Primroses and Politics: 
The Deceptive Allure of Colorado’s Taxpayers Bill of Rights

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Across the country, states are considering tax and spending limitations modeled after a 12-year-old Colorado law. The so-called Taxpayers Bill of Rights—or TABOR—was the result of a ballot initiative in 1993 that was marketed as a way to limit government growth. Within the last couple of years, national groups on the far right, such as Grover Norquist’s Americans for Tax Reform and the CATO Institute and the American Legislative Exchange Council, have picked up TABOR and actively attempted to export it to other states. At present there are active efforts to enact TABOR-type laws in Ohio, Wisconsin, Maine and a number of other states.

Much has been written about the effects of TABOR on Colorado’s economy and state services. Although proponents argue that it has brought jobs to the state, other analysts present evidence that it has exacerbated a decline in the state’s economy. The negative effects on higher education, health care, transportation and other state programs have also been well-documented. What is less discussed, but perhaps of equal, if not greater, importance, are the far-reaching implications of TABOR-type laws for our democracy. These proposals entail fundamental shifts away from our traditions of representative democracy, and paradoxically, they threaten to hand enormous power to well-heeled minority interests in the name of strengthening voter control.
What does TABOR do?

Twelve years ago, a Colorado ballot initiative instituted a series of constitutional amendments collectively known as the Taxpayers’ Bill of Rights (TABOR). These amendments set binding limits on tax revenues and state spending, which over time have the effect of drastically reducing the amount of money that can be raised and spent in the state, regardless of the health of the economy or the extremity of the need for state government intervention. The only escape clauses require the approval of a majority of voters in a state referendum.

The result in Colorado has been a harrowing set of budget reductions and, according to critics, a steady decline in the state’s stature and quality of life. State general fund appropriations for higher education have fallen to their lowest level in 20 years (in constant dollars), and the funding decline in just the last two years has been the worst in the nation. Public health has also suffered: Colorado’s national ranking for access to prenatal care dropped sharply from 23rd in 1990 to 48th in 2004. The state is now 50th in on-time child-immunization rates; in 1995, the vaccination rate was well above the national average.

The retreat from public investments appears to be taking its toll on the state’s economy, too. In 2003, Colorado’s economic growth lagged behind that of the nation and of almost every surrounding state. In January 2005, the Colorado Business Leaders Confidence Index declined for the second consecutive quarter, and more than half of Colorado’s business leaders now feel that the state funding situation is critical.

The Primrose TABOR Path

TABOR is beguiling. In a time when government and the issues it seeks to address seem to some unmanageably complex, TABOR seems to promise simplicity. It promises to apply a straightforward, tinker-proof formula, limiting the growth of state spending and forcing government to “live within its means.” Perhaps most appealingly, it appears to give “the people” direct control over processes that seem irredeemably commandeered by special interests. These promises, however, each lead the public down a path that conceals real dangers for the wellbeing of states and for the future of democratic processes.

The Simplistic Subterfuge

The wide array of services and programs, and the many steps involved in government decision-making, can create the perception of a bureaucracy sagging under the weight of unnecessary complexity. If the public cannot easily grasp what state government is engaged in, the process by which their elected officials identify issues, evaluate programs, weigh and determine priorities and then raise and distribute state revenues is even more opaque to them. By seeming to bypass this complexity, TABOR offers the comfort of simplicity. Unfortunately, complexity does not disappear just because the revenues needed to address the state’s problems are limited by a constitutional amendment. Rather than bringing simplicity, the restrictions of TABOR actually create multifaceted and negative repercussions. As lawmakers find themselves struggling to meet even basic state needs with highly constrained fiscal tools, the process for funding the state has become an even more complicated game of accounting tricks, increased fees, and a scramble to pull together a hodge-podge of “non-tax” revenue. And local communities, facing new demands with less state funding for programs, have been drawn into this same complicated fiscal game.
When given a chance to think about tax limitation laws in the context of what is required for responsible public administration, citizens may be more prone to reject them. People seem to understand intuitively that government needs to have flexibility in order to address issues and take advantage of opportunities as they arise. In a series of focus groups that were conducted by the FrameWorks Institute in collaboration with the Public Works program of Dēmos and the Council for Excellence in Government, participants were asked what the advantages and disadvantages would be of a TABOR-type law. Without prior knowledge of these proposals and without prompting of any kind, people in the groups would almost invariably express concern that such a law would tie the hands of decision-makers in such a way that they would not be able to respond adequately to sudden crises and new needs as they arose, or to emerging opportunities that would benefit the state.

The Rationality Ruse

Another superficially appealing aspect of TABOR-type laws is the promise of rationality imposed through a formula that calculates the rate of allowable growth (or required reduction) in government expenditures. The essential problem with this promise is that rationality is in the eye of the beholder. Most of the tax expenditure and limitation laws allow growth in state government revenues and expenditures commensurate with the state’s inflation rate and its population growth. Rational as this may sound, it creates irrational consequences. For instance, two of the largest areas of state government responsibility and expenditures are health care services and public education. The costs of providing health care and education have increased at rates that far exceed the cost-of-living index. Over the last 10 years, general inflation has been approximately 27 percent. Over the same period, health care costs have risen close to 50 percent, while education costs have risen more than 70 percent. Since health care services and K-12 education make up 40 percent of state government expenditures, a revenue growth rate based on general inflation will fall far short of the amount needed to pay for those services.

With a cap on growth and mounting expenditures in critical areas, other parts of the budget must be cut excessively. The problem is exacerbated because some areas of the state budget, such as corrections, will be considered by lawmakers to be off-limits for reductions. Lawmakers are forced to make irrational choices, cutting other state activities, such as transportation and higher education, which may be vital for the state’s economic health.

We elect representatives to evaluate circumstances and needs and develop state government responses. We expect them to determine how much money we need to raise and how best to raise it. Often these decisions require complex calculations that balance a wide variety of interests and involve the prioritization of thousands of competing demands. Truly rational decision-making in the context of state governments requires deliberations that cannot be reduced to two-factor formulas.

The People-Power Pretense

The proponents of TABOR often are passionate in making their claims that these laws bring power back to the people, thereby enhancing the rule of democracy. They promise that the people, not special interests, can decide whether, and under what circumstances, revenues and expenditures can exceed the proscribed limits, by taking the question to the ballot box. The ironic twist is that the ballot
initiatives are potentially subject to unrestrained special interest influence. In the states where these amendments are being considered, ballot initiative elections are not subject to campaign reform laws that limit the amount of money that special interests can expend in support of candidates. Since the outcome of ballot initiatives often hinges on the amount of money spent on television advertising, those interests with access to the most cash may well control the “people’s” decision.

Also, although TABOR promises to let majority rule, by putting important state budget decisions in the hands of the voters, it may actually give the power to make these decisions to a small minority who choose to vote in the esoteric elections involving state revenue and spending limits. In Colorado, where voters have been asked numerous times to vote on TABOR ballot initiatives, these crucial state fiscal decisions have been made by as few as 20 percent of the state’s registered voters.

Of perhaps greatest concern, these TABOR proposals threaten one of the fundamental precepts of the United States that has guaranteed the effective voice of the people in our government for two centuries: representative democracy. According to the information that the U.S. Department of State disseminates around the world, representative democracy is the form of government “in which citizens elect officials to make political decisions, formulate laws, and administer programs for the public good. In the name of the people, such officials can deliberate on complex public issues in a thoughtful and systematic manner that requires an investment of time and energy that is often impractical for the vast majority of private citizens.” By removing from elected officials the authority to determine the most basic of government functions—the levels of taxation and public expenditures—TABOR undermines the ability of the people to choose the representatives whom they can most trust to make complex budgetary decisions that are in their best interest. Instead, these crucial decisions will become the province of ad wars, with those holding the most cash also holding the most power.

**Staying on the Straight and Narrow**

In Colorado, the state with deep experience with TABOR restrictions, a broad coalition of key legislative and business leaders, education experts, elderly advocates and many others, has emerged to reform this law. On the Colorado ballot this fall will be a “reform” initiative that would blunt the most devastating effects of TABOR. Ohioans, Wisconsinites, and all others who find themselves targets of this national campaign would do well to avoid the TABOR temptation from the outset, averting this effort to subvert rational budgetary decision-making by elected officials who—under the most effective democracy in the world—are bound to act on the most difficult of state fiscal matters in the interests of the people.

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