 law has been called farfetched by its author, then Assemblyman, now State Senator, Bob Beverly.

This is the third suit filed against a school district by HJTA since last summer. After HJTA sued Orange Unified, the school board voted to rescind the illegal tax. Legal action is still being pursued against the Whittier Union High School District where property taxpayers are being billed for refurbishing the football stadium. The Whittier and Bonita suits may be combined. □

TAXPAYERS SELF-DEFENSE MANUAL

For those members who don't have one, we still have copies of the "Howard Jarvis Taxpayers Association Taxpayers Self-Defense Manual."

This useful 20 page booklet has tips on how to fight taxes at the grass roots level, as well as answers to some of the most commonly asked questions about state and local taxes.

While they last, the booklet is free to members who mail the coupon below directly to:

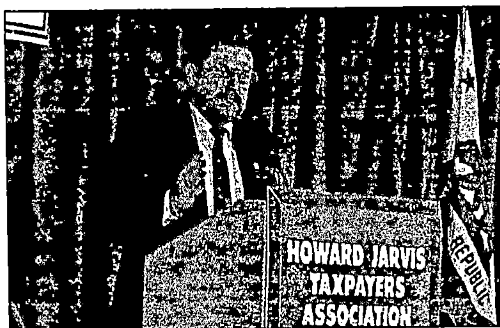
Booklet
c/o HJTA
621 S. Westmoreland Ave., Ste. 202
Los Angeles, CA 90005
No phone calls please.

NAME

ADDRESS

CITY AND ZIP

PHONE



Los Angeles County Assessor Kenneth P. Hahn, defendant in the anti-Prop. 13 suit before the U.S. Supreme Court, speaks at Dec. 14, HJTA meeting.

INTERVIEW WITH

LOS ANGELES COUNTY ASSESSOR KENNETH P. HAHN

"The Man In The Middle"

As Los Angeles County Assessor, Kenneth Hahn is the man in the middle of the Proposition 13 battle. To attack Proposition 13, Los Angeles attorney Stephanie Nordlinger sued the county assessor's office, making Hahn the defendant.

In addition to his key role in the defense of Proposition 13, Hahn heads a department responsible for the valuation of nearly 2.5 million taxable parcels in the nation's most populous county. The resulting property taxes will generate revenue of $4.2 billion during the coming fiscal year.

Hahn brings a professional background to his current responsibilities. He joined the Office of Assessor in 1980 and advanced to Appraiser Specialist. His work was so well regarded that he was appointed to develop solutions to some of the most complex appraisal problems encountered by the department.

Hahn was elected Los Angeles County Assessor in November 1990 and, in the brief time since his election, has established a reputation for hard work and professionalism.

Taxing Times: What are you doing to see that Proposition 13 gets the best possible defense before the U.S. Supreme Court?

Hahn: We have enlisted the services and support of the three most qualified groups to defend our position. Working alongside our top county counsel attorneys are Joel Fox and the Howard Jarvis Taxpayers Association legal staff, and the nationally recognized law firm of Sidley and Austin. On the Sidley and Austin team is former California Governor George Deukmejian and former U.S. Solicitor General Rex Lee. I think it's significant to note, here, that Mr. Lee has successfully won over 70% of the 55 cases he has argued before the Supreme Court, and, he will be presenting oral arguments to the court on February 25.

Taxing Times: If, in spite of the best efforts by your office and HJTA, key elements of Proposition 13 are thrown out by the court, we know it would be a disaster for taxpayers, but tell us how would it affect the operation of your office?

Hahn: It gives me nightmares to even think about the endless possibilities of disruption and upheaval it could create.

But it's something I have to think about and plan for. That's my job and it's what taxpayers expect and should receive from me. Obviously, the extent of disturbance would largely depend on which key elements of Prop. 13 were thrown out, what would replace them, and the period of time allotted for implementation of any changes. If a new property tax system were introduced, we would have to undertake a massive re-training of personnel and re-programming of our current systems and procedures. There would be the additional burden of informing and educating the public about these changes.

We are not burying our heads and waiting for the axe to fall. We're feverishly drafting provisions to deal with any number of possibilities which might affect our current system, but, quite honestly, our hope and our legal argument is that we will not have to use them.

Taxing Times: Since your election, what have you done to improve the level of service your office provides?

Hahn: We have implemented a quick, easy, and effective one-stop public service concept. How that works is that any taxpayer inquiry, whether by phone or in person, is taken care of by one person and one office. For example, certain taxpayer questions involve coordinating or receiving information not only from the Assessor's office, but from the offices of the Treasurer-Tax Collector and the Auditor-Controller as well. Why should we shuttle people back and forth on the phone or by foot to these various offices when we have the ability to obtain this information for the taxpayer in any of the regional branches or our main County office? This program not only fills a much needed gap in our previous operation, but creates an awful lot of taxpayer goodwill as well.

Additionally, our regional offices are now able to provide substitute tax bills, eliminating the need for people to make the trip to downtown Los Angeles. And, thirdly, we have made a big dent in tackling our backlog of technical processing.

There are a lot more administrative, educational, and training improvements we've made and continue to make, but I think the three issues I've just mentioned are ones which directly and immediately affect the taxpayers.

Taxing Times: If a member of the public calls your office for assistance, what should they expect?

Hahn: The same thing anyone should expect when calling any professional service organization: prompt, courteous, accurate, and responsive action!

Taxing Times: What would you like to accomplish during your tenure as Assessor?

Hahn: I would like to be able to say that I, and the taxpayers of Los Angeles County, won in the Nordlinger case. But in the event that Prop. 13 is overturned, I would like to be instrumental in drafting and implementing the most fair and equitable assessment system for homeowners and businesses alike.

Years ago the Los Angeles County Assessor's office was a national model for professionalism and knowledge. Once again we are headed in the right direction and I want to leave a legacy of service and knowledgeable personnel to the taxpayers of Los Angeles County.

There are many smaller goals I would like to achieve for my office but the bottom line is that they all add up to my ultimate objective, and that is, to make the assessment process as fair and efficient as we can make it. □

HEARINGS, from Page 7

right back on the ballot."

To an audience that included many who had worked side-by-side with Howard and Estelle Jarvis in 1978, State Senator Art Torres (D-Los Angeles) candidly confessed that he had not been with them. But Torres added his experience since then has shown him that Proposition 13 is vital to protecting property owners and all California taxpayers.

If Proposition 13 is overturned, Torres declared he will work for a replacement that will restore taxpayer protections. He said if the worst happens, Proposition 13 supporters must "flood the Capitol" demanding action from state representatives.

State Senator Quentin Kopp (Ind.-San Francisco), was a county supervisor in 1978 and one of the few elected officials in the entire state who supported Proposition 13. Kopp, who is also an attorney, told HJTA members he regretted disagreeing with Jonathan Coupal. In spite of his own personal support for the measure, he believes the Supreme Court will overturn Proposition 13.

If he is correct, Kopp told his stunned audience, we must begin thinking about what will replace Proposition 13. He added he has been giving this matter a great deal of study and he encouraged others to do the same.

During the last 45 minutes of the program the legislators, along with Fox and Coupal, took questions from HJTA members.

One member wanted to know what would happen if, as some experts believe, the high court in overturning Proposition 13 requires retroactive repayment of property taxes. The legislators agreed this would be a disaster and expressed support for legislation that would prevent this from happening.

A woman declared that property taxation was an outmoded concept and asked if consideration had been given to doing away with the property tax entirely. "Why must we keep paying and paying," she asked. Fox responded that he had written on the subject and saw society moving gradually in this direction. But he added, taking into consideration the current political climate in California, it was not realistic to see this happening in the near future.

An apartment building owner expressed concern over support by some in the public sector for taxing business at a higher rate than homeowners. He spoke of the need to protect renters, pointing out that if apartments were taxed at a higher rate, most of these costs would ultimately be borne by tenants.

Sen. Kopp expressed agreement that renters must be an important part in any consideration of changes to Proposition 13.

Other HJTA members asked if the legislators had given consideration to what would happen to seniors and those on fixed incomes if Proposition 13 were thrown out. Sen. Torres, agreed that protecting senior homeowners was very important. He added, however, it was also important to look at this fight as one to protect all taxpayers. He warned against weakening the Proposition 13 movement by breaking into factions and he encouraged all taxpayers to continue to work together.

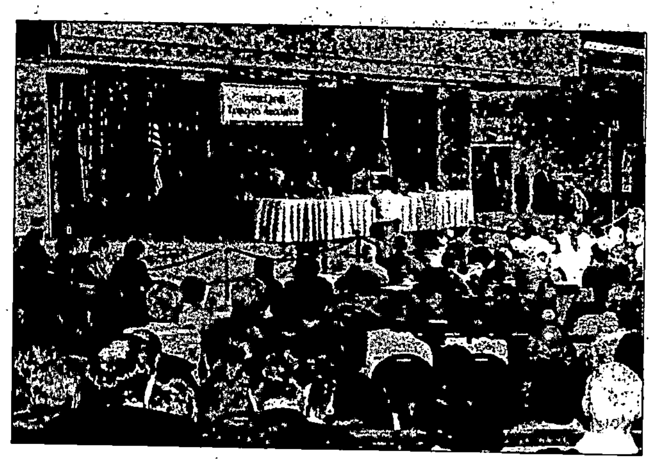
Fox promised HJTA will come right back with a new initiative to protect taxpayers if Proposition 13 is overturned. □

TURN PAGE FOR PHOTOS OF PROP. 13 HEARINGS

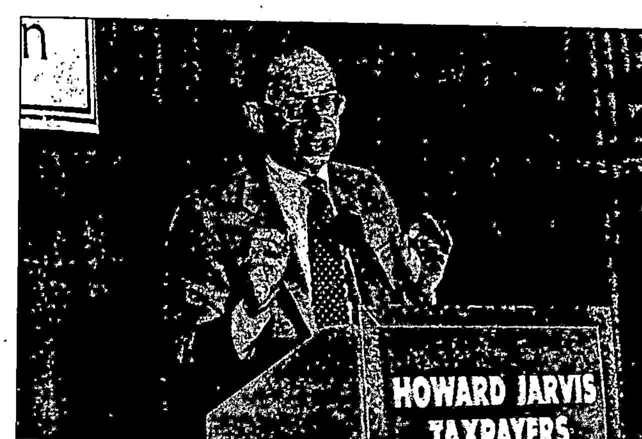
HJTA PROP. 13 HEARING

PHOTOS BY JOHN BARR

Gayle Wilson, Estelle Jarvis and Joel Fox listen as Gov. Wilson pledges to defend Proposition 13 and outlines his Taxpayer Protection Act for HJTA members.



HJTA attorney Jonathan Coupal reviews arguments in the Proposition 13 case before the U.S. Supreme Court. Coupal believes Proposition 13 will be upheld.

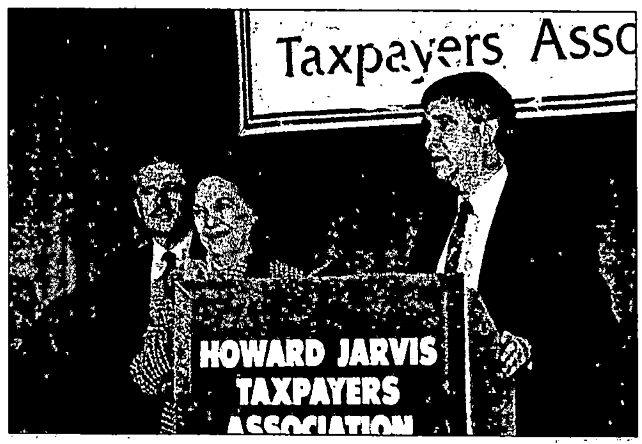


State Senator Quentin Kopp, a Proposition 13 supporter, is concerned Proposition 13 will be overturned. He says taxpayers must be ready to support alternatives.

State Senator Art Torres urges taxpayers to work together to preserve Proposition 13.

LOS ANGELES, CA, DEC. 14. 1991

HJTA members line up to ask questions and make suggestions.



Estelle Jarvis and Joel Fox thank Gov. Wilson for his remarks.

Assemblyman Dick Mountjoy, who campaigned for Prop. 13 in 1978, tells a questioner that if the court overturns Prop. 13, it should be patched and put on the ballot again.

HJTA president Joel Fox greets HJTA members.

HJTA Executive Director Kris Vosburgh makes note of ideas presented by taxpayers.

TAXPAYERS, from Page 1

"Welfare dependency has grown at a frightening rate in California, frightening not just for taxpayers, but frightening for the thousands of recipients who have been trapped and warehoused by the welfare system," Wilson said.

California's welfare system is now growing almost 12 percent a year — four times faster than the rate of population growth.

To transform the welfare system, the Taxpayers Protection Act includes the following reforms:

*Annual Grant Levels — grants will be determined by the state's ability to pay for the costs, based on revenues and caseload growth. This will replace the current system under which increases are automatic, regardless of the state's financial condition.

*Residency Requirement — for the first 12 months, after arriving in California, families that apply for welfare will receive grants no larger than they received, or would have received, in the state they moved from.

* Making Welfare Transitional — sets up a two-tier grant structure. For the first six months, families requiring immediate financial support will receive the full grant level.

After six months, families with an able-bodied adult will shift to a basic grant, which is 15 percent below the transitional level. (The full grant level will continue for families in which the adult is disabled or too old to work.)

*Maximum Family Grant — grants will not be increased for additional children born to a mother who is already receiving welfare.

*School Incentive — teenage parents will get $50 extra if they stay in school, but will be cut $50 if they drop out.

Wilson said welfare must be made what it should be for those capable of working — transitional support rather than indefinite maintenance and dependency.

HJTA was the first group to back the governor's plan when it was announced. (For more on welfare reform see "The Facts Line Up On Wilson's Side" on this page.) □

This column appeared in the Dec. 15 Los Angeles Times

The Facts Line Up on Wilson's Side

by Joel Fox

It is difficult to fly an unconventional political idea through the partisan flak that is quickly sent up to shoot it down.

Governor Pete Wilson has been labeled a "David Duke" and the "dictator" of California because of the welfare-reform package he has introduced.

Yet, the idea must be judged on its merits. And the facts are on the governor's side.

With the boldness of a fictional Daniel Webster who settled the case of a man's soul with the devil before a jury of the devil's own, Wilson has the facts to stand before welfare recipients and make the case that his reforms are necessary to protect the system which produces the largest for those in need.

The facts are simple. California, on its current course, is going broke. Following last year's record-breaking budget deficit, the state faces another deficit of undetermined billions.

When faced with these shortfalls, Wilson and the Legislature first tried to relieve the problem largely by raising taxes. The state levied a staggering $7-billion tax increase on its citizens, enough to account for an additional $220 per Californian.

But, this formula for bringing California into the black failed. As many of us who opposed the size of those tax increases predicted, it led to an even larger economic crisis. State Controller Gray Davis noted that last year's tax collection was lower than the previous year's collection for the first time since the Depression, and five months into this new fiscal year we are doing worse than last year. New taxes have accelerated the flight of business, jobs and taxpayers from the tarnished Golden State.

While some of our problems are tied to the nation-wide recession, there are reforms that have to be made to our budgetary process. Since we failed to tax ourselves out of financial disaster, we must come to grips with the spending side of the budget, and Wilson's plan recognizes that.

The Department of Finance has compiled trends which indicate that the number of tax receivers in California are growing faster than the number of taxpayers. The Department predicted that with the projected growth of welfare recipients, school and higher education students, prisoners, and non-welfare Medi-Cal cases, by the year 2000 we will have eight-tenths of one taxpayer for each tax recipient.

So-called entitlement programs, education and health and welfare, take 77-cents out of every dollar from the general fund. At current growth rates these services will demand more than 100-percent of the state general fund by the turn of the century causing a predicted $20-billion deficit. While education spending must be reformed, too, education provides a long term solution to our problems and should be nurtured.

The welfare budget, particularly Aid to Families with Dependent Children, has been escalating at a tremendous rate. Over a ten year period it has increased twice as fast (9.4%) as real family income (5.1%). AFDC caseload is projected to grow at a rate four times the rate of state population growth over a four year period which began in 1989.

California taxpayers have been generous in providing AFDC benefits. California payments rank fourth in the United States and first of the ten most populous states. Even if the cuts proposed by Wilson are enacted, California AFDC payments will still be higher than all other big states.

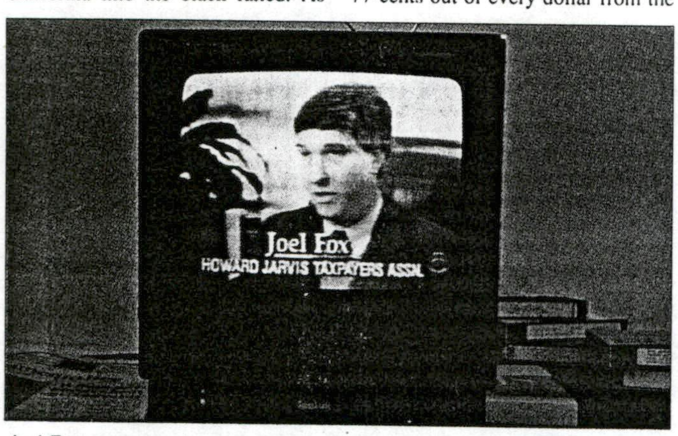
It is clear that California taxpayers are doing more than their share in shouldering the welfare commitments of this country. While California contains 12% of the nation's population, it pays 26% of the nation's AFDC costs.

The governor's initiative includes incentives to break dependency on welfare by allowing welfare recipients to work without losing benefits and by offering cash incentives for teenage mothers to finish high school.

Opponents of welfare cuts have suggested that more revenue be taken from business. But business in California has been taxed to a point where one in four companies in a recent Business Roundtable survey is considering leaving the state. Business is the vehicle to get us out of the doldrums and supply the jobs that most welfare recipients want. Business will be the backbone of a recovery.

The governor's welfare proposal will not go far enough to balance the budget, either in short range or long term. Other cuts must be considered, including those offered up last year by members of the governor's political caucus, most notably Assemblyman Tom McClintock (R-Thousand Oaks), which were considered drastic at the time.

The facts before the jury are clear. For the good of all California, to keep the system working so we can continue to take care of those in need of temporary help, the governor's plan must prevail. □



Joel Fox commented on the governor's welfare proposal on CBS News with Dan Rather and on the "Today Show."

TAX BYTES

SET FOR LIFE

Former State Senator Alan Robbins, who will spend five years in prison for extortion and tax evasion, will continue to receive a generous pension equal to almost two-thirds of his official salary, for life.

A DUBIOUS HONOR

In 1990, California ranked ninth in per capita tax burden. According to the Tax Foundation, California's 1991 tax increases represent a per capita increase of $220, and our state now ranks fifth. (The Tax Foundation is a non-profit, non-partisan research organization based in Washington D.C.)

MORE FROM THE TAX FOUNDATION

The Tax Foundation estimates the typical American family has lost $695 in the past four years to accelerating federal taxes and inflation.

--AND THINGS COULD GET WORSE

If the members of the State Senate Revenue and Taxation Committee get their way, Californians will face a $62 billion tax increase, an amount greater than the entire state budget. By a vote of 5-2 the committee approved SB 36 (Petris) to create a massive health care program to be financed by a hefty payroll tax and in-come tax increases. The mammoth program has been labeled unfeasible by the State Department of Finance.

YOU PAY, THEY STAY?

Sacramento lawmakers are reported working on a ballot proposition which would have taxpayers footing the bill for political campaigns and extend term limits established when voters approved Proposition 140.

Compiled by HJTA Executive Director Kris Vosburgh □

Welfare
story below
and commentary
on back page

Welfare

"California's Organization of Tax Fighters"

Taxing Times

SPECIAL SUPREME COURT EDITION

The Official Educational Newsletter of the Howard Jarvis Taxpayers Association ★ Howard Jarvis, Founder ★ March 1992

PROP. 13 JUDGEMENT DAY

HIGH COURT HEARS ORAL ARGUMENTS

WASHINGTON, D.C. — On February 25, at ten in the morning, Proposition 13 faced its ultimate challenge when the U.S. Supreme Court heard oral arguments in the case of Nordlinger vs. Hahn.

Present with Joel Fox was the HJTA legal team including Trevor Grimm, Jonathan Coupal and nationally recognized tax policy expert Jay Curtis. Curtis was hired by HJTA specifically to assist Los Angeles county in preparing the defense for Proposition 13.

The one hour of oral arguments

(Continued on page 2)

Michael Geissinger for Taxing Times

*HJTA president Joel Fox, Los Angeles County Assessor Kenneth P. Hahn and HJTA General Counsel Trevor Grimm leave the Supreme Court on the way to microphones accompanied by reporters from major newspapers including the **San Francisco Chronicle** and **Los Angeles Times.***

Taxing Times

Published quarterly by the Howard Jarvis Taxpayers Association (HJTA) and the American Tax Reduction Movement (ATRM). Kris Vosburgh, Editor.

Members of HJTA and ATRM enjoy dual membership.

HEADQUARTERS
621 S. Westmoreland Ave., Suite 202
Los Angeles, CA 90005-3971

Michael Geissinger for Taxing Times

Joel Fox discusses Proposition 13's prospects with the press on the steps of the Supreme Court. To the left of Joel stands U.S. Senator John Seymour, to the right is Assessor Hahn and HJTA attorney Trevor Grimm.

(Continued from page 1)

was divided between Carlyle Hall, attorney for Los Angeles resident Stephanie Nordlinger, and former U.S. Solicitor General Rex Lee, who defended Proposition 13.

The Nordlinger challenge is based on the equal protection guarantees of the 14th Amendment of the U.S. Constitution. Nordlinger says Proposition 13 is unconstitutional because taxes are based on the value of property at the time it is purchased. This means it is possible for two identical properties to be taxed differently because of when they were purchased and the price paid. However, the court usually judges state laws on whether or not they are based on a rational policy.

Hall opened his attack on Proposition 13 by charging that California's property tax system violates the constitutional guarantee of equal protection. "There's nothing to justify why one group...should pay higher amounts than the favored group," he said. Nordlinger, who bought her home in 1988, claims it is "outrageous" that she pays more than her neighbors who have owned their homes much longer. Because of these differences, Hall described Proposition 13 as "irrational."

Several of the justices, including Antonin Scalia and Sandra Day O'Conner, appeared skeptical. "It seems to have solved the problem that people can't keep up with (taxes on) unrealized gains in their homes," Scalia said and then drew a laugh when he said Proposition 13 seems "close enough for government work."

O'Conner asked, "Do you think that the California scheme can rationally be related to the problem of people on fixed incomes being taxed out of their homes?" Hall responded that the tax system is irrational because it is not related to ability to pay, that it benefits the rich.

(Continued on page 3)

Michael Geissinger for Taxing Times

Richard Gann, son of Proposition 13's coauthor, and Joel Fox confer after Supreme Court hearing.

(Continued from page 2)

Hall tried to compare Nordlinger's taxes with those on a Beverly Hills mansion, but was interrupted by Justice David Souter. "I didn't ask you about Beverly Hills mansions," he said, "I asked you for the kind of person in the middle...we're trying to find a standard taxpayer here, at least a peg to judge rationality."

Hall urged the justices to view Proposition 13 as they had the West Virginia case in which the court overturned a county tax system for violating equal protection.

In spite of what appeared to be some favorable questions for Proposition 13, experienced court observers warn against reading too much into justices' comments. It is just as likely that justices are testing a theory as offering an opinion.

Rex Lee also faced some tough questioning during his half-hour of rebuttal. Lee argued Proposition 13 is completely fair because it replaces a property tax system based on current market value with one based on the value of property when it is acquired. "The only question," said Lee, "is whether California's acquisition value assessment system furthers some legitimate State purpose (to help people keep their homes), and clearly it does."

Justice Anthony Kennedy asked about exceptions to the acquisition value system, saying "the hodgepodge created by these exceptions strongly undercuts the acquisition value theory."

Lee responded that there were only two exceptions and these were not at issue in this case. (In fact, the exceptions were not included in Proposition 13 but were added when voters approved new initiatives to allow parents to pass on property to their children, and older residents to sell existing homes to buy retirement homes of equal value without a tax increase.)

Justice John Paul Stevens commented "there's something counter intuitive" about a system where people pay much more than neighbors who receive the same police and fire protection. Lee pointed out that it has never been an assumption that there has to be a one-to-one matching of benefits to what one pays.

When Lee emphasized the value of Proposition 13 in protecting homeowners from being taxed out of their homes by the effects of inflation, Stevens added, "Of course there's another solution for some of these elderly people who have suddenly found their $10,000 homes are worth a million dollars. Some of them can sell those homes and still live, you know."

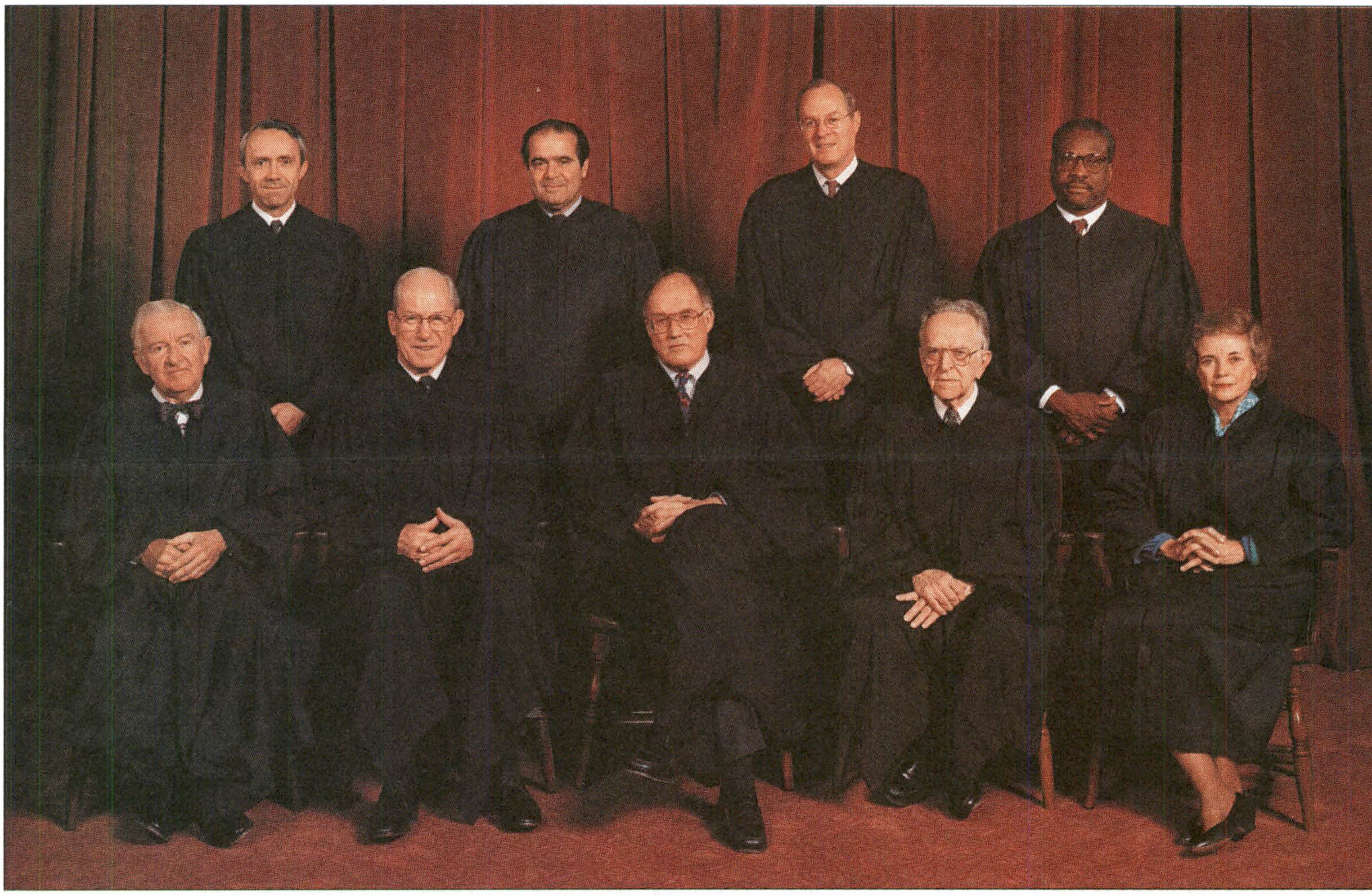
To buttress his arguments in defense of Proposition 13, Lee

(Continued on page 4)

Michael Geissinger for Taxing Times

Joel Fox and HJTA attorneys Jonathan Coupal and Trevor Grimm evaluate the justices' responses to oral arguments on Proposition 13.

Supreme Court Historical Society



Justices of the United States Supreme Court. Back row, left to right: Souter, Scalia, Kennedy, Thomas. Front row, left to right: Stevens, White, Rehnquist, Blackmun, O'Conner.

(Continued from page 3)
referred to briefs submitted by the Howard Jarvis Taxpayers Association and Paul Gann's Citizens Committee. "I invite the Court to read the pages of the Gann/Jarvis briefs," he said.

Lee told the justices that if the equal protection argument were used to overturn Proposition 13, "It's going to make Sherman's march though Georgia look like a Sunday picnic," because similar anomalies abound throughout federal and state tax laws.

Countering Hall's argument of irrationality, Lee concluded by saying the question is "did they deal with it (people being taxed out of their homes) in a responsible way. The answer to that question is yes, and the judgement of the lower court (in favor of Proposition 13) should be affirmed."

Immediately following the hearing, HJTA president Joel Fox met with the press and Proposition 13 supporters. Fox described his reaction as one of "cautious optimism," because the justices showed a good grasp of the issues at hand. However, he said HJTA should take nothing for granted and taxpayers must be prepared to move forward with a new initiative if the high court rules against Proposition 13. "Proposition 13's opponents would like nothing better than to find us unprepared in the event of an adverse court decision."

HJTA attorney Jonathan Coupal commented, "Having argued dozens of cases before appellate courts, I am a firm believer in Murphy's law. I have seen many cases in which the justices have indicated they would rule one way, only to later rule exactly the opposite way. This case still could go either way and we must continue to prepare for the worst."

Court observers expect it will be at least six weeks after the date of the hearing before the decision is announced and it could as late as this summer. □

ExCEL Choice-in-Education League

1041 Rutland Avenue, Los Angeles, CA 90042 — (213) 257-1827

ID 910 439

The Parental Choice In Education Initiative

AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF CALIFORNIA

- Empowers parents to choose any qualified K-12 public or private school for their children's education.
- Provides every resident school-age child a scholarship worth at least 50 percent of present state and local educational expenditures per child (now approximately $5,200 annually).
- Requires the Legislature to establish a process for public schools to voluntarily become independent scholarship-redeeming public schools.
- Includes savings from implementation in currently-mandated educational spending requirements.
- Permits students whose scholarship amount exceeds the cost of the participating schools to use the surplus for higher education.
- Authorizes statewide tests to measure academic improvement and overall school performance.
- Limits new regulation of private schools and scholarship-redeeming public schools.

Q1: What does your initiative do?

A1: The Parental Choice in Education initiative does several important things:

It will save the public education system from itself. It will be a catalyst to restore quality education in California. Ultimately, every education dollar will buy more effectiveness with less waste. It will give parents the power and ability to seek the best education available for their child.

It's an idea whose time has come. A statewide poll late last year showed that California voters support school choice -- including choice of public, private and religious schools -- 68.9 percent to 28.5 percent. Ten states enacted school choice in 1991, seven in 1990. Thirty-seven states, including California, have school choice bills pending in their legislatures.

First and foremost, the Parental Choice In Education initiative gives parents the freedom and right to choose the school their child will attend. For the first time in this state, parents will be empowered to choose a school --- public or private -- that shows it knows how to deliver results.

Our initiative will take away the power of the educational bureaucracy to dictate where a child must go to school. It gives that decision to those who know what's best for each child -- the parents.

It creates open enrollment in the public schools. Once neighborhood children are enrolled, any child may be enrolled in a school on a first come, first served basis.

It empowers teachers and parents to take over a public school and gives them the funds to operate that school in much the same way as a private school, free from bureaucracy and free to do what most teachers do best: teach. Teachers and parents, not bureaucrats, will create the curriculum best suited to the children of that specific neighborhood, not the "one size fits all" education mandated from Sacramento.

The initiative also gives parents the power and the funds to enroll their child in a qualified private school.

That's tremendously important now that we must build one new school every day for the next five years just to handle the 200,000 additional children which the experts predict will flood the schools every year for the next ten years. That means we will need nearly 2,000 expensive new schools at a time California simply can't afford the cost.

The Parental Choice in Education initiative will take a big part of that burden off the backs of California taxpayers.

And I have yet to hear one good reason why parents should not have the right to choose what is best for their child.

That's what the Parental Choice in Education initiative does -- and we're convinced that the voters of this state agree that it is long overdue.

Q2: How does the funding work? What is this "scholarship?"

A2: **The scholarship is half of what the state now spends on the average for a child's education. The state now spends $5,200. The scholarship is $2,600. It will be sent by the state to the child's parents in care of the qualified school -- independent public school or private school -- in which the parents have chosen to enroll their child. The child who enrolls in another public school anywhere in or outside his or her district will continue to get the full $5,200. Funds for special needs will follow the child to the chosen school, public or private.**

Right now, the state is spending 27 plus billion dollars to educate the five million plus children in the public schools, grades kindergarten through twelve. According to the State Director of Finance, that's an average cost of $5,242 to educate one child.

The initiative provides that if your child goes to another public school in some other neighborhood, the full amount will be spent on his or her education. If there are funds for special needs added in, that money follows the child. No change.

The School Choice initiative provides a scholarship at a minimum of half that amount -- or $2600 -- to each child whose parents choose to enroll him or her in a scholarship-redeeming, qualified private school or an independent, scholarship-redeeming public school.

That causes something financially interesting to happen.

It creates a savings for the public schools. Every child who migrates from a public school takes half, or $2600, with him or her to the new scholarship school -- and half, or $2600, stays behind in the public school system.

In theory, the half that remains behind in the public school system can be used to increase spending for students remaining in the public schools during the fiscal year in which the move takes place.

So, if student movement does take place because parents so choose, the child benefits by escaping a marginal or even bad school; the public schools benefit because they will have a savings to improve classroom resources -- and increased flexibility to handle the flood of added students expected over the next ten years -- which will also benefit the taxpayers of this state.

But the fundamental benefit is that parents -- not the bureaucracy -- will call the shots. Their decisions will make the public school monopoly compete for students and thus more accountable to parents and teachers.

Over time, parental choice will cause a long overdue change in educational priorities -- priorities that are now upside down in an educational system that favors the bureaucracy over child and teacher; that employs 127 non-teacher personnel for every 100 teachers; that pays bureaucrats one and a half to two times what it pays teachers; that causes massive layoffs of teachers, not administrators when the budget gets tight; that implements reductions in classes and textbooks, not cuts in overhead fat.

Q3: Your critics say that every child that leaves the public schools will cost them $10,000.

A3: That's a new math cooked up by the critics. Notice that they haven't produced studies to back up that calculation. We have done our homework -- in writing. School choice will produce savings to the state. The Legislative Analyst says maybe over a billion dollars.

First, the critics cannot get around the fact that under school choice, many children will be arguably better educated at half the cost to taxpayers -- $2600 as opposed to $5200.

Second, absolutely necessary new schools to cope with exploding student growth will be built with private sector -- not public sector -- dollars.

Let me exaggerate to make the point. Let's say all five million children -- except one -- migrate to scholarship schools. By leaving half the money behind, half of the entire state budget would be left behind. That means there would be thirteen-and-a-half billion dollars in the public school budget to spend on that one remaining child.

Q4: Isn't school choice really a subsidy for the wealthy?

A4: The real fact is that only the wealthy have a choice today. Some middle class parents making big sacrifices have made a choice. A tiny handful of poor kids are fortunate enough to be enrolled in subsidized private education -- which is some kind of choice. But the real tragedy is that the vast majority of the middle class and 99.99 percent of the poor have no choice at all -- no way of escaping really poor, really bad schools.

Talk to a concerned poor parent. They'll tell you that their pleas to transfer their child to a better public school are routinely ignored or refused by the bureaucrats.

It's worth noting that many public school teachers are working to keep their children in private schools -- nearly a third in the Los Angeles Unified School District alone.

State Schools Superintendent Bill Honig had a choice. He moved his child out of San Francisco public schools to a more affluent bay area public school. School choice critic Jesse Jackson chose private schools for his children.

School choice will give all parents the choice that only Superintendent Honig, Jesse Jackson and other wealthy people enjoy today.

Q5: Critics say that parents don't know how to make these choices.

A5: That statement is offensive and denigrating. Most teachers can tell you that it's simply not true. It is a typical example of the arrogant, patronizing attitude of the educational establishment. Some say that in many cases it's a vestige of a plantation mentality.

If parents can vote in elections, they certainly have the right -- and the brains -- to choose schools for their children.

Rich parents have choices. Why shouldn't all other parents have the same right?

Even in the poorest of neighborhoods, parents know they have bad schools -- and if they could figure a way out, they would take it. School choice will give them that escape.

So far, the critics are exclusively representatives of the self-serving educational establishment. The bureaucrats can't stand the notion of giving up power over parents or being held accountable for results.

Q6: How can school choice do that?

A6: School choice will work first -- and best -- where the schools are worst. That has been proven elsewhere in the nation -- in Milwaukee and Harlem. Given the opportunity, parents and teachers can deliver quality education.

Look. Less than half of the $5200 appropriated for each child actually gets down to the school. At the elementary school, only $1800 is available after the bureaucracy takes its bite; maybe $3200 left over at the high school level.

That $2600 scholarship will create a vast new array of educational offerings, particularly where the market exists, where schools are failing. Some will be non-profit, some for-profit.

You'll see schools that specialize in rescuing the problem student -- the so-called "throw-away" child. Those schools exist today -- and they're producing remarkable results. You'll see schools for the disabled and the handicapped, for kids whose needs are not well met in the public schools today.

You'll see schools that focus intensely on the needs of children who can't speak English and that will give them the tools they need to learn. There will be schools for children with talent in math and science, art, music -- the specialized education for kids who are not being challenged in our "one size fits all" curriculum today.

HOW WILL PARENTAL CHOICE IN EDUCATION INITIATIVE AFFECT PROP. 98?

Proposition 98 is incorporated in Sections 8 and 8.5 of Article XVI of the California Constitution. A rough summary of Prop. 98 is that excepting fiscal emergency situations, spending on public schools and community colleges must be no less than the greater of the following two tests:

1. the percentage of State General Fund revenues spent on public schools and community colleges in fiscal year 1986-87, which was about 42%
2. the per capita spending on students adjusted for inflation cannot fall below the level from the prior fiscal year

Therefore, at least 42% of the state's budget will be spent on public education to satisfy test 1, even if enrollment were to plummet; however, if enrollment increased, then more than 42% will be spent in order to satisfy test 2.

Our initiative does three things to impact Prop. 98:

1. expenditures for scholarships shall be counted toward the "spending on public schools and community colleges" used in the Prop. 98 calculations for both conditions.
2. enrollment in scholarship schools will not be counted for purposes of the second condition of Prop. 98.
3. "savings" accruing to the state from the movement of public and private school students into scholarship schools will be counted as if it were an expenditure for measurement purposes of Prop. 98.

The result of these three measures will be that it is possible that if enough students leave public schools to enroll in scholarship schools, the Legislature could spend less than 42% of General Fund Revenues on public education. However, real per capita spending on public school students required by Prop. 98 would not be affected. In fact, we free up more funds to permit per capita spending in public schools to be increased!

For example if 2.5 million students attend scholarship schools at $2,500/yr/student cost and 2.5 million students attend public schools at $5,000/yr/student cost, then we would have the following:

1. Total spending on scholarship and public schools would be: 2,500 x 2,500,000 = 6.25 bil. plus 5,000 x 2,5000,000 = 12.5 bil. for a $18.75 bil. total expenditure.
2. "Savings" would be (5,000 - 2,500) x 2,500,000 = 6.25 bil.
3. Total expenditures for purposes of measuring Prop. 98 compliance for test #1 would be 18.75 + 6.25 bil. = 25 bil.
4. $6.25 billion savings would be "freed" up which could be spent at the discretion of the Legislature to increase the per capita spending on public school students!

SUMMARY

Bill Honig and our other opponents are trying to confuse people about the distinction between the total dollars spend in public schools and the per student expenditures in public schools.

If enough students leave public schools, then it is likely that the total dollars spent in the public school system will decline. However, our initiative does not affect the Prop. 98 guarantees that the per student expenditures cannot fall.

So our opposition cannot honestly argue that our initiative would affect the per student expenditures in public schools. That protection will remain for public school students. They have been telling the Legislative and Finance Department analysts reviewing the initiative for its fiscal impact that:

- few students will leave public schools to attend scholarship schools because $2,500 is not enough to pay tuition at private schools.
- only existing private school students will be using the $2,500 to pay tuition

Therefore, they claim that the state will on net have to increase its total expenditures to pay for private school students. There are serious problems with these two claims:

- it ignores the empirical fact that many parochial schools charge less than $2,500/year tuition
- parents can supplement the scholarship with their own funds to pay for any differences
- the Legislature can always set the scholarship at a higher dollar amount (as it must if per student expenditures at public schools increase)
- no private schools would convert to or be created as a scholarship schools and be subjected to additional requirements in our initiative unless they could attract new customers by becoming a scholarship school
- public school students outnumber private school students by over a 10:1 margin so it is hard to believe that a large fraction of the families with 90% of the students in the state would not also be attracted to attend private schools if they were able to defray their expenses with a minimum $2,500 scholarship.

As long as the number of public school students who leave public schools (and they will have a two-year head start on their private school counterparts) exceeds the number from private schools who go to scholarship schools, then this initiative will save taxpayers money.

CALIFORNIA CATHOLIC SCHOOL SUPERINTENDENTS

The Current Parental Choice in Education Amendment and California Catholic Schools

Currently California voters are being asked to sign petitions which seek to place on the November 1992 ballot a state constitutional amendment known as The Parental Choice in Education Amendment. Opponents of this educational voucher amendment, in seeking to discourage the voter signature process, have raised questions about standards and practices in California private schools. Because California Catholic schools serve nearly half of the state's nonpublic school population, we find it incumbent to respond to some of the contentions which are being circulated by the California Teachers Association.

At the November 1991 public meeting of the State Board of Education and in subsequent publications of the California Teachers Association, Mr. Del Weber, C.T.A. President, claimed that there are *"no requirements for schools to be accredited."* While there is no statute which mandates accreditation for either public or private schools, voluntarily California Catholic K-12 schools long have been accredited by the Western Association of Schools and Colleges which has advised that relatively few public elementary schools hold accreditation.

For private schools, Mr. Weber stated that there are *"no background checks on teachers for felony convictions including child molestations."* Pursuant to 1984 legislation authored by Assemblyman Tom Bates, actively supported by the California Catholic Conference, and enacted into statute, all of our school employees who have contact with minor children are required, as a condition of employment, to submit fingerprints and to undergo a criminal clearance investigation by the State Department of Justice and the Federal Bureau of Investigation.

For private schools, Mr. Weber contended that *"there are no graduation requirements."* However, California Education Codes 48222, 51202, 51210 and 51220 give a lengthy list of course requirements and Education Code 51225.3 gives a specific listing of courses which must be taken for a student to qualify for a diploma of graduation. [1] It should be noted that Catholic schools have graduation requirements in excess of those mandated by law.

[1] California Private Schools Directory, 1990. Bureau of Publications, California Department of Education, pp. 376 - 378.

The California Teachers Association President claimed that *"there are no health requirements for private schools."* In fact, our schools, in common with other enterprises, must meet requirements with respect to fire safety, health and sanitation under regulations of the State Fire Marshall, the State Department of Health Services, and city and county agencies.

Mr. Weber stated that on the last time he checked *"private schools did not have to meet earthquake safety standards."* Apparently he is unaware of private school compliance with earthquake safety standards in the various earthquake zones of California and local city and county ordinances which have prompted Catholic school closures, extensive retrofitting and, as in the case of St. Rose School in Santa Rosa, totally new construction.

Mr. Weber failed to make mention of our schools' compliance with safety statutes relating to fire drills, first aid, school buses, earthquake emergency procedures, asbestos abatement, immunizations and child abuse reporting. CTA's Government Relations Divisions is circulating literature which states that *"children are at risk from a medically contaminated environment (i.e. no requirement of a measles shot)."* Yet, California's Health and Safety Code 3381, by which our schools abide, requires immunizations against diphtheria, tetanus, poliomyelitis, and measles as a condition of enrollment in both public and private schools.

It should be recognized that California's Catholic schools, which serve nearly half of the private school students in the state, enroll a higher percentage of children from minority families than do the public schools. California Catholic schools have a proven record of educational excellence, particularly for disadvantaged urban youth.

California Catholic schools are genuine participants in the educational life of the state. Large numbers of public school employees entrust their own children to parochial schools. Significant numbers of Catholic school graduates are administrators and instructors in California's public school systems.

As Catholic School Superintendents, we do not presume to have the expertise to solve all of the pressing problems of education in this multi-cultural and multi-ethnic state. However, we hope that further discussions of alternative solutions to the educational crisis, including a voucher possibility, might be made in a noninflammatory manner, based on factual information, without misrepresentation.

It should be noted that the current initiative effort to place a voucher proposal on the 1992 ballot has not originated in the Catholic school community but in the business community. We urge our parish and school communities to examine the issue from perspectives of justice and concern for all California youth.

We are pleased to see, within The Parental Choice in Education Initiative, special provisions for the Legislature to provide supplementary funding for transportation of children from low income families and for educational services needed by youth with physical impairments or learning disabilities.

With our colleagues in Catholic education throughout the United States, we continue to reinforce the Church's position that parents are the first and foremost educators of their children.

Recognizing that Catholic schools are a significant part of education in California, we encourage efforts to provide financial assistance to all parents to ensure that they can afford to choose the type of schooling they desire for their children.

We urge all California Catholics to study The Parental Choice in Education Initiative, to engage in respectful dialogue on the issue, and to exercise their civic rights and responsibilities. On our part, we wish to assure our fellow Californians that we will continue our educational efforts with K-12 parochial school programs which are particularly important to children of disadvantaged families.

January 21, 1992

California Catholic School Superintendents

Ms. Agnes Leonardich
Chairperson, CCSS
Superintendent of Schools, Diocese of Monterey

Mr. Richard Sexton
Superintendent of Schools, Diocese of Fresno

Sr. Rose Marie Hennessy
Superintendent of Schools, Diocese of Oakland

Br. William Carriere
Superintendent of Schools, Diocese of Orange

Mr. James Adams
Superintendent of Schools, Diocese of Sacramento

Mr. Thomas Heding
Superintendent of Schools, Diocese of San Bernardino

Sr. Glenn Anne Mc Phee
Superintendent of Schools, Archdiocese of San Francisco

Sr. M. Claude Power
Superintendent of Schools, Diocese of San Jose

Sr. Anne Patricia O'Connor
Superintendent of Schools, Diocese of Santa Rosa

Sr. Madeline Clancy
Superintendent of Schools, Diocese of Stockton

Dr. Jerome Porath
Superintendent of Schools, Archdiocese of Los Angeles

Mrs. Audrey Tellers
Superintendent of Schools, Diocese of San Diego

Dr. Joseph P. Mc Elligott
Associate Director for Education, California Catholic Conference

What opponents are saying....

This proposed constitutional amendment, if approved by the voters, would establish a system of state-funded educational vouchers ("scholarships"). Key features include:

- o Beginning in 1993-94, all school-age children are eligible to receive a scholarship equal to *at least* 50 percent (approximately $2,490 in 1993-94) of prior-year per-pupil government spending on K-12 education. (Children who were enrolled in private schools in October 1991, however, are not eligible to receive scholarships until 1995-96.)

- o Parents and students may add to the value of the scholarship, without limit.

- o The Legislature may provide supplemental funds, but *only* for (1) transportation of low-income students or (2) special needs related to physical or learning disabilities.

- o If the value of the scholarship exceeds charges imposed by a scholarship-redeeming school, the excess is held in trust by the state for later use at any scholarship-redeeming school *or any institution of higher education* in California. Any surplus remaining at a student's twenty-sixth birthday reverts to the state.

- o Scholarship-redeeming schools may be private or public. Such schools, however, may not (1) discriminate on the basis of race, ethnicity, color, or national origin; (2) advocate unlawful behavior or deliberately provide false or misleading information regarding the school; or (3) enroll fewer than 25 students.

- o Scholarship-redeeming schools are subject to regulation no more restrictive than the relatively minimal level applicable to private schools. Any additional government regulation of *all* private schools (whether scholarship-redeeming or not) beyond that in effect as of October 1991 is generally prohibited, unless approved by a three-fourths vote of the Legislature.

- o All public school districts must establish mechanisms for allocating district enrollment capacity "based primarily on parental choice." Public schools which choose not to redeem scholarships must open any remaining capacity to *inter*-district choice.

- o The State Board of Education may require public schools and scholarship-redeeming schools to administer tests "reflecting national standards" for the purpose of measuring individual students' academic improvement.

PROS AND CONS

PROS:

- *Increases Budgetary Flexibility.* As shown in the fiscal analysis, this measure greatly reduces the protection of public schools' funding levels that would otherwise have been provided by Proposition 98. (Under the public schools' "best case" scenario noted above, the state would save $4.7 billion in 1999-2000, relative to Proposition 98 requirements in the measure's absence.) This, in turn, would allow for greater flexibility in setting overall state budget priorities. (The Governor and the Legislature, of course, could *choose* to spend some or all of these actual savings on the schools.)

- *Creates Competition.* Proponents of vouchers argue that competition will (1) break the bureaucratic structure resulting from the public schools' monopoly position, (2) encourage the creation of more alternatives to meet the educational needs and desires of parents, and (3) require under-performing schools to "shape up" or go out of business.

- *Mandates Public School "Choice."* The measure requires *intra*-district choice for all public schools, and *inter*-district choice among those public schools which choose not to redeem scholarships.

- *Allows Freedom from State Regulation.* Public schools that chose to become scholarship-redeeming would be subject to no more regulation than the relatively minimal level applicable to private schools. Among other things, scholarship-redeeming schools would not be subject to collective bargaining requirements.

- *A Simpler Funding System.* In contrast to the existing system of school finance, with its myriad Byzantine formulas, this measure provides all children in a given grade level with a voucher of equal value (although the Legislature is authorized to provide supplemental funds for a limited number of special needs). Proponents argue that such a system, in addition to being simpler than the existing one, would also be fairer.

- *Could Make Everyone Better Off.* If (1) the value of the voucher were set at a relatively *low* level, (2) relatively *high* numbers of pupils chose to leave the non-scholarship-redeeming public schools, and (3) the Governor and Legislature decided to provide public schools with funding *in excess* of the new Proposition 98 minimums, it is *possible* that the public schools could receive *slightly more* per pupil than they would have in the measure's absence, at *less* total cost to the state.

CONS:

- *The Rich Get Richer (I).* Unlike some other voucher proposals, this measure imposes *no limitations* on the ability of parents to supplement the value of the voucher--nor does it allow the value of the voucher to vary according to a family's ability to pay. As a result, wealthy parents could use the scholarships to augment their already-substantial purchasing power and "outbid" poorer parents for the most desirable schools. Arguably, such an outcome would be directly violative of the *Serrano* decision requirement that the quality of publicly-supported education not be a function of wealth (in this case, family wealth).[1]

- *The Rich Get Richer (II).* According to the Associated Press, the average private school tuition (excluding Catholic parochial schools) in 1991 was $6,400. A $2,500 voucher will help make this option available to those families that can afford to come up with the additional $3,900 per year; absent financial aid from some other source (or a significantly higher voucher value), however, such schools will remain out of reach of poorer families.

- *The Poor Get Poorer (I).* If the Legislature is precluded from providing any supplemental assistance beyond (1) transportation for low-income students and (2) special needs related to physical impairment or learning disability, what will happen to students who have *other* special needs (e.g., limited English proficient, educationally disadvantaged)? Scholarship-redeeming schools would likely respond by (1) excluding such harder-to-educate students, (2) charging more to education them, and/or (3) attempting to cut costs (e.g., through larger class sizes). Should parents be expected to pay for these factors (which may be largely outside their control)? How will low-income parents come up with the resources to compensate for the well-documented educational disadvantages that accompany poverty?[2]

- *The Poor Get Poorer (II).* The measure makes no explicit provision for transportation assistance to low-income students who remain within the non-scholarship-redeeming public school system, but who wish to attend a school other than their neighborhood school. Without transportation assistance, such

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[1]Coons and Sugarman, strong proponents of educational vouchers, nevertheless reject voucher systems in which the rich have an unlimited ability to augment the voucher's value:

"Unless the amount of the voucher were so large as to preempt all interest in further spending for education by all but an insignificant number of families (an outcome economically and politically unthinkable), the effect of [such a] proposal is plain. Families unable to add extra dollars would patronize those schools that charged no tuition above the voucher, while the wealthier would be free to distribute themselves among the more expensive schools. What is today merely a personal choice of the wealthy, secured entirely with private funds, would become an invidious privilege assisted by the government. Isolation and excellence would be purchased by the rich with public assistance. Both wealthier classmates and the schools they might prefer would be foreclosed to the poor--all with the help of the state. This offends a fundamental value commitment--that any choice plan must secure equal family opportunity to attend any participating school." (John E. Coons and Stephen D. Sugarman, *Education by Choice*, p. 191.)

[2]In their widely-cited study touting the benefits of parental choice in education, Chubb and Moe propose a voucher system in which students with special needs receive add-ons to their scholarships. "At-risk students would then be empowered with bigger scholarships than the others, making them attractive to all schools (and stimulating the emergence of new specialty schools)." (John E. Chubb and Terry M. Moe, *Politics, Markets, and America's Schools*, p. 220.) Chubb and Moe also recommend against allowing parents and students to supplement their vouchers with personal funds. (*Ibid.*)

students may find their only practical options to be (1) attending a poor-quality, but local, public school or (2) attending a second-rate scholarship-redeeming school.

- ***Public Schools Hit With "Triple Whammy."*** Based on the foregoing discussion, in conjunction with the fiscal analysis presented earlier, it is not difficult to envision an outcome in which the remaining public (non-scholarship-redeeming) schools get stuck with the harder-to-educate (i.e., *more costly* to educate) kids, at the same time that per-pupil support for public schools is drastically reduced. Moreover, the public schools would still be subject to current statutes and regulations, while scholarship-redeeming schools would not. If public schools are unable to meet expectations for academic quality under these adverse conditions, more students may leave the system; as attendance decreases, per-pupil funding will drop further. The end result of such a downward spiral would be the demise of the public school system.

- ***Minimal Accountability Requirements.*** The measure implicitly assumes that market forces will take care of most issues of financial and performance accountability. (With respect to academic accountability, it merely provides that the State Board of Education *may* require public schools and scholarship-redeeming schools to administer tests "reflecting national standards," with each school's composite results released to the public.) Given a very significant state financial commitment, do we really want to abandon *all* regulation? (What about sanctions on schools that are consistently low-performing or that otherwise "misuse" public funds? What about facilities structural integrity standards?)

- ***Could Lead to Undesirable Discrimination.*** The measure only prohibits discrimination based on race/ethnicity, color, or national origin. Scholarship-redeeming schools could presumably discriminate based on sex, sexual orientation, religion, physical/mental handicap, and academic or athletic ability.

- ***Benefits of Competition Are Unproven.*** While the potential benefits of competition sound fine in theory, they have yet to be proven in any large-scale demonstration of education vouchers. In light of the concerns noted, are the potential benefits worth gambling the public school system's existence?

- ***Overall, A Bad Voucher Plan.*** Even opponents of vouchers concede that there is a wide continuum in voucher plans from "good" to "bad," depending upon the specifics. *This is a very bad voucher plan*, the intent of which appears to go far beyond providing "level playing field" competition for the public schools. Instead, it is structured so as to "stack the deck" against the public schools, with the apparent goal of destroying the public school system.

KNOWN PROPONENTS/OPPONENTS

Proponents:

Excellence through Choice in Education League (ExCEL)
Joseph Alibrandi, Whittaker Corporation CEO
Former US Secretary of Education William Bennett
Milton Friedman (Professor Emeritus of Economics, University of Chicago)
Former Governor George Deukmejian

Opponents:

Superintendent of Public Instruction Bill Honig
California School Boards Association
Association of California School Administrators
California Teachers Association
California Federation of Teachers
California State PTA
California School Employees Association
Service Employees International Union
United Teachers of Los Angeles
Californians for Community Colleges
Los Angeles Educational Alliance for Restructuring Now (LEARN):
- Robert E. Wycoff, President, ARCO; Chairman, LEARN
- Roy A. Anderson, Chairman, The 2000 Partnership
- William R. Anton, Superintendent, Los Angeles Unified School Districts
- Helen F. Bernstein, President, United Teachers of Los Angeles
- John W. Mack, Urban League, Los Angeles; Black Leadership Coalition on Education
- William G. Ouchi, UCLA School of Management; Leadership Education for Asian-Pacifics
- Richard J. Riordan, Riordan & McKenzie; Founder, Kids First
- Virgil Roberts, Dick Griffey Productions; Solar Records; Chairman, Los Angeles Educational Partnership
- John P. Singleton, Security Pacific Corp; Chairman, Workforce LA
- Phillip L. Williams, Vice Chairman, Times Mirror Corp.; Chairman, California Chamber of Commerce Education Committee
- Mike Roos, President and Chief Executive Officer, LEARN

Neutral:

California Business Roundtable*

* Has indicated intent to *oppose* measure, if it qualifies for ballot--provided that progress continues to be made towards implementing public school choice.

FISCAL ANALYSIS

It is not possible to predict precisely the fiscal effect of this measure. This is because the fiscal effect would depend on several interrelated factors, including:

- ***The number of students in private schools (currently not supported by the state) who chose to receive scholarships.***
- ***The number of students in public schools who chose to receive scholarships (potentially at lower cost to the state).***
- ***The value of the scholarship, as set by the Legislature.***
- ***The level of per-pupil spending on students who chose to remain in non-scholarship-redeeming public schools.***

A simplistic analysis predicts that, if *all* of the 500,000 or so students currently attending private schools chose to receive scholarships and *no* students left the public school system, the measure would result in net additional *costs* to the state. On the other hand, if many students were to leave the public school system and convert to less-costly scholarships, the measure could result in net *savings*.

Proposition 98 Interactions. A further complication, however, is provided by the interaction of these factors with the Proposition 98 minimum funding requirements. Under the terms of the measure, each student who left the non-scholarship-redeeming public schools would result in a corresponding reduction to Proposition 98 minimum funding requirements as determined by "Test 2" (the "maintenance of prior year's service levels" test). (The amount of the reduction in 1993-94 would be approximately $4,230 per pupil.) This reduction would continue with the departure of additional pupils, until the "Test 2" funding dropped below the "Test 1" (percent of General Fund revenues) level--at which time "Test 1" would be controlling.

In addition, however, the measure provides that all spending for scholarships, *as well as any "savings" resulting from the granting of scholarships*, counts towards meeting Proposition 98 minimum funding requirements. "Savings" are defined as the difference between (1) the amount of the scholarship and (2) the average state and local spending per student in non-scholarship-redeeming public schools. Again using 1993-94 figures, each pupil receiving a scholarship would produce an *additional* $4,230 in spending and "savings" counting towards Proposition 98 funding requirements.

The effect of these provisions would be to produce a "double hit" on the Proposition 98 guarantee for every pupil that leaves the public school system. The first "hit" occurs as the overall guarantee is--appropriately--reduced to reflect fewer students within the public school system. The second "hit" results from counting spending on scholarships and "savings" towards meeting Proposition 98 funding requirements.

A "Best Case" and "Worst Case" Analysis. While it is not possible to estimate precisely the value of each of the four factors noted above in all of the years in which the measure would be in effect, it *is* possible to develop alternative projections based on plausible "best case" and "worst case" scenarios--taking note of the fact that the number of students who chose to receive scholarships would, in all likelihood, be positively correlated with the value of the scholarship.

The attached charts summarize the results of such an analysis, in which the following two scenarios are contrasted:

- o *High Voucher, High Exodus.* In this scenario (a "worst case" from the public schools' perspective), the value of the voucher is set at *75 percent* of the prior year's total per-pupil spending on public schools. In the initial year of operation, 3 percent (164,000) of 1992-93 public school enrollment chooses to receive scholarships; this figure grows by 60 percent annually thereafter. In 1995-96, 112 percent (696,000) of the prior year's private school enrollment chooses to receive scholarships; this figure grows by 12 percent annually thereafter. We have further assumed that the Legislature chooses to provide the bare minimum level of funding needed to meet Proposition 98 funding requirements (including counting "savings" towards the guarantee); in no event, however, would per-pupil spending on either vouchers or public schools decline from year to year.

- o *Minimal Voucher, No Exodus.* In this scenario (a "best case" from the public schools' perspective), the value of the voucher is set at *50 percent* of the prior year's total per-pupil spending on public schools. *No* students attending public schools choose to receive scholarships; *all* students who would otherwise have attended private schools choose to do so. In contrast to the above, we assume that the Legislature chooses to fund Proposition 98 such that *actual* total public spending on public schools plus vouchers (*excluding* "savings") equals the guarantee; again, however, in no event would per-pupil spending on either vouchers or public schools be permitted to decline from year to year.

The charts also show projected "baseline" state and local spending for public schools under Proposition 98, in the absence of the initiative. (Economic assumptions are based on the Commission on State Finance Fall 1991 Long-Term General Fund Forecast.)

Chart 1 shows that, under the "high voucher, high exodus" scenario, total state and local spending for public education (excluding spending on vouchers) would drop from a level of $22.5 billion in 1992-93 to $18.1 billion in 1999-2000--*55 percent* below the projected "baseline" level of $40.4 billion. Obviously, under these circumstances, tens of thousands of teachers would be laid off from the public schools; it is impossible to predict how many of these would find employment in scholarship-redeeming schools. The chart also shows that, under the "minimal voucher, no exodus" scenario, public education spending would be $33.9 billion in 1999-2000--*16 percent* below the "baseline" level.

Chart 2 shows these same data, on a per-pupil basis. The chart shows that, on a per-pupil basis, the impact of the initiative on public education spending is *remarkably similar* under both scenarios. Specifically, under the "high voucher, high exodus" scenario, per-pupil spending in 1999-2000 is *19 percent* below the "baseline" level of $5,633, while under the "minimal voucher, no exodus" scenario, it is *16 percent* below the "baseline" level.

This analysis therefore suggests that, *unless the Governor and the Legislature were to provide funding in excess of the Proposition 98-required minimum guarantee levels*, per-pupil funding for those students who remain in public schools would likely decrease significantly (that is, by 16 to 19 percent) below amounts needed to maintain 1992-93 current service levels. This, in turn, would require significantly increased class sizes, reductions in teacher compensation, or both.

Joint Legislative Budget Committee

GOVERNMENT CODE SECTIONS 9140-9143

CALIFORNIA LEGISLATURE

LEGISLATIVE ANALYST
ELIZABETH G. HILL

925 L STREET, SUITE 650
SACRAMENTO, CALIFORNIA 95814
(916)445-4656

December 13, 1991

Hon. Daniel E. Lungren
Attorney General
1515 K Street, Suite 511
Sacramento, California 95814

Attention: Mary Whitcomb
Initiative Coordinator

Dear Attorney General Lungren:

Pursuant to Elections Code Section 3504, we have reviewed the proposed initiative cited as the "Parental Choice in Education Initiative" (File No. SA 91 RF 0024, Amendment #1).

The Proposal

This measure would significantly change the way the state funds K-12 education in California. The initiative's major provisions would:

- Require the state to provide annual scholarships to all school-age children. These scholarships could be used only at schools that elect to become "scholarship-redeeming schools." The scholarship amount would have to be at least 50 percent of the average level of spending from federal, state, and local sources for public school students in California.

- Require that the Legislature establish a process by which public schools may become scholarship-redeeming schools.

- Require that public school districts establish mechanisms to "allocate enrollment capacity" primarily on the basis of "parental choice." Presumably, this would require establishment of inter- and intra-district open enrollment programs and policies.

- Authorize the State Board of Education to require public and scholarship-redeeming schools to administer tests measuring individual students' academic improvement.

The proposed initiative also contains language affecting "Proposition 98" minimum education funding requirements. This language could reduce the state's obligation under the minimum funding requirement, thereby giving the state greater flexibility in determining funding levels for education programs. The scholarships required by the proposed initiative would be a new constitutional guarantee, separate from, but coexisting with, the Proposition 98 guarantee. Unlike Proposition 98, the new guarantee could not be suspended.

Fiscal Effect

The fiscal effect of this proposed initiative is largely unknown, as it would depend on the legal interpretation of the measure, how the Legislature implemented the measure, and how people responded to those decisions. For instance, a key factor is the level of the scholarship provided. That, in turn, would affect the number of schools that opt to become scholarship-redeeming schools, and the movement of students between public, private, and scholarship-redeeming schools.

Scholarships. The primary fiscal impact of the measure would be through the scholarship provision. On the one hand, this requirement could result in added *costs* to provide scholarship payments to existing private schools (which currently receive virtually no public support) that chose to become scholarship-redeeming schools. On the other hand, the state would *save* money to the extent that students who otherwise would have attended public schools enroll in scholarship-redeeming schools (assuming the amount of support from state sources per public school student exceeds the scholarship amount). The actual impact would depend on the net effect of these factors and on whether the Legislature accommodated any net *costs* by reducing the amount school districts would otherwise receive under current law. The net impact, however, could be costs or savings in excess of $1 billion.

Open Enrollment. We estimate that implementing the open enrollment policies could result in unknown costs or savings to the state, depending primarily on whether students attending schools outside their district of residence were entitled to higher or lower levels of state per-student funding in the district of attendance.

In addition, we estimate that school districts would incur costs to plan for and implement these policies. The magnitude of these costs to school districts is unknown but potentially in the tens of millions of dollars.

Testing. We estimate that, if the State Board of Education elected to do so, implementing a program of testing individual academic improvement would result in costs to the state and/or school districts and scholarship-redeeming schools in the tens of millions of dollars annually to develop, administer, and score tests. These costs would vary depending on the breadth, frequency, and sophistication of the tests.

Summary. In summary, the initiative would have the following primary fiscal effects:

- Costs or savings to the state, potentially in excess of $1 billion, due to the scholarship, open enrollment, and testing requirements.

- Costs to school districts, potentially in the tens of millions of dollars, due to the open enrollment and testing provisions.

Sincerely,

Mac Taylor

for Elizabeth G. Hill
Legislative Analyst

Lawrence Stancell

for Thomas W. Hayes
Director of Finance

School choice measure sparks emotional battle

By Lisa Lapin
Bee Staff Writer

Mark Mezger's four children attend Holy Rosary Academy in Woodland, the third generation of Mezgers to get a Catholic education. It's an opportunity the Mezgers believe should be available to everyone, rich or poor.

Al Rowlett believes that the best place for his four children is in the Elk Grove public schools, where every student is entitled to an education. Diverting tax money to more discriminating private schools, he says, is "inherently unfair."

Rowlett, a PTA president, is fighting to stop an initiative that would give parents $2,600 in tax money to make their own school choice. Mezger is gathering signatures to put the issue on the November ballot.

Parents throughout California are being forced to take sides in perhaps the most emotionally charged education issue since Proposition 13 cut property tax funding 14 years ago.

Opponents say the Parental Choice in Education Initiative would destroy public education in California by milking more than $1 billion from

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Learn: Teachers mobilize to keep initiative off ballot

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school coffers while skimming off the best students.

Supporters say the proposed constitutional amendment, backed by Los Angeles aerospace entrepreneur Joseph Alibrandi and others, will rescue public schools from mediocrity by forcing them to be competitive.

The fate of the initiative could be decided long before it ever reaches voters, with the powerful 250,000-member teachers union mobilized to prevent it from getting enough signatures to qualify.

There are indications that the anti-petition strategy has been working so far – the initiative has only 330,000 of the 1 million signatures needed by April 27. Campaign consultants predict the initiative needs 96,000 new signatures a week – a tough task even for the most popular cause.

Virtually every group affiliated with public education in California opposes the measure, as does the Rev. Jesse Jackson and such disparate lawmakers as Assemblymen B.T. Collins, R-Carmichael, and Phil Isenberg, D-Sacramento.

Grace Foster, vice president of the 1.5 million-member California Parent-Teacher Association, characterizes the initiative's primary premises as a "lie."

"This initiative would do nothing to improve education and nothing to guarantee that parents will get their choices," she said.

There are some signs that the voucher campaign is gaining favor, particularly among Catholic and other Christian school parents and people disenchanted with state-funded education.

"I've got two children in two different public schools on two different year-round schedules, and neither one of them gets any attention in class," said Rhonda Johnson of Merced, where schools recently went year-round to ease overcrowding. "I'm willing to vote for anything that will get my kids out of that situation."

The voucher initiative counts among its backers Nobel laureate Milton Friedman, former U.S. Education Secretary William Bennett and President Bush, who has made choice in education a campaign platform.

"The idea is to make educators accountable to parents, not to a bunch of bureaucrats who have rules that don't produce results," said David Barulich, treasurer of the Excellence through Choice in Education League, or EXCEL.

Voucher plan would underwrite tuition, limit regulations

Bee Metro Staff

What the Parental Choice in Education Initiative would do:

- Provide a scholarship for every school-age child wishing to enroll in a private school. The grant would be about $2,600 – half the amount the state spends per student in public schools – based on 1991-1992 figures.
- Vouchers could be redeemed at any private school with more than 25 students. The school could not discriminate on the basis of race or ethnicity, and it could not advocate unlawful behavior or teach hate.
- Private schools would be free from "unnecessary, burdensome or onerous regulation." No new private school regulations could be enacted without a three-fourths vote of the Legislature.
- Private schools would be free to establish their own codes of conduct and discipline. Private schools could dismiss students based on their own behavior or performance rules.
- The State Board of Education could require testing to measure private and public schools against national academic standards.
- Private school teachers would not need credentials.
- Public schools throughout the state would be required to establish open enrollment, removing district and school boundaries.

– Lisa Lapin

EXCEL will spend an estimated $500,000 on the petition drive and promises to continue gathering signatures to make the June 1994 ballot if the initiative fails to qualify this year.

Regardless of the outcome, educators say the initiative will force public schools to acknowledge parents' right to choose how their children are educated.

"It's an opportunity for California to democratize its schools," said John Coons, a University of California, Berkeley, law professor and an advocate of choice in education for three decades. "This will be the stimulation we need to change an inefficient system."

Coons, however, has not backed the current voucher initiative because it offers too little money to parents and does not provide enough protection for poor children and those with disabilities.

The $2,600 the initiative proposes to give parents equals half of what the state spends per student, and that money could be spent at any private school. Coons says that's not enough financial incentive to create new competing private schools. Nor is it enough for poor students to enroll in existing private schools, where average tuition is $6,500. Parochial schools, subsidized by churches, cost an average of $1,800 per year.

The initiative would allow anyone with 25 students or more to run a school, with no regulation as to course content, teacher credentials or health and safety. The voucher would forbid private schools from discriminating on the basis of race or ethnicity – but would allow them to be selective on the basis of gender, religion and academic or physical ability.

Al Rowlett wonders what would happen to the California children who don't speak English, or who have Downs syndrome or dyslexia. The thought of that inequity has prompted Rowlett to spend his evenings persuading other Elk Grove parents not to sign voucher petitions.

"Public schools are required to provide an education for any child. They have to have competent teachers, mandatory subjects, school lunches, you name it," Rowlett said. "The private schools could get tax money, but they wouldn't have to follow the same rules. "I'm not opposed to competitiveness, but you have to compete on an equal playing field."

The California Teachers Association claims that public schools would lose $4 in school financing for every $1 that goes in a voucher to private schools – as much as $1 billion a year, depending on how many students leave.

But some of the financial impact would be determined by the Legislature, which would be asked to re-examine its method of school funding. The legislative analyst has said the measure could either save or cost the state $1 billion, depending on how it is enacted.

The teachers union is not waiting to debate the fine points. When the signature drive began in January, teachers hit shopping malls and grocery stores en masse to dissuade people from signing voucher petitions. The teachers are also handing out official forms that will allow people to retract their signatures if they've already signed in favor of the initiative.

"We're trying to educate people on the facts," said John Cohn, president of the San Juan Unified Teachers Association. "The goal is to stop it now, before it gets on the ballot."

If the measure reaches the ballot, the massive CTA is reportedly capable of spending $10 million to $15 million to campaign against it – triple what proponents are expected to spend.

The teachers have already stunned political consultants with the energy they've devoted to the anti-petition drive – said to be the first such effort of its kind in California politics.

Supporters of the voucher initiative accuse the teachers union of using exaggerated cost figures and scare tactics: The CTA has criticized private schools for having unqualified teachers, poor health and safety records and low educational standards.

"What they've done basically amounts to private school bashing," said James Adams, superintendent of the 50 schools in the Catholic Diocese of Sacramento. "We merely want everyone to be well-informed before they make up their mind."

Catholic school parents are just now organizing to gather signatures in favor of the initiative. Parents from some 35 local parochial schools gathered Thursday night at St. Francis High School to plot strategy.

"We're getting a lot of support, because there are a lot of parents out there who have not had the financial capability to send their kids to private schools," said Mezger.

"All we are asking for is half of what public schools get to help a lot of people."