



ISSUE BRIEF

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What is TABOR?

Major provisions of the so-called Taxpayer's Bill of Rights in Colorado

Anti-tax advocates and proponents of drastic reductions in government services claim that Oregon's past and current spending limits, first enacted in 1979 and revised at the beginning of the economic downturn in 2001, have failed and that a stricter spending limit is needed.¹ They have proffered a Colorado constitutional amendment, known as the Taxpayer's Bill of Rights (TABOR), as a model for changes to the Oregon Constitution.² This issue brief describes the major provisions of TABOR.

Dubbed "the Holy Grail" by Grover Norquist's Americans for Tax Reform, the changes in TABOR possibly created the strictest spending limit in the nation.³ It contains five major provisions.

Extreme limits on state government revenue growth during good economic times

The Colorado TABOR law requires that Colorado state government revenues can never grow more than population growth plus inflation. For example, if the state's population grew one percent and inflation was three percent, then state revenue would not be allowed to grow more than four percent. Anything the state collects over the population and inflation limit during good economic times is returned to taxpayers. In addition, the new base for calculating allowable growth the following year is the lesser of actual revenues or the population and inflation growth figure.

Oregon currently limits state spending to the amount Oregonians can afford by tying the limit to growth in Oregonian's personal income. Setting the maximum growth rate of state government at population growth plus inflation and ignoring the spending power of Oregonians (i.e., personal income growth) results in a stricter limit than Oregon's current method. Oregon population plus inflation growth grew about half as fast as Oregonian's personal income from the 1977-79 budget cycle to the current budget period.⁴

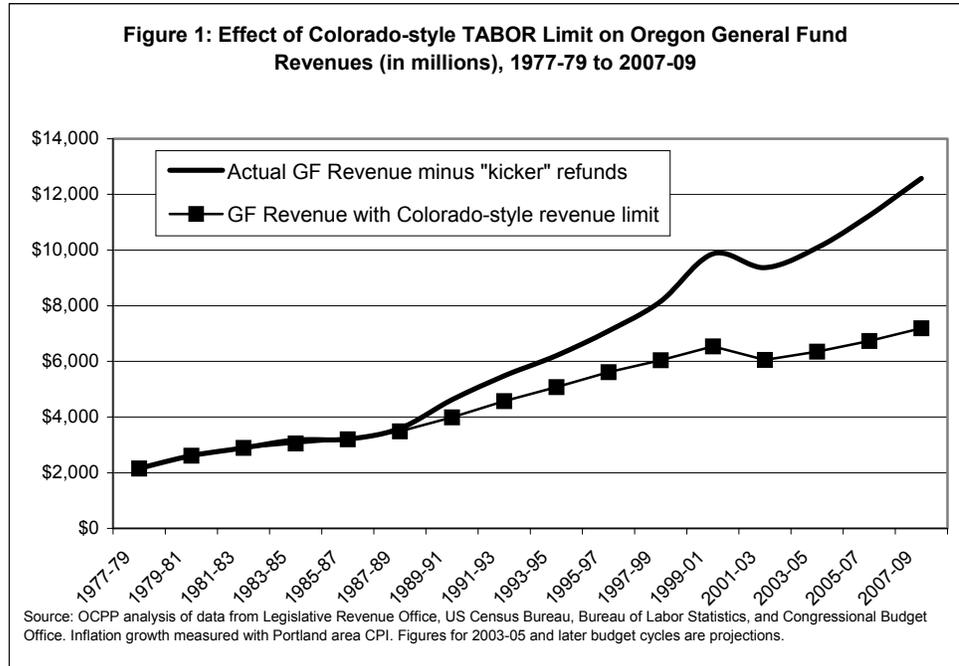
Turns the budget clock back permanently during bad economic times

During recessions, when actual revenue often declines or falls significantly below the growth associated with population and inflation, TABOR's revenue limit for future years gets ratcheted downward. When the economy starts to recover, state government can't readily restore services to pre-recession levels, because the new base for determining spending growth is the low revenue level from the recession. Hence, Colorado's TABOR makes permanent the cuts to public services imposed during the bad years.

Because Colorado’s TABOR severely restricts growth in good economic times and turns back the budget clock permanently during bad economic times, its long-term impact on state government revenues is significant.

The Oregon Economic and Revenue Forecast projects that actual General Fund revenues in the 2007-2009 biennium will be \$12.6 billion.⁵ If Oregon had adopted a Colorado-style TABOR limit in the 1979 legislative session, instead of establishing "kicker" refunds and a spending limit based on personal income growth, General Fund revenues in 2007-09 would not be allowed to exceed \$7.2 billion, which is \$5.4 billion less than they are actually projected to be (Figure 1).⁶ In other words, General Fund revenue for 2007-09 would be 43 percent smaller than currently projected. It is difficult to imagine that Oregon would have been able to maintain the quality of our schools and universities, the fairness and efficiency of our courts, the effectiveness of our prisons and police departments, and the reach of Oregon’s assistance to the elderly, children, disabled, and the poor, with less than 60 percent of the funds.

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Seemingly endless and costly voter approval of tax increases and the preservation of tax loopholes

Similar to two measures rejected by Oregon voters in both 1994 and 2000, TABOR requires voter approval of tax increases. TABOR’s requirement that tax increases receive voter approval includes all new taxes or increases in tax rates, new or increased debt, any increase in the mill levy or any tax policy change that will result in a net revenue gain for the state. All told, TABOR requires voter approval of at least 14 different types of propositions in Colorado. Fee increases do not require voter approval, although the revenue raised from fees does count under the revenue limits in TABOR discussed above.

Under TABOR, tax breaks and loopholes cannot be reduced or eliminated without a vote of the people. Thus, existing and future tax loopholes are effectively locked into place unless they have “sunset” provisions. Sunset

provisions require tax breaks to expire on a certain date unless the legislature takes action to continue them. Under Colorado law, adding sunset provisions requires a vote of the people.

Bans voter improvements in income, property, or real estate taxes

Under TABOR, there can be no new or increased real estate transfer taxes, no state real property taxes, no local district income taxes, and no new state income tax rates. Voters are prohibited from voting on these changes. Hence, if Oregon voters wanted to raise the top income bracket for very wealthy individuals to fund after-school activities for children, they would not be allowed to do so under a Colorado-style TABOR.

Locks statutory limits in the Constitution

Colorado's TABOR contains a specific provision that prohibits the weakening of any tax or spending limit that was in place prior to 1992, when TABOR became law. At the time of TABOR's passage, Colorado had an existing statute that limited the growth of general fund appropriations to six percent over the prior year's general fund spending. That statutory spending limit is now, in effect, locked into Colorado's constitution. The Colorado legislature cannot increase general fund program spending by more than six percent without prior voter approval or amending the constitution. This is true regardless of general fund program demands, increasing inflation or the amount of revenue collected under the overall TABOR limit.

What revenue is covered under TABOR?

TABOR's revenue limit restricts the growth of all General Funds and all Cash Funds. In Colorado, General Funds include, for example, revenue collected from income taxes, sales and use taxes, estate and excise taxes. Cash Funds in Colorado include, for example, money collected from unemployment insurance premiums, college tuition, fishing license fees and document recording fees.

In Colorado, Cash Funds are generally restricted funds, generated by fees or fines, which can only be used for the purpose or program for which the fee is collected. Monies exempt from the definition of revenue under TABOR include federal funds, litigation settlements, gifts and money earned by "enterprises." TABOR narrowly defines "enterprise" as any government owned entity with bonding authority that receives less than 10% of its total funding from all Colorado state and local governments combined.

If the revenue the State collects from all sources exceeds the "population plus inflation" limit, the amount exceeding the limit must be refunded to taxpayers unless voters grant prior approval for the state to retain and spend the excess funds.

While both cash funds and general funds count toward the state's fiscal year spending limit, all "excess" revenues are refunded out of the General Fund. For example, if unemployment insurance premiums or higher education tuition (both cash funds with restricted uses) drive the state over the TABOR revenue limit, the excess is refunded from the State's general operating budget.

Endnotes:

¹ Oregon's current spending limit was enacted in House Bill 3997 (2001), available at http://pub.das.state.or.us/LEG_BILLS/PDFs_2001/EHB3997.pdf. This limit replaced a spending limit the 1979 Legislature enacted and referred to the voters for approval. The voters approved the limit in 1980.

² TABOR amended the Colorado Constitution, Article X, Sec. 20(1). Text of TABOR available at <http://www.cclponline.org/whatsnew/tabortext.pdf>

³ Americans for Tax Reform. *State Tax News Update*, February 13, 2004, p. 22, available at <http://www.atr.org/statepress/statepdf/021304-statenews.pdf>.

⁴ Population plus inflation growth since 1977-79 has been just 53 percent of personal income growth.

⁵ Oregon Economic and Revenue Forecast, March 2004, Volume 24, No. 1. Office of Economic Analysis, Oregon Department of Administrative Services, p. 50. Available at <http://www.oea.das.state.or.us/economic/forecast0304.pdf>

⁶ To put \$5.4 billion in context, the Legislative Assembly appropriated \$5.2 billion for K-12 education in the current budget cycle.

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