

TABOR

on the Table

Colorado takes a timeout from strict spending limits, but other states are considering them

By Mary Branham Dusenberry

Colorado voters last year put the “Taxpayers Bill of Rights” on hold as the state tries to rebound from a downturn in the economy. Meanwhile, legislatures in 15 other states are considering constitutional amendments similar to Colorado’s TABOR law, which has drawn both praise and scorn.

They’re called “Taxpayers’ Bill of Rights” because, supporters say, such laws give taxpayers control over how much they’ll spend for running the state. Opponents, however, say TABOR laws put a “strait-jacket” on legislatures and state officials in terms of governing.

Colorado voters approved stringent spending limits on their policymakers, tying the growth in state revenue to population growth plus inflation. The constitutional amendment on the books since 1992 also limits annual increases in the state operating budget to 6 percent.

But last year, after 13 years of dealing with TABOR cuts in spending, voters passed “Referendum C,” which allowed the state to take a timeout from the strict limits to free up spending. “What Referendum C allowed us to do was to, really, maintain state services to what they were last year after we made all those cuts,” said Colorado Sen. Ron Teck, chairman of CSG-WEST. “We did restore some cuts—\$100 million out of a billion dollars we’d cut.”

If voters hadn’t approved the timeout, Teck said, the state would have had to cut another \$650 million in spending. TABOR was intended to pace the growth of state government with the economy, which it did, according to Teck.

“If we didn’t have TABOR in the 90’s, we would have been sorely tempted to spend up to our income level,” he said. “We would have been out of whack.”

The problem came with the economic downturn many states faced after the 2001 terrorist attacks led to a national economic crash and the worst budget crises in the 50 states since World War II. Colorado saw a 16 percent drop in state revenues from 2001 to 2003, resetting the base from which TABOR’s refund mechanism is triggered. Last year, the state faced a \$234 million budget shortfall in the biennium, while looking at a refund to taxpayers totaling \$345 million over the same period.

The Colorado law has a built-in “ratcheting” effect which reverts spending to a lower baseline in an economic downturn. “When our revenues started getting good again, we couldn’t recover,” Teck said.

Most states are facing an economic upswing, but that doesn’t mean they’re quite out of the woods yet, according to Sujit CanagaRetna of The Council of State Governments’ southern office, the Southern Legislative Conference. “Even though revenue numbers have improved dramatically, we have a series of problems that are going to plague state finances: health care, retirement, education, transportation and infrastructure, which all have huge needs.”

Opponents say the constitutional spending limits imposed are too rigid to deal with such costs, which fluctuate based on needs.

The Growth of TABOR

While Colorado is taking a break from TABOR limitations, 15 other state legislatures have considered or are considering similar spending amendments this year. The spread of spending limits like those imposed by TABOR in Colorado is inevitable, according to Grover Norquist, president of Americans for Tax Reform in Washington, D.C.

“In the next 10 years, there are going to be 25 of them in the states,” Norquist said. “Twenty-five years from now, they’ll all have them.”

Norquist said such laws are important because they limit the growth of state spending. And, he said, when more states establish spending limits, the federal government is likely to follow suit. “Each state that passes a spending limit measure is also hastening the day we get it at a national level,” he said.

The temporary suspension of the TABOR provisions in Colorado may cause lawmakers in other states to balk at putting similar measures before their voters.

“Most states,” said CanagaRetna, “have some kind of limits on spending. Colorado’s is the most stringent.”

With those limitations in place, says Arizona Rep. Tom O’Halloran, constitutional amendments creating additional limits aren’t needed. A TABOR-like law has been proposed in Arizona this year and the past three years. “We’ve been able to have it not become law in Arizona basically due to the ratcheting effect and lack of recognition in TABOR in how to deal with phenomenal growth and the demands it puts on the infrastructure system,” O’Halloran said.

“I think the problem with the TABOR law—it has no identification with the true economic wealth of a state. Inflation and population growth are not indicators of economic wealth.”

And, says Iris Lav, deputy director of the Center on Budget and Policy Priorities, the formulas in TABOR-like laws aren’t

enough to fund “the ongoing cost of government year after year.

“Inflation is a consumer price index,” she said. “It doesn’t measure the cost of what government buys.”

While conservative groups tout the refunds to taxpayers, Lav and others question the impact of decreased program funding. “I think people are very concerned about that ... that a couple of dollars in their pocket when their quality of life is deteriorating is not necessarily a good tradeoff,” she said.

According to CanagaRetna, in the 13 years TABOR has been in place in Colorado, the state dropped from 35th to 49th in K–12 education spending; higher education funding dropped by 31 percent; and the number of low-income children without health insurance doubled.

Those outcomes of TABOR have muted the enthusiasm for such laws in other states, CanagaRetna said. “Constitutional mandates ... would straitjacket states’ flexibility in reacting to those necessary expenditures. Policymakers are aware of that and you don’t see the kind of enthusiasm as you did before,” he said.

Proponents of TABOR laws—those limits written into the constitution by an amendment—say they’ve made changes to avoid some of the problems Colorado experienced.

“I think people have learned from Colorado and tightened it up where they thought there were mistakes and missed opportunities,” Norquist said. He believes TABOR worked as it was intended—limits kept the government from growing and it took a vote of Colorado’s citizens to remove the limits.

The Impact of TABOR

But O’Halloran said in TABOR “there’s no recognition of how government works in downward economic cycles. As we go into an economic downturn, TABOR says we follow that base down. As unemployment increases, there are many needs on the health and welfare side that place increasing demands on government.”


Lav said her group, the Center on Budget and Policy Priorities, conducted a study of TABOR’s effects on Colorado. “The most misleading claim is that TABOR caused some economic miracle in Colorado,” she said. “There is no evidence that TABOR improved Colorado’s economy. It didn’t get any better than neighboring states ... compared to any other categorization of states than it would have without TABOR.”

Arizona experienced the same economic boon in the 1990s as Colorado, and O’Halloran said the state cut taxes 11 straight years, until the downturn in the early 2000s. In 1995, O’Halloran said, Arizona cut taxes by \$84 million. That translates into about an \$800 million loss in revenue over the years. That tax cut, he said, is “as close to being permanent as anything can be.” Colorado gave one-time rebates, he said, rather than cut taxes.

“One of the sure ways to make sure people don’t have to pay as much in taxes is to diversify the economy,” O’Halloran said. “You don’t do that by simply saying ‘we gave a rebate last year.’”

Colorado’s 13-year experiment is proving that to be the case, Lav contends. “There have to be schools and schools have to be operating,” she said. “In Colorado, kids were sitting in down jackets because the schools couldn’t be heated.”

There were other similar situations created with the decrease in funding for public services. The *Denver Post* detailed the impact of TABOR in a series of articles in September, 2005, explaining the referendums considered by voters. Among the



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services impacted: prisons, roads and prenatal care, according to a Sept. 13, 2005, story in the *Post*. The newspaper found:

- In 1990 Colorado ranked 23rd in access to prenatal care; by 2004, it had dropped to 48th. During that same timeframe, the percentage of low birth weight babies rose.

The prison population grew four times as fast as the state's population, while prison staff was cut. According to the *Post*, prisoners attacked guards 50 times in 1994; that number grew to 173 by 2000.

In 1994, 65 percent of Colorado's roads were in poor condition. That number swelled to 73 percent by 2001. The *Post* quoted figures found by the Surface Transportation Policy Project, a nonprofit group that studies road policy.

“Maybe there were some people who were better off, but everybody rides on the road, so I think most people preferred the public services to the rebates,” Lav said.

While some might consider the decreased funding for such programs a pitfall of TABOR, Norquist disagrees. “What you had was left wing groups complaining that they didn't get enough for their favorite programs,” he said. TABOR, he said, requires government to establish and fund priorities for public dollars.

Other Options to TABOR

Many people believe state spending can be held in check without the strict TABOR requirements. Scott Pattison, executive director of the National Association of State Budget Officers, said Connecticut's law dealing with budgeting constraints, for instance, “works fairly well because there's some flexibility.”

Pattison said TABOR “provides some limitations and some uncertainty from year to year” for those preparing state budgets, but the real issues with the spending limit amendments are from political and policy standpoints.

He said 49 states—all except Vermont—require some form of

a balanced budget. “In doing so,” Pattison said, “they have a de facto restriction on spending. Theoretically, it's unlimited at the federal level, but it's not at the state level.”

Lav says making the budget process more transparent and giving the public a better understanding of what's in a state budget can help keep spending in check. “You hold accountable the legislators you have elected,” she said, “rather than an auto pilot formula. If you have a major plant closing and maybe some people need assistance in one part of the state ... a human being will understand that. A rigid formula will not.”

O'Halleran was pleased the TABOR proposal never made its way to the floors of the Arizona House and Senate.

“In general, it's an idea that has failed and has failed, I think, rather miserably,” he said. “If you're looking for short-term rewards and a political pat on the back, TABOR might be good for a short period of time.

“As you are looking into the future and the needs of society, TABOR is highly restrictive. You can do an effective job of the budget process without formulated gimmicks that are not relative to reality.”

Meanwhile, Colorado is in a timeout from TABOR, but will still operate under the guidelines placed by the constitutional amendment. Teck would like to see the legislature revisit the TABOR law and address the ratchet effect that was the impetus for the referendums last year.

“I think TABOR served a useful purpose in keeping us from getting real spendy like other states did in the halcyon years of the '90s,” Teck said. But, he said, “you need to let the General Assembly have the ability to address a crisis situation without tying their hands with a constitutional amendment, which is what we've done in Colorado.”

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