

Confluence of Colorado's Constitutional Spending Rules

A toxic combination?

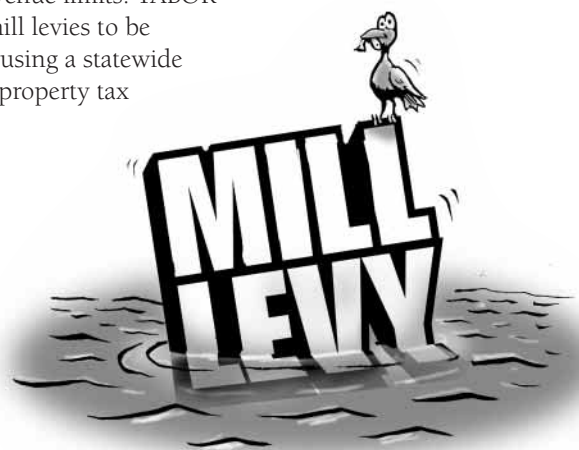
Almost anytime a ballot issue is put before the voters to amend the state constitution it is presented in a vacuum. Lacking context, it's nearly impossible for the public to determine how changing one part of the constitution eventually could impact or even conflict with other provisions. Consider how over the past 20 years Coloradans have amended the constitution to reduce taxes and shrink government while requiring the state to spend more on key programs such as education. Changes that appear wise and prudent when taken alone can create serious problems when combined. Like benign chemicals that become dangerously volatile when mixed, the Gallagher Amendment, TABOR and Amendment 23 each made sense to the voters when adopted, but have since created a fiscally toxic combination.

Gallagher meets TABOR: When voters approved the Gallagher Amendment in 1982, it made sense: keep homeowners' taxes low while making sure that business paid its fair share of property taxes. For the first 10 years, Gallagher worked as intended, lowering homeowners' tax assessments (the percent of property value that is subject to tax) while sustaining reasonably consistent local government revenue. This was accomplished by letting local property tax rates (called mill levies) "float" up and down as needed from one year to the next. But in 1992, the TABOR Amendment prevented local governments from floating the mill levy upward without a vote of the people. As home values increased, local governments began to reach and exceed their TABOR revenue limits. TABOR required mill levies to be lowered causing a statewide erosion of property tax revenue.



"Sure, they seem harmless now, but mix 'em together and WATCH OUT!"

TABOR meets Arveschoug-Bird: About a year before TABOR was passed, the state legislature passed its own statutory spending limit called the Arveschoug-Bird limit. Part of the idea behind the Arveschoug-Bird limit was to try and convince the voters that our elected officials could be the watchdog over state spending and that we didn't need to change the constitution to limit the growth of government. Because the Arveschoug-Bird limit was passed as a statute by the legislature, it could be changed as needed by subsequent legislative action. That changed with the passage of TABOR, which trumped the Arveschoug-Bird limit and froze it into the constitution. Like the Gallagher Amendment, TABOR and Amendment 23, Arveschoug-Bird can now only be changed with a vote of the people.

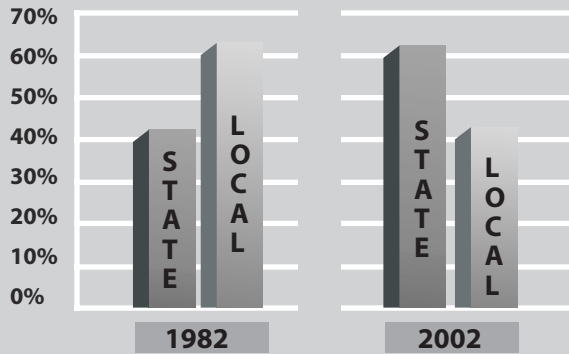


Gallagher meets Amendment 23 and Arveschoug-Bird: Amendment 23 was passed by the voters in 2000. It mandates spending increases for K-12 schools, which is by far the state's largest program. Proponents argued that K-12 education spending did not keep up with inflation in the past decade. Now Amendment 23 requires the state to "catch up" with the effect of inflation on schools. Amendment 23 created a specific funding source called the State Education Fund to pay for the increases in education funding. The state must reallocate General Funds from other state programs if necessary to meet the requirements of Amendment 23. The current economic downturn has forced lawmakers to borrow from the State Education Fund, threatening to make it insolvent by 2006.

Why is this important? In addition to limiting the flexibility of state expenditures, TABOR limits the amount of money flowing into state coffers while Arveschoug-Bird uses a different formula to limit annual state spending out of the state's General Fund. The combination of these limits causes the state to spend less efficiently than it could otherwise. In fact, the two limits will eventually collide, further restricting state budget flexibility.

What Happened to K-12 Funding?

State vs. Local Share of Funding



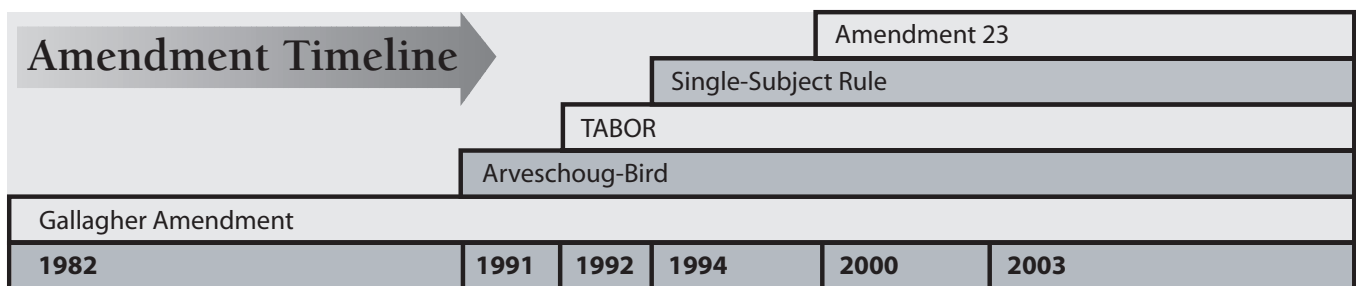
Before the passage of the Gallagher Amendment and TABOR, local governments picked up most of the tab for Colorado schools with property taxes. But the Gallagher Amendment (modified by TABOR in 1993) has dramatically reduced homeowners' property taxes in the past 20 years while the growth and cost of schools is greater than ever. The state has attempted to address this dilemma by backfilling the lost local revenue with state General Fund. This squeezes the budget because Arveschoug-Bird, limits how much

the state can spend from the General Fund. After paying for "must-fund" items like prisons and Medicaid, there is less of the General Fund available for other state programs. In short, Gallagher and Amendment 23 force the state to spend more and more on schools while "crowding out" other state programs, especially in a bad economy.

TABOR and Amendment 23: Perhaps most fundamental among all the contradictions amended into Colorado fiscal policy over the years is the clash between TABOR's revenue limits – an attempt to place government on a strict diet – and the voters' decision, through Amendment 23, that public education warrants an extra helping. This contradiction compounds the state's fiscal misery in a very real way: it requires that school funding continue to grow ahead of inflation year after year even as revenue plummets in a recession, while TABOR's ratchet effect prevents the rest of the state budget from catching up after the economy recovers.

Some have described the impact of the patchwork of Colorado's constitutional spending laws as a type of micromanagement. In effect the voters won't allow elected officials to make decisions about resource allocation – we now manage our money based upon successive layers of mandates made from the polling booth. Our patchwork constitution requires government to adhere to the will of the people but as one local newsman has noted, that requires divining "which will and which people."

Amendment Timeline



Amendment	Year Enacted	How Enacted	What it does	Rationale
Gallagher Amendment	1982	Referendum	Freezes residential assessment rates at 45% of state total	Reduce homeowner property tax
Arveschoug-Bird Statute	1991	State Statute	Limits General Fund spending to 6% more than prior year	Legislative limit on annual state spending
TABOR Amendment	1992	Citizen Initiative	Requires vote on taxes, limits revenue, "freezes" existing limits	Limit growth of state and local government
Single-Subject Rule	1994	Referendum	Prevents multiple subject constitutional amendments	Make amendments easier to understand, avoids conflicts
Amendment 23	2000	Citizen Initiative	Funds K-12 at inflation +1% for ten years and at inflation thereafter	Catch K-12 spending up to national average