



Liberty Tree

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By Tayra Antolick

Remember **FairTax**? That's the national sales tax, proposed by "business leaders" who have introduced it in Congress every year since 1999. In the April 2013 *Liberty Tree* — "**FairTax**" is for April's **Fools** — we examined this tax, promoted by self-titled Libertarians and Tea Party groups as a way to abolish the IRS, and renamed it the F-Tax.

If you thought the effort to pass a national sales tax to soak the public was fading, rest uneasy. The F-Tax has gone underground as part of a bigger con: a balanced budget amendment posing as a "compact" between the States to **pre-ratify** a constitutional tax amendment. The BBA, if passed by 38 States, would result in an Article V convention (Con-Con), which the compact purportedly would *limit* to adopting the BBA as written. The tax provisions are bad enough, but should we believe that would be all the harm done?

Please download the April 2013 *Liberty Tree* from lwrrn.net. Pass it and this issue to others to warn of the danger waiting on their State doorstep!



The Back Door to the FAIR TAX

There is no more devious way to impose the FairTax (F-Tax) than to include it, along with a value-added tax (VAT) on top of the income tax, in a constitutional amendment that is **pre**-ratified through a legislative compact of 38 states (3/4 supermajority of the states). Compact for America (CfA) is doing precisely that. The amendment is called the Balanced Budget Amendment (BBA). Of course, a balanced budget sounds great when our national debt is over \$20 trillion. With a balanced budget, Congress will only spend in a year what it raises in tax revenue for the year, right? So Congress will reduce spending — or will raise taxes. Which is more likely?

Since a Balanced Budget Amendment will in reality always serve to raise taxes and increase borrowing (raising the future tax load!), the CfA's BBA does not disappoint, because it is deviously designed to increase the power of Congress to raise *all types* of new revenues.

Initially, there are two things obviously devious about the BBA. The first is that you most likely don't know anything about it and therefore, you are deprived of meaningful understanding and discussion. The State legislatures are introducing and passing it without public knowledge. The second is that it would amend the Constitution to provide for a national sales tax (F-Tax) and a value-added tax (VAT); it would **NOT necessarily** get rid of the income tax (especially as misapplied to ordinary Americans) **or the IRS**.

Although the website for CfA states that "Nearly \$20 trillion have been borrowed from our kids. Let's give them a voice" (giving anyone a voice is always a good thing, right?), CfA is taking OUR voice away because our State representatives are not telling us about any of it. If you have not heard of the BBA, you most likely have not gone to your State legislator to voice your opinion; you most likely have not discussed it with anyone. Your State legislators have also not given public notice as to where to find the actual text of the respective senate and house bills. As of the writing of this article, I contacted Florida Senator Keith Perry's office inquiring as to where the legislature is in this process. No information was provided, but his aide Joe Fluriach is looking into it.

I remember in 1976 when I was being grilled by an

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The *pre*-ratified “Balanced Budget Amendment” to the Constitution that is being underhandedly introduced and passed in State legislatures, spearheaded by a group called “Compact for America,” as it appears in Art. II, Sec. 7 of Arizona’s H.B. 2226, just passed by Arizona’s legislature March 30, 2017. Notice that Sec. 5 gives new taxing powers to Congress.

Article II , Section 7.

“Balanced Budget Amendment” means the following:

Article ___

Section 1. Total outlays of the government of the United States shall not exceed total receipts of the government of the United States at any point in time unless the excess of outlays over receipts is financed exclusively by debt issued in strict conformity with this article.

Section 2. Outstanding debt shall not exceed authorized debt, which initially shall be an amount equal to 105 percent of the outstanding debt on the effective date of this article. Authorized debt shall not be increased above its aforesaid initial amount unless such increase is first approved by the legislatures of the several states as provided in section 3.

Section 3. From time to time, Congress may increase authorized debt to an amount in excess of its initial amount set by Section 2 only if it first publicly refers to the legislatures of the several states an unconditional, single subject measure proposing the amount of such increase, in such format as provided by law, and the measure is thereafter publicly and unconditionally approved by a simple majority of the legislatures of the several states, in such form as provided respectively by state law; provided that no inducement requiring an expenditure or tax levy shall be demanded, offered or accepted as a *quid pro quo* for such approval. If such approval is not obtained within sixty (60) calendar days after referral then the measure shall be deemed disapproved and the authorized debt shall thereby remain unchanged.

Section 4. Whenever the outstanding debt exceeds 98 percent of the debt limit set by Section 2, the president shall enforce said limit by publicly designating specific expenditures for impoundment in an amount sufficient to ensure outstanding debt shall not exceed the authorized debt. Said impoundment shall become effective thirty (30) days thereafter, unless Congress first designates an alternate impoundment of the same or greater amount by concurrent resolution, which shall become immediately effective. The failure of the president to designate or enforce the required impoundment is an impeachable misdemeanor. Any purported issuance or incurrence of any debt in excess of the debt limit set by Section 2 is void.

Section 5. No bill that provides for a new or increased general revenue tax shall become law unless approved by a two-thirds roll call vote of the whole number of each house of Congress. However, this requirement **shall not apply** to any bill that provides for a **new end user sales tax** which would completely **replace every existing income tax** levied by the government of the United States; or for the reduction or elimination of an exemption, deduction, or credit allowed under an existing general revenue tax.

Section 6. For purposes of this article, “debt” means any obligation backed by the full faith and credit of the government of the United States; “outstanding debt” means all debt held in any account and by any entity at a given point in time; “authorized debt” means the maximum total amount of debt that may be lawfully issued and outstanding at any single point in time under this article; “total outlays of the government of the United States” means all expenditures of the government of the United States from any source; “total receipts of the government of the United States” means all tax receipts and other income of the government of the United States, excluding proceeds from its issuance or incurrence of debt or any type of liability; “impoundment” means a proposal not to spend all or part of a sum of money appropriated by Congress; and “general revenue tax” means any income tax, sales tax, or value-added tax levied by the government of the United States excluding imposts and duties.

Section 7. This article is immediately operative upon ratification, self-enforcing, and Congress may enact conforming legislation to facilitate enforcement.

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immigration and naturalization officer as I was wading through the naturalization process. That year saw every single news outlet talking about the Equal Rights Amendment — ERA this, and ERA that. There were conversations, discussions, arguments, marches, and discourse among all of us, especially women. When I told the naturalization officer I was not in favor of the ERA, she said, “It is good that you are aware and understand what is going on politically!” But if I were a betting woman, I would bet that most you reading this article have no clue that the legislatures of five states (“member” states) already passed the amendment: Georgia, Mississippi, North Dakota, Alaska, and Arizona.¹ Only 33 more member states are needed, and the amendment is *pre*-ratified! Yours might be next!

The second and most initially devious element of the BBA is that, once passed by the individual State legislatures, it becomes a binding contract. The terms of the compact must be followed to the letter. So we have to know what some of the terms of the compact are and what those terms mean to assess the severity of the situation.

Can the States enter into such a compact?

First we have to understand that Art. 1, Sec. 10 of the Constitution provides that “No State shall, without the Consent of Congress ... enter into any Agreement or Compact with another State.” A cursory reading of the section makes it pretty clear that States are not allowed to make compacts with each other. However, two supreme court cases support the view that the article cannot be read in isolation. In *Virginia v. Tennessee*, 148 U.S. 503, 518 (1893), the court stated as *dictum* that only those compacts that affect the power of the federal government or the political balance between the states and the federal government require congressional consent.² The Court in *U.S. Steel v. Multistate Tax Commission*, 434 U.S. 452, 495 (1978) held that consent from Congress is not required if the states are just coordinating powers that they

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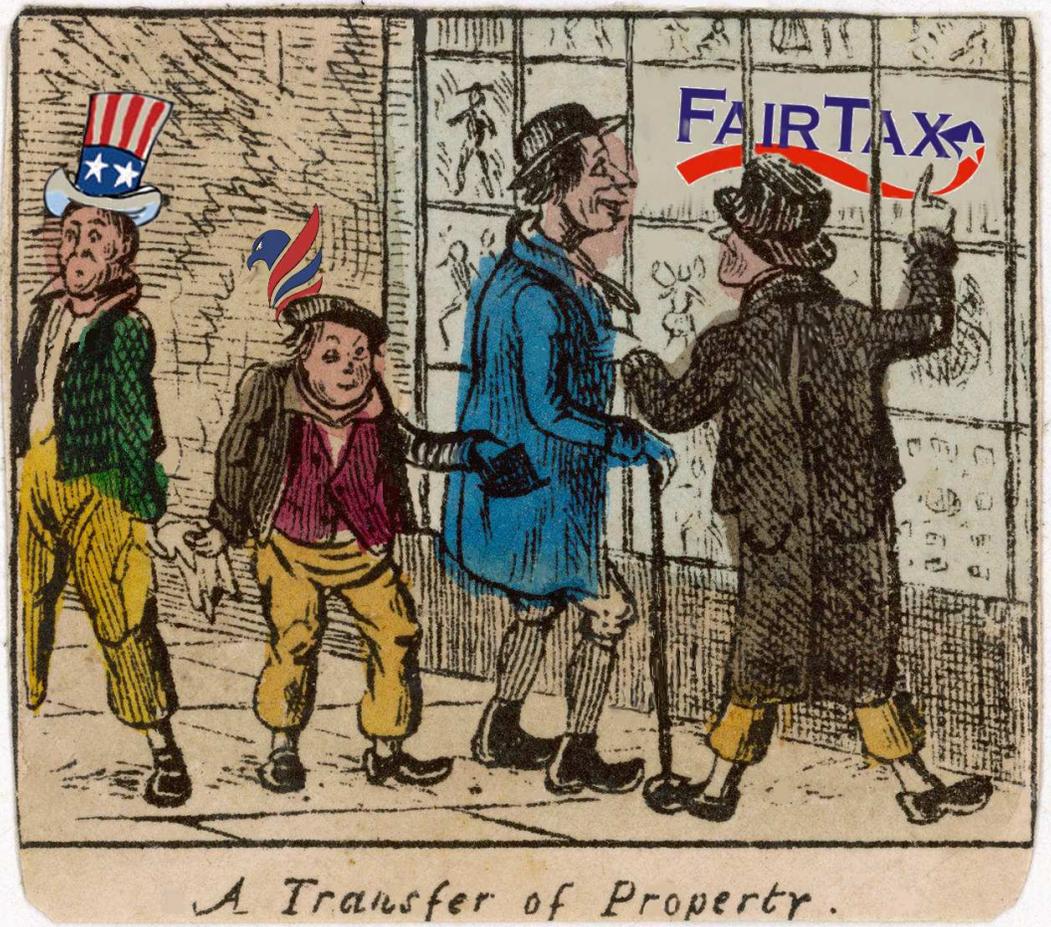
1. Arizona Governor Doug Ducey signed H.B. 2226 into Arizona law on March 30, 2017, claiming that it adds that State to the “growing list of concerned states calling for a convention that will bring fiscal sanity back to Washington.” <http://azgovernor.gov/governor/news/2017/03/governor-ducey-signs-bill-calling-federal-government-address-budget-crisis>
2. The court’s actual ruling relied upon its finding of an *implied* consent of Congress, which had acted, over a period of 85 years, in congruity with the boundaries established by mutual legislative declarations of an agreed-upon boundary between Tennessee and Virginia in 1803.

The BBA Con Game

As the gullible mark, *a.k.a* the American public, is distracted by the conmen selling the FAIRTAX,* the conmen's fellow thieves at Compact for America are picking a Balanced Budget Amendment from his State Legislature pocket. The BBA will allow Uncle Sam, head of the criminal ring, to pass the FAIRTAX and take the poor mark's last pennies.

Never forget: The fact that Compact for America is underhandedly seeking to amend the Constitution to allow for a national sales tax is a tacit admission by these conmen that the FAIRTAX is NOT constitutional in the first instance.

* (using "abolish the IRS!" as their slogan)



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already possess without altering the powers of the federal government. In effect, this decision utilized the *Virginia dicta* as a "test" of when States could enter into compacts despite the Constitutional prohibition, nearly unconstitutionally nullifying that prohibition altogether.

But the supreme court had also discussed compacts where the rights of non-compact States are encroached upon, a serious matter to be guarded against, said Justice White, dissenter in *U.S. Steel*. According to Justice Taney in 1855, the Compact Clause forbids any accord that is "in its nature, a political question ..." He said the clause operates "to guard the rights and interests of the other States, and to prevent any compact or agreement between any two States, which might affect injuriously the interest of the others." *Florida v. Georgia*, 58 U. S. 494 (1855). Justice Marshall likewise said that the Compact Clause restrains state legislation on subjects in which the people of all the states feel an interest, such that:

So that's how an amendment ... which delegates massive new taxing powers to Congress can be ratified before The People know what has been done to them; and before the state legislators who did it find out what they have done to the American People.
—Publius Huldah

A state is forbidden to enter into any treaty, alliance or confederation. If these compacts are with foreign nations, they interfere with the treaty making power which is conferred entirely on the general government; if with each other, for political purposes, they can **scarcely fail to interfere with the general purpose and intent of the constitution.** (*Barron v. Baltimore*, 32 U.S. 249 (1833), emphasis added).

An Article V "convention for proposing amendments" must be called by Congress when 2/3 of State legislatures apply for one. The CfA compact submits an application once 3/4 of the States' legislatures have voted for the compact. Once Congress calls the convention, however, the compact forbids member States from proposing any amendment but the pre-ratified BBA, the entire convention limited to just 24 hours. Once the proposed "done deal" amendment is submitted to Congress, Article V directs that Congress may propose ratification by 3/4 of the State legislatures, or by 3/4 of State conventions (held

within the States). If Congress directs ratification by the legislatures, the effect of the compact is that without any further process, the "done deal" pre-ratified BBA has amended the Constitution.³

Thus, States who had not adopted the compact, and

3. See Article I of H.B. 2226, *Declaration of Policy, Purpose and Intent*, which states: "Whereas, every state ... agreeing to be bound by this compact intends to ensure that ... the power to originate a balanced budget amendment under Article V of the Constitution ... will be exercised **conveniently** and with **reasonable certainty** as to the consequences thereof." Convenient and certain for only the member States!

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whose representatives may never have introduced nor discussed the compact, could have no meaningful role in either the convention nor the ratification process. Each remaining State is *denied* its right to participate meaningfully and openly in amending the Constitution.

They want more taxes to “balance the budget”!

It is important to understand what simple majority and supermajority votes are to see how CfA's BBA empowers Congress to increase taxes. Simple majority in the 100-member Senate is 51 votes, a 2/3 supermajority vote requires 67. In the 435-member House of Representatives, a simple majority is 218 votes; while a 2/3 supermajority requires 290.

All State BBA bills passed must be identical to avoid questions about legitimate ratification. Arizona's H.B. 2226 unveils the coming yoke CfA is promoting under the guise of giving our children a voice concerning the obscene \$20 trillion debt. Sec. 7, subsec. 5 of Article II (see p. 2) is where the hidden FairTax provision lies:

No bill that provides for a **new** or **increased general revenue tax** shall become law unless approved by a two-thirds roll call vote [supermajority] of the whole number of each House of Congress. However, this requirement **shall not apply** to any bill that provides for a **new end user sales tax which would completely replace every existing income tax** levied by the government of the United States; or for the reduction or elimination of an exemption, deduction, or credit allowed under an existing general revenue tax.

Subsec. 6 (see p. 2) defines “general revenue tax” as “any **income** tax, **sales** tax, or **value-added** tax levied by the government of the United States excluding imposts and duties.” Please notice that the supermajority vote needed to impose a new general revenue tax (F-Tax or VAT) or increase an already-existing tax (income) is not needed if a bill provides for a “new end user sales tax” to completely replace the income tax. If Congress introduces a sales tax that *does* completely replace every income tax, only a simple majority is required. Thus, under the CfA BBA, Congress can keep all three forms of taxes on you and me, by merely passing new VAT and sales taxes by 2/3 majority! Or they can do it this way: replace the income tax with FairTax by simple majority on day one, reinstate an income tax on day two by a 2/3 majority. On day three, add a VAT. Then, for good measure, repeal exemptions, deductions and credits which reduce individual taxes by a simple majority!

This is not good for our children or for us. Consider that these taxes do not include any State taxes that the state legislatures would impose, or any taxes that a county commission would impose in addition to the state tax. Congress is too undisciplined to tighten its own belt. Congress is too callous to think that they are

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promoting when they raise taxes without any deep cuts. The presidency is too afraid to reduce the size of the executive so the money otherwise allocated to the departments can be fully applied toward the principal of the federal debt.

This reminds me of the 1993 movie *Dave*.⁴ Kevin Kline plays Dave Kovic, a man who runs a temporary employment agency in Washington, D.C., and has a side job impersonating President Mitchell. Because he looks identical to Mitchell, the Secret Service wants to hire him as a presidential stand-in. As life has it, Mitchell suffers a severe stroke that leaves him in a coma. Dave has to step in and run the government without anyone, even the President's wife, knowing. President Dave has his accountant friend Murray Blum help him slash the budget for some projects by \$650 million so that a homeless project may be reinstated.

It is the tenacious determination to save a welfare program by *cutting the budget* instead of raising taxes that is the lesson of the story. It is imperative that such tenacity be put in gear not only to reduce the yoke upon our children, but to keep true to the liberty-minded principle of a small federal government.

The only way to learn money management and reduce a debt, whether in a household of four or a nation of 350 million, is to cut superfluous and redundant programs and stay with the bare functional minimums, to look deep into the budget crevasse for allocations serving no purpose, and to strengthen the people by removing hindrances to their right to work. The less government programs there are to subsidize individual economies, the stronger people will become in responsibly managing their lives.

The government is facing another shut down, the debt ceiling will likely rise again, and we could easily pass \$20 trillion in debt this year. Americans cannot support this debt with the “Compact for America” Balanced Budget Amendment. Read the compact to see how it allows the federal government to keep raising the debt levels!⁵ And we sure don't need it to raise taxes behind our backs.



4. <https://www.youtube.com/watch?v=fUNusFxAkBI>

5. <https://apps.azleg.gov/BillStatus/GetDocumentPdf/445823>