

# TABOR Tutor

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...ABC's of TABOR



**Accountability**



**Budgets**



**Citizen Control**

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This booklet was produced by the Public Communications Department of the City of Colorado Springs. Its authors thank the many people who contributed content.

Although much has been written about TABOR, this booklet attempts to explain its principles in a basic, more simplified manner.

The contents of this booklet may be found in the Public Communications Department section of the City website at [www.SpringsGov.com](http://www.SpringsGov.com).

To learn more about TABOR, visit

The State of Colorado      [www.Colorado.gov](http://www.Colorado.gov)  
(303) 866-5000

Colorado Municipal League      [www.CML.org](http://www.CML.org)  
(303) 831-6411

The Bell Policy Center      [www.BellPolicy.org](http://www.BellPolicy.org)  
(303) 297-0456

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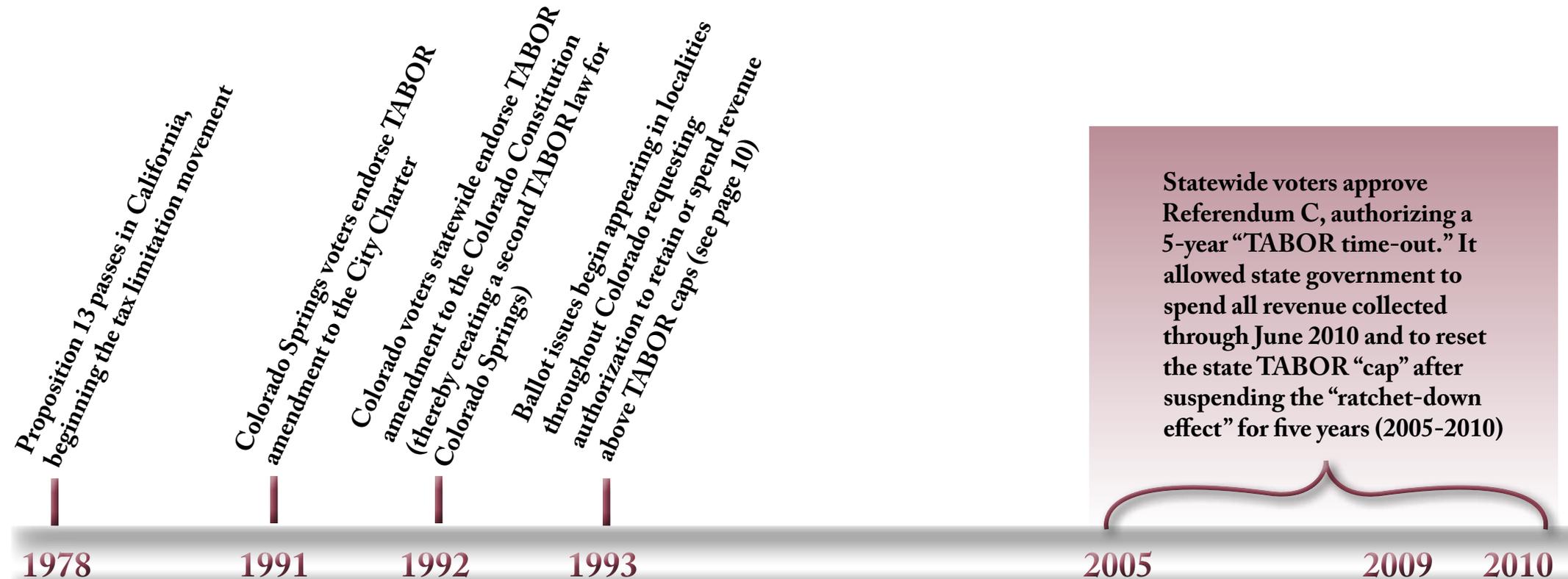
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# History & Intent

TABOR is an acronym for the Taxpayers Bill of Rights.

The intent of TABOR is to empower voters to limit the size of government by limiting the growth of government revenue.

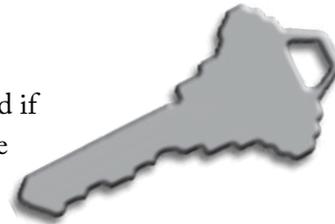


Statewide, more than 85 percent of local ballot measures to override TABOR have been passed by voters (1993-2009)

# TABOR's two key provisions

## 1) All tax increases require voter approval

Any proposed tax increase can only be implemented if voters of the jurisdiction approve the increase at the ballot box. Here are some examples of ballot box controls.



- City voters (TOPS, PSST and City share of property tax and sales tax)
- State voters (income tax, sales tax, gasoline tax)
- School district voters (school district's property mill levy)
- Library district voters (library district's property mill levy)

## 2) Revenue limitation (cap)

TABOR limits the amount of revenue a jurisdiction can keep during a calendar year. The dollar figure for the City of Colorado Springs is established through a calculation based upon inflation and local growth during the previous year. If the previous year's revenue collections were less than the TABOR limit for that year, then the lower figure – the actual collections – would be used in the formula to compute the current year's TABOR limit.

In years when revenue exceeds the computed limit, TABOR requires the City to return the over-collection. Alternatively, elected officials may ask voters – through an election – for permission to retain the money.

Since TABOR was enacted in 1991, City of Colorado Springs revenue has exceeded the cap on nine occasions. Voters have permitted the City to keep the overage on five occasions for specified capital construction projects as highlighted in color in the table on the next page. Voters have received a refund on the other four occasions. The refunds have averaged approximately nine dollars (\$9) per household.

## TABOR Cap History in Colorado Springs

| Year | Actual v. Cap (\$Millions) | Outcome  |
|------|----------------------------|--|
| 1992 | \$2.0                      | <b>Council refunded approximately \$15 per household</b>                                       |
| 1993 | 2.6                        | Built Austin Bluffs/Academy intersection plus 11 other capital projects                        |
| 1994 | 1.3                        | <b>Voters rejected a ballot request and required refund of approximately \$9 per household</b> |
| 1995 | 3.1                        | Built Eighth Street/Cimarron intersection plus 7 other capital projects                        |
| 1996 | 15.7                       | Built Woodmen Road widening plus 23 other capital projects                                     |
| 1997 | 6.6                        | Built Academy/Airport storm sewer plus five other projects                                     |
| 1998 | .5                         | <b>Council refunded approximately \$3 per household</b>  |
| 1999 | -5.8                       | Revenue did not reach cap  |
| 2000 | 1.6                        | <b>Voters rejected a ballot request and required refund of approximately \$9 per household</b> |
| 2001 | -8.3                       | Revenue did not reach cap  |
| 2002 | -7.8                       | Revenue did not reach cap  |
| 2003 | -14.6                      | Revenue did not reach cap  |
| 2004 | .6                         | Repaired Prospect Lake (combined with other funds)   |
| 2005 | -.3                        | Revenue did not reach cap  |
| 2006 | -5.3                       | Revenue did not reach cap  |
| 2007 | -10.3                      | Revenue did not reach cap  |
| 2008 | -22.7                      | Revenue did not reach cap  |
| 2009 | -23.3                      | Revenue did not reach cap  |
| 2010 | -6.9                       | Revenue not expected to reach cap (Estimate as of June 2010)                                   |

**Bold font:** Refunds to citizens (4 times)

Shading: Voters allowed City to retain funds for specific projects (5 times)

Plain font: Revenue did not reach cap (10 times)

## Inclusions toward the cap

Sales and use taxes comprise about half of the Colorado Springs General Fund revenue each year. The other half comes from numerous sources including federal and state money, grants, user fees and charges (see below), property taxes and other sources. Most of these monies are added into the computation of revenue that “counts toward” Colorado Springs’ TABOR cap in any given year.

### Grants that count toward the cap

- State Bridge Grants (ex: 1995 Colorado Avenue Bridge grant of \$7.5 million [note: balance of \$11 million bridge cost paid from City’s half-cent CIP sales tax which has since expired])
- State Historic Fund grants (ex: Restore Council Chambers in the original City Hall)

### Fees and charges that count toward the cap

- Athletic field reservation fees, sports league fees, individual player fees
- Special event fees and group picnic area fees at selected City parks
- Fines paid at Municipal Court for traffic and parking violations, and misdemeanor crimes such as shoplifting and pet infractions
- City Clerk fees for liquor licenses, private security service licenses, excavation and concrete contractor licenses, and others
- Development Review fees paid to City Planning for review of drawings to put an addition on a home, build an entire new neighborhood, or other development



## Exemptions from the cap

Approximately 85 percent of all revenue coming to the Colorado Springs City General Fund counts toward the TABOR cap.

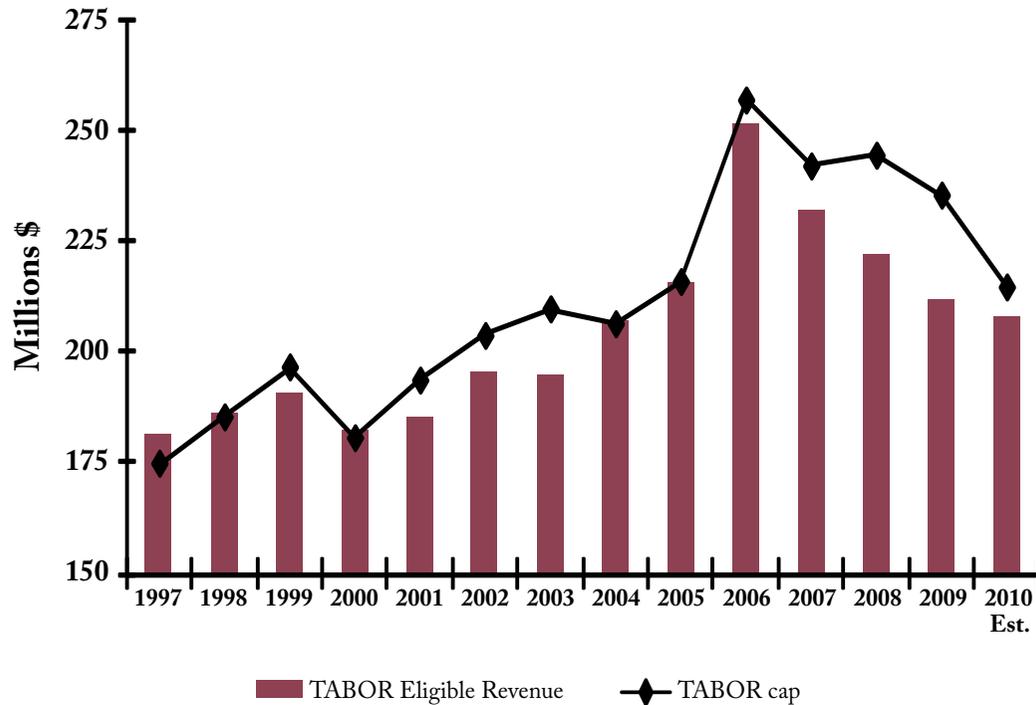
### **Some voter-approved taxes do not count toward the cap**

When proponents of new taxes write ballot language for voter consideration, they may include language that exempts the new revenue from being counted toward the TABOR cap. This option has been approved three times by voters in Colorado Springs:

- TOPS Ballot language of the 1997 Trails, Open Space and Parks sales tax of 1/10 of a penny (one cent per \$10 purchase) exempted this dedicated revenue from counting toward the TABOR cap.
- PSST Ballot language of the 2001 Public Safety Sales Tax of 4/10 of a penny (four cents per \$10 purchase) exempted this dedicated revenue from counting toward the TABOR cap.
- RTA Ballot language of the 2004 Rural Transportation Authority sales tax of one penny (ten cents per \$10 purchase) exempted this dedicated revenue from counting toward the TABOR cap.



# Colorado Springs TABOR cap and actual revenue



The TABOR revenue cap for each year is based on a formula that incorporates inflation and local growth and is applied to the lower of:

- the prior year's cap
- or
- the prior year's actual revenue collections

Although the revenue cap can drop dramatically when the local economy falters, TABOR prevents the cap from recovering quickly, regardless of how vigorous growth in the local economy might be.

# Two TABOR Laws

## Local TABOR law and State TABOR law

*Colorado Springs is the only city in the state that is subject to two TABORs – a city law and a state law. The City TABOR law is generally considered to be more restrictive, so even if state TABOR provisions were relaxed, the changes would not relieve local conditions.*

- TABOR authors refined language developed for the 1991 Colorado Springs TABOR initiative and then placed a statewide TABOR initiative on the 1992 ballot. Voters approved the initiative, adding Section 20 to Article 10 of the Colorado state constitution.



Colorado Springs voters alone could not modify the state constitution's TABOR provisions. However, local voters could modify the City Charter's TABOR provisions if a proposal were approved in a local election. (If voters completely eliminated the local TABOR law, then the City would only be impacted by the state TABOR law, like other cities throughout the state.)

### Example: Temporary tax reductions

Colorado Springs' local TABOR requires any reductions in tax rates to be permanent. So even when economists forecast that revenue will be above the TABOR cap for a specific year, City officials don't always reduce the tax rate for just that year (temporary reductions are forbidden). Consequently, if revenue in excess of the cap flows into the City, it must be returned to the public unless voters specifically direct otherwise. The mechanism that has been used to return the money (utility bill credits) does not ensure that the refund reaches the same taxpayer who remitted the money in the first place.

# Is double TABOR a problem for Colorado Springs?

The intent of TABOR – to empower voters to control the size of government – is supported by most Colorado Springs voters and Colorado Springs City officials. However, some provisions have more support than others. The two key provisions – voter approval of any tax increases, and the revenue limit – are each two-sided coins.

**The TABOR formula permits rapid declines in revenue limits, but prevents rapid recovery when conditions improve. This is often referred to as the “ratchet-down effect,” and it restricts government responsiveness.**

Giving voters the right to approve any increase in taxes is viewed positively by most citizens and community leaders. The other side of that coin is that voters must take on additional responsibility. Since all Colorado Springs voters live within a library district, a school district, a city, a county and a state – all of which have budgets – voters must take on the responsibility to make financial decisions – often for multiple jurisdictions – on every single election day. The peril of not voting

on each proposed tax is that fewer and fewer voters will make decisions for the entire jurisdiction.

- The good news about the TABOR revenue cap is that it keeps Colorado Springs City government from growing just because a potential robust economy is bringing tax revenue to our jurisdiction during a given time period.
- The bad news about the cap is that because of the way the formula works, temporary downturns in the economy may suppress City revenue for years.



If a jurisdiction is spending its revenue without waste, then declines in revenue will result in cuts to citizen services – cuts to public works, to parks maintenance or community centers, even cuts to some public safety services. And according to the International City Management Association, the Colorado Springs City organization is already very lean and efficient.

When local economic conditions rebound, accompanied by new and growing businesses and additional population, it may take years to return to the level of service that was provided prior to the temporary downturn.

There is are differing opinions about whether Colorado Springs' local TABOR regulations are good or bad for the community. City Council asked a 26-member citizen committee to review the entire City Charter, including the appropriateness of the local TABOR provisions. In January 2005 the Charter Review Committee recommended that City Council ask voters to consider repealing the local TABOR law while continuing to be bound by the state TABOR law. However, the Council decided not to put that question before the voters.

**Thanks to the City of Colorado Springs' history of fiscal responsibility, it has outstanding credit ratings from Wall Street bond rating companies such as Moody's and Standard and Poor's. This ensures that when the City borrows money, it gets the most favorable interest rates, thereby reducing total repayment costs.**



## How are other Colorado cities coping?

The language of the State Constitutional TABOR Amendment is complex, containing 1,737 words, more than the entire U.S. Declaration of Independence. The complexity has led to numerous court challenges, and suggests that many officials and citizens did not fully understand the far reaching ramifications of the law when it was originally proposed.

### Voters can set aside TABOR provisions

Language in both the local and state TABOR laws allows voters to set aside some of the TABOR revenue restrictions that apply to their jurisdiction. Doing so is sometimes called “de-TABOR-ing” or “de-Brucing.”

The Colorado Municipal League says that as of December 2009, **87 percent of attempts to de-TABOR from the state law at the local level have succeeded** at the ballot box. (No city other than Colorado Springs has an additional local TABOR law.) Those decisions to de-TABOR have taken four forms:

1. **Revenue retention:** Voters authorize their jurisdiction to keep revenue that was collected in a previous year and that exceeded the state TABOR law’s revenue limit for their jurisdiction for that year.
2. **Temporary time out:** Voters suspend the state TABOR law’s revenue limit for their jurisdiction for a specified period of time, up to four years.
3. **Limited scope:** Voters exempt their jurisdiction from the state TABOR law’s revenue limit for their revenues...
  - a) from a specific source (example: Colorado Springs’ TOPS or PSST sales taxes), or
  - b) for a specific purpose (example: to build a specified construction project such as the intersections at Austin Bluffs Parkway and Academy Boulevard, or Eighth Street and Cimarron Street).
4. **Broad form:** Voters authorize their jurisdiction to spend all future revenues.

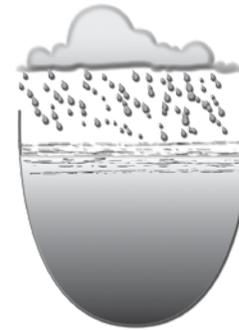
**When the economies of cities whose voters have exempted themselves from some TABOR limitations rebound from down times, the cities can immediately begin using the improved revenue to catch up on road building, police staffing, parks construction and other typical municipal services that were impacted during the weak economic years. But Colorado Springs can’t do any of those things unless voters give the go-ahead each year for the City to spend all of the revenue it takes in at currently-approved tax rates.**

## Analogy for the TABOR spending limit cap

### Look at TABOR like you would the water in our reservoirs.

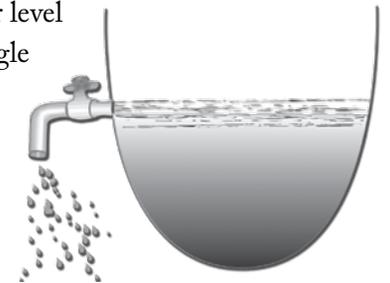
Imagine there is a rule that the water level may never increase by more than – for example – six percent in a single year. However, the amount of water in the reservoir can drop by an unlimited amount at any time.

A drought has caused the water level of the reservoir to drop suddenly to 50 percent of normal.



When the weather pattern shifts and steady rains and snow return, reservoir workers are happy because the water level rises quickly to 80 percent of capacity. Everyone looks forward to relaxing the restrictions that had been placed on customers and restoring recreational services. But management reminds them of the growth restriction.

Since the rule says the water level may never increase by more than six percent in a single year, workers must release enough water to keep the reservoir at just six percent above what they had last year. Six percent of 50 is three. So the maximum water that can be stored this year is 53 percent of capacity. All other water must be returned to the streams it came from.



So it is with TABOR when revenue improves. No matter how much the local economy grows in a year, the City must return any revenue that exceeds the computed TABOR cap, or ask voters for permission to retain it.

# Conclusions

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- TABOR's intent to limit government growth is widely accepted.
- In its implementation, TABOR limits government's ability to provide services that communities want: services such as road maintenance, police and fire services, a parks and recreation system, and code enforcement.
- If local government is to be efficient in serving its citizens, there must be some correlation between population growth and government growth. Otherwise, if the resources available to an efficient government falter while population grows, services to citizens will degrade.
- Revising the State Constitution would not bring relief to Colorado Springs City government unless adjustments were also made to the local TABOR laws.



**For a speaker on this topic, please contact  
Public Communications at (719) 385-5906.**