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We relied on the cooperation of budget and legislative staff from our peer states. We thank them for their patience and assistance.

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Special thanks to the members of the Bell's Board of Directors for their vote of confidence and their willingness to support this kind of long-term and complex research. We also are grateful for the generous and ongoing support of many donors, including the Brett Family Foundation, the Chambers Family Fund, and the Gill Foundation.

Finally, we want to thank the Enterprise Foundation for their generous contribution to this work. Their sustaining commitment is invaluable.

—*Carol Hedges*

Introduction

February 2003

Colorado now has ten years of experience with the Taxpayer's Bill of Rights (TABOR). Over the last year, the Bell Policy Center has conducted extensive research and analysis about the overall impact of this amendment at the state level. The result is this report, which examines seven specific issues that, together, help us answer the critical question: Is TABOR working for Colorado?

TABOR clearly has achieved its primary and single-minded goal of restricting the growth of government.

But this study also shows that TABOR's successes have come at a very high cost—indeed, too high a cost. **There are major structural flaws in the amendment that seriously impair the state's ability to set budgetary and programmatic priorities and to respond to the changing needs of a growing state—or to crises such as the current economic downturn. TABOR has created a state government hamstrung by inflexible rules that make it less responsive and less effective.**

TABOR is not a single provision of law. It is a collection of requirements so complex that today, it would not be allowed on the state ballot as a single measure.

Our study points to four areas of particular concern:

- **TABOR's revenue growth limit is too restrictive, even in the best of times, making it almost impossible for state government to meet critical needs;**
- **The ratcheting effect of this growth limit continually downsizes government, making cuts virtually permanent.** When the state experiences a temporary revenue shortfall during an economic downturn, TABOR makes it nearly impossible to restore program cuts in good economic times;
- TABOR contains a series of complex and often redundant provisions that **greatly restrict budget-making flexibility**, even within the overall limit on growth; and
- TABOR contains provisions that **make it very difficult for the state to take advantage of surpluses in good times (e.g. create a Rainy Day Fund) to save for bad times.**

In the end, TABOR is too restrictive and too complicated, and many of its specific provisions are unnecessary.

Policy-makers frequently talk about a family budget to explain how government can better conduct its business. Families should not live beyond their means, they say, and neither should government.

Introduction

Applying the logic of TABOR to a family's finances highlights the concerns raised in this report. A family budget, by necessity, is shaped by a mixture of immediate needs, future plans, and changing priorities. If TABOR applied to families, they would not be able to invest or save in good times in order to avoid hardship in bad times. If TABOR applied to families, those having trouble making ends meet would not be allowed to find more work to increase income—by taking a second job, perhaps, or working overtime. If TABOR applied to families, workers would have to refuse merit raises above inflation and might even have to give back any bonuses.

A family that ran its finances according to TABOR could well go bankrupt. Our fear, based on the findings in this study, is that Colorado is headed in precisely that direction.

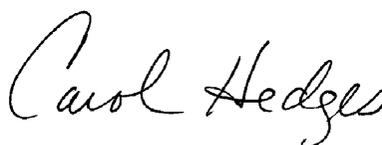
- **Without reform, the revenue limits in TABOR will continue to squeeze critical programs until they become ineffective and eventually disappear.**
- **Without reform, the ratcheting effect of TABOR will make permanent those often draconian cuts that are needed during temporary downturns in the economy. The worst of times will become the new definition of the best of times.**
- **Without reform, the state will be incapable of adjusting to the needs of a changing population—leading to an increasingly ineffective, inefficient, and ultimately irrelevant government.**
- **Without reform, TABOR will make it virtually impossible for Colorado to create a true Rainy Day Fund as a hedge against future budget cuts.**

This may be what some proponents of TABOR have in mind. But it cannot be what the people had in mind when they adopted TABOR. This is an unacceptable future for our state and its citizens.

Colorado can learn from ten years of TABOR by changing or even eliminating those provisions that are most problematic. Our hope is that this study will stimulate an informed discussion about how to make government work for all Coloradans.



—Wade Buchanan
President



—Carol Hedges
Sr. Policy Advisor and Director, Fiscal Project;
TABOR Study Author

Ten Years of TABOR: An Executive Summary

In 1992, Colorado voters approved the Taxpayer's Bill of Rights (TABOR), a constitutional amendment designed to restrain growth in government. The passage of TABOR, the most far-reaching state policy change in at least a generation, coincided with record economic expansion in Colorado, the Rocky Mountain region, and the country.

While most states operate with some tax or spending limits, **TABOR is the most restrictive limitation in the country**, with controls on the amount of revenue that can be collected and spent, as well as on how and which taxes can be raised. Some believe this restraint is necessary. The argument is that smaller government is always better, and that authority for making decisions about the level of taxation and spending should rest exclusively with voters.

Philosophically, these arguments are appealing: Everyone wants efficient government and a role in how our money is spent. At the same time, most of us would agree that effective government must be responsive to changing economic conditions and citizen needs.

Under TABOR, Coloradans have had an unprecedented opportunity to set state fiscal policy through the ballot box. And under TABOR, state government has grown only slightly. **But our research also points to structural flaws in the amendment that have seriously impaired the state's ability to set budgetary and programmatic priorities and respond to crises, such as the current economic downturn, and the unanticipated needs of its citizens. In short, TABOR has created a state government hamstrung by inflexible rules that make it unresponsive and less effective.**

In the following sections of this report, we present our research and specific conclusions on seven issues that we studied. The purpose of this Executive Summary is to examine the aggregate effect of these issues on state government in Colorado. In brief, here's what we found:

- **TABOR's revenue limit and weakening provisions have limited the overall growth of government, but not all programs have been impacted equally.** Programs driven by forces outside the budget process (such as federal mandates and health care costs for Medicaid) or longer-term policy decisions (such as sentencing laws and parole practices that help drive the Corrections budget) appear to have largely escaped TABOR's effect. This means that other programs (such as Higher Education and Public Health) have borne a disproportionate share of the spending reductions and will continue to do so in the future.
- **Since the passage of TABOR, Coloradans have paid less local and state taxes.** Colorado now ranks 43rd among all states in total tax collections as a percentage of personal income. What is not clear, however, is TABOR's role in that decreasing tax burden.
- **The aggregate effect of the TABOR refund mechanisms selected by the Legislature has been progressive in the strict sense of the word—**lower-income Coloradans have received a larger percentage of their overall income back than have higher-income Coloradans. On the flip side, the legislature also selected seventeen different refund mechanisms or contingent tax credits, some of which have disproportionately benefited the richest taxpayers.
- **TABOR was not in any important way responsible for Colorado's economic growth during the 1990s.**

The clearest relationship for strong economic growth during that period was regional.

- **TABOR will have a major negative impact on the ability of critical government programs to recover from the current economic downturn**, primarily because of the ratcheting effect and the inability to raise taxes without voter approval. The difficulty of establishing a Rainy Day Fund under TABOR exacerbates this problem.

- **TABOR has not increased voter participation.** It has increased the number of times voters visit the polls, but the low turnout for off-year elections (created expressly to address TABOR issues) has **resulted in less than 20% of voters deciding critical fiscal policy issues.**

- **TABOR has diminished the role of elected officials**, limiting their ability to adjust the budget to reflect changing needs and economic conditions.

TABOR AND SPENDING:

The amendment's primary stated goal is to restrict growth in state government. Between 1992 and 2002, total state spending increased more than inflation and population by slightly less than 1% per year.

To test whether TABOR's revenue limit affected Colorado spending, we examined a group of states that were similar economically (see page 29 for more information about how peer states were chosen). We found that compared to 10 peer states, Colorado's increases were roughly half the average rate of growth. This low rate was not due to sagging state revenues; in fact, it came at the same time Colorado was growing the fastest among all 50 states in personal income, the third fastest in gross state product, and the fourth fastest in employment. In real per capita spending, both in Total Funds and General Funds, Colorado had the second lowest rate of growth among the peer states. At the most basic level, **TABOR placed a limit on**

spending that in the latter part of the decade was well below the level of actual revenues. This obviously was a key factor in determining the overall growth rate of government expenditures in Colorado.

More interesting, within that new and lower spending limit, **not all programs have been equally impacted by TABOR's restrictions.** With or without spending limitations, program areas grow at different rates. However, we found a disturbingly consistent pattern to the distribution of growth in appropriations in Colorado. The programs that experienced significant growth were those where the General Assembly's options were dictated by other laws or outside forces. It is troubling that many parts of the budget that have shrunk—most notably Higher Education—are critical to opening gateways to opportunity and promoting self-sufficiency, while some of those that have grown—most notably Corrections—are not.

This is significant on several levels:

- **It supports the assertion that the decision-making role of legislators has been diminished.**

- **It suggests that those programs that were losers in this process in the 1990s will continue to be the losers in the future**, since outside and relatively fixed forces now play a more important role in determining priorities than legislators and governors.

- **This dynamic has led advocates for specific issues to seek ways to protect their programs from the effects of TABOR.** The most obvious example of this is Amendment 23, in which voters essentially created a mandate for education funding. Other races to the ballot would further marginalize programs that must bear an increasing burden of cuts.

Talking TABOR: Defining Terms

A number of terms in this publication, ranging from “debrucing” and “racheting” to “total funds” and “weakening provision” are included in a Glossary that begins on page 60.

TABOR AND TAXES:

Colorado has never been a big “tax and spend” state. Between 1989-2000, the amount of taxes paid as a percentage of personal income actually dropped—from 10.1% to 9.8%. Historically, Colorado’s ranking of combined state and local taxes as a percentage of income has hovered around the middle of all states—22nd in 1979 and 28th in 1989. Since TABOR’s passage, Colorado’s ranking has dropped to 43rd.

TABOR’s role in reducing the overall tax burden, however, is unclear. **There are two reasons the burden has declined over the last ten years: growth in personal income and permanent tax cuts. Neither is linked directly to TABOR.**

From 1998-2002, the tax burden fell beyond what can be explained by growing revenue and falling permanent tax rates. The contingent tax credits adopted by the Legislature to refund revenue collected in excess of the TABOR limit lowered the burden in 2000, for example, from 9.8% to 9.1%. The reduction in tax burden was limited to the years when the state had significant revenue growth.

Have the contingent tax credits benefited the poor more than the middle class and wealthy?

We found that the General Assembly’s plan to refund excess revenue through contingent tax credits resulted in the average low-income taxpayer receiving a higher portion of his income in refunds than did the average high-income taxpayer. The average refund for the taxpayers earning under \$26,000 was \$252 compared to an average of \$1,630 for taxpayers earning more than \$126,000.

We also found that individual refund mechanisms benefited groups of taxpayers differently. For example, the ten largest filers for the Colorado Capital Gains Tax Refund received an average payment of over \$671,000. The maximum refund given for the Earned Income Tax Credit, generally available to low-income individuals and families, was \$388.

It is also important to remember that individual taxpayer refunds were short-lived. Most of these tax credits were only funded in tax years 2000 and 2001. Current projections are that the credits will not be available again until at least 2005.

TABOR AND THE ECONOMY:

Did moving tax revenue into the hands of individuals stimulate our economy? **There is nothing to indicate that either the passage of TABOR in 1992 or the beginning of state refunds in 1998 had a specific effect on the rate of economic growth.**

Colorado had one of the strongest economies in the nation in the 1990s— third overall in growth in Gross State Product and fourth in employment growth. Both trends started before the passage of TABOR in 1992 (and before we reached the state TABOR limit for the first time in 1997). **The strong growth is more likely attributable to characteristics Colorado shares with other states in the region—climate, environment, lifestyle, clean industry, and diversifying economies.** In addition to Colorado, the fastest growing states in the 1990s included Arizona, Utah, Idaho, and Nevada.

A generally conservative approach to fiscal and tax policy may be one of the characteristics of western states that contributed to high growth, which may also explain why all have adopted growth limits. Even so, states with less-stringent provisions, more generous growth allowances, and easier waiver provisions still fared very well economically. **This suggests that if TABOR played any role at all in the strong economy, it was not due to its more stringent provisions that are missing in other states.**

While we found no relationship between TABOR’s strict provisions and the economic growth of the 1990s, **we did find evidence that TABOR will make it more difficult for state spending in Colorado to recover from the current economic downturn.**

Colorado's revenue has dropped dramatically during the current economic slowdown. We project that the method of calculating growth in the revenue limit will result in **the state not being able to ever recover the costs associated with inflation and population growth experienced in 2001, 2002, and possibly 2003. This effect, known as ratcheting, restricts growth so that if the state experiences falling revenue, it becomes impossible for spending to keep pace with growth in population and inflation.**

Further, we found that the nature of the growth formula calculation provides a disincentive for the

state to save for poor economic times. The resulting lack of a Rainy Day Fund has meant deeper budget cuts in the last 18 months.

TABOR AND REPRESENTATIVE DEMOCRACY:

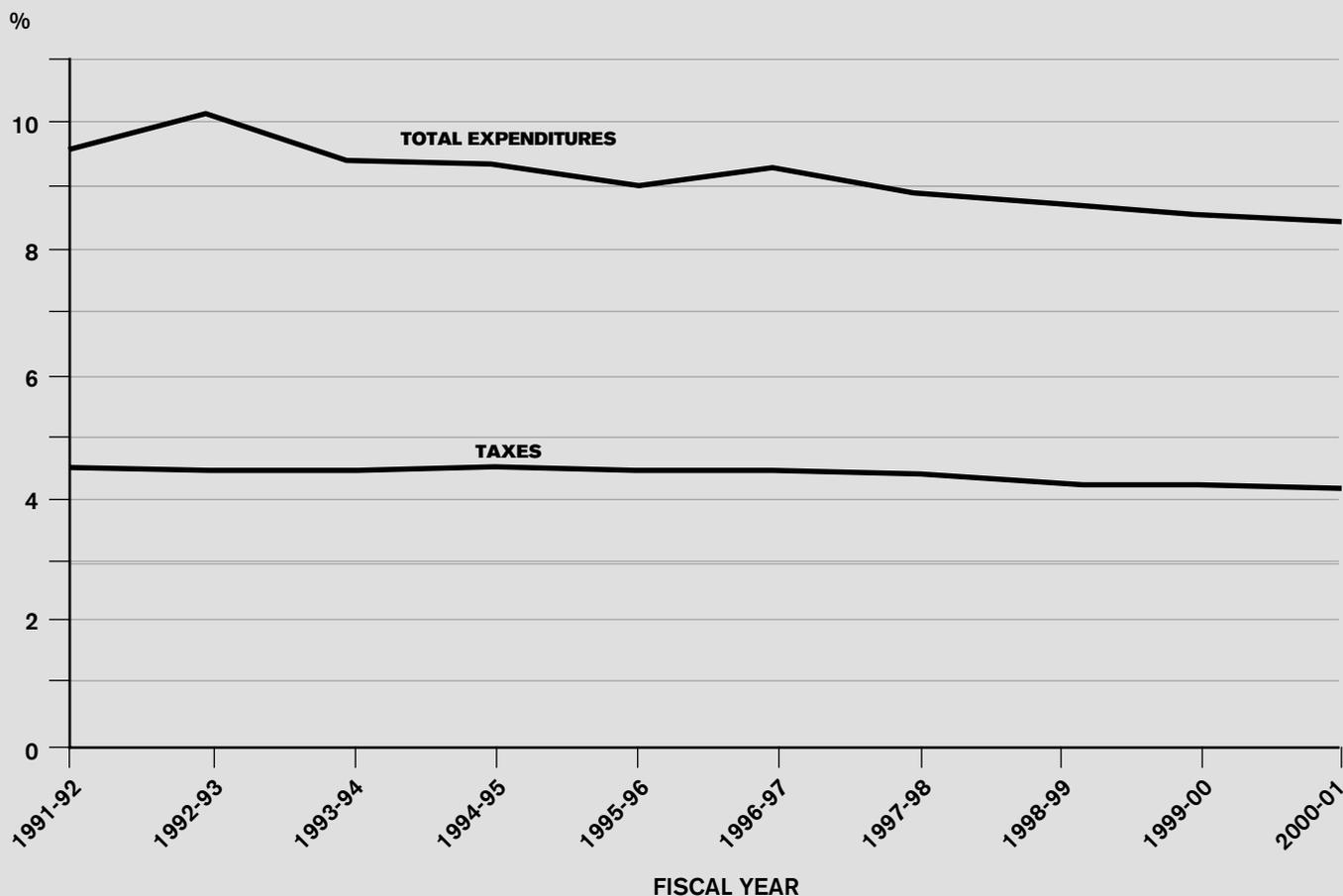
TABOR requires voter involvement in a wide variety of financial activities, from approval of all tax and revenue increases to whether governments can keep revenue collected in excess of the TABOR limit.

Our review of voter participation data for statewide elections since 1982 indicated that **since the passage**

TABOR AND GROWTH IN GOVERNMENT

TABOR has not restricted growth in government; it has shrunk it. This means that government expenditures and taxes have fallen as a percentage of state gross product.

State Expenditures and Tax Revenue as a Percent of Gross State Product



Source: Comprehensive Annual Financial Report, June 30, 2002, State Controller's Office, CO Department of Personnel and Administration.

of TABOR, the number of fiscal policy issues considered by voters has increased. We also found that in off-year elections, which are devoted exclusively to fiscal matters, a very small number (30%) of voters participate—less than half of those who voted in the prior presidential election. The end result is that fewer than 20% of voters actually decide fiscal policy in off-year elections.

TABOR has, at the same time, reduced the role of elected officials in the fiscal and budget process.

Nearly all the elected officials we interviewed told us that TABOR had made the budgeting process less flexible, which decreased their ability to make decisions on behalf of their constituents. Most also said that TABOR had made them less likely to

propose or support ballot measures to raise revenue. The majority of respondents expressed frustration at the additional bureaucracy and cost incurred in implementing TABOR.

THE REPORT:

These and other findings are discussed in detail in the following chapters, which are grouped around the seven questions that formed the basis for our research. More information about this study is on our website at www.thebell.org.

THE BELL STUDY:

In 2002, the Bell set out to study the impact of ten years of TABOR. We surveyed a broad spectrum of opinion leaders from around the state to identify the most common perceptions about the amendment. We identified seven main issues to study. Following is a list of our most important research findings:

1. Has TABOR affected state expenditures in education, health care, human services, public safety, or other programs?

- Colorado's overall per capita real dollar appropriations grew slower than all but one of the peer states (Arizona).
- Colorado's growth in per capita real dollar funding for K-12, Higher Education, and Public Health ranked last or next to last compared to our peer states.
- Within the state budget, funding for Higher Education, Public Health, and K-12 Education grew slower than the overall budget, while

funding for Transportation, Human Services, Medicaid, and Corrections grew more quickly. Specifically:

- Real dollar funding for Higher Education and Public Health in Colorado actually declined in the last 10 years.
- The growth rates for Medicaid and Corrections in Colorado were four times higher than the growth rate of overall spending during the last ten years.
- As a percentage of overall state spending between 1982 and 2002, K-12 and Higher Education declined while Corrections and Medicaid grew.

2. Has TABOR affected the tax burden of Coloradans?

- Individual tax burden has fallen since 1979 as compared to other states. That year, Colorado ranked 22nd among all 50 states in state and local tax burden. In 1989,

Colorado ranked 28th, and by 2000, Colorado's ranking dropped to 43rd.

- The tax burden in 2000 was 9.8% of income compared to the national average of 10.8%.

- That same year, TABOR's contingent tax credits dropped the tax burden to 9.1% of personal income, tying it with two other states for the ranking of 46th.

3. Has TABOR created an overall tax system that is less regressive?

- Taxpayers reporting annual income less than \$26,000 received an average refund from all contingent tax credits of \$252, or 1.98% of the average adjusted gross income for filers in the income class.

- Taxpayers reporting annual income of more than \$126,000 received average refunds from all contingent tax credits of \$1,629.80, or .38% of the average adjusted gross income for filers in the income class.

- The contingent tax credits benefited different groups differently. The ten largest tax filers for the Capital Gains Tax Refund received average refunds of \$671,000, or 157% of the average Adjusted Gross Income (AGI) for filers in the income class \$126,000 and over.

- The ten largest filers for the Earned Income Tax Credit received an average of \$57, or .15% of the average AGI for filers in the income class \$26,001-\$53,000.

4. Has TABOR played a role in the growth of the state economy since 1992?

- Colorado had one of the strongest economies in the nation in the 1990s—third overall in Gross State Product (GSP) growth and fourth in employment growth.

- The five fastest-growing states in the nation (measured by employment) were Utah, Colorado, Arizona, Nevada, and Idaho. Five of the six top growing states (all in the West) have some form of tax or spending limitation; none is as stringent as Colorado's.

- Neither passage of TABOR nor implementation of refunds changed the rate of growth in either GSP or employment, which appear to be linked most closely to regional factors.

5. Will TABOR affect the ability of state spending and services to recover from the current economic downturn?

- According to a November 2002 report of the National Conference of State Legislatures, Colorado had the third worst budget gap, at 9.2%. The national average was 3.6%.

- The ratcheting effect is real. By 2008, the revenue limit will be \$2 billion lower than it would be if the current downturn had not occurred.

6. Has TABOR increased citizen participation in fiscal issues?

- Since TABOR, the number of fiscal policy issues considered by voters has increased.

- Most voters vote “down the ballot” to make a choice on fiscal issues. In other words, if voters come to the polls to vote on “big” items, such as for president or governor, they also vote on the fiscal issues on the ballot.

-
- The smallest percentage of voters—roughly 30%—participate in off-year elections, when many fiscal issues are considered.

7. Has TABOR changed the role of elected officials in determining fiscal policy?

- TABOR has made it more difficult for elected officials to adjust spending limits and set budget priorities in response to citizen needs or changes in the economy.
- More than three-quarters of elected officials surveyed said that implementing TABOR has increased costs.
- The majority of those officials said TABOR made them less likely to propose or support a tax increase.

**TABOR &
Government**

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Understanding TABOR: A Primer

The TABOR amendment contains numerous provisions that directly affect the government's ability to raise and spend revenue. TABOR applies to all levels of government in Colorado, from special districts such as fire protection and schools to county and state governments. Although various levels are treated differently, TABOR'S primary objective is to "restrain most the growth of government" (Colorado Constitution, Article X, Sec. 20 (1)). Four of the most significant provisions of TABOR are:

1. TABOR Requires Voter Approval of Revenue Increases

TABOR requires advance voter approval of "any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax or a tax policy change directly causing a net tax revenue gain" for any government. Tax rates, mill levies, and debt limits can be lowered without voter approval, but increasing them requires a positive vote.

2. TABOR Limits Revenue Collections

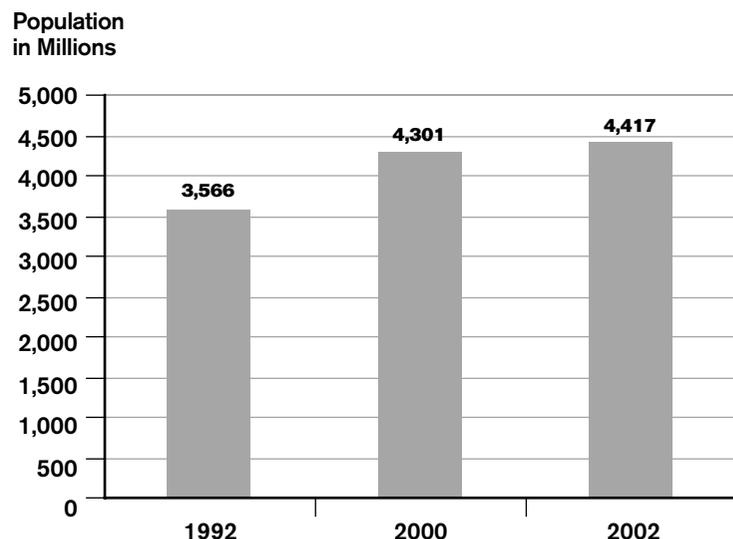
Referred to as spending limits in the state constitution, TABOR effectively limits the amount of revenue that a government can collect and keep by prescribing a formula for growth in spending (see box on next page) and requiring that all revenue in excess of that amount be returned to taxpayers.

In effect, TABOR prescribes that state government cannot grow faster each year than household-consumer prices (inflation) plus population growth, and that local government cannot grow faster each year than the value of net new construction plus the increase in inflation. Revenue collected in excess of these limits must be returned to the taxpayers in the following fiscal year by any "reasonable means,"

including refunds or temporary tax credits, unless voters approve of the government keeping and spending it.

Population change is one measure included in the TABOR growth formula at the state level. During the 1990s, Colorado's population increased an average of 2.3% per year—the third highest growth rate in the country. Between 1992-2002, the state's population grew to over 4.4 million people.

Population 1992 through 2002

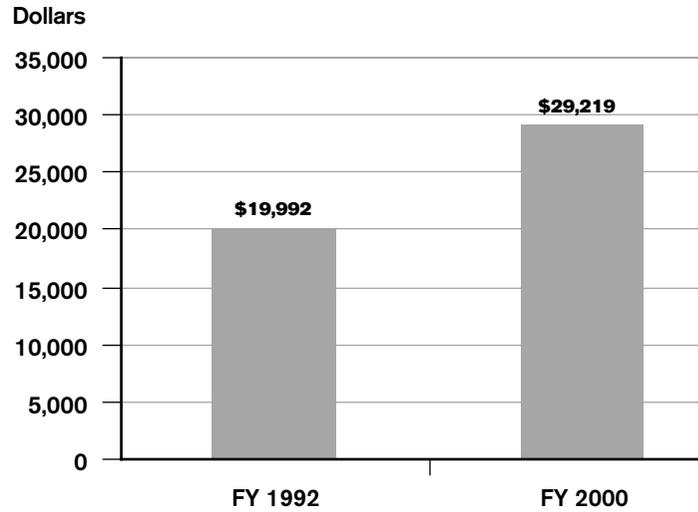


Inflation is the other factor used in the TABOR growth formula at the state level. The index of inflation used is the Denver-Boulder-Greeley Consumer Price Index (CPI). The CPI measures the costs of goods purchased by urban consumers in these areas. The CPI rose 24.2% from 1992 to 1998.¹

In 1997, the state exceeded the revenue limitation for the first time. From 1997 to 2001, the state exceeded the limit and used a combination of temporary tax credits and refunds to return the money to taxpayers.

The revenue collected in excess of the TABOR limit means that over \$3.2 billion has been returned by the state to taxpayers through a variety of refund mechanisms, including tax credits and sales tax refunds. Local governments also have refunded significant amounts to taxpayers. Permanent tax cuts and falling revenue due to the economic downturn have meant revenue collections have not exceeded the allowable limit since 2001.

**Per Capita Personal Income
1992 and 1998**



The second factor in the revenue equation is tax rates. For 1992-1998, state tax rates remained relatively stable. The state adopted permanent tax cuts in 1999 and 2000.

The combined effect of increasing personal income and stable or falling tax rates was that state revenue collections exceeded the TABOR limit each year between 1997 and 2001.

TABOR Formulas for Calculating Allowable Growth in Government Spending

CPI = Denver-Boulder-Greeley Consumer Price Index

State	Local	School Districts
CPI + % Change in Population	CPI + % Change in Net New Construction	CPI + % Change in Enrollment

3. TABOR Limits Spending

TABOR limits the ability of government to spend the revenue it raises. TABOR states that “other limits on...revenue spending and debt may be weakened only by future voter approval.” This rule, often referred to as the weakening provision, locked into place a 1991 state statute that limited growth in state General Fund appropriations to 6% over the prior year’s appropriation (or, if it is less, to an amount equal to 5% of state personal income). This 6% limit often is referred to as the Arveschoug-Bird Limit, named for its legislative sponsors. Similarly, some local governments had imposed spending limits which, after TABOR, could not be weakened without voter approval.

The primary factor affecting revenue at the state level is personal income. During the 1990s, Colorado’s per capita income grew the fastest in the nation. Between 1992 and 1998, per capita personal income grew over 46%. For 1998, per capita personal income was \$29,219. (1998 is the latest year that estimates of personal income are available from the U.S. Census Bureau.)

Expenditures can be lower than the statutory limits, but any money that is not spent in one fiscal year cannot be “saved” for use in the next year without being counted in the limit for that second year. Since the provision allows a percentage increase based on actual expenditures, any savings in one year effectively reduces the spending amounts in subsequent years.

The state limitation applies to General Fund operating expenditures for state programs and agencies. Growth in other expenditures, such as capital construction and cash funded programs, is limited only by the TABOR revenue limitation (CPI plus population growth) explained in item #2 above.

4. TABOR Limits Taxation Options

TABOR places limitations on the kinds of taxes that can be proposed and implemented. The amendment specifically prohibits new real estate transfer taxes, local income taxes and state property taxes. It requires that any state income tax change have a single rate, with no surcharges, and that all income tax increases begin in the year following their enactment.

TABOR &
STATE
PROGRAMS

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QUESTION: Has TABOR affected state expenditures in education, health care, human services, public safety, or other programs?

THE ISSUE:

State government finances vital services, from education and health to transportation and social services. Many are cooperatively funded with the federal government (e.g. Medicaid) and local governments (e.g. K-12 Education). The state's contribution to these jointly funded services is significant, often accounting for more than half of the total costs.

Fiscal and budget policy-makers, when asked in our interviews, thought TABOR had significantly affected state spending. Interviewees speculated on a range of impacts, from concern that the government's economic responsibilities had been compromised to concern that infrastructure had been undermined. Several respondents commented that TABOR, through its weakening provision, had forced the state to reduce spending on important services.

The impact of TABOR on state spending is important, since financing is a central component of state policy-making and is critical to providing access to opportunity for all Coloradans.

THE BELL STUDY:

To explore this question, the Bell:

- Tracked changes in Colorado's total appropriations from 1982-2002.
- Tracked changes in Colorado's appropriations in seven major areas: K-12 Education, Higher Education, Medicaid, Public Health, Human Services, Transportation, and Corrections.
- Compared Colorado's changes in total state appropriations, as well as in appropriations for each

of the seven areas, to those in ten peer states for the period 1992-2002. We selected as "peers" those states that, during the study period, were similar to Colorado in three or more of the following economic criteria: population; percentage change in population; per capita personal income; Gross State Product (GSP); GSP per capita; state and local government as a percentage of GSP; and total government as a percentage of GSP. (For more on the research methodology used to select peer states, see page 29.)

THE RESEARCH FINDINGS:

The Bell's research shows that between 1992 and 2002:

Peer state comparisons

- In overall government activity, Colorado consistently ranks as one of the most fiscally conservative of the peer states: 10th of 11 for per capita real dollar growth in total appropriations; 9th of 11 in per capita total state spending; and 8th of 11 in total state and local taxes as a percentage of personal income.
- Per capita real dollar appropriations for all of state government grew slower in Colorado than in all but one of the peer states (Arizona).
- Colorado ranked last or next to last among the peer states for growth in per capita real dollar appropriations for K-12, Higher Education, and Public Health.
- Colorado ranked third among the peer states for growth in per capital real dollar appropriations for Medicaid and Corrections.

Colorado internal comparisons

- Per capita real dollar appropriations for Higher Education and Public Health in Colorado actually declined.

- Per capita real dollar appropriations for Medicaid and Corrections in Colorado grew three to four times faster than total state spending.

- Colorado's per capita real dollar appropriations for Higher Education, Public Health, and K-12 Education grew slower than total state funding, while appropriations for Transportation, Human Services, Medicaid, and Corrections grew more quickly.

- As a percentage of the overall state budget, K-12 and Higher Education declined between 1982 and 2002, while Corrections and Medicaid grew.

THE CONCLUSIONS:

- **The revenue limit and the weakening provision in TABOR appear to have limited the growth in total state appropriations.** Colorado had the second lowest overall growth in appropriations over the period among the peer states, even while returning more than \$3.2 billion to taxpayers since 1998. While it is not possible to say exactly how much more would have been appropriated or how it would have been used, the negative growth experienced by some program areas makes it probable that, absent TABOR, some portion of the \$3.2 billion that was returned to taxpayers would instead have been spent by the state.

- **Even while limiting growth in the overall state budget, TABOR did not effectively limit the growth of certain programs *within* that budget.** The mechanism by which the revenue limits and weakening provisions in TABOR are enforced is the annual legislative budget process. Therefore, programs driven by other forces (such as the mandates and medical inflation that help drive Medicaid costs) or longer-term policy decisions outside that budget process (such as sentencing laws and parole practices that help drive the Corrections budget) have continued to grow at rates significantly higher than those set for the overall state budget under TABOR. These trends began before TABOR and have continued despite TABOR's stringent growth limits.

- **As a result, those programs over which the Legislature has the most discretion in terms of yearly budget levels have borne the brunt of the downward pressure created by the revenue limit and the weakening provision in TABOR.** Because of

consistently high rates of growth in programs such as Medicaid and Corrections, other areas (most notably, Higher Education and Public Health) have absorbed a disproportionate share of the restrictions on growth. In practice, this has resulted in a chronic bias against many programs that support opportunity for the general public.

- **Those programs that were the losers in this process in the 1990s will likely continue to be losers in the future, since outside and relatively fixed forces now play a larger role in setting budget levels while the priorities of legislators and governors now play a smaller role.** In effect, TABOR has put the state budget on auto pilot, and the direction is toward smaller and smaller appropriations for many opportunity-based programs, as illustrated by reductions in Public Health and Higher Education. Successful ballot measures to guarantee minimum spending levels for specific state programs, such as Amendment 23 did for public education in 2000, will exacerbate this effect.

THE ANALYSIS:

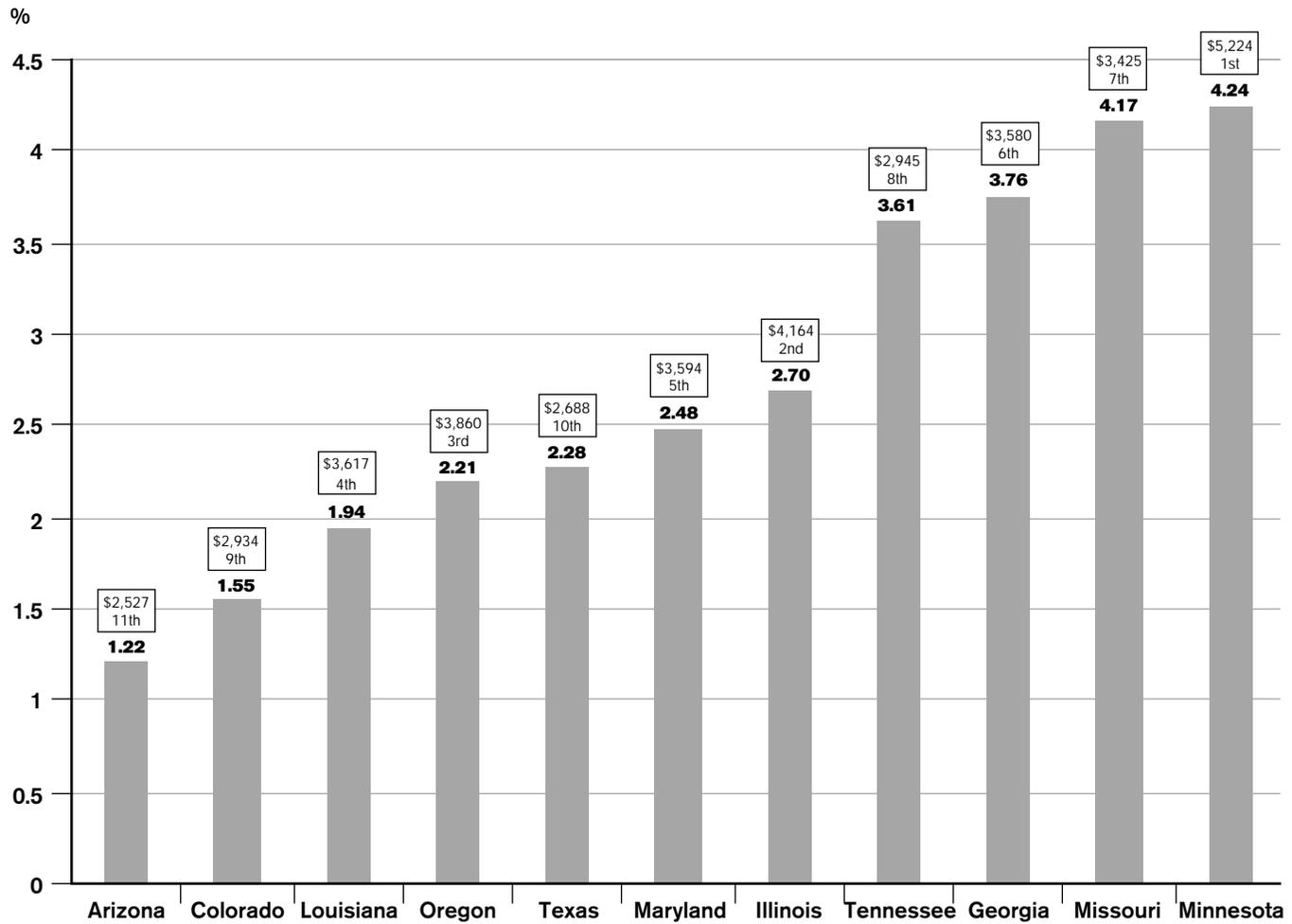
Unless otherwise noted, all appropriation percentages in the peer state analysis are calculations of average annual change in per capita Total Fund appropriations from FY 92 through FY 02, adjusted for each state's relevant inflation rate. (In several cases, the numbers for a specific state represent average annual changes over a shorter period.) Total Fund appropriations include all money authorized by the State Legislature to be spent from general, cash, federal, and special funds.

Total Funds

- **Colorado ranks 10th among 11 peer states for growth in appropriations from Total Funds, with an annual increase of 1.55%.**

While the revenue limit in TABOR is intended to prevent fiscal year spending from changing by more than population plus inflation, growth above that amount is possible because the amendment excludes certain funds from the calculation. Limits do not apply, for example, to federal funds or damage awards. (For the complete list of expenditures that do not count toward the revenue limit, see Colorado Constitution section (2) (e).) Further, Total Fund appropriations in Colorado include "cash exempt funds," which most often include transfers of funds between government agencies.¹

Peer States—Average Annual Change in Per Capita Total Fund Appropriations (adjusted for inflation)*



* The dollar amount above each column is the FY 02 per capita total state spending. The ranking is the state's relative position among the 11 peers for per capita total spending.

The Bell Study Peer States

“You can see the shift in the way money is spent because of TABOR. By the time we allocate mandatory funds, there’s nothing left. For example, in 1992-93, Higher Education funding was a little more than 17% of the General Fund budget. In 2002-3, it makes up 13%. TABOR locks in a limit on how much the

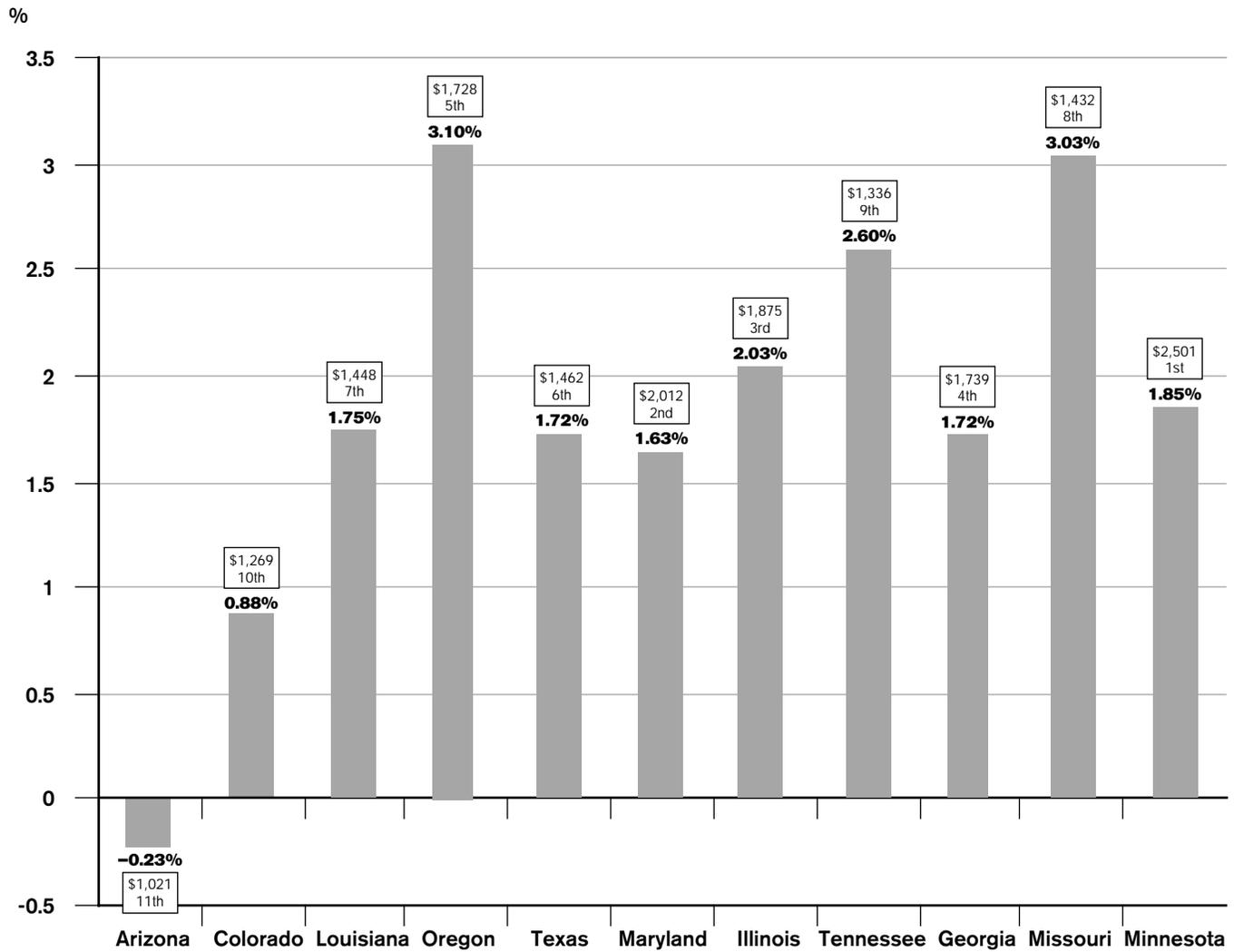
state can spend, regardless of need. After you fund ‘mandatory,’ programs—such as Corrections and Medicaid—there’s not much left to spend on ‘discretionary’ programs, such as Higher Education, agriculture, etc.”

—A Bell Survey Participant

General Funds

- Colorado also ranks 10th among 11 peer states for growth in appropriations from General Funds, with an annual increase of .88%.

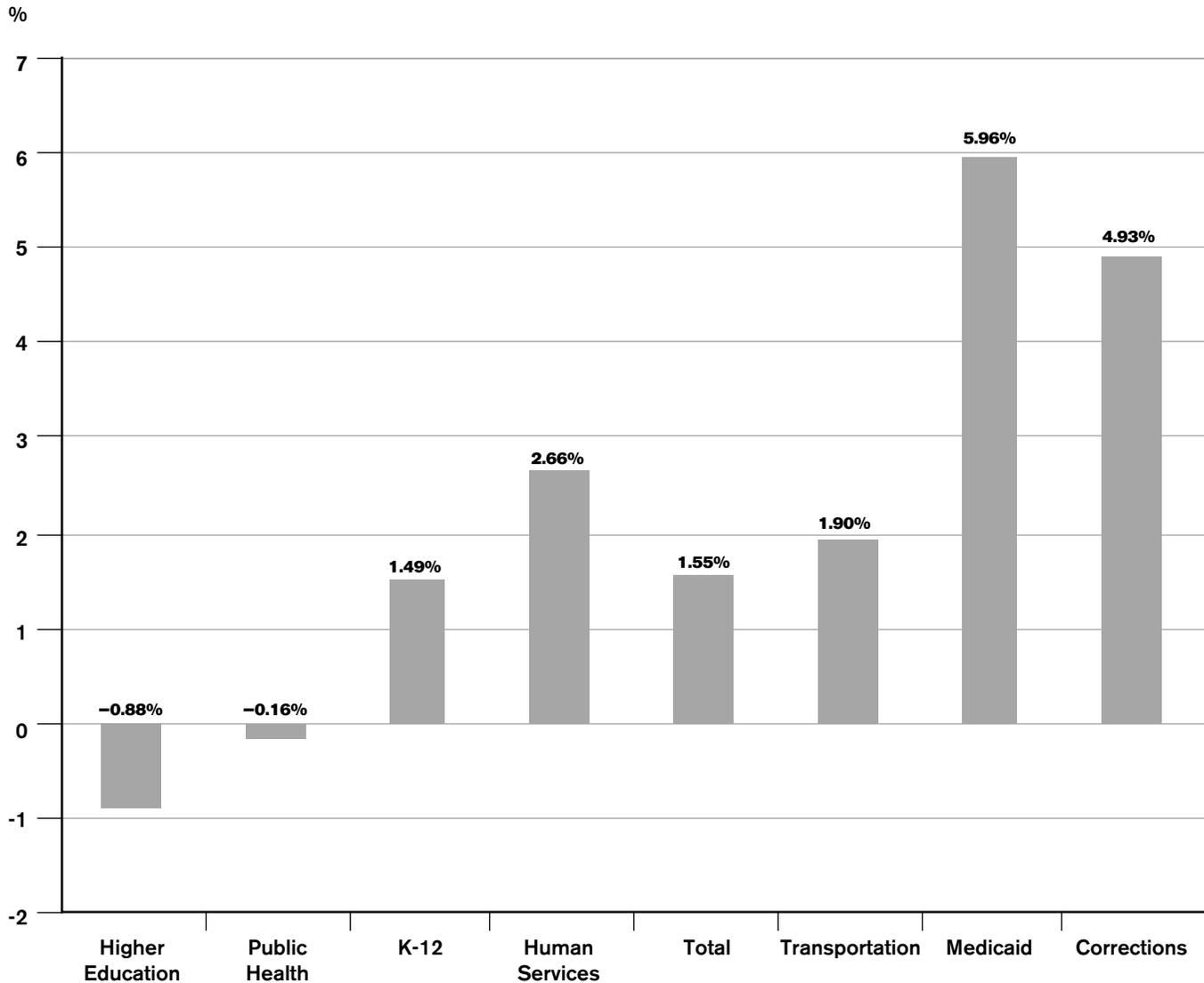
Peer States—Average Annual Change in Per Capita General Fund Appropriations (adjusted for inflation)



Colorado's Performance in Seven Key Areas of Appropriations

Colorado's appropriation growth varied dramatically by program area between 1992-2002. The following charts illustrate per capita annual growth in real (inflation adjusted) dollars and give Colorado's ranking among peer states.

Colorado's Average Annual Change in Per Capita Total Appropriations, 1992-2002, in Seven Key Areas (adjusted for inflation)



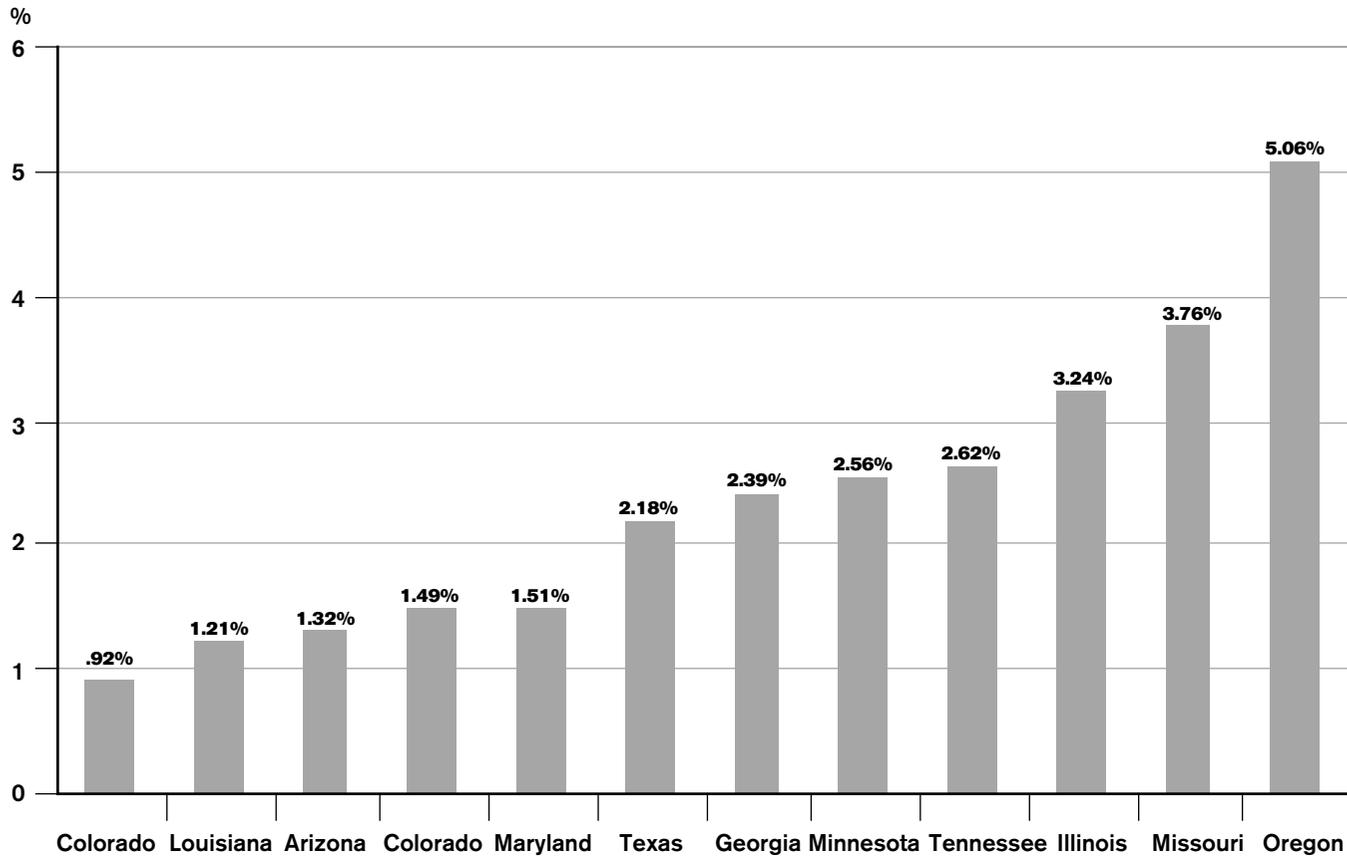
K-12 Public Education

Colorado ranks 9th among the 11 peer states for growth in appropriations for K-12 Education, with an annual increase of 1.49%. However, when one subtracts the income from the State Education Fund, created by voters in 2000 with the passage of Amendment 23, Colorado ranks last among the peer states for growth in K-12 appropriations, with an annual increase of 0.92%.

This low growth rate was on top of a base funding level for K-12 Education that is one of the lowest in the nation. Colorado received a grade of “C” on the adequacy of its K-12 funding—and ranked 42nd among all states—in *Education Week’s* annual review of Education, *Quality Counts 2002*.²

The first two years (2001-02) of Amendment 23 money (\$154,513,369) has made a significant difference in the level of funding for K-12 in Colorado, accounting for over one-third of the growth for the entire 11-year study period.

K-12 Education-Average Annual Change in Per Capita Total Appropriations (adjusted for inflation)



* Without State Education Fund appropriation

** With State Education Fund appropriation

Higher Education

Colorado ranks 10th among 11 peer states for growth in appropriations for Higher Education, with an average decrease of 0.88% per year.

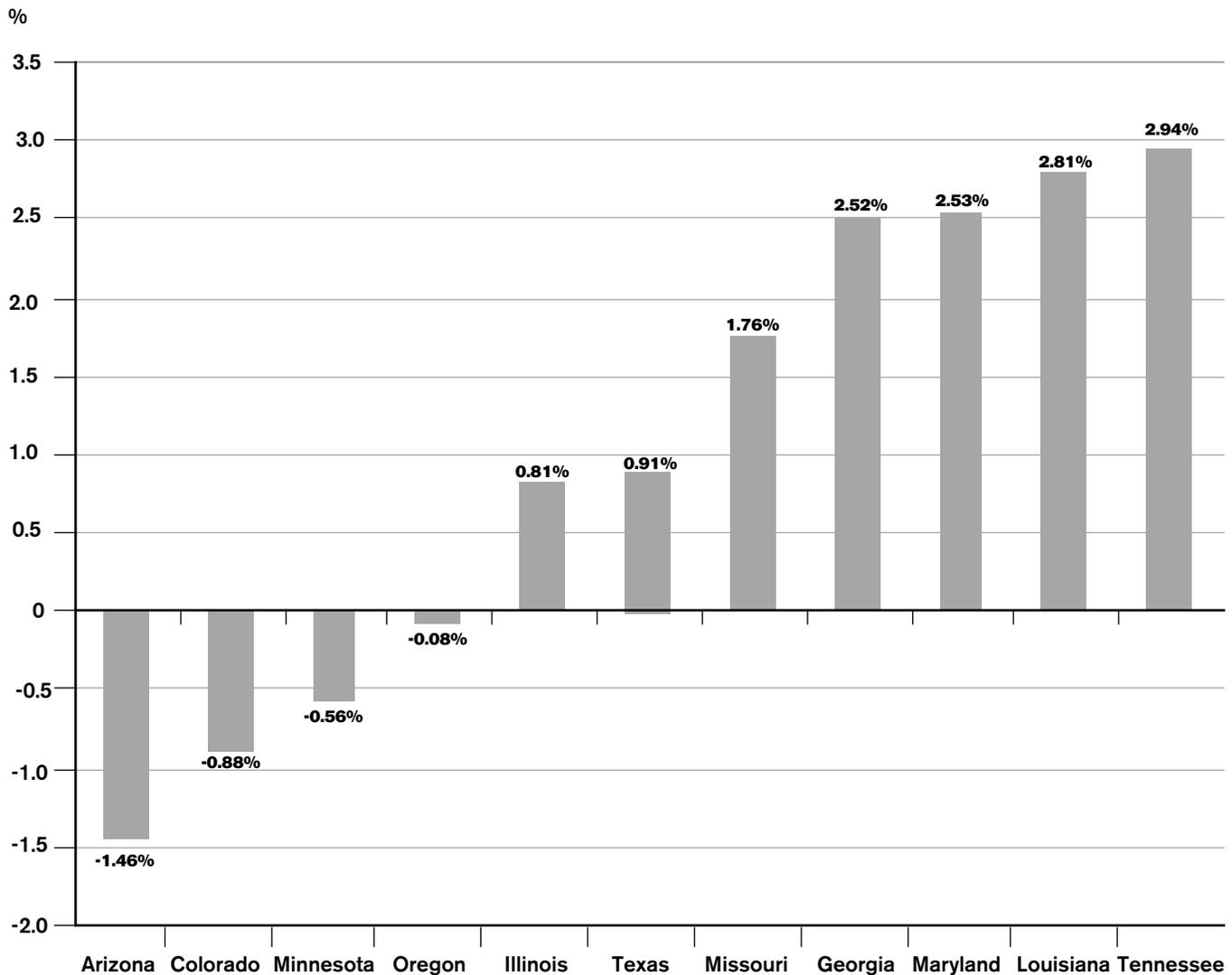
Colorado is among four peer states that experienced a decrease in funding in real dollars since 1992.

Perhaps related to this declining growth rate, Colorado ranks 41st among all states³ in a 2002 report on how well states provide access to higher education for low-income students. In addition,

only 26% of 18-24-year-olds are enrolled in higher education, which ranks the state 45th.⁴

Colorado's trend of channeling a smaller share of the total state budget to Higher Education, however, began before 1992. In 1982, Higher Education accounted for 25.9% of the total state budget. By 1992 the percentage was 17.6%, and by 2002 it was 12.5%.

Higher Education—Average Annual Change in Per Capita Total Appropriations (adjusted for inflation)

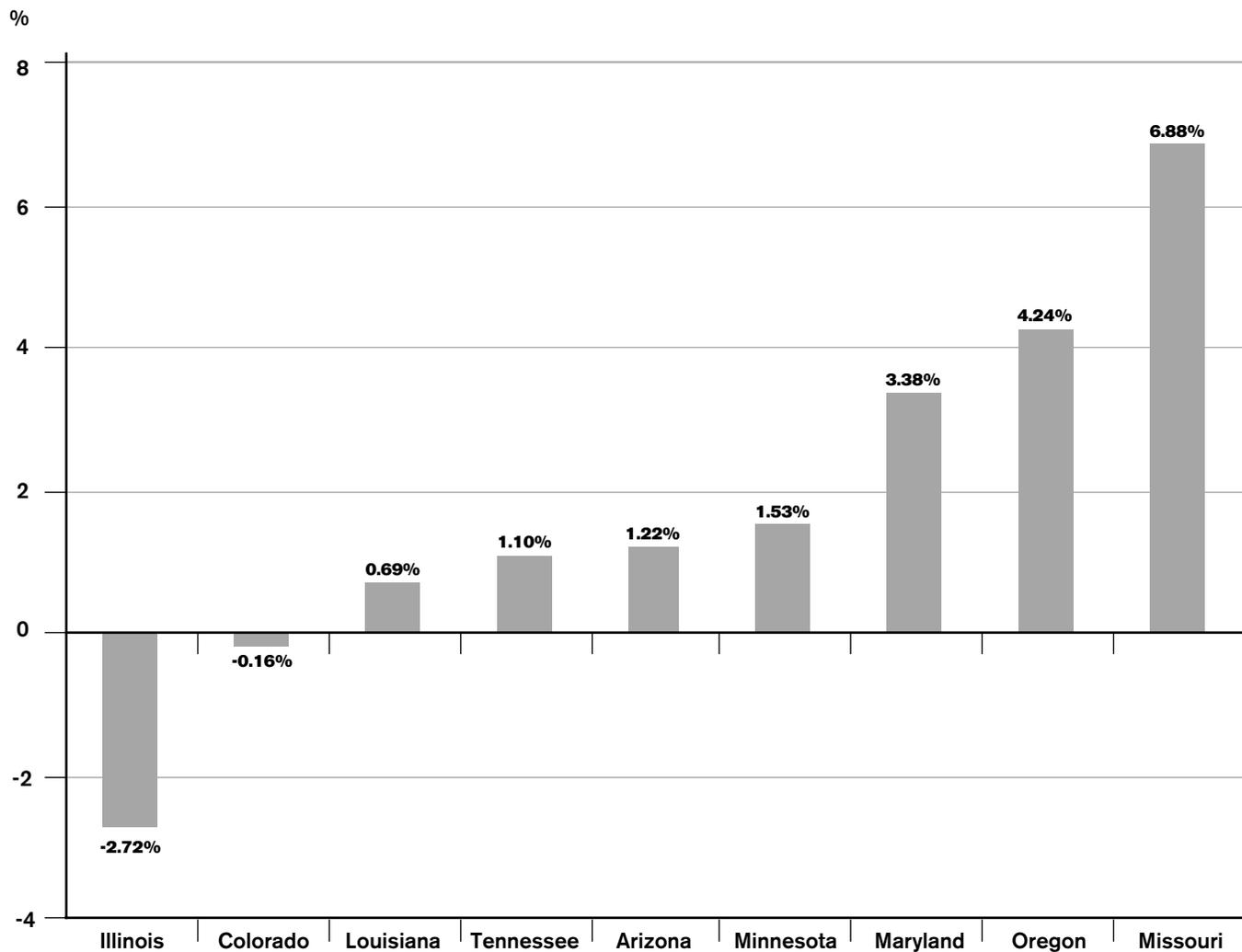


Public Health

Colorado ranks 8th among 9 of the peer states for growth in appropriations for Public Health programs, with an average decrease of -0.16% per year. (Georgia and Texas did not report Public Health appropriations, primarily because of changes in the way they budgeted in this area during the decade.)

Public Health expenditures varied widely among peer states. Functions include such services as immunization programs; local health department programs that provide newborn screening, food safety inspections; and an array of other prevention and intervention services. Local public health departments provide much of the health care for low-income families that are not poor enough to qualify for Medicaid.

Public Health—Average Annual Change in Per Capita Total Appropriations (adjusted for inflation)



Human Services

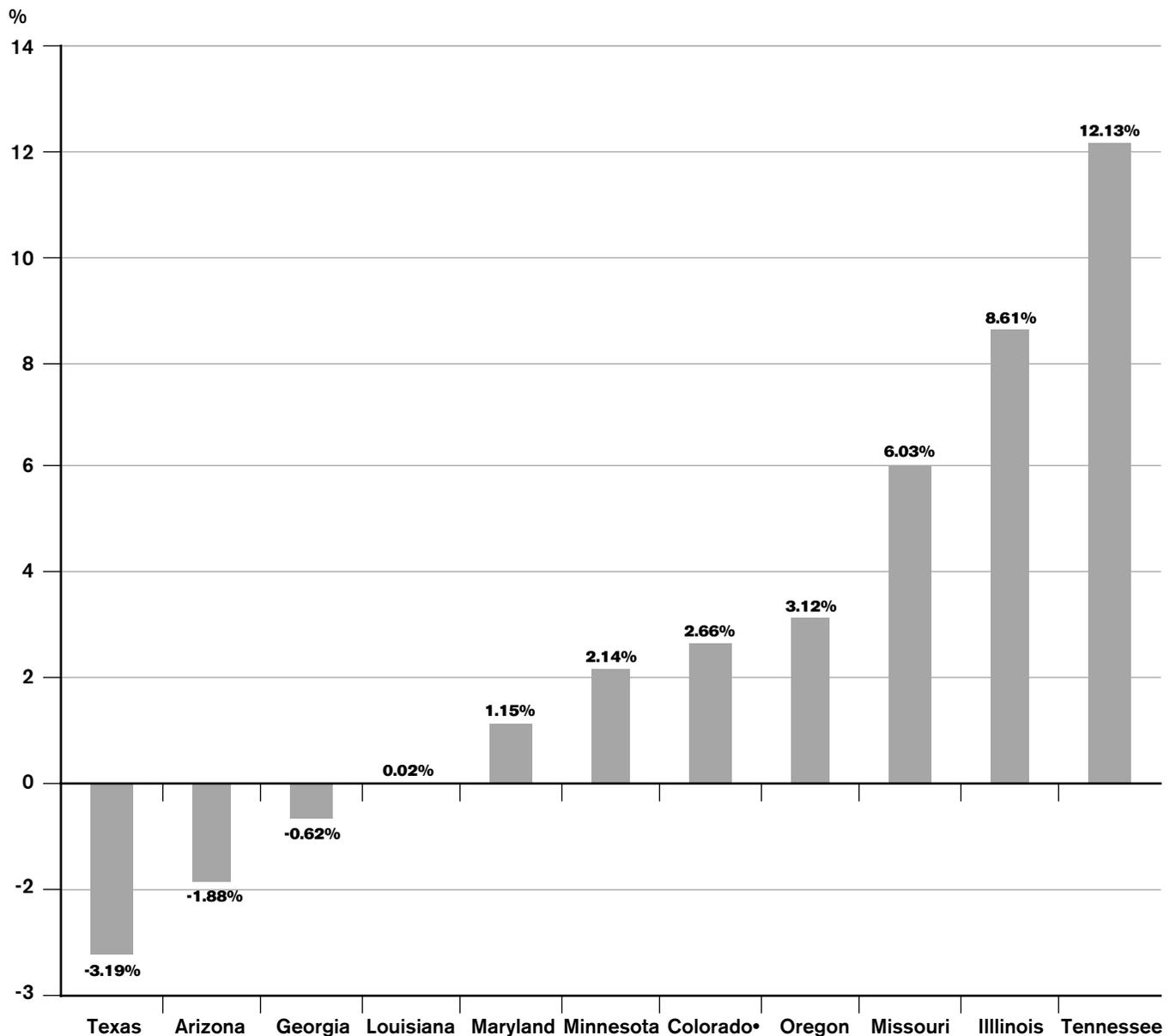
Colorado ranks 5th among 11 peer states for growth in Human Services appropriations, with an average increase of 2.66% per year. Human Services budgets typically include cash assistance, foster care, child care services, and services to those with disabilities.

The change in appropriations for Human Services varied dramatically over the decade and across the peer states. Federal law, which shapes much of state policy in this area, changed significantly during this period. One of the big components of each state's Human Services budget is the federal welfare

program, which changed from an entitlement—the Aid to Families with Dependent Children (AFDC) program—to a block grant program called Temporary Assistance to Needy Families (TANF). TANF lost its entitlement status, but federal law required that states continue to provide the same level of financial support. The federal government, therefore, continued its strong role in determining state financing of welfare policy.

Accompanying this shift in the structure of the federal program, Colorado and Tennessee

Human Services—Average Annual Change in Per Capita Total Appropriations (adjusted for inflation)



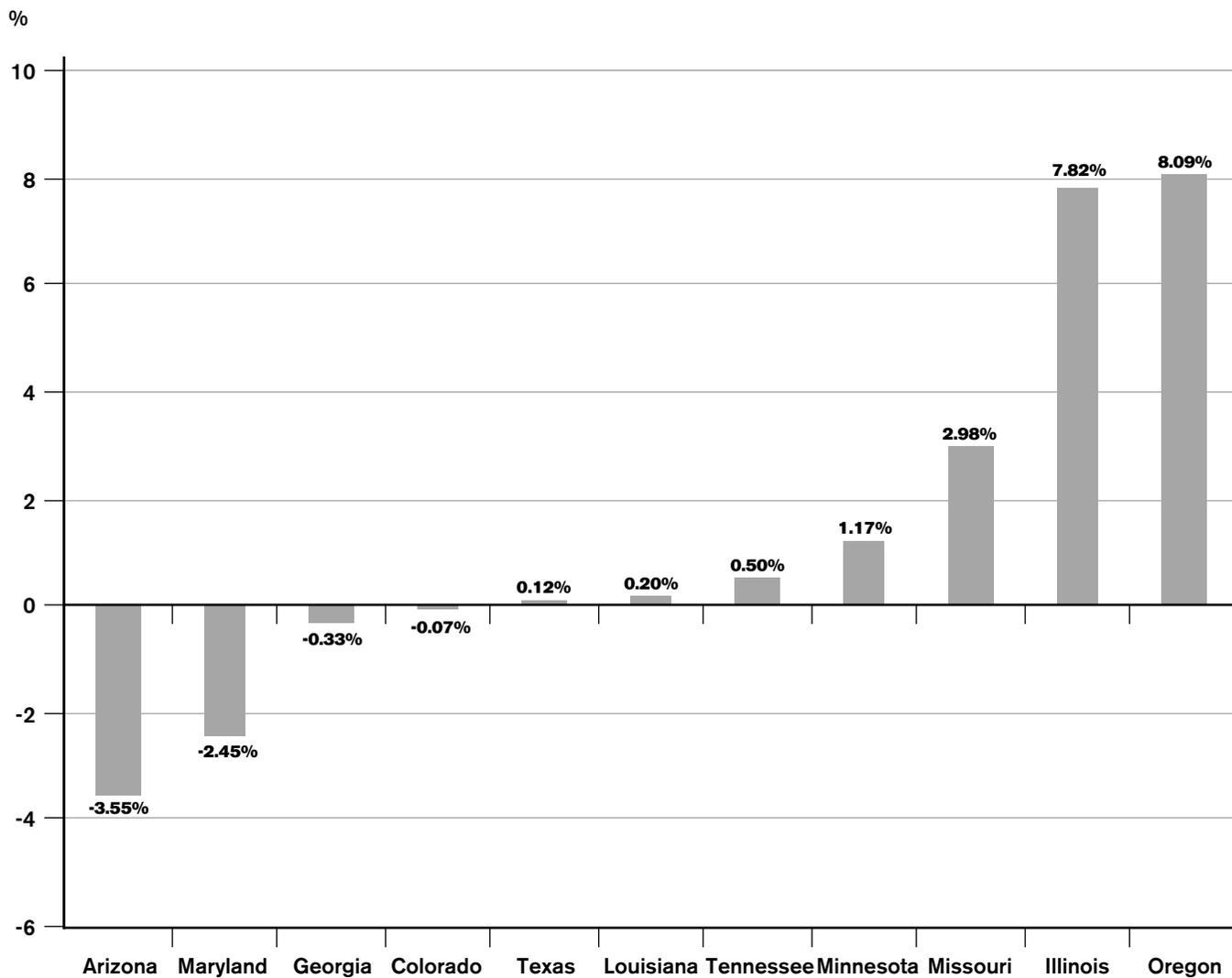
* Colorado's percentage represents a seven-year period. Tennessee's is a five year period.

reorganized the departments that administer welfare programs. The annual growth figures for these states represent only the years following implementation of the new departmental structures.

The Human Services appropriation in Colorado includes a significant amount of money that is transferred from other agencies, primarily Medicaid funds from the Department of Health Care Policy and Finance. The Human Services appropriation also includes a large amount of federal funds. Neither the transfer amount nor the federal funds amount is included in the TABOR revenue or

spending limit. **As a result, nearly 70% of Human Services appropriations are not subject to TABOR's spending limit. The state General Fund commitment, the part of the budget controlled by the amendment, has actually decreased, on average, by .07% yearly since 1992. Using General Fund average annual increases, Colorado ranks 8th among its peers.** The General Fund in Human Services is sometimes used to match federal funds for programs. But it often provides the only funding for programs not supported by the federal government, such as youth corrections, parts of foster care, and rehabilitation services.

Human Services—Average Annual Adjusted Change in Per Capita General Funds (adjusted for inflation)



* Colorado's percentage represent a seven-year period. Tennessee's is a five year period.

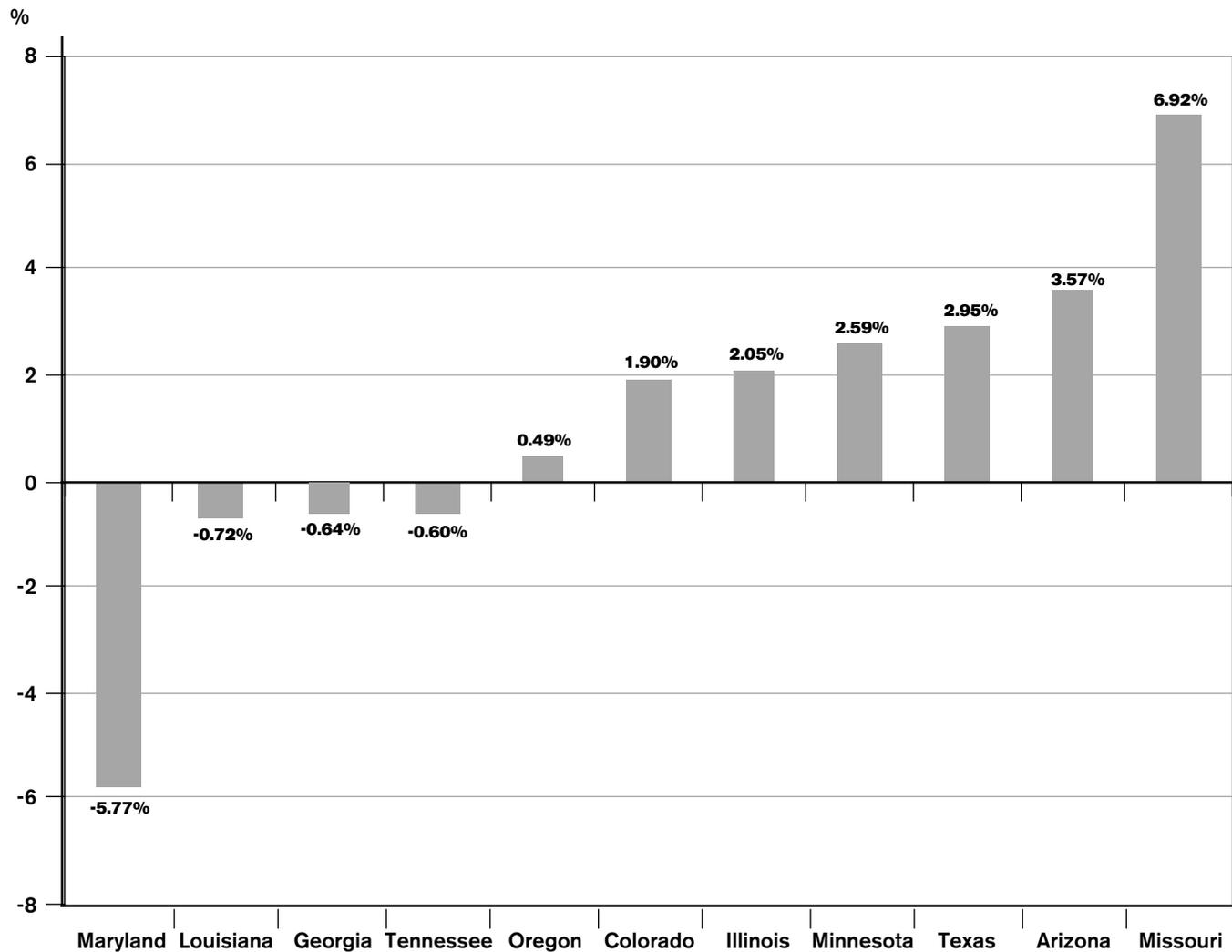
Transportation

Colorado ranks 6th among 11 peer states for growth in Transportation appropriations, with an average increase of 1.9% per year.

Because of the methodology used consistently in this analysis, the 1.9% average annual growth rate reported for Colorado understates the total Transportation appropriations during the period of the study. In 1998, for the first time since 1986, the state began

spending General Funds on Transportation. Between 1998 and 2001, over \$880 million in General Funds were used to support transportation projects. In 2001, the General Assembly and the governor cut these funds from Transportation to address revenue shortfalls. Because our methodology looks only at the difference in appropriations between two specific years (1992 and 2002), rather than at cumulative spending for the decade, the \$880 million spent between 1998 and 2001 is not reflected in the calculation.

Transportation—Average Annual Change in Per Capita Total Appropriations (adjusted for inflation)



Medicaid

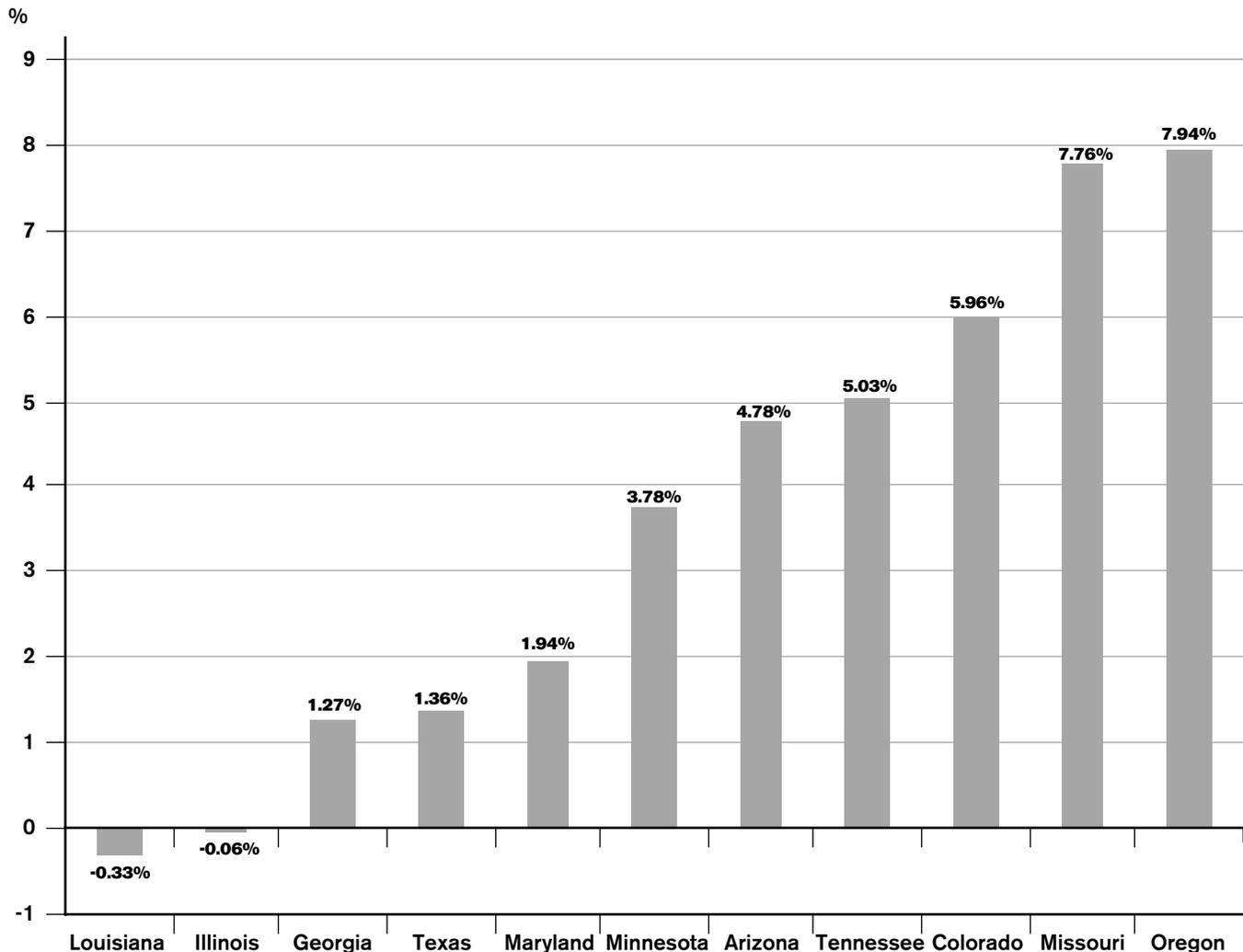
Colorado ranks 3rd among 11 peer states for growth in Medicaid appropriations, with an average increase of 5.96% per year. This increase is due to two main factors: a high rate of medical inflation and increased demand for services by an aging population. It does not reflect any significant growth in eligibility or expansion of services.

While the rate of growth in Medicaid is relatively high among our peers, Colorado's program is very lean in terms of eligibility and coverage. Federal law governing Medicaid establishes minimum eligibility criteria and minimum services. It also allows states to have more generous eligibility criteria or to offer richer packages. Colorado has maintained a very conservative approach to eligibility, with the 5th toughest eligibility standard among 50 states.⁵

As a result, Colorado's Medicaid program serves only 5.1% of the state's non-elderly population, while the national average is 12.1%.⁶

State General Fund funding of Medicaid has also increased compared to our peers. Colorado ranks 2nd with an annual increase of 5.6%. Medicaid is an entitlement program that blends state and federal funding based on a state's ability to pay for medical services. Colorado's booming economy is one reason Medicaid state General Fund expenditures have increased rapidly. In 1992, for every \$100 in Medicaid expenditures, Colorado paid \$45.60 and the federal government paid \$54.40. By 2002 the state's portion increased to \$50 of each \$100. **That change alone accounts for \$67 million more in spending in FY 02.**

Medicaid—Average Annual Change in Per Capita Total Appropriations (adjusted for inflation)



Corrections

Colorado ranks 3rd among 11 peer states for growth in Corrections appropriations, with an average increase of 4.93% per year. The prison population in Colorado increased from 8,474 to 17,367 between 1992 and 2002—an increase of 105% or nearly four times the rate of overall population growth for the state.

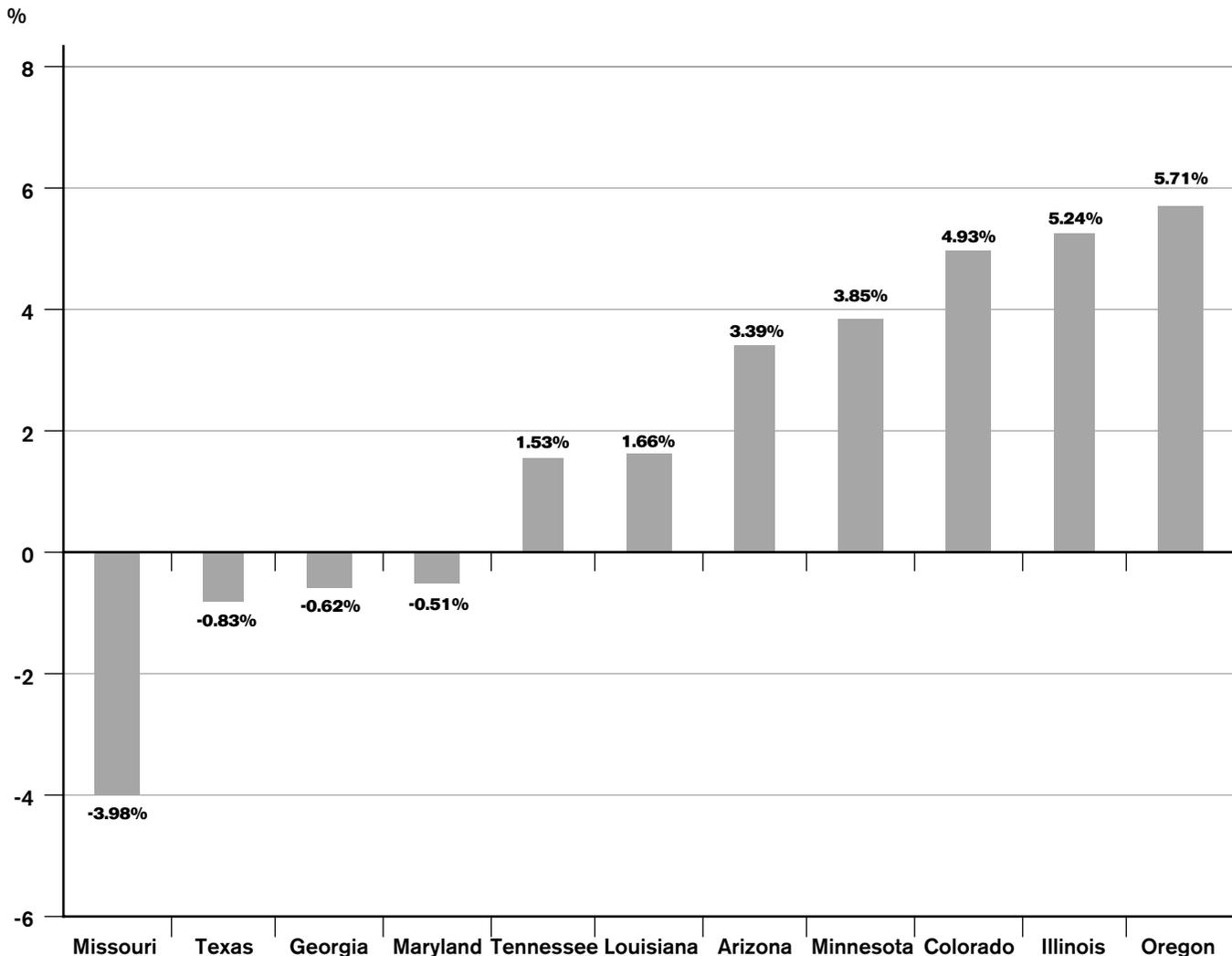
Corrections allocations are driven by the number of prisoners, and increased prison populations drive up costs. Once a prisoner is committed to the corrections system, supporting him becomes mandatory. The U.S. Constitution mandates that states provide minimum levels of service to prisoners, so the state cannot reduce its appropriations below that level. Therefore, Corrections is one of the areas

where factors outside TABOR and the annual state budget process drive appropriations.

COLORADO'S OVERALL SPENDING TRENDS IN APPROPRIATIONS, 1982-2002

The following charts reflect changing trends in Colorado state appropriations from 1982 through 2002—that is, from ten years prior to the passage of TABOR to ten years after. The groupings for the appropriations are different from the categories used in the peer state analysis. These charts show changing budget priorities, depicting a distinct shift in funding away from non-mandatory programs and toward mandatory programs.

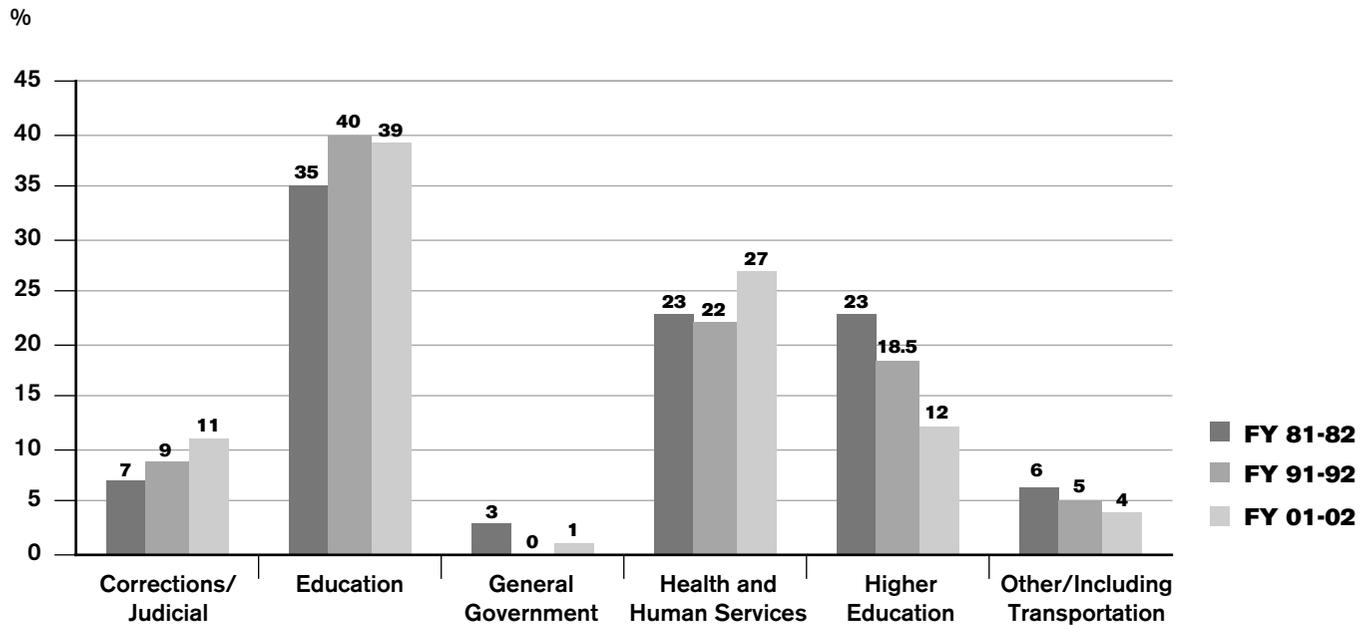
Corrections—Average Annual Change in Per Capita Total Appropriations (adjusted for inflation)



The charts demonstrate that the Judicial/Corrections, Health/Human Services, and Transportation programs are all receiving a higher percentage of Total Fund appropriations in FY 02 than they did in FY 82, while K-12 Education, Higher Education, and General

Government are receiving a lower percentage. Higher Education experienced the most significant decline in budget share. These data are consistent with the peer state rankings in this chapter.

Percentage of General Fund Budget by Category



Research Methodology: Selecting Peer States

1. Peer States

We selected the following as Colorado's peer states: Arizona, Georgia, Illinois, Louisiana, Maryland, Missouri, Minnesota, Oregon, Tennessee, and Texas. While none is similar to Colorado in all seven of the selection criteria listed below, most are small-government states. All but two are in the lowest 50% when measured by state and local government as a percent of Gross State Product, with four in the bottom ten.⁷ And the large majority are low-tax states according to the analysis of tax burden used in this report. Eight of the ten are in the lowest half of states for tax burden, and four are in the lowest

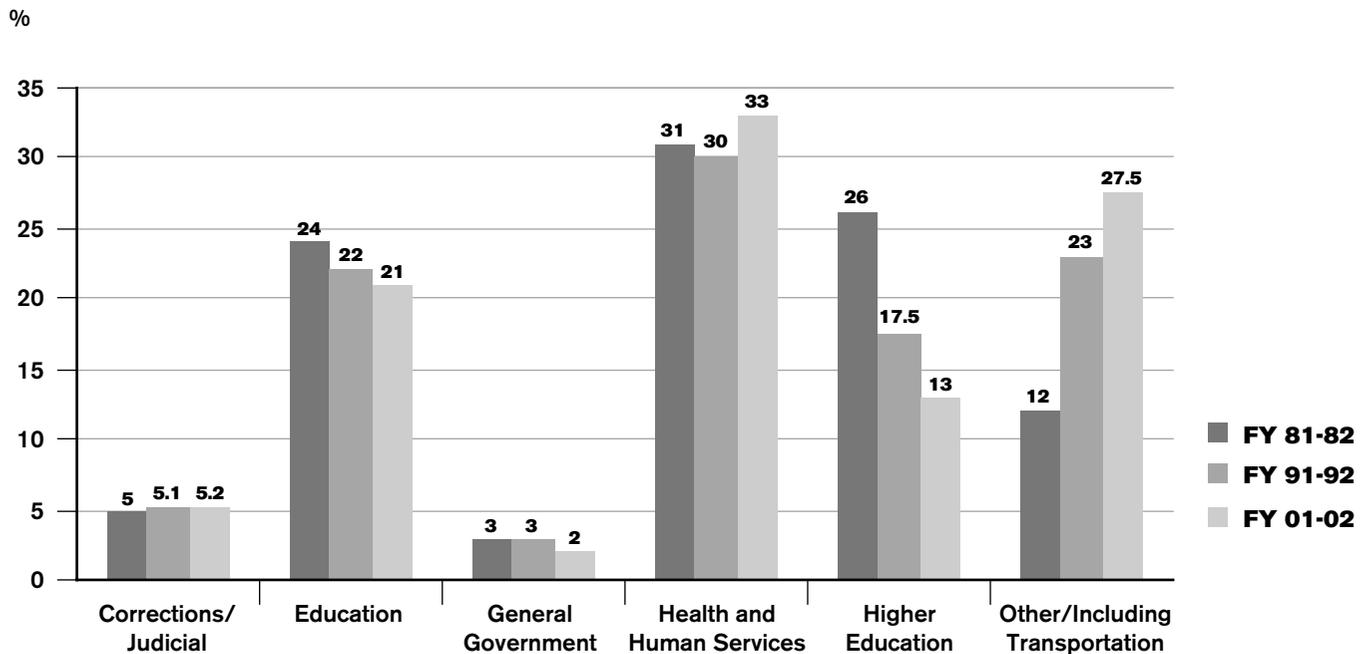
quarter.⁸ The average tax burden among the peer states (including Colorado) is under 10.2% of personal income, which is the dividing line for the lowest quartile of states.

2. Criteria

We selected the peer states by evaluating seven economic criteria that are directly or indirectly measured or influenced by TABOR. They are:

- Total Population
- Change in Population
- Per Capita Personal Income
- State Gross Product
- Per Capita State Gross Product
- Percent of State and Local Government in State Gross Product
- Percent of Total Government in State Gross Product.

Percentage of Total Fund Appropriation by Category



Using national data, we ranked all 50 states in each of these criteria. We chose the 10 states that were closest to Colorado in three or more rankings. We then tracked the change in funding between 1992 and 2002 across states (see Peer State Criteria Chart, www.thebell.org).

3. Inflation Adjustments

All 1992 appropriations were adjusted by their state inflation rates. We contacted each state legislative budget office to determine the appropriate CPI adjustment. The adjusted numbers were then divided by the state population for 1992, and the 2002 appropriations were divided by that year's population data to arrive at the per capita total appropriation. The percentage difference was increased to the power of 1/11, for the number of years studied, to derive the average annual compounded change in per capita total expenditures adjusted for inflation.

4. Total Fund Comparisons

Comparisons of percentage change are for Total Funds for each state in each category of funding.

We choose to use Total Funds rather than state General Funds or some other category because of the differences in the way states account for funding sources. The Total Funds calculation includes federal funds, which skews the analysis away from state-only expenditures. We chose to include federal funds, because a state may be able to use these funds in place of state funds, which doesn't represent a change in overall effort. General Fund numbers for all states are available on the Peer State Spread Sheets at www.thebell.org.

5. Comparability of State Data

Because each state appropriates and budgets according to a unique set of rules and arranges services and programs differently, we did not attempt to ensure that each category included exactly the same programs in each state. Instead we worked hard to ensure that the 1992 appropriation for each state included the same programs and services as the 2002 appropriation, since we are not comparing the level of funding from state to state but rather the change in funding between 1992 and 2002 across states.

TABOR &
TAXES

FOR
BETTER
TRADE

TABOR and the Tax Burden

QUESTION: Has TABOR affected the tax burden of Coloradans?

THE ISSUE:

One of the most cited effects of TABOR is that it reduces overall taxes. The best way to measure the impact of taxes on Coloradans is to quantify their tax burden, which is most often calculated as state and local taxes as a percentage of personal income.

Colorado has long been a relatively low tax burden state. The question is whether TABOR has contributed to any change in the burden.

THE BELL STUDY:

We began our inquiry into tax burden by examining data compiled by two different organizations—the Center on Budget and Policy Priorities and the Tax Foundation.¹ Each used U.S. Bureau of Census data in its analysis. The Bell then:

- Compiled and analyzed tax data for all states from 1990-2000.
- Adjusted Colorado data to account for contingent tax credits used to refund excess TABOR revenue.

THE RESEARCH FINDINGS:

- Due to rapid growth rates in both population and personal income, the amount of revenue collected increased quickly over the past ten years. Colorado had the third fastest growing total tax collections in the country between 1990 and 2000.²
- Nevertheless, Colorado's overall tax burden, as compared to other states, has been falling since 1979—and that rate of decline sharpened since 1989.³

In 1979, Colorado ranked 22nd among all states,

with a total state and local tax burden of 10.6% of personal income (the national average was 10.5%). In 1989, Colorado ranked 28th, with a state and local tax burden of 10.1% (the national average was 10.6%). By 2000, Colorado's ranking dropped to 43rd, with a state and local tax burden of 9.8% (the national average was 10.8%).⁴

- When the contingent tax refunds used to return excess TABOR revenues are subtracted, Colorado's tax burden in 2000 dropped to 9.1% of personal income—tying with two other states (Texas and South Dakota) for 46th among the 50 states.⁵ Only two states had lower tax burdens in FY 00.

THE CONCLUSIONS:

- **Relatively low state taxes as a percentage of income are traditional in Colorado and predate TABOR.**
- **In recent years, the combined state and local tax burden has fallen as personal incomes have risen.**
- **The state contingent tax credits linked to TABOR have accelerated this trend, returning 0.56% of total personal income to Colorado taxpayers in FY 00.** While these tax credits significantly changed the burden in the years in which they were made, they were short-lived. Available only in years when the economy generates revenue in excess of the TABOR limit, the contingent tax credits are not predicted to return until 2005 at the earliest, and they are not expected to be anywhere near the size of the refunds in 2000.

THE ANALYSIS:

Colorado's total tax collections grew rapidly during the 1990s, in part because the state's population growth was among the highest in the nation. The state's average annual population increase for the ten-year period was 2.06%.⁶ Tax collections also increased because of the rapid growth in personal income. Total personal income for Colorado grew 95.6% between 1992 and 2000, compared to a national growth rate of 60.1%.

The issue of tax burden is not measured by total tax collections but as a percentage of income. We looked at state taxes as a percentage of income as well as state and local taxes as a percentage of income. In either measure, Colorado ranks very low among all states. We chose to highlight the combined state and local burden because it better reflects the total burden on taxpayers.

The Colorado tax burden has been traditionally low. It fell in the 1990s for two reasons. First, as total income grew, the percentage of income spent on sales tax fell. (Sales taxes tend to make up a smaller percentage of personal income as income rises.) Second, both income and sales tax rates for state government fell during the latter part of the decade. The same rate reduction phenomenon occurred at the local level. For example, local residential property tax rates have fallen continuously since 1987.⁷

These tax rate reductions, however, cannot be attributed directly to TABOR, because 42 other states cut state taxes in the late 1990s and none of them had TABOR to force the reduction. These reductions were more likely due to the booming economy of the 1990s and the sense that these good times would continue.

The most significant effect on tax burden that can be attributed to TABOR is related to the contingent tax credits and the sales tax refund adopted by the General Assembly as the means of returning revenues collected in excess of the TABOR limit.

Both the Center on Budget and Policy Priorities (CBPP) and the Tax Foundation rely on U.S. Bureau of Census tax collection data reported to them by states. Since the contingent tax credits are not permanent features of the tax system, they are not reported to the Census Bureau. Working from the data provided by the CBPP and the Tax Foundation, we determined that the contingent tax credits significantly lowered the overall burden in the years when they were available. We studied their effect in 2000, since that is the last year for which the tax data is available.

The credits reduced the overall state and local tax burden from 9.8% of personal income to 9.1% for that year. The 2000 refunds, \$941.4 million, were the largest ever, so their impact on the tax burden is the greatest experienced to date. The 2001 refunds were also over \$900 million, but current forecasts indicate that the state will not be distributing refunds again until at least 2005, and those refunds will be much smaller—\$8-\$71 million each year through 2008.

QUESTION: Has TABOR created an overall tax system that is less regressive?

THE ISSUE:

When looking at tax policy in the context of opportunity, it is important to examine the relative burden of taxes across types and income classes. A regressive tax policy is one that results in low-income individuals paying a higher percentage of their income in taxes than wealthier taxpayers. The percentage of income paid in taxes relates directly to the amount of money available to a family to purchase necessary items such as food, clothing, housing, and services like doctor visits and prescriptions drugs.

There is a strong perception that TABOR has changed the distribution of the tax burden in Colorado, but there is disagreement as to how. Some people believe TABOR has made the tax system more progressive—reducing the percentage of revenue paid in taxes by low-income families. This effect, they argue, is the result of tax cuts and refunds of excess TABOR revenue. Others say it has made the system more regressive—increasing the percentage of taxes paid by the lowest-income families. Proponents of this perspective think the current tax system, with recent cuts in general tax rates, now relies more heavily on fees for service, licensing fees, and traditionally regressive taxes such as those on gasoline and cigarettes.

TABOR does not speak directly to the issue of who bears the burden of taxes. Its objective is to reduce the growth in government. Therefore, TABOR's effect on the relative burden of taxes across groups of taxpayers is through policies adopted by the General Assembly to implement its provisions.

THE BELL STUDY:

The Bell conducted the following research to explore the question of regressivity:

- Examined analysis of the relative progressivity of Colorado's current tax system.
- Examined the effect, by income class, of contingent tax credits¹ adopted by the General Assembly to refund excess TABOR revenue.²
- Computed the average refunds as a percentage of income of the average taxpayer in each income class.

RESEARCH FINDINGS:

- Colorado's low- and middle-income taxpayers on average pay a larger percentage of their income than do high-income taxpayers.³
- Any significant effect of contingent tax credits has been limited to tax years 2000, 2001, and 2002.
- While the average low-income individual received a higher percentage of his income through the contingent tax credits, higher income taxpayers received significantly larger refunds in absolute terms. For tax year 2001, taxpayers who reported income of less than \$26,000 received an average refund of \$251.94, or 1.98% of their income, from contingent tax credits. For taxpayers in the highest income category, the average return was \$1,629.80, or 0.38% of their income.
- Some wealthy taxpayers received huge windfalls.
- Forty-two other states reduced their general tax rates during the study period.

Colorado should mandate and adequately fund a tax incidence study.

Colorado's tax system has not been comprehensively analyzed since 1959. The state does not have access to a data base that would allow it to analyze the tax burden or model proposed changes. Today tax policy changes are made without a full understanding of their implications. Further, without knowing who bears the burden of taxes in the current system, it is difficult to design appropriate changes that can work to stimulate economic activity and/or increase the fairness of our tax structure.

THE CONCLUSIONS:

- **Colorado's tax system is regressive.** The state and local tax rates for the best-off 1% of Colorado families, those with average incomes of \$1.2 million, is 6.8% without the federal tax offset for itemized deductions and 5.0% with the offset. The average tax rate for families in the middle of the income distribution, those earning between \$30,000 and \$47,000, is 9.25% without the federal offset and 8.8% with the offset. The tax rate of the poorest Colorado families, those earning less than \$17,000, is 9.9%.⁴
- **It is difficult to draw a connection between permanent tax cuts and the TABOR amendment,** since 42 other states reduced their general tax rates during the study period, and because Colorado and most of these states experienced unprecedented economic growth. In addition, TABOR contains no specific requirements on returning excess revenue; it only requires the adoption of a "reasonable method." **Without TABOR, however, it is unlikely that the General Assembly would have used the contingent tax credit mechanism as a way to distribute revenue, because it could have adjusted rates up and down as needed.**
- **During times of significant revenue growth, contingent tax credits have made taxes somewhat more progressive.** These results are limited to times of relative economic prosperity, because tax credits are dependent upon excess revenue.
- **Contingent tax credits are short-lived, so TABOR doesn't permanently change the overall regressivity of Colorado's tax system.**
- **In Colorado, the permanent tax changes enacted since 1989 have favored those with the highest incomes.** Taxes rose on the poorest, stayed about the same on the middle income ranges, and fell on the best-off fifth.⁵
- **A small number of the highest income taxpayers received very large refunds from the Capital Gains Tax Credit enacted to refund some excess revenues.**

Distribution of TABOR Contingent Tax Credits by Income

Income Category	Total Refunds	# of Returns	Average Refund Amount per Return	Average Refund as a Percentage of Average Gross Income
Under \$26,000	\$216,402,942	858,932	\$251.94	1.98%
\$26,001 to \$53,000	\$206,696,858	548,477	\$376.86	.99%
\$53,001 to \$78,000	\$144,691,163	265,392	\$545.20	.85%
\$78,001 to \$103,000	\$91,667,408	136,264	\$672.72	.76%
\$103,001 to \$126,000	\$51,119,621	63,644	\$803.21	.71%
\$126,001 and over	\$202,564,057	124,288	\$1,629.80	.38%

THE ANALYSIS:

We used data provided by the Colorado Department of Revenue⁶ to analyze whether one class of taxpayer has had its tax burden reduced at a greater rate than another class.

First, the lowest income categories received the highest reductions in tax burden as a percentage of income. The lowest income category received almost 2% of average gross income in refunds, while the highest income categories received less than 0.4% of average gross income.

Second, during times of economic slowdown when the contingent credits are not funded, the loss to low-income people is great, while what upper-income people lose is of little or no value. This is because the value of individual contingent tax credits is unevenly shared across income categories.

For example, the benefit of the Earned Income Tax Credit accrues, by definition, to low-income working families. But because the tax credit is contingent on the existence of funds collected in excess of the revenue limit, it is not available during slow economic times when the state has no surplus. This is a direct loss to low-income families at a time when

the credit would likely help the most.

The same principal applies in reverse to the Capital Gains Tax Credit, which accrues to higher income brackets during strong economic times. When the economy falters and there is no money to fund the credit, there also is likely to be little capital gains income to offset. Thus the actual “loss” sustained by most upper-income families is relatively small.

- **The average refund for taxpayers making more than \$126,000 who filed for a Capital Gains Tax Credit for tax year 2000 was \$75,577. They shared \$61,038,931 among themselves.⁷**

All other taxpayers filing for this credit shared just over \$6.9 million. For the same credit, the top ten largest filers shared \$6,717,079 in tax credits in 2000 alone. That averages more than \$671,000 per taxpayer.⁸ These figures do not include the nearly \$32 million claimed as part of a rare reach-back provision that allowed the Capital Gains Tax Credit to be applied retroactively to tax year 1999. By way of contrast, the total value of the Earned Income Tax Credit was \$30,251,241⁹, and it was shared among 196,596 taxpayers.

Tabor Refund Mechanisms

- 1999 Earned Income Tax Credit
- 2001 Income Tax Credit for Foster Parents
- 1999 Business Personal Property Tax
- Sales Tax Refund Remaining
- 2001 Increase Business Personal Property Tax Credit
- 2000 Individual Development Accounts
- 1999 Dividend, Interest, and Capital Gains Exemption
- 1999 Colorado Capital Gains Modification
- 2000 Income Tax Credit for Health Care Shortage Areas
- 2001 Modified Health Care Shortage Area Tax Credit
- 2000 Increase Child Care Tax Credits
- 2001 Tangible Personal Property Used for Research and Development
- 2000 Motor Vehicle Registration Fees
- 2000 High Technology Scholarships
- 2000 Income Tax Credit for Contributions to the Institute for Telecommunication Education
- 2000 Income Tax Deduction for Charity
- 2000 Income Tax Modification for Interest, Dividends, and Capital Gains
- 2000 Pollution Control Provisions
- 2000 Interstate Commerce Sales and Use Tax Exemption
- 2001 Agriculture Value-Added Development Fund Program
- 2000 Income Tax Credit for Cost of Health Benefits
- 2000 Expand Colorado Capital Gains Modification

NOTE ON METHODOLOGY:

The Institute on Taxation and Economic Policy analysis in Who Pays? uses U.S. Bureau of Census data. The Census Bureau data does not account for Colorado's contingent tax credits and refunds. Our analysis examined the effects of those contingent refunds and credits only.

To determine the average total refund in each income category, we began by calculating the average refund by income class for each contingent credit. This was determined by dividing the total dollar amount of each credit by income category, by the total number of returns filed by taxpayers in that income category. We then added the average amount for each temporary tax credit to arrive at the total average refund per return. We used as "the number of filers in each income category" the number of those who filed for the "6-tier tax refund," since this was the method used by the Colorado Department of Revenue (CDR).

It is important to note that tax credits often apply to a small subset of filers within any income category. To find the number of filers by temporary tax credit and their average return, please see our website, www.thebell.org, where we include that data as originally published in the 2001 Annual Report of the Colorado Department of Revenue.

The state exceeded the TABOR revenue limit for the first time in 1997, so the first refunds were made in 1998. This analysis uses the economic classes adopted as part of the sales tax refund legislation as its categories of taxpayers. These classes were used because the data reported by the CDR disaggregates the numbers using these classes. The income categories changed between 1998 and 2000. The analysis here explores the data for tax year 2000 using the relevant income classes.

QUESTION: Has TABOR played a role in the growth of the state economy since 1992?

THE ISSUE:

There are many measures of economic growth. By any of them, Colorado's economy experienced rapid expansion during the 1990s. In fact, Colorado has had one of the strongest economies in the nation since 1991—first overall in personal income growth, third in Gross State Product (GSP) growth, and fourth in employment growth.¹

TABOR, by design, attempts to limit the growth of government relative to the size of the total economy. Its underlying premise is that smaller government stimulates economic growth by keeping money in the pockets of consumers and private businesses. In addition, some argue that private spending is more efficient than public spending and has a higher multiplier effect, resulting in expanded economic activity.

The issue, therefore, is not whether Colorado's economy grew, but whether TABOR had any positive effect on that rate of growth.

THE BELL STUDY:

To explore this question, the Bell:

- Compared growth rates for employment and GSP for all 50 states since 1991.
- Analyzed the data to see if key events related to TABOR changed the pattern of economic growth for Colorado.
- Looked at tax and spending limitations in other growth states to see if there was anything unique about TABOR that may have contributed to economic growth.

THE RESEARCH FINDINGS:

- The four fastest growing states in the nation (measured by growth in employment and GSP) were Nevada, Arizona, Colorado, and Utah. Idaho had the fifth fastest growth rate in employment, while Georgia ranked fifth in GSP growth.
- Growth in GSP and employment appear to be linked to regional economic expansion but not to the strict provisions of TABOR.
- There is no evidence that either the passage of TABOR or the implementation of refunds changed the rate of GSP or employment growth in Colorado.
- The vast majority of states had some form of tax and spending limitations in place during the 1990s, including all of the fastest growing states. Colorado's limitation (TABOR) is far more stringent than those in any other high growth state.

THE CONCLUSIONS:

- **We found no evidence that TABOR contributed to the growth of the 1990s. The growth in employment and GSP began several years before TABOR and continued throughout the decade.**
- We looked for evidence of durable change in growth rates at key periods when TABOR's potential effects would have been the most significant. These include when TABOR passed (1992), when revenue first exceeded the limit (1997), and especially when the first refunds were distributed (1999). **Growth rates remained remarkably steady and consistent during and after each of these events, suggesting they had little or no direct effect on overall economic growth.**

How do the other five fastest growing states handle tax increases?

- Two states require a super majority of the legislature to increase taxes.
- The other three states impose no special requirements for tax increases.
- Colorado requires approval by voters.

How do the other five fastest growing states handle growth limitations?

- Four states have limitations on expenditure growth; all are statutory so they can be changed by a majority vote of the legislature.
- Two states, Idaho and Arizona, limit appropriations to a percentage of personal income. Utah limits expenditure growth to population plus inflation. Nevada limits growth to 6% of prior eight year's appropriations. Georgia does not have a limit.
- Colorado is the only one in the top growth states that imposes limits on revenue collected and forces taxpayer refunds.
- In addition, Colorado also has a statutory expenditure limit for General Funds that was made constitutional by TABOR. Colorado's General Fund operating expenditure limit is 6% over the prior year's appropriations or 5% of personal revenue, whichever is less.

How do the slowest growing states handle expenditure or tax limitations?

- One half of the states with the slowest economic growth had statewide expenditures or tax limitations. Three of the five slowest growth states had some type of limits.

• **The clearest relationship we could find for the growth trends was regional.** Other states with high growth in the 1990s were Nevada, Arizona, Utah, and Idaho. In fact, of the six fastest growing states, only Georgia is not contiguous. This suggests that regional factors, such as quality of life and diversification of economies, best explain Colorado's high level of growth in the 1990s.

• Even if tax and spending limitations had some indirect effect on economic growth in Colorado, **it cannot be attributed to TABOR's more stringent provisions. Several states with less stringent caps or more permissive tax policies grew as fast or faster.**

THE ANALYSIS:

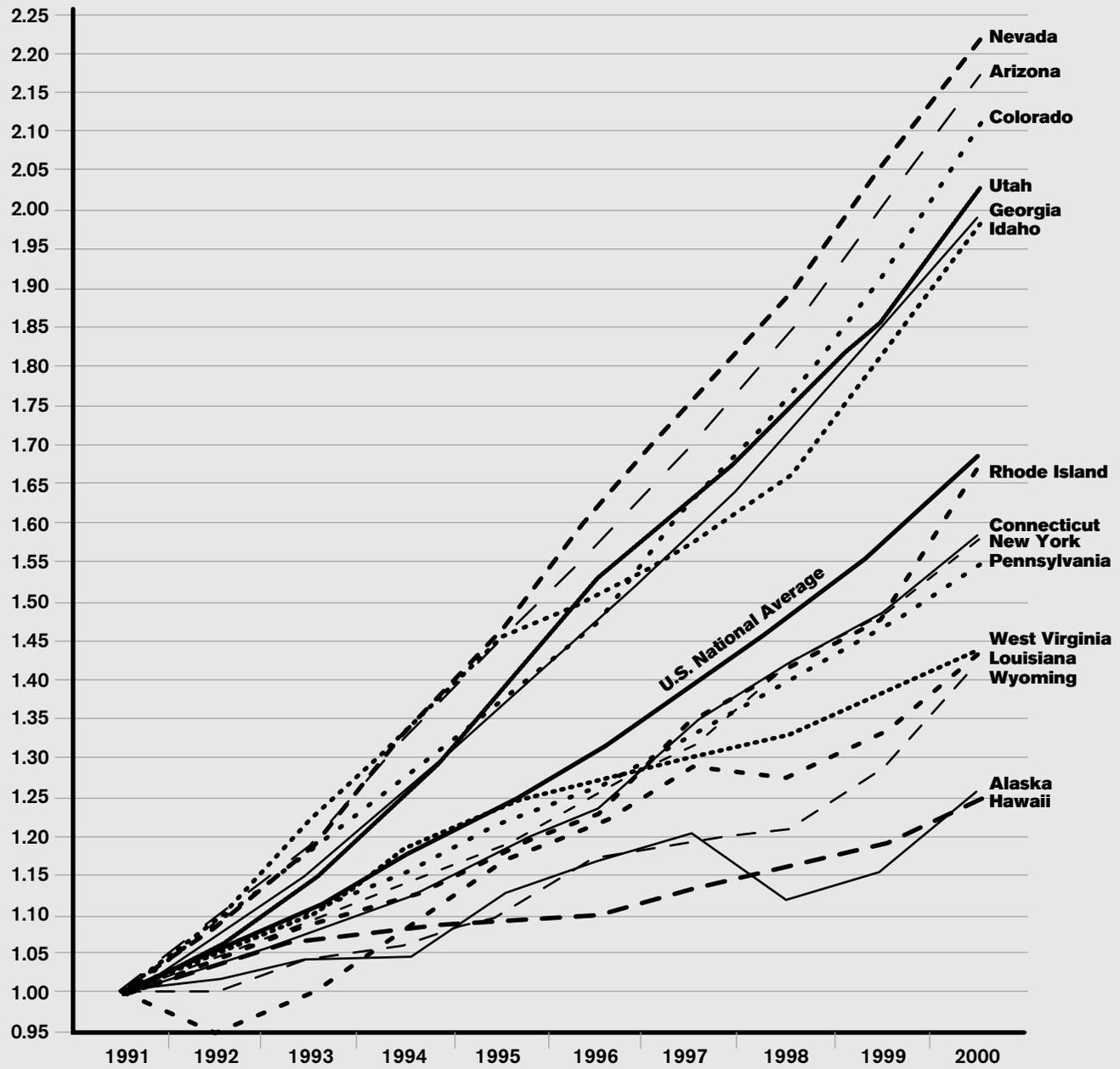
We used the most recent data available on employment and GSP from the U.S. Bureau of Economic Analysis and the Bureau of the Census. This raw data was indexed to 1991 to establish a base year.

We identified the five fastest and five slowest growing states in each category. There was extensive overlap between employment and GSP in the fastest growing category (see Research Findings on previous page). There was less overlap at the bottom, with Hawaii being the only state on both lists.

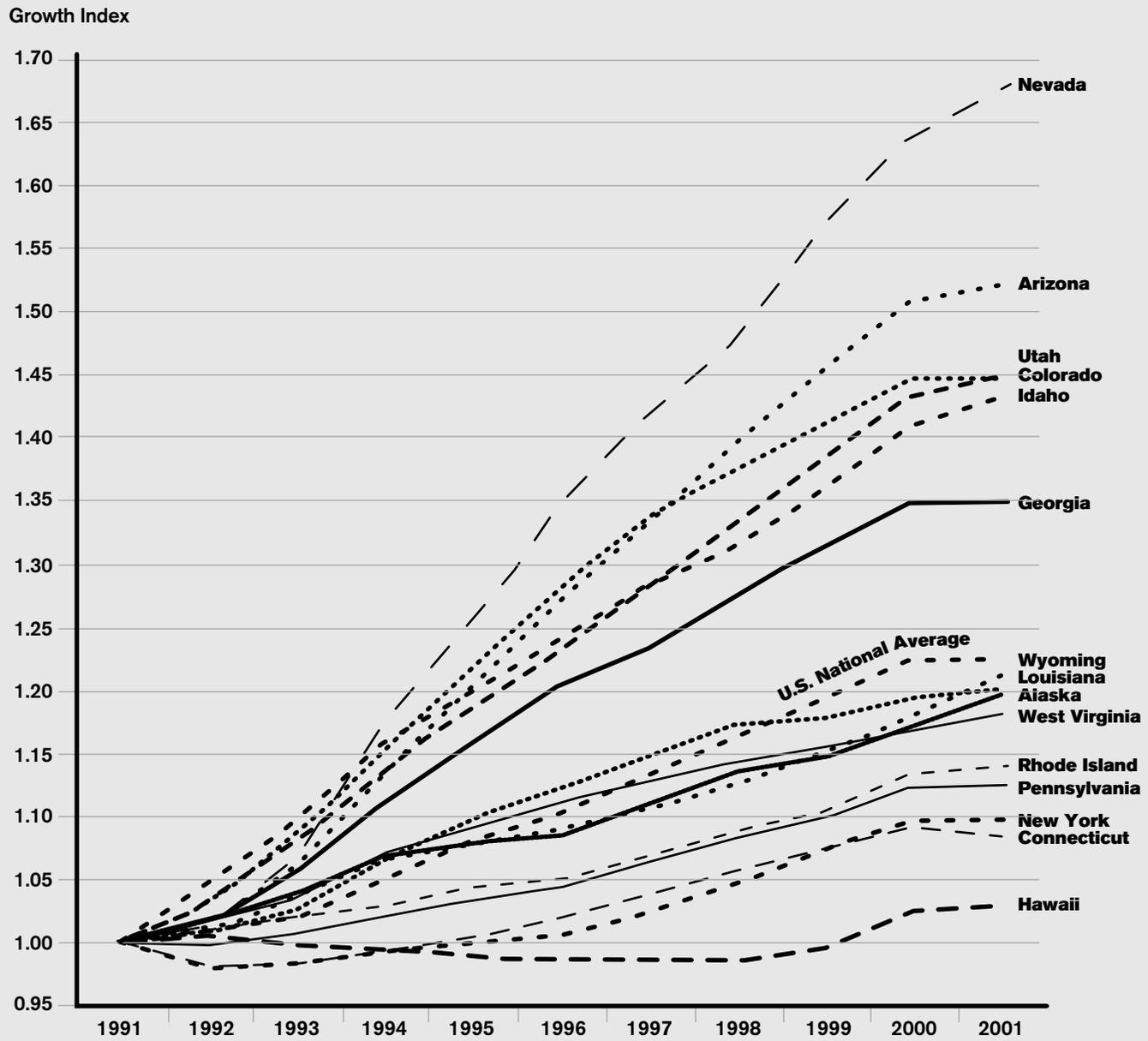
Alaska, Wyoming, Louisiana, Hawaii, and West Virginia were the five slowest growing states in GSP. Most of these are large energy-producing states. The slowest growing employment states included Pennsylvania, New York, Connecticut, and Rhode Island. All 15 of these states are on the two following graphs along with the national average. Colorado's growth is plotted on the next two graphs in relation to TABOR milestones.

Gross State Product Growth, 1991-2000
Highest and Lowest Economic Growth States

Growth Index

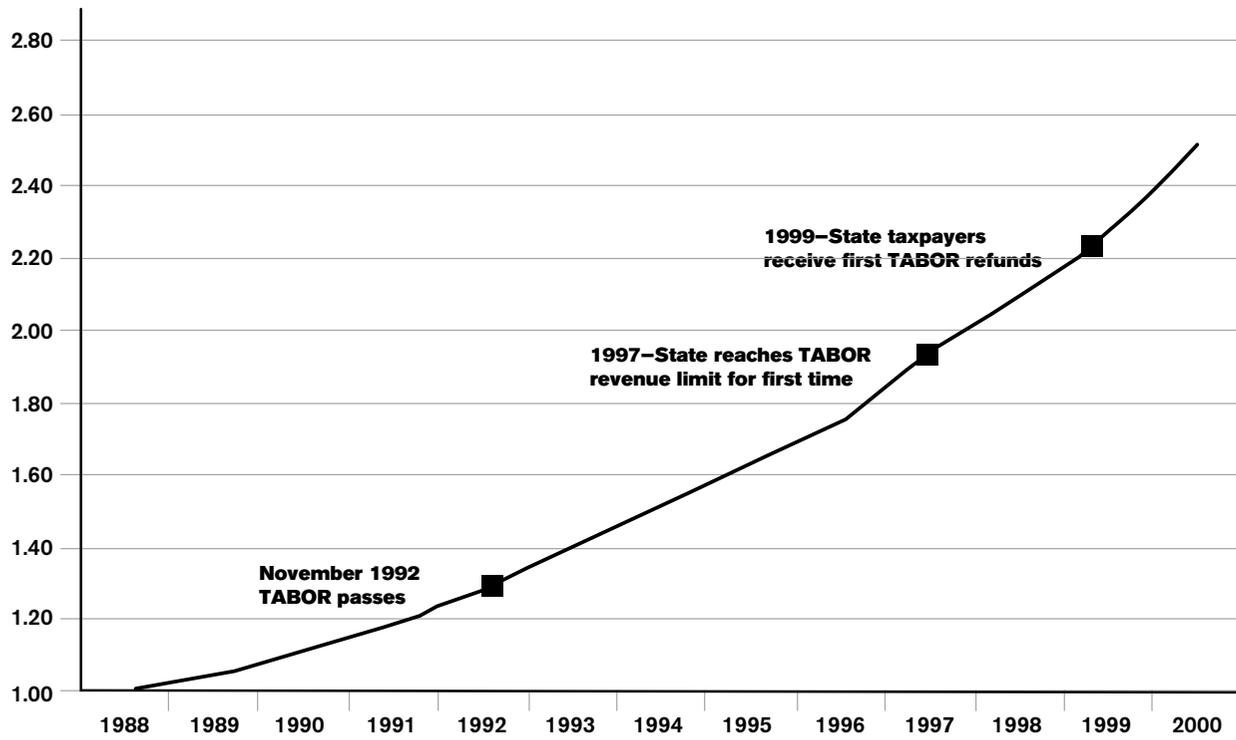


Employment Growth, 1991-2001
Highest and Lowest Economic Growth States



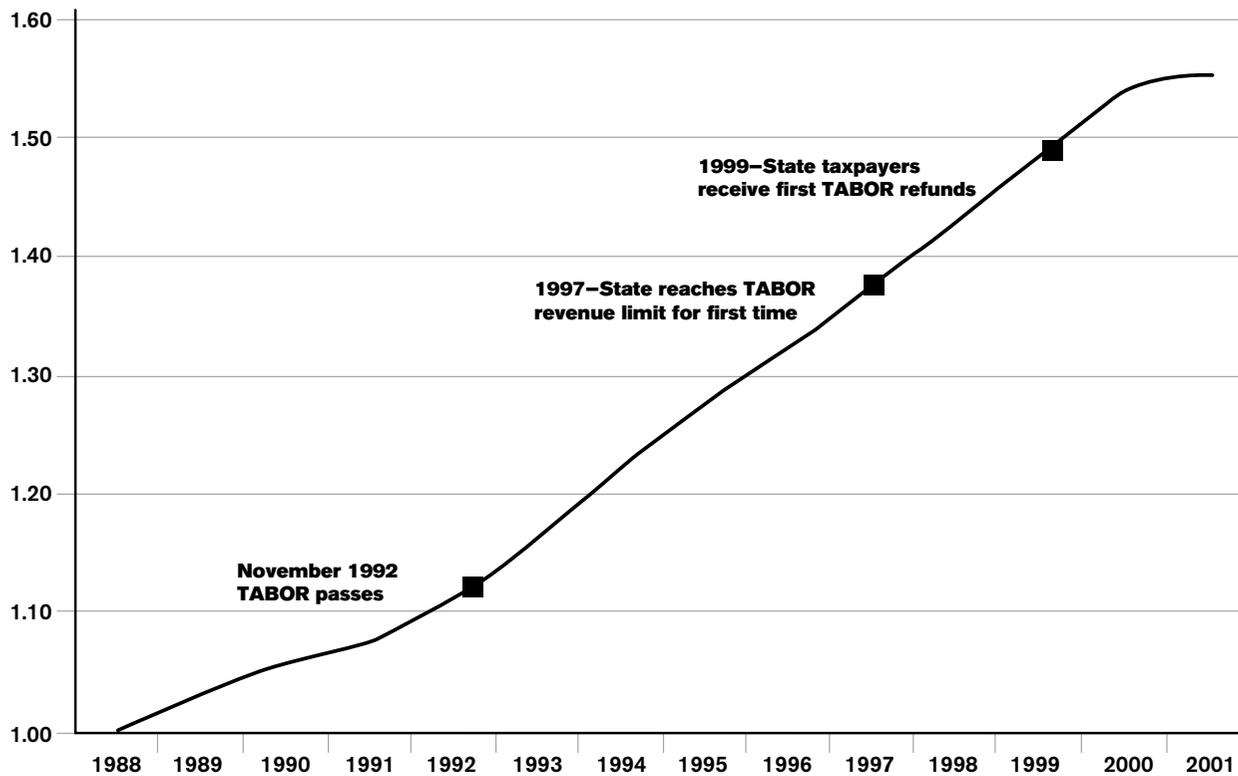
Colorado's Gross State Product Growth

Growth Index



Colorado's Employment Growth

Growth Index



TABOR &
ECONOMICS

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QUESTION: Will TABOR affect the ability of state spending and services to recover from the current economic downturn?

THE ISSUE:

TABOR was implemented during a period of unprecedented expansion in both the economy and state revenues. Most of the effects documented in this report occurred during that period.

However, after rapid growth through the 1990s, state revenue began to plummet in FY 01. This deterioration in revenues can be attributed to several factors: the economic slowdown fueled by the bursting of the high tech bubble; the Sept. 11 terrorist attacks; and a series of permanent tax cuts amounting to \$400 million annually. **These events provide the first opportunity to study TABOR's effects during revenue shortfalls and economic downturns.**

Because the amendment limits spending growth during expansions, many expected it would have a moderating effect on cuts in state spending and services during downturns. In fact, this potential for protecting the state from severe budget cuts was one of the arguments The Wall Street Journal made in favor of TABOR in July 2002.¹

Others asserted that TABOR would have no such moderating effect. In addition, many predicted the conservative growth formulas in TABOR would mean that revenue shortfalls would permanently reduce allowable spending in all future years and restrict the state's ability to reinstate services lost during downturns. This is often referred to as the "ratcheting effect."

Cyclical changes in revenue collections are an

inherent part of state budgeting. One way states have traditionally reduced the impact of cyclical downturns has been to use Rainy Day Funds, reserve accounts funded during economic expansion. In the 1990s, many states capitalized these funds as the first line of defense against budget cuts. Colorado does not have a Rainy Day Fund. Some argue that TABOR has made it unreasonably difficult to save resources to capitalize such a fund, thus putting the state in greater jeopardy during bad economic times.

THE BELL STUDY:

To explore these issues, the Bell:

- Reviewed comparisons of the current Colorado budget reductions with those in other states.
- Projected the impact of TABOR's ratcheting effect to see whether and how severely it will limit Colorado's ability to restore state services when revenues begin to rebound.
- Examined analyses of how other states use Rainy Day Funds to see if they have effectively moderated cuts in services.

THE RESEARCH FINDINGS:

- The gap between appropriated spending and revenues for FY 03 in Colorado is among the largest in the nation as a percentage of the state budget.²
- The state now projects it will collect 13% less revenue in FY 03 than would be necessary to cover the budget originally approved for the year.³

- The ratcheting effect is real. Short-term revenue shortfalls have permanently lowered the base for all future spending limits, meaning that government spending will not be able to keep pace with growth in inflation and population in the future.⁴

- State revenue is not projected to recover to TABOR allowable levels until FY 06, and the state will never recover the additional revenue it was entitled to keep

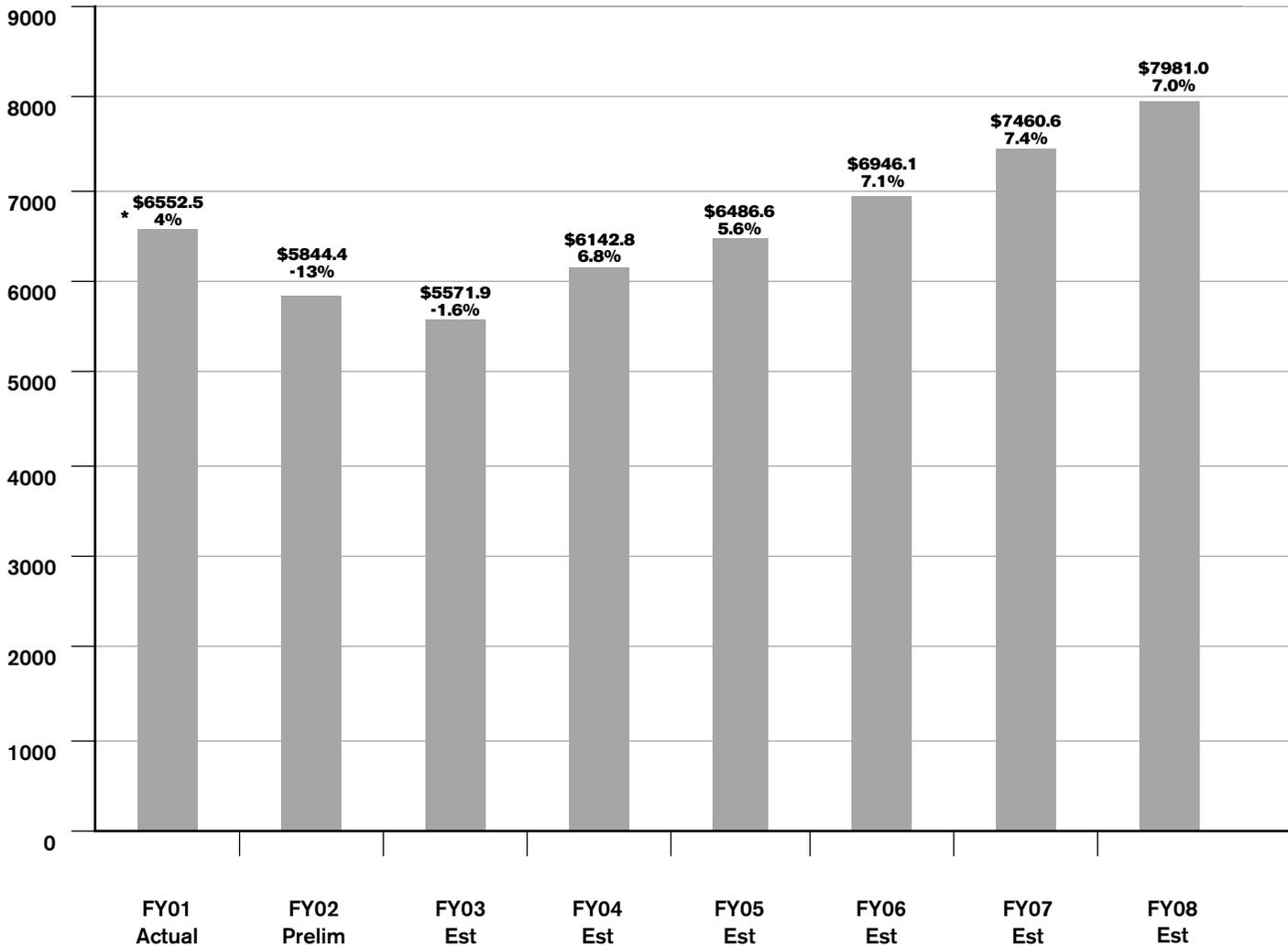
under the TABOR formula for growth in population plus inflation in 2001 and 2002.⁵

- Eighteen states have used Rainy Day Funds to offset one-third or more of needed budget cuts.⁶

- Sixteen states have significantly increased taxes to help counter revenue shortfalls during the current downturn.⁷

Colorado's General Fund Revenue Forecast December 2002

General Fund
(millions of dollars)



* % is change from prior year.

Source: Governor's Office of State Planning and Budgeting.

TABOR and the Economic Downturn

“The ratcheting down effect is a real problem. Because TABOR revenues and spending are based on previous year’s expenditures, when either is decreased, the increase for next year and every year thereafter will be smaller because it is calculated on a smaller base. In years like this, when the base has gone down, it makes it impossible to fully recover from a revenue shortfall—unless you raise taxes and/or debruce. That’s the worst part of TABOR—the way it permanently impacts our ability to provide adequate services. We’re talking case load increases in child welfare, healthcare services for people with developmental disabilities who need help to survive. Not just reductions on paper, but a very, very significant impact on people’s lives.”

—A Bell Survey Participant

THE CONCLUSIONS:

- **We found no evidence that TABOR has had a moderating effect on cuts in state spending or services during the current economic downturn.**
- **Based on our research, we believe that TABOR will greatly restrict the ability of state spending and services to recover from the effects of the economic downturn, due to the ratcheting effect and the inability to raise taxes without voter approval.**
- **The lack of a Rainy Day Fund in Colorado means the state has had to make deeper cuts in spending than it would have, had it had such a buffer.**
- **While no provision in TABOR prohibits the creation of a Rainy Day Fund, without a vote of the people the money that goes into such a fund would have to be counted as expenditures against the overall TABOR limit. In other words, any money set aside in a Rainy Day Fund would effectively reduce spending for all other programs below inflation plus population.**

THE ANALYSIS:

Changes in State Revenues

- **State tax revenue collections have fallen precipitously since 2001.** Projected collections for FY 03 are \$980.6 million less than in FY 01. Between FY 01 and FY 02, revenue collections fell 13%. Revenue for FY 03 is expected to fall an additional 1.6% from the low in FY 02.⁸
- The National Conference of State Legislatures (NCSL) surveyed state fiscal offices in June 2002, and the data indicated that the initial effects of the economic downturn in Colorado were similar to those in other states. At that point, Colorado’s budget gap for FY 03 was projected to be 7%, 24th among the states. The national average was 10.1%. NCSL gathered budget data again in November 2002. This time, **Colorado had the third worst budget gap, at 9.2%. The national average was 3.6%.⁹**

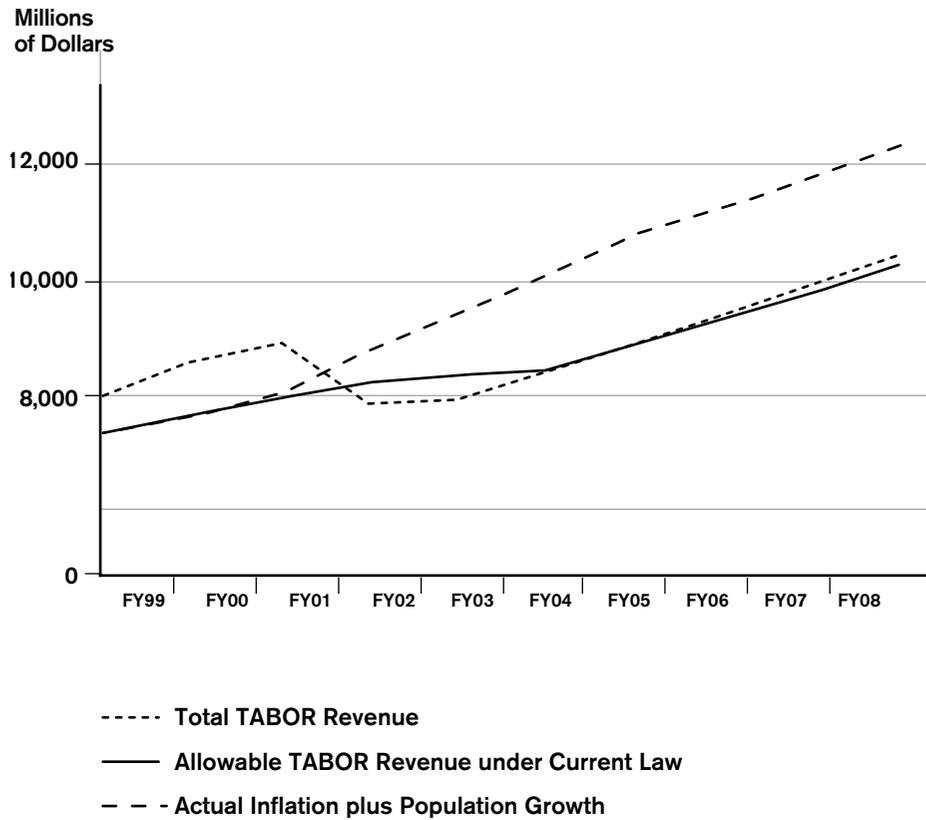
- Of the six fastest growing states during the 1990s (Nevada, Arizona, Colorado, Utah, Georgia, and Idaho), the November

TABOR and Financial Planning

“TABOR severely limits the state’s ability to do long-term financial planning. You never know what revenues are going to come in, and you never know if you’re going to have to give a refund or where the money is going to come from. Because TABOR revenues include a much broader range of funds than just General Funds, you have a whole range of other revenue streams you have to account for. You can’t put together a long-term strategy if you see a need, because you can’t make adequate predictions. It’s a zero sum game, seeing a need, developing a plan, and getting to that plan, because you can’t make the assumption that additional resources will be there.”

–A Bell Survey Participant

Ratcheting Effect on Allowable State Revenue



NCSL data shows that all but Georgia are experiencing deeper than average revenue shortfalls. **TABOR limits on revenue and spending do not seem to have moderated Colorado’s exposure to revenue shrinkage.**

The Ratcheting Effect

- **TABOR permanently limits the state’s ability to reinstate spending and services lost during a recession, even after a full economic recovery and rebound in revenue collections.** TABOR itself acknowledges that increases in population and

inflation contribute to greater permanent costs to state government, but the amendment does not allow those costs to be covered when they occur during a time of declining revenues. **Under the TABOR formula, the state will never recover the additional revenue in 2001 and 2002.**

- Even though revenues will not have returned to anywhere near the level that would have been allowed without the ratcheting effect of the current revenue shortfall, recent projections show that revenues will begin to exceed the new, lower

TABOR limit by FY 05. **The cumulative effect is that by 2008, the state will have returned nearly \$400 million to taxpayers that it otherwise would have been allowed to spend had there been no economic downturn seven years earlier.**

- **The ratcheting effect is permanent.** Without a vote of the people, the state will never be able to retain the revenues it otherwise would be allowed if TABOR's limits actually kept pace with inflation plus population growth from 2001 on. By 2008, the annual gap between the new, lower TABOR revenue limit and actual inflation plus population measured from 2001 will be approximately \$2 billion.

- **The ratcheting effect would be even worse had the Legislature not decided in 2002 to defer the so-called growth dividend until revenues have recovered sufficiently.** When state population projections were reconciled with results of the 2000 census, the state discovered it had under-counted population growth in the 1990s by nearly 6%. The result, when applied to the TABOR growth formula, is that the state refunded \$1.9 million more than it should have. The growth dividend refers to the decision by the Legislature in 2002 to allow the state to recoup some of these losses over a period of multiple years.

Tax Reductions

- The General Assembly has adopted a significant number of permanent tax reduction measures since FY 99. The dollar value of these tax cuts in FY 02 was \$426 million, or over 40% of the \$980.3 million difference between FY 01 and FY 03 revenue.¹⁰

- **Many states that cut taxes during the late 1990s have raised them again to counter severe revenue shortfalls in the early 2000s.** Sixteen states enacted tax increases that raise more than 1% of their budgets.¹⁰

- Because of TABOR, the Colorado General

Assembly cannot restore any of its tax cuts without voter approval. **Therefore, the Legislature has not had the option to use revenue enhancement to soften the blow of the economic downturn on state spending.**

Rainy Day Funds

- **In 2002, eight states were able to offset more than 50% of their projected budget cuts by drawing from Rainy Day Funds. Eighteen states used their funds to offset one-third or more of their deficits.**¹²

- **In January 2002, 41 states had balances in their Rainy Day Funds.**¹³ Since that time, collective balances have decreased from \$24.7 billion (4.7% of overall state spending) to \$13.5 billion (2.6% of state spending).

- **Colorado does not have a Rainy Day Fund.** It has a statutory cash reserve requirement of 4% of General Fund appropriations that must be reestablished each year, and a TABOR emergency fund that cannot be used to offset costs of economic conditions. The General Assembly reduced the cash reserve to 2% in FY 02 and to 0% in FY 03. If it had not used the cash reserve, spending cuts would have been worse. If the state had a true Rainy Day Fund, chances are that cuts would have been less dramatic.

- **The Colorado Legislature has limited ability to create a true Rainy Day Fund.** Many states fund Rainy Day Funds from revenue in excess of spending requirements. In Colorado, that money must instead be returned to taxpayers. The General Assembly could capitalize a fund using revenues collected within the limit, but that would require that the rest of state government grow at a considerably lower rate than inflation plus population. To use excess revenues to capitalize a Rainy Day Fund would also require voter approval.

TABOR &
REPRESENTATIVE
DEMOCRACY

FOR
THE
FUTURE

QUESTION: Has TABOR increased citizen participation in fiscal issues?

THE ISSUE:

The TABOR amendment passed by popular vote in 1992, in part because it tapped into two prevailing political values: the desire to have control over one's finances and the Jeffersonian ideal of limited government. These values have endured from their roots in early America, even as our society and our system of government have become more complex. Increasingly, we have relied on elected officials to represent the voters by addressing complex issues, such as fiscal policy.

TABOR also was intended to increase the role of taxpayers in the fiscal policy process by obligating voters, rather than elected officials, to approve all tax increases and policy changes that result in more revenue for government. Some claim voters now are in greater control of fiscal policy and are more motivated to vote. Others speculate that people only vote on the top ticket items and ignore the fiscal issues.

The question for this study is whether taxpayers have, in fact, participated more in deciding how their money is spent as a result of the voting requirements in TABOR.

THE BELL STUDY:

To explore this issue, the Bell analyzed statewide elections data produced by the Colorado Secretary of State. Specifically, we:

- Examined the content of ballots from 1982-2002 to determine if voters have been involved in more fiscal decisions since TABOR passed.

- Analyzed voter participation from 1993 to 2000 to determine if having more fiscal issues on the ballot has increased voter participation.

THE RESEARCH FINDINGS:

- Since TABOR, the number of fiscal policy issues considered by voters at the local level has increased dramatically.
- Since TABOR, the number of fiscal policy issues considered by voters at the state level also has increased, but not as dramatically as at the local level.
- Turnout has varied based on major candidate races (e.g. for president and governor), but the overall trend since 1982 is consistently downward.
- On average since 1992, over 95% of those who have voted for either a presidential or a gubernatorial candidate have also voted on the fiscal issues on the same ballot.
- The median participation rate in off-year elections, the special elections created to consider TABOR issues, has been just 30.3% of registered voters. This is 25 percentage points below the median number of registered voters who have voted on fiscal issues during gubernatorial elections, and 30 percentage points below the median number of registered voters who have voted on fiscal issues during presidential elections.
- When Colorado has held elections to specifically address fiscal measures, the turnout has consistently

been significantly lower than in any other statewide election. The median number of votes needed to prevail in these elections has been only 17.5% of all registered voters.

THE CONCLUSIONS:

• **For general elections, we cannot conclude that TABOR has affected voter turnout one way or the other.** Overall voter participation has declined since 1992, continuing a trend that started decades earlier. We found no evidence that TABOR has affected this trend.

• **Adding fiscal issues to the ballot during general elections has not made voters less likely to vote on all the questions.** In fact, the drop-off in voting from the top race to the fiscal measures on the ballot was typically less than 5%.

• **Because turnout for off-year elections is much lower than for general elections, TABOR has resulted in a very small number of voters deciding fiscal policy issues that have a profound impact on the government's ability to shape its budget.**

THE ANALYSIS:

TABOR requires voter participation in all significant fiscal decisions. Voters in a district must approve any effort to:

- Raise a new tax, increase a tax rate, or raise a mill levy above the prior year;
- Increase a valuation for the assessment ratio of a property class;
- Extend a tax that is going to expire;
- Change a tax policy in a way that will cause a net tax revenue gain;

• Create indebtedness without adequate present cash reserves;

• Keep revenue in excess of the statute's spending limitation (commonly known as "debrucing"); or

• Weaken a spending limitation.¹

In every case, prior to TABOR, elected officials also had authority to make these decisions.

• **Since TABOR, there has been a dramatic increase in the number of fiscal measures on ballots at the local level.** For example, between 1993 and 1999, there were more than 1,100 "debrucing" measures to allow local jurisdictions to keep excess revenues. There also were many elections concerning tax increases.²

• **Since TABOR, fiscal measures have made more appearances on statewide ballots as well, but the increase has been much less dramatic than at the local level.** In the 11 years from 1982 through 1992 (prior to TABOR), Coloradans voted on seven fiscal measures in six statewide elections (three of those measures were different versions of TABOR).³ In the ten years from 1993 to 2002, Colorado held ten elections during which 14 fiscal measures were considered.⁴

• **Since 1992, voter participation has been trending downward, not only in terms of people who actually vote, but also in the number of those who register.**

To analyze voter turnout,⁵ elections since 1982 have been grouped into three broad categories: presidential, gubernatorial, and off-year. These groups were created because voter turnout varies significantly and consistently among them. Voter turnout is always the largest with presidential elections, followed by a marked decrease in gubernatorial elections, and a further dramatic decrease in off-year elections. Within each of these groupings, voter participation on fiscal measures tracks the turnout for the “top ticket” race.

TABLE I: Voting in Presidential Elections⁶

Year	Presidential Candidates	% of Registered Voters Who Voted	% of Voting Age Population Who Voted	Fiscal Measure	% of Registered Voters Who Voted	% of Voting Age Population Who Voted
1984	Reagan v. Mondale	79.9		N/A		
1988	Bush v. Dukakis	67.4		Unpatented Mining Claims	59.0	
				Limitation on Taxes	66.1	
1992	Clinton/Bush/Perot	78.3	61.2	Limitation on Taxes	75.5	59.0
				Education Sales Tax	75.9	59.3
1996	Clinton v. Dole	66.1	53.3	Property Tax Exemption	63.7	51.3
2000	Bush v. Gore	65.9	54.4	Math and Science Grants	59.9	49.4
				Annual Tax Cut	63.5	52.4
				Education Support	63.4	52.3
				Property Tax Relief for Seniors	58.3	48.2
Median					63.5	

This chart shows the percentage of registered voters who “dropped off” after they voted in each presidential race. The median percentage drop-off was small.

TABLE II: Drop-Off From Presidential Race to Fiscal Measures on Same Ballot⁷

Year	Fiscal Measure	Differential in % of Registered Voters Who Voted on Fiscal Issues Compared to Presidential Race
1988	Unpatented Mining Claims	-8.3
	Limitation on Taxes	-1.3
1992	Limitation on Taxes	-2.8
	Education Sales Tax	-2.5
1996	Math & Science Grants	-6.0
	Annual Tax Cut	-2.4
	Education Support	-2.5
	Property Tax Relief for Seniors	-7.6
Median		-2.5

TABLE III: Voting in Gubernatorial Elections⁸

Year	Gubernatorial Candidates	% of Registered Voters Who Voted	% of Voting Age Population Who Voted	Fiscal Measure	% of Registered Voters Who Voted	% of Voting Age Population Who Voted
1982	Lamm v. Fuhr	65.7		Property Tax Assessment	57.8	
1986	Romer v. Strickland	58.5		Tax Limitation	55.5	
1990	Romer v. Andrews	55.4		Tax Limitation	52.7	
1994	Romer v. Benson	54.9	41.1	Tobacco Tax	54.9	41.1
1998	Owens v. Schoettler	57.6	44.7	Education Tax Credit	56.8	44.0
				Excess Revenue for Construction	55.4	42.3
Median					55.2	

This chart shows the percentage of registered voters who “dropped off” after they voted in each gubernatorial race. As with presidential elections, the median percentage drop-off was small.

TABLE IV: Drop-Off From Gubernatorial Race to Fiscal Measures on Same Ballot⁹

Year	Fiscal Measure	Differential in % of Registered Voters Who Voted on Fiscal Issues Compared to Gubernatorial Race
1982	Property Tax Assessment	-7.8
1986	Tax Limitation	-3.0
1990	Tax Limitation	-2.7
1994	Tobacco Tax	-0.3
1998	Tobacco Tax	-0.8
	Excess Revenue for Construction	-3.2
Median		-2.8

Off-year elections, which were created to address fiscal issues, do not appear to drive high voter turnout. Of particular note is the 1997 off-year election, where voters had the option of casting a mail-in ballot. Even with the convenience of this option, turnout was not measurably increased.

TABLE V: Off-Year Election Turnout of Registered Voters¹⁰

Year	Measure	Voter Turnout
1993	Tourism Promotion Tax	30.6%
1995	State Prisoners	31.5%
1997	Transportation Need Act	30.0%
1999*	Borrow Debt for Transportation Needs	26.6%

*This is the most recent data available at the time of publication.

**TABLE VI: Off-Year Election Actual
Turnout of Registered Voters¹**

Year	# Registered	# Who Voted Yes	# Who Voted No	Prevailing Side as a Percentage of Registered Voters
1993	2,003,375	274,989	338,546	16.9%
1995	2,052,725	291,736	355,031	17.3%
1997	2,415,040	109,663	585,055	24.2%
1999*	2,683,620	477,982	296,971	17.8%
Median				17.65%

*This is the most recent data available at the time of publication.

QUESTION: Has TABOR changed the role of elected officials in determining fiscal policy?

THE ISSUE:

Prior to the enactment of TABOR, the Colorado State Constitution gave the General Assembly the power to appropriate (spend) funds and raise revenue. TABOR eliminated the Legislature's ability to raise revenue, requiring that all tax increases be approved by a vote of the people and prohibiting certain kinds of taxes altogether. TABOR also limited state spending, mandating automatic refunds to taxpayers when revenues reached a certain level. Because of these restrictions, most people agree that TABOR significantly altered the role of elected officials, not just in determining fiscal policy per se, but in making many other decisions that have financial implications.

THE BELL STUDY:

To explore this issue, the Bell conducted not-for-attribution interviews with about a dozen elected officials at the local and state level to find out whether and how TABOR had changed their jobs. The questions were broad and open-ended and were designed to elicit responses in each of the areas listed in the Analysis section. Participants included Republicans and Democrats in the State Legislature, including three who had served or were currently serving on the Joint Budget Committee; county commissioners; and school board members. We also spoke with individuals who, although they do not hold public office, have intimate knowledge of TABOR and the budgeting process.

THE RESEARCH FINDINGS:

- All but one of the respondents said TABOR had made the budgeting process less flexible, decreasing the ability of elected officials to make decisions or respond to a variety of challenges.
- Most respondents said TABOR had made them less likely to propose or support ballot initiatives to raise revenue (increase taxes).
- Most respondents reported that “debrucing” had occurred at the local level within their jurisdictions, and most said their jobs would have been more difficult if this had not occurred.
- Some respondents said the impacts of TABOR have been more significant at the state level than in most local jurisdictions, since a large number of local “debrucing” efforts have been successful.
- Most respondents reported an increased reliance on user fees (as opposed to general taxes) to support programs.
- The majority of respondents said implementing TABOR had imposed an additional layer of bureaucracy and increased administrative and other costs to government.
- Although participants were not asked about the public's understanding of TABOR, about half volunteered the opinion that voters did not fully understand the complex implications of the amendment.

THE CONCLUSIONS:

The majority of participants in the Bell survey pointed to some positive aspects of the TABOR amendment, and many said some form of spending limitation is advisable and prudent. As a group, however, **there was general consensus that TABOR imposed unnecessarily harsh restrictions on a state that was already fiscally conservative, limited the ability of legislators and other elected officials to make adjustments in the budget according to changing needs, and had many consequences that are not fully understood by the public.**

THE ANALYSIS:

Flexibility in Decision-Making: Participants were asked how TABOR had impacted their roles as elected officials, and more specifically, if the inability to raise taxes without voter approval changed this role. All but one participant said that TABOR had curtailed his ability to make decisions about fiscal policy, and the majority of respondents reported a negative impact on the ability to do their jobs. In general, comments fell into three areas: decreased ability to adjust spending limits to adapt to changing conditions or needs; less ability to set budget priorities; and an inability to save for emergencies. Specifically, participants said that TABOR:

- **Made it more difficult to adjust spending limits in response to citizen and community needs and/or to the ups and downs in the economy.** For example, one participant pointed out that prior to TABOR, the Legislature could impose a temporary increase in the sales tax to make up for lost revenue. Another said his job was much more difficult after TABOR, because the Legislature no longer had the flexibility to adjust revenue annually to keep pace with the growth in needs.

“TABOR has taken away the flexibility in the budget because it has frozen other

restrictions we had in statute. Regardless of the overall cap, we need to be able to move things around just as you do in your personal budget. Raising taxes is not the issue, because the legislative body was not very active in raising taxes even before TABOR.”

“TABOR has constrained those budgetary issues on which elected officials have any real discretion.”

One local elected official disagreed that TABOR had reduced flexibility, saying, “TABOR has only changed the role of elected officials in that it requires additional time to fully understand it and its impact.” The same respondent also said that, “In our case [a local school district], the School Finance Act constrained us more than TABOR did.”

- **Made it More Difficult to Set Budget Priorities.** A number of the survey participants pointed to TABOR’s ratcheting effect and the varying degrees to which they, as elected officials, could impact program spending in particular areas. According to one, “All state programs are impacted (by TABOR), but not all programs are of equal importance. Sometimes programs that are least important enjoy the most popular support.” Another individual put it this way: “The problem is that the pie is too small now. Legislators will always prioritize programs that aren’t as critical, but that are popular. That’s okay, as long as pie is large enough so that nothing gets damaged. But with TABOR, the size of the pie has shrunk, which was the intention. All services get reduced, but some can afford reductions more than others.”

- **Made it More Difficult to Save for Rainy Day or Emergency Funding.** Several respondents said that Colorado had not been able to save for a rainy day or for emergencies because of TABOR. “That is a mistake,” remarked one person, “which we are

starting to see with the downturn in the economy.”

Support for Tax Increases: The majority of elected officials said that TABOR made them less likely to propose or support a tax increase at any level. Participants in the survey cited both positive and negative repercussions of this attitude.

Debrucing: All participants were familiar with, or had participated in, debrucing elections in their jurisdictions. These election questions asked voters if the government could keep revenue collected in excess of the amount allowed by TABOR. Most said that debrucing at the local level was much more feasible than at the state level. **There were more than 1,100 debrucing elections at the city, county, and special district levels between 1993-1999. The overall success rate in debrucing was 93% during that time period.**¹ At the state level, there have been only two attempts to keep excess revenues. The first, in 1998, proposed that the state keep excess revenues of up to \$200 million per year for five years for transportation, school, and college construction. The second sought approval to use excess revenue for math and science grants for K-12 schools. Both failed.

“Locally, groups can make a case to use the money. But for the state, there’s no political will to put it on the ballot because TABOR was a citizen initiative. The Legislature is afraid that Doug Bruce and others will accuse them of trying to change something the voters put on the ballot.”

“I think local governments have been less affected than the state, since local electorates have been willing to debruce and to approve tax and bond increases.”

“If we hadn’t debruced, we would have had to return a portion of the School Finance allocation to the state.”

“Debrucing has worked at the local level because people believe they can influence decisions, see investment. But debrucing hasn’t worked at the state level.”

“Most people are finding ways to get around TABOR at the local level, but it’s a different story at the state level.”

“Debrucing helps, but it’s not enough. All it does is allow the city to spend the money it receives through tax collections. But it doesn’t give us any more flexibility in generating additional revenue for specific services that might be increasing in need more than others—like housing.”

Reliance on User Fees and Other Sources of Revenue: Most respondents reported increased reliance on user fees and other non-tax mechanisms to fund programs. Most also said there were positive and negative consequences of this practice.

“We now look at more user fees, making programs more self-sufficient. For programs that benefit certain individuals or groups, such as licensing for real estate agents and doctors, we earn enough in fees to pay for them. But I worry if we start relying heavily on user fees for programs such as library services, because there are some programs we need to support for the general public good.”

“Relying on fees will put some areas out of reach of some citizens. For example, do you want our children paying as much tuition as out-of-state students? That’s what would happen if we relied totally on fees.”

“What good does it do to raise fees if it’s going to put you over the TABOR limit, and then you have to give it back?”

The Cost of TABOR: More than three-quarters of respondents said that implementing TABOR has increased costs. Comments were similar to the following: “A significant burden has been added to our resources in the form of increased staff time, attorney’s fees, consultants, and administrative time to implement TABOR and develop operational strategies within the required framework.” Others said that TABOR had cost them revenue.

Knowledge of TABOR: While not asked directly about this issue, some participants volunteered the opinion that voters did not fully understand the financial and policy implications of TABOR. One comment seemed to sum up the feelings of the majority of participants: **“People voted for TABOR because they wanted to vote on tax increases. But they didn’t understand all the restrictions it would have on making sound and responsible public policy.”**

Impact on Current Economic Situation:

Although interviewees were not asked about TABOR’s possible impact on the current state budget crisis and the downturn in the economy, several volunteered opinions. No one blamed TABOR directly for the crisis, but several thought it would make it more difficult to bounce back from hard economic times.

“If TABOR hadn’t been in place, the state probably would have spent the vast majority of money that it had to refund. However, the state probably wouldn’t have gone into debt for roads, for example, either. We probably wouldn’t have cut taxes permanently, or not to the same degree. If the state had spent all the surplus money, it could have made the current economic situation more difficult. On the other hand, tax collections would have been higher, because not as many taxes would have been cut. And Amendment 23 probably never would have come about because more money would have been invested in education on an annual basis.”

“TABOR makes it impossible to ever fully bounce back from this revenue shortfall without a tax increase. The ratcheting down effect has very significant impact on our ability to recover.”

One comment seemed to sum up the majority opinion about TABOR and our current budget crisis: **“All in all, in some ways people can say TABOR has made our current situation a little bit easier, but there are so many other things that it has impacted, including our ability to respond, that the cumulative impact on the current situation is negative and detrimental. Pieces of TABOR are positive, but the cumulative effect of TABOR makes the current situation worse.”**

Glossary

allowable TABOR revenue: The amount of revenue the state is allowed to keep and spend in a given year. It is equivalent to the prior fiscal year's spending multiplied by the sum of inflation plus the percentage change in state population in that calendar year.

Cash funds: Non-general fund revenue sources used to fund specific activities. Cash funds are included in the revenue limit.

debrucing: In this publication, the term refers only to elections in which voters are asked to allow a district (state, local or school) to keep and use all or part of revenue collected in excess of its TABOR limit. While there have been numerous debrucing elections at the local level, there have only been two at the state level, which both failed. The term is also sometimes used in connection with elections to raise taxes. This term takes its name from Doug Bruce, the author of TABOR.

General Funds: Revenue raised from general purpose taxes such as income taxes, state sales taxes, and state excise taxes used to support general funding of state government. General funds do not include federal funds or general sources of revenue.

Gross State Product (GSP): GSP is the value added in production by the labor and property located in a state. GSP for a state is derived as the sum of the GSP originating in all industries there. It is regularly calculated for each state by the U.S. Commerce Department, Bureau of Economic Analysis.

ratcheting effect: TABOR defines allowable revenue as the prior year's fiscal year spending plus any change allowed by the growth formula (for the

state, the formula is percentage change in population plus percentage change in the Denver-Boulder-Greeley CPI). In effect it annually "ratchets" down the base spending to whichever is lower—actual revenue or allowable revenue. If any year's revenue is less than the prior year's, the base to which the growth formula is applied is the actual revenue, not what was allowed under the growth formula. The state is not allowed to regain the revenue to pay for the increased costs of services that result from population and inflation growth that occur during periods of declining revenue.

revenue limit: The constitutional formula contained in TABOR that sets the amount by which total state revenue is allowed to grow (local and school districts have their own formula). TABOR refers to this as a spending limit, but because it includes both actual spending and transfers to reserves as spending, it is effective as a limit on collected revenue. When the formula is applied to prior year spending, it yields an actual dollar amount limit often referred to as allowable TABOR revenue.

spending limit: In this document, this term refers to the statutory limitation on General Fund operating expenditures adopted by the General Assembly in 1992. It is often referred to as the Arveschoug-Bird limit, after the names of its legislative sponsors.

Total Funds: All revenue available to the state including federal funds, cash funds, and general funds.

total TABOR revenue: All revenue subject to the TABOR revenue limits, including all general revenue; and all cash fund revenue, excluding gifts, federal funds, pension contributions by employees

and pension fund earnings, damage awards, and property sales. When total TABOR revenue collected exceeds allowable TABOR limits, the excess must be returned to the taxpayer.

user fee: A fee paid by a user or consumer of a government service that offsets the cost of providing the service. Examples include tuition, camping fees, and parks and recreation passes, fishing and hunting licenses, and professional license fees.

weakening provision: The General Provisions section of TABOR, (Article X Section 20, (1) of the Colorado Constitution) includes the following language, "Other limits on district revenue, spending, and debt may be weakened only by future voter approval." A major effect of this weakening provision has been to make a statutory state general fund operating limit, already in effect when TABOR was passed, subject to repeal only by a vote of the people. The phrase has been interpreted to cover any limits adopted before and after TABOR passage.

personal income: Here this means total personal income for the state as calculated by the U.S. Department of Commerce, Bureau of Economic Analysis. It is the sum of personal income earned by all citizens of the state.

temporary tax credit: See contingent tax credit.

contingent tax credit: Legislatively adopted means of distributing to taxpayers the revenues collected in excess of the TABOR revenue limit. The tax credits are contingent upon the existence of revenue in excess of the limit. If collections are below the allowed amount, these credits are not available to taxpayers.

TABOR refund mechanism: See contingent tax credit.

Amendment 23: A constitutional amendment adopted by voters in 2000 mandating that public education funding increase at a rate of inflation plus 1% for ten years and by inflation in all future years.

State Education Fund: Special fund to help pay for the increased K-12 funding mandated in Amendment 23. The fund receives a portion of state income tax receipts.

growth formula: Refers to the limitation on revenue that can be kept and spent by government. For the state, the formula prescribes that state spending cannot grow faster each year than household consumer prices plus population growth. Growth formula is often used to mean the same thing as revenue limit.

Endnotes

Understanding TABOR: A Primer

- 1 CPI data—the U.S. Department of Labor, U.S. Bureau of Labor Statistics.

TABOR and Spending

- 1 The state spread sheets, found at www.thebell.org, list federal funds separately, and the cash fund exempt items are included in the larger cash fund category for each peer state. (Neither of these categories of spending is included in the calculation of the TABOR spending limit).
- 2 Education Week. (2002). Quality Counts 2002. Quoted from *Colorado: The State of Opportunity Budget, 2003 Report*, the Bell Policy Center. Education Week's rating methodology takes regional cost differences and the number of high-cost students (e.g. special education) into account when evaluating average per pupil spending in a state.
- 3 National Center for Public Policy and Higher Education. (2002). *Measuring up 2002: The state-by-state report card for higher education*. Web site: www.highereducation.org.
- 4 Chance for College was created by Thomas Mortenson and is available on the Postsecondary Education OPPORTUNITY web site: www.postsecondary.org. "Chance for College" is a ratio of low-income students enrolled in college to low-income 4th through 9th grade students in the population. The actual indicator is calculated using data from the cohort of students in grades 4 through 9 in 1991-1992 and when the same students are ages 18-24 in the 2000-2001 academic year.
- 5 Based on data from *Chartbook 2000: A Profile of Medicaid*, Health Care Financing Agency, U.S. Department of Health and Human Services, 2002, p 81.
- 6 Colorado Coalition for the Medically Underserved. (July, 2000). *Five Approaches to Achieving Health Insurance Coverage for All Coloradans*. Quoted from *Colorado: The State of Opportunity Budget, 2003 Report*, the Bell Policy Center.
- 7 GSP as calculated by the U.S. Department of Commerce, Bureau of Economic Analysis, 2000 data. State and local government figures provided by the U.S. Department of Commerce, Bureau of the Census.
- 8 Tax burden analysis based on Center on Budget and Policy Priorities.

TABOR and the Tax Burden

- 1 For more information on each organization, see the following web sites: The Center on Budget and Policy Priorities (CBPP) and The Tax Foundation.
- 2 The Tax Foundation, www.taxfoundation.org. State Finance Report, Fiscal Year 2000.
- 3 CBPP, unpublished analysis based upon 2000 U.S. Census Bureau and U.S. Bureau of Economic Analysis data, www.cbpp.org.
- 4 CBPP, Ibid.
- 5 CBPP, Ibid.
- 6 Tax Foundation, Op Cit.
- 7 CBPP, Op Cit.

TABOR and Regressivity

- 1 Since permanent tax cuts were not a direct result of TABOR, our analysis was limited to the effect on contingent tax credits.
- 2 A list of the tax credits adopted by the Legislature to refund excess revenue is found in this section.
- 3 Institute on Taxation and Economic Policy (ITEP), *Who Pays: A*

Distributional Analysis of the Tax Systems in All 50 States, 2nd Edition, January 2003.

- 4 ITEP, Op Cit.
- 5 Ibid.
- 6 Department of Revenue Annual Report Tax Year 2001.
- 7 Department of Revenue—Special Request.
- 8 Ibid.
- 9 Department of Revenue Annual Report Tax Year 2001, Op Cit.

TABOR and the Growth of the State Economy

- 1 Personal Income: U.S. Census Bureau. U.S. Department of Commerce. (2002 data). Gross State Product: Bureau of Economic Analysis. U.S. Department of Commerce. (1991-2000 data). Employment Growth: Bureau of Labor Statistics. U.S. Department of Labor. (1991-2000 data).

TABOR and the Current Economic Downturn

- 1 *The Wall Street Journal*, *State of Prosperity (or Not)*, July 16, 2002.
- 2 National Conference of State Legislatures (NCSL), *State Budget Update: November 2002*, Table 1. The data in this report represents a moment in time, and the rankings may change. But the gap between revenue and approved spending is what's relevant and constant.
- 3 Office of State Planning and Budgeting (OSPB), *Colorado Economic Perspective*, December 20, 2002.
- 4 Ibid.
- 5 Ibid.
- 6 Bob Zahradnik Center on Budget and Policy Priorities presentation, *Improving Rainy Day Funds*, December 7, 2002, Washington D.C.
- 7 Nick Johnson, Center on Budget and Policy Priorities, *The State Tax Cuts in the 1990s, the Current Revenue Crisis and Implications for State Services*, November 18, 2002.
- 8 OSPB, Op Cit. The Legislative Council prepares an independent estimate of revenue. For their projections, which vary only slightly from the OSPB numbers, please see the website at: www.state.co.us/govdir/legdir/lcs/focus/2002/December2002/Forecast02-12.pdf.
- 9 NCSL, Op Cit.
- 10 Legislative Council, based on re-estimated FY 01-02 actual receipts for income and sales taxes.
- 11 Johnson, Op Cit.
- 12 Zahradnik, Op Cit.
- 13 Bob Zahradnik and Nick Johnson, NASBO data cited in CBPP report *State Rainy Day Funds: What to do when it Rains?*, 1/31/02.

TABOR and Citizen Participation

- 1 Derived from Colo. Const. Art. X, Section 20, 4(a)-(b).
- 2 Colorado Fiscal Policy Institute, based on data collected by the Colorado Municipal League.
- 3 Chronological Listing of the Number of Constitutional Amendments and Laws Voted Upon at Statewide General Elections, at www.state.co.us/gov_dir/leg_dir/lcsstaff/research/CONSTbL.htm.
- 4 Ibid.
- 5 We calculated voter turnout by dividing the number of people who actually voted by the number who were registered at the time of the election.
- 6 Adapted from the following sources: State of Colorado, *Abstract of Votes Cast 1984*, published by N. Meyer; State of Colorado, *Abstract of Votes*

Endnotes

- Cast 1988 published by N. Meyer; State of Colorado, Abstract of Votes Cast 1992 published by N. Meyer; 1996 General Election Results at www.sos.state.co.us/pubs/elections/main.htm; November, 7, 2000. General Election Results Final Certified Official at www.sos.state.co.us/pubs/elections/main.htm; Chronological listing of the number of constitutional amendments and laws voted upon at statewide general elections at www.state.co.us/gov_dir/leg_dir/lcsstaff/research/CONSTbL.htm, U.S. Census Bureau (2000) Table 3. Estimates and Projections of the Voting Age Population, 1992 to 2000 and President, by State: November 1992 and 1996.
- 7 Ibid.
- 8 Adapted from the following sources: State of Colorado, Abstract of Votes Cast 1982 published by N. Meyer; State of Colorado, Abstract of Votes Cast 1986 published by N. Meyer; State of Colorado, Abstract of Votes Cast 1990 published by N. Meyer; State of Colorado, Abstract of Votes Cast 1993-1994 published by V. Buckley; State of Colorado, Abstract of Votes 1998 published by V. Buckley.
- 9 Ibid.
- 10 State of Colorado Abstract of Votes Cast 1993-1994 published by V. Buckley; State of Colorado, Abstract of the November Odd-Year Election Held on November 7, 1995 published by V. Buckley; State of Colorado, Official Publication of the Abstract of Votes Cast for the 1997-Odd Year, 1998-Primary and General—1999-Odd Year Elections published by D. Davidson.
- 11 Ibid.

TABOR and the Role of Elected Officials

- 1 Colorado Fiscal Policy Institute, based on data collected by the Colorado Municipal League.