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An Analysis of Misleading Attacks on Colorado's Taxpayer Bill of Rights

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Fiscal Fact No. 23

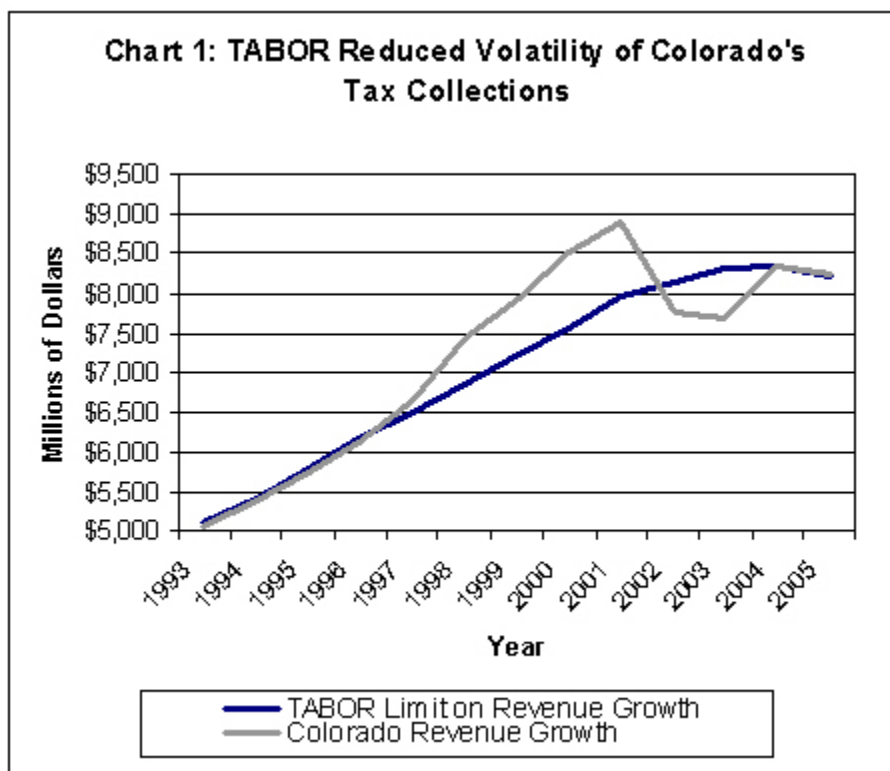
I. Introduction

The state of Colorado is under assault. Opponents of Colorado's Taxpayer Bill of Rights (TABOR) are waging a well coordinated but misleading attack on Colorado's reputation. This attack takes the form of a number of rankings and statistics that purport to show that the Taxpayer Bill of Rights has decimated Colorado. These rankings and statistics are based on the assumption that if Colorado ranks poorly on things like the adequacy of prenatal care and education spending, then Colorado is failing to adequately care for and educate its citizens, and that the Taxpayer Bill of Rights must be to blame. A closer look at the attacks shows that they fail to prove that the amount a state spends on health care and education determines quality, and they also fail to tell the whole truth about the rankings and statistics of the state of Colorado.

II. Budget Problems

The claim: The Taxpayer Bill of Rights magnified the effect of the recession on the Colorado budget, forcing more than \$1 billion in cuts.¹

The facts: The Taxpayer Bill of Rights allows Colorado revenues to grow at the same rate as population plus inflation, requiring revenues in excess to be returned to the taxpayers. When revenue growth dips below the allowed rate, the budget must "ratchet down" its spending to the level of revenues, unless tax increases are approved. This happened in every state where revenues declined, since all states except Vermont are constitutionally required to balance their budgets. What makes Colorado different, though, is that the impact of the revenue decline was mitigated by the Taxpayer Bill of Rights in the good years (see chart 1). Where most states spent all or nearly all available revenues, Colorado had to return surplus revenues to the taxpayers. Thus, the revenue decline in Colorado did not hurt as much because the state was not allowed to spend all the money it collected during the good times. In fact, had Colorado spent all surplus revenues, the deficit would likely have been much worse.



In 2001, Colorado received \$8.9 billion in revenues, but had to return over \$1 billion because TABOR only allowed the state to keep and spend \$7.9 billion.² Thus, when revenues dropped to \$7.8 billion in 2002, the state's revenue deficit was actually \$196.4 million (the difference between actual revenues in 2002 and the TABOR limit in FY 2001) instead of \$1.124 billion (the difference between actual revenues in 2002 and 2001). (See chart 2.). States without tax and spending limits would have spent almost the entire \$8.9 billion the previous year, making the revenue decline much more painful (by forcing the states to cut spending). TABOR saved Colorado from a more severe revenue shortfall and smoothed Colorado's spending over the business cycle.

The charge that the Taxpayer Bill of Rights magnified the effect of the budget crisis also overlooks the role that mandated spending increases played in worsening Colorado's deficit. Amendment 23, passed by voters in 2000, requires the state to increase education spending by the rate of population growth plus one percent every year from 2001-2011—

regardless of whether the state's revenues increase or decrease. It carves out a special source of funds for education—7.2 percent of personal income tax revenues—and places those funds in a special education trust.³ Amendment 23 puts a major squeeze on other parts of Colorado's budget, like higher education, which are funded from the part of the budget still subject to the limits of the Taxpayer Bill of Rights. Even if we grant the claim that the Taxpayer Bill of Rights somehow can be blamed for starving Colorado of needed revenues, it allows state lawmakers to spend above and beyond its limits if the voters approve. The voters can even approve statutory tax increases to raise revenues above and beyond Colorado's current revenue stream. All lawmakers have to do is ask permission to raise taxes.

The claim: Because TABOR required very large tax refunds in the boom years, the state was unable to put money into a rainy day fund or make other investments that could have eased the crisis when it arrived.⁴

The facts: The Taxpayer Bill of Rights did not stop Colorado from saving money in a rainy day fund. Colorado already has several reserve funds at its disposal, including a statutory reserve equal to 4 percent of appropriations, to be used in case of revenue shortfalls (though the money has to be replaced in the future).⁵ Lawmakers spent a large portion of this reserve on capital construction, an unsustainable course during a revenue shortfall.⁶ The Taxpayer Bill of Rights also requires the state to set aside an emergency reserve fund, to be used in case of natural disasters. Finally, the Taxpayer Bill of Rights allows Colorado lawmakers to ask the voters to keep surplus revenues to use in a rainy day fund.

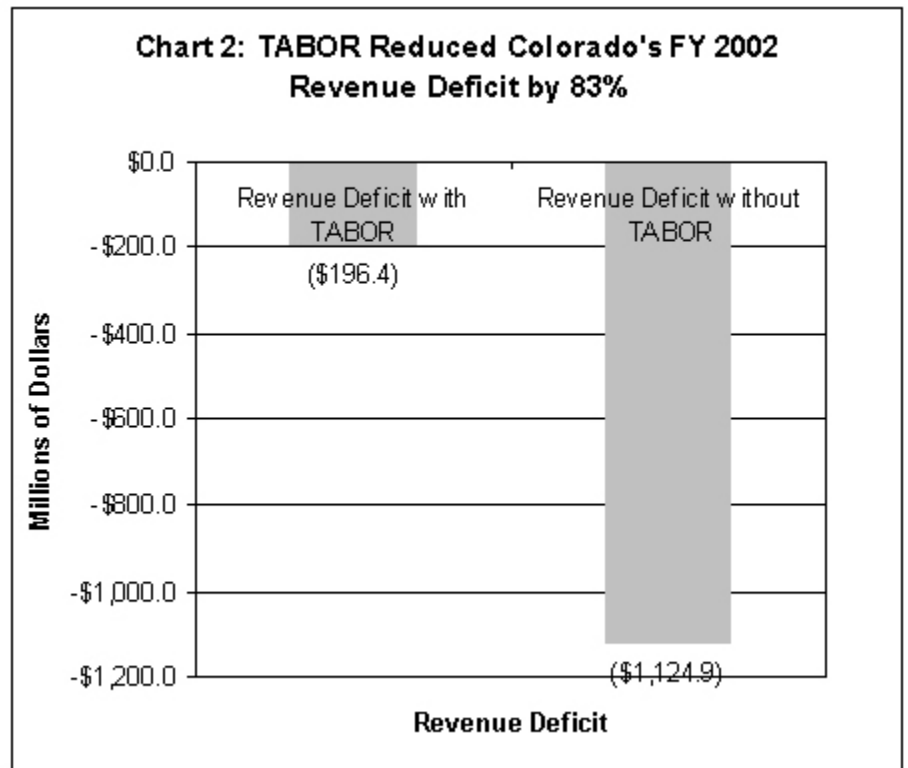
III. Health

The claim: Colorado ranks 48th in prenatal care.⁷

The facts: Colorado ranks as the 13th healthiest state in the country, according to a 2004 survey conducted by United Health Foundation.⁸ Prenatal care was one of 18 sub-rankings used to compile the total ranking, and the only area where Colorado was cited for needing improvement.⁹ In every single other area of health measured by the rankings—obesity, smoking, crime, disease, poverty, etc.—Colorado ranked in the upper or middle tier of all states. If you accept these rankings as adequate measures of a state's health, then Colorado is a healthy state. Furthermore, nothing indicates that the Taxpayer Bill of Rights caused the low ranking on prenatal care, or that a low ranking means that Colorado is failing to provide adequate prenatal care.

The claim: The share of low-income individuals enrolled in Medicaid is lower than in all but five other states.¹⁰

The facts: To the extent that the level of Medicaid enrollment and payment per enrollee connote high quality health care (and there are serious questions about whether they do), Colorado overall compares favorably to other states. Colorado had the second-fastest increase in Medicaid recipients (45 percent) of any Rocky Mountain state between 1996 and 2001.¹¹ Colorado's increase in Medicaid



recipients was also well above the national average of 27 percent.¹² Furthermore, Colorado's payment per Medicaid recipient was third among Rocky Mountain states in 1990 (\$2,705) but rose to first among Rocky Mountain states in 2001 (\$4,969).¹³

The claim: The percentage of low-income Colorado children who lack health insurance rose from 15 percent in 1991-92 to 27 percent in 2002-03.¹⁴

The facts: While the percentage of low-income children without insurance did rise in Colorado over the period, studies by both the Centers for Medicare and Medicaid Services (CMS) and the Kaiser Commission have concluded the rise has nothing to do with tax and spending restrictions in the Taxpayer Bill of Rights. CMS attributes the rise of uninsured children in the 1990s to the fact that employers are dropping their coverage.¹⁵ The Kaiser Commission says that many children are uninsured simply because their parents are not aware they are eligible for Medicaid coverage.¹⁶ Neither reason has anything to do with the Taxpayer Bill of Rights in Colorado. Furthermore, Colorado has respectful rankings on other measures of covering the uninsured. Colorado's number of persons under 65 that lack health insurance is 17.8 percent, just above the national average of 17.2 percent.¹⁷ Among Rocky Mountain states, Colorado has the second-lowest number of uninsured persons under 65, up from the third-lowest number in 1987.¹⁸ Assuming that these rankings have anything to do with the quality of health care received by Colorado's citizens, or that the Taxpayer Bill of Rights has any impact on these rankings, Colorado compares favorably to other states.

IV. K-12 Education

The claim: Colorado teachers make less than the national average, and are paid poorly relative to the private sector.¹⁹

The facts: Colorado ranked 22nd in average teacher salary in 2003, with salaries up 5 percent from 2002.²⁰ Colorado also had the highest average instructional salary of any state in the Rocky Mountain region during 2003-2004.²¹ While there is little evidence that average teacher salary correlates with education outcomes, Colorado teachers are not underpaid by any reasonable standard.

The claim: Colorado ranks 47th in K-12 education spending as a share of personal income.²²

The facts: In a study by the National Education Association (NEA) on nineteen different measures of school expenditures, Colorado ranked, on average, 27th in school spending.²³ The measure of education spending as a share of personal income is only one of these nineteen rankings, which include measures such as education spending per student enrolled and per capita education spending. Colorado's ranking of 4th is its lowest ranking in any of the nineteen separate ranking tables. Colorado averages 27th in all nineteen tables, doing very well in per capita state and local capital spending for higher education (6th) and per capita state and local capital spending for K-12 (7th). Colorado is, by these measures, an average state when it comes to education spending, not near the bottom.

Furthermore, the amount a state spends does not guarantee a quality education. Research by the American Legislative Exchange Council (ALEC) shows that there is virtually no correlation between how much a state spends on education and the scores achieved by its students on standardized tests.²⁴ For instance, the District of Columbia ranks second in per-pupil expenditures, but ranks last in test scores on the NAEP, ACT and SAT.²⁵ If one only looks at per-pupil expenditures, one could erroneously conclude that the District of Columbia is providing a good education for its students.

The claim: Colorado's high school graduation rate fell from 76 percent in 1990 to 70 percent in 2004.²⁶

The facts: Looking at graduation rate data provided by the Colorado Department of Education (CDE) paints a different picture. According to data collected and reported by CDE, Colorado's graduation rate in 1997 (the year Colorado taxpayers started receiving automatic tax refunds under the Taxpayer Bill of Rights) was 78.5 percent.²⁷ In 2000, the graduation rate reached 80.9 percent.²⁸ In 2003, the graduation rate was measured at 83.6 percent.²⁹ Thus, looking at graduation rates as measured by Colorado's own education agency, Colorado is steadily graduating more students under the Taxpayer Bill of Rights, not fewer.³⁰

It is true that Colorado's high school graduation rate fell by 6 percent from 1990 to 2004, as reported by the United Health Foundation, which relied on the National Center for Education Statistics for its graduation rate data. However, the rate was as low as 68 percent in 1998 and has been edging back up in recent years (to the current 70 percent).³¹ Furthermore, United Health Foundation reports that the overall graduation rate in the United States is declining, and has been declining since 1990—two years before the Taxpayer Bill of Rights was enacted.³² Colorado is following the national trend, and no evidence is presented to suggest that the Taxpayer Bill of Rights is to blame, or that a high graduation rate necessarily implies that the state is educating its students well. Colorado compares favorably to other states in other graduation statistics. Colorado's 70 percent graduation rate in 2004 (up from 69.3 percent in 2003), according to the United Health Foundation, ranked 30th among all states, down only two spots from 28th in 1990.³³ Colorado also ranked 2nd in the percentage increase in high school graduates (59.3 percent) from 1992-1993 (the school year during which the Taxpayer Bill of Rights became law) to 2002-2003.³⁴ Furthermore, Colorado overall ranks well in test scores: 13th on NAEP, 42nd in ACT, and 19th on SAT.³⁵ To the extent that these measures allow us to say that Colorado is educating its students well, it appears that Colorado compares favorably to other states.

V. Higher Education

The claim: Colorado ranks 48th in the nation for state funds for higher education per \$1,000 of personal income.³⁶

The facts: Colorado does rank 48th among states in funds spent on higher education as a share of personal income. It is misleading, however, to use this ranking to suggest that Colorado has a poor higher education system, and even more misleading to suggest that it has anything to do with the Taxpayer Bill of Rights. Colorado also ranks 2nd in total higher-ed instruction staff per 10,000 students.³⁷ Colorado ranks 12th in total higher-ed instructional staff per 10,000 population.³⁸ Colorado also had very high growth in per capita personal income from 1993-2003 (4.6 percent), exceeding the national average of 4.0 percent.³⁹ The Taxpayer Bill of Rights has also kept tuition increases at Colorado universities in check.⁴⁰ According to information from the University of Colorado, Colorado residents pay \$1,200 less in tuition than residents of other states at comparable institutions.⁴¹ Residential tuition, according to the University of Colorado, has been falling steadily since 1991, the year before the Taxpayer Bill of Rights was enacted.⁴²

VI. Conclusion

Contrary to the assertions of its opponents, the Taxpayer Bill of Rights has not decimated Colorado. In other measures of fiscal standing, not mentioned by the opponents of the Taxpayer Bill of Rights, Colorado compares very favorably to other states. Colorado's per capita tax burden is the tenth lowest in the nation,⁴³ ranks as the 8th friendliest business-tax climate (the highest ranking of any state with a sales tax and a corporate and personal income tax),⁴⁴ and ranks as the state with the 2nd highest level of economic freedom.⁴⁵ It is simply inaccurate to say that Colorado is a sub-standard state based on selectively cited statistics and national rankings, and even more inaccurate to blame the Taxpayer Bill of Rights for any perceived inadequacies.

Footnotes

1. See Nicholas Johnson and David Bradley, *Public Services and TABOR in Colorado*, Center on Budget and Policy Priorities (January 2005), located at <http://www.cbpp.org/1-13-05sfp2.htm>.
2. See *The TABOR Surplus and TABOR Refund Mechanisms*, Colorado Office of State Planning and Budget (September 2004), located at http://www.state.co.us/gov_dir/govnr_dir/ospb/specialreports/taborsurplus-sep2004.pdf.
3. See Mike Coffman, *The Budget and the Constitution: Amendment 23*, 4 Tresur E-Notes 16 (April 23, 2002), located at http://www.treasurer.state.co.us/news/enotes/2003/budget_the_constitution_Amendment23.htm.
4. See Nicholas Johnson and Karen Lyons, *Is Colorado's TABOR Creating Jobs?*, Center on Budget and Policy Priorities (1/13/2005), located at <http://www.cbpp.org/1-13-05sfp.htm>.
5. See Chris Ward, *The Big Picture—An Overview of State Finances*, Colorado Legislative Council Issue Brief Number 98-4 (1/30/1998), located at http://www.state.co.us/gov_dir/leg_dir/lcsstaff/research/issuebrf-bigpic.htm.
6. See *TABOR Legislative Handbook*, at 2, Independence Institute (January, 2000).
7. See Johnson and Bradley, supra note 1.
8. <http://www.unitedhealthfoundation.org/shr2004/states/Colorado.html>
9. Incidentally, Colorado ranked 16th in infant mortality even though it was 48th in providing pre-natal care.
10. See Johnson and Bradley, supra note 1.
11. Calculations based on data on Medicaid recipients published by Centers for Disease Control, National Center for Health Statistics, Health, United States, 2004, Table 151.
12. See Id.
13. Id.
14. See Johnson and Bradley, supra note 1.
15. See CMS website, located at <http://www.cms.hhs.gov/schip/default.asp?>
16. See *The Uninsured: A Primer*, at 5, Kaiser Commission on Medicaid and the Uninsured (November, 2004), located at <http://www.kff.org/uninsured/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=50811>.
17. See CDC statistics, supra note 11, at table 153.
18. Id.
19. See Johnson and Bradley, supra note 1.
20. See American Federation of Teachers' salary statistics, located at <http://www.aft.org/salary/2003/download/2003Table1.pdf>.
21. See National Education Association statistics on teacher salary, summary table G, located at <http://www.nea.org/edstats/images/04rankings.pdf>.
22. See Johnson and Bradley, supra note 1.
23. Author's calculation of average rankings in NEA study on school expenditures, infra note 34.
24. See ALEC Report Card on Education, infra note 35.
25. See Id. at 17.
26. See Johnson and Bradley, supra note 1.
27. <http://www.cde.state.co.us/cdereval/download/pdf/4YearTrendGradRates.PDF>.
28. See id.
29. <http://www.cde.state.co.us/cdereval/rv2003GradLinks.htm>.
30. CDE does not analyze where Colorado ranks among other states in graduation rates. For the purposes of this analysis, however, this is irrelevant, since TABOR opponents are trying to show that TABOR is leading to lower graduation rates in Colorado.

31. See Jay P. Greene, *High School Graduation Rates in the United States*, Black Alliance for Educational Options, Table 1 (November, 2001), located at http://www.manhattan-institute.org/html/cr_baeo.htm.
32. <http://www.unitedhealthfoundation.org/shr2004/components/hsggrad.html> (“The national average is 68.3 percent, up 1.0 percent from the past year but lower than the 1990 rate of 72.9 percent.”). See also graphic on lower left corner of page.
33. See United Health rankings, supra note 8.
34. See National Education Association statistics on graduation, located at <http://www.nea.org/edstats/images/04rankings.pdf>.
35. See ALEC Report Card on Education, located at http://www.alec.org/meSWFiles/pdf/2004_Report_Card_on_Education.pdf.
36. See Johnson and Bradley, supra note 1.
37. NEA educational statistics, supra note 34, at table C-3.
38. See id. at table C-4.
39. See Bureau of Economic Analysis BEARFACTS 1993-2003, located at <http://www.bea.doc.gov/bea/regional/bearfacts/stateaction.cfm>.
40. See *Owens Threatens Veto of Proposed College Tuition Hikes*, Associated Press (3/5/2005), located at http://news4colorado.com/colorado/CO-XGR--HigherEducati-dn/resources_news.html (“The Taxpayers Bill of Rights, a constitutional amendment capping taxes and spending, has previously limited tuition increases because any extra tuition might trigger a refund required if those caps are exceeded.”).
41. See Question and Answer with Chancellor of the University of Colorado, located at <http://www.colorado.edu/chancellor/quality4colo/quality4coloQA.html>.
42. See id.
43. <http://www.taxfoundation.org/colorado/statelocal-co.html>
44. See Scott Hodge and Scott Moody, *2004 State Business Tax Climate Index*, Tax Foundation (2004), at table 2. 45. See Ying Huang, Robert McCormick, and Lawrence J. McQuillan, *Economic Freedom Index: 2004*, Pacific Research Institute for Public Policy (2004).