A Colorado Conversation on the Tabor Amendment

The Taxpayer Bill of Rights (TABOR) is an appealing concept. An Amendment to the Colorado Constitution, TABOR was passed by voters using the initiative process in 1992. TABOR limits the growth of government and requires all increases in state and local revenues to adhere to a highly restrictive formula—inflation plus the percentage increase in population. Under TABOR, the state legislature is unable to raise taxes—that power resides with the voters. State and local governments cannot keep any unspent revenues for use as "rainy-day funds." Under TABOR, Colorado has returned more than $2 billion to taxpayers.

For 20 years, TABOR has been controversial; at the same time, it has offered a model for tax-limiting proposals in many other states. TABOR is considered by many to be the most restrictive tax and spending limitation in the country. Depending on to whom you talk, it has either been a great friend of Coloradans or their worst enemy. In the ongoing debate about the proper role and size of government, those favoring smaller government see TABOR as an effective way of limiting the growth of government. Those on the other side of the debate believe TABOR prevent government from addressing important problems.

The TABOR Ratchet

In a recession, revenues decline, falling short of the TABOR annual limit. TABOR calculates spending based on prior years, including those in which the state experiences recession. Thus, state expenditures are permanently "ratcheted down" for all future years. This "ratchet effect" (so called because the state's revenue limit is ratcheted down whenever revenues fall short of the TABOR limit) means that Colorado would have to continue making deep reductions in public services even as the economy recovers and revenue collections return to normal growth. Using the TABOR formula, this lower revenue level becomes the base for determining government budgets for years following a recession. While opponents of TABOR see the ratchet as a problem, TABOR supporters see it as an effective way to keep governments from growing larger when the economy recovers.

Time out from TABOR: Referendum C

Approved by voters in 2005, Referendum C allowed the state government to spend surplus TABOR funds for five years, instead of refunding the money to citizens. The funds could be spent on health care, public education, transportation projects, and local fire and police pensions. By suspending the TABOR formula for five years, the state was able to keep almost $4 billion that would otherwise have been refunded to taxpayers. Referendum C also altered TABOR's formula, raising the cap on revenue/expenditures.

A Federal Lawsuit

A lawsuit challenging the constitutionality of TABOR alleges that by depriving the state legislature of the power to tax, TABOR violates Article IV Section 4 of the U.S. Constitution, which says the federal government must guarantee that states have a republican form of government. A legislature unable to tax cannot meet its primary constitutional obligations or provide services that are essential for the state. The Independence Institute, a conservative think tank, makes a different argument in its *amicus curiae* (friend of the court) brief. This brief argues that the "overriding purpose of the Guarantee Clause was to prevent any state from lapsing into monarchy or dictatorship." By seeking to overturn the people's will, the brief says, the plaintiffs are violating that purpose. They are trying "to restrict popular government."

Views on the Tabor Amendment

"If politicians want to spend more, they must ask the people who elected them to serve. That's the entire point of TABOR. It allows the governed to determine the size and scope of the government they fund. The interests of the governed are all that should matter to those we elect to manage taxpayer funds…."

—Wayne Laugesen, The Editorial Board, *Colorado Springs Gazette*

"Lawmakers who want to exercise good fiscal stewardship should seriously consider adopting TABOR in their states. Of course, TABOR does slow the growth in government spending, but that's exactly the point. It imposes much more strict spending discipline on lawmakers and requires them to prioritize government programs and eliminate those programs that do not work effectively. . . . Those criticizing TABOR are criticizing it because it works exactly the way it's supposed to. How many other laws can we say that about?"

—Chris Atkins, Tax Foundation

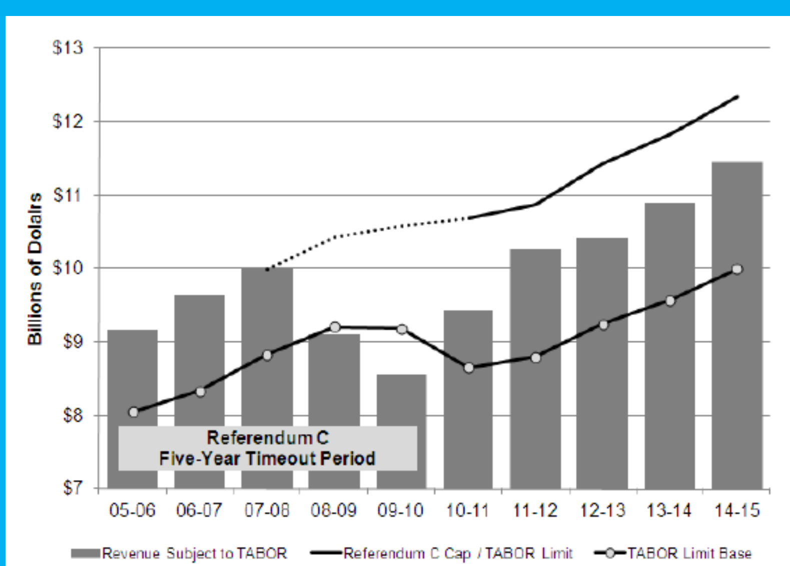
"Whatever it's called, the idea is the same: limit and eventually shrink or starve public budgets to pave the way for moving much or most of what are now government services to the private sector… and -- voilà -- the door is wide open for privatizing (them) as the only alternative…"

— National Education Association

"A Taxpayer Bill of Rights suggests sound fiscal management values for which early American patriots certainly would have rallied. . . . However, a reactively designed system of tax and expenditure limits by citizen initiatives and legislative action that does not allow flexibility or the ability to rebound after a recession leaves a government stretched beyond the boundaries of lean and efficient to anorexic."

—Christine R. Martell and Paul Teske, University of Colorado, "Fiscal Management Implications of the TABOR Bind," *Public Adminstration Review* (July-August 2007).

TABOR Revenue, the TABOR Limit Base, and the Referendum C Cap



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