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THE TAX COMMISSION'S TABOR: A PATH TO DETERIORATION IN FLORIDA

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Summary

The Taxation and Budget Reform Commission will soon consider placing an amendment on the ballot to tightly limit revenue growth for state and local governments.¹ This proposal, CP 45, deserves a great deal of attention because it shares the fundamental characteristics of Colorado's Taxpayer Bill of Rights (TABOR):

- it is a constitutional amendment,
- it restricts revenue growth at both the state *and* local level to a formula based on population change and inflation, and
- it is difficult to override if circumstances make that desirable.

The limit can therefore be expected to cause deterioration in public services in Florida similar to that produced by TABOR in Colorado.

Under CP 45, budget cuts would be required in good economic times because revenues above the limit could not be spent. Budget cuts already occur in bad economic times because revenues are insufficient to support expenditures. The outcome of CP 45 would be a state in which vital services that residents want and need — education, health care, public safety, roads, environmental protection and others — deteriorate in most years, through good times and bad.

KEY FINDINGS

- The proposed state and local revenue cap contains the key elements of Colorado's TABOR, which led to reductions in health, education, public safety, and transportation services. Voters suspended TABOR for five years in November 2005.
- If the proposed limit had been effective in Florida beginning in FY 2002, capped state revenues for the FY 2003 – 2007 period would have been \$5.7 billion less than the actual revenue level.
- Florida is already at the bottom among states on many measures of public services; falling further could make it unattractive as a place to live or do business.

¹ Committee Substitute for Committee Substitute for CP 45, 9:24 am March 10, 2008.

What Would CP 45 Do?

The following are the key provisions of CP 45:

- Revenues of the state and all local governments would be limited. The limitation applies broadly to taxes, fees, assessments, licenses, fines, and charges for services. There are very few exceptions: revenues to meet the requirements of bonds, lottery revenues that are returned as prizes, receipts of the Florida Hurricane Catastrophe Fund and Citizens Property Insurance Corporation, and a few others.
- Revenues would not be allowed to grow faster than specified by a formula. The formula is the sum of the inflation rate (CPI-U), population growth, and 1 percent. For school districts, student enrollment is used instead of population growth. For all other local governments, the local population growth is used.
- A large supermajority would be required to override the limit. For the state limit, a $\frac{3}{4}$ supermajority of each house of the legislature must vote to override. For local limits, $\frac{3}{4}$ of the governing board of the local government must vote to override.
- A vote of the people would be required to impose a new tax or fee.

During the twelve years since TABOR was adopted in Colorado, K-12 funding declined from 35th to 49th in the nation, and higher education funding dropped by 31 percent. In addition, the share of low-income children lacking health insurance doubled at a time that it was dropping nationally, and Colorado fell to near last in the nation in providing on-time full vaccinations to the state's children.

These problems and others led business leaders and Chambers of Commerce across the state to push for the suspension of TABOR's population-growth-plus-inflation formula for five years in order to allow the state to restore a portion of its fundamental public services. In November 2005, Colorado voters approved this suspension. To date, Colorado is the only state to have adopted a TABOR, as well as the only state to have voted to suspend it.

Florida already ranks near the bottom among the states on a number of key public services and can't afford any further declines in the public services upon which Floridians depend, such as health care, education and public safety. But as the Colorado experience has shown, this is likely to happen if the proposed revenue limit is adopted.

The Colorado Experience

In 1992, Colorado adopted the Taxpayer Bill of Rights (TABOR), a constitutional amendment that limits budget growth to changes in population plus inflation. A growing body of evidence shows that in the 13 years following its adoption, TABOR contributed to deterioration in the availability and quality of nearly all major public services in Colorado. The Colorado experience has

serious implications for the residents of Florida because the proposed revenue cap would likely lead to similar outcomes in Florida.²

- **Since its enactment in 1992, TABOR has contributed to declines in Colorado K-12 education funding.** Under TABOR, Colorado declined from 35th to 49th in the nation in K-12 spending as a percentage of personal income.³ Colorado's average per-pupil funding fell by more than \$400 relative to the national average.⁴
- **TABOR has played a major role in the significant cuts made in higher education funding.** Under TABOR, higher education funding per resident student dropped by 31 percent after adjusting for inflation.⁵ College and university funding as a share of personal income also fell, from 35th to 48th in the nation.⁶
- **TABOR has led to drops in funding for public health programs.** Under TABOR, Colorado declined from 23rd to 48th in the nation in the percentage of pregnant women receiving adequate access to prenatal care.⁷ Colorado also plummeted from 24th to 50th in the nation in the share of children receiving their full vaccinations. Only by investing additional funds in immunization programs was Colorado able to improve its ranking to 43rd in 2004.⁸
- **TABOR has hindered Colorado's ability to address the lack of medical insurance coverage for many children in the state.** Under TABOR, the share of low-income children lacking health insurance doubled in Colorado, even as it fell in the nation as a whole. Colorado now ranks *last* among the 50 states on this measure.⁹

In response to the large cuts and deterioration in public services experienced under TABOR, the Colorado business community spearheaded an effort to suspend TABOR's population plus inflation formula for five years. Colorado voters approved this plan in November 2005. (See box on page 9)

The Core of Both Proposals: the Population-Growth-Plus-Inflation Formula

TABOR's central flaw is its population-growth-plus-inflation formula. A population-growth-plus-inflation formula does not allow a state to maintain year after year the same level of programs and

² For a more detailed analysis of the problems experienced in Colorado under TABOR, please see David Bradley and Karen Lyons, "A Formula for Decline: Lessons from Colorado for States Considering TABOR," Center on Budget and Policy Priorities, October 2005. Available at: <http://www.cbpp.org/10-19-05sfp.htm>.

³ Center on Budget and Policy Priority (CBPP) calculation of National Education Association and Bureau of Economic Analysis data.

⁴ CBPP analysis of National Center for Education Statistics data.

⁵ CBPP analysis of Colorado Joint Budget Committee data.

⁶ Grapevine, An Annual Compilation of Data on State Tax Appropriations for the General Operation of Higher Education. Center for the Study of Education Policy, Illinois State University

⁷ National Center for Health Statistics, Centers for Disease Control and Prevention

⁸ National Immunization Program (NIP), Centers for Disease Control and Prevention, <http://www.cdc.gov/nip/coverage/default.htm#chart>

⁹ CBPP analysis of the US Census Bureau's Current Population Survey

services it now provides. Instead it shrinks public services over time and hinders the state's ability to provide its citizens with the quality of life and services they need and demand.¹⁰ CP 45 adds a percentage point to the maximum growth formula used in Colorado. Nevertheless, it does not solve the problems that a rigid, unrealistic formula creates.

Population

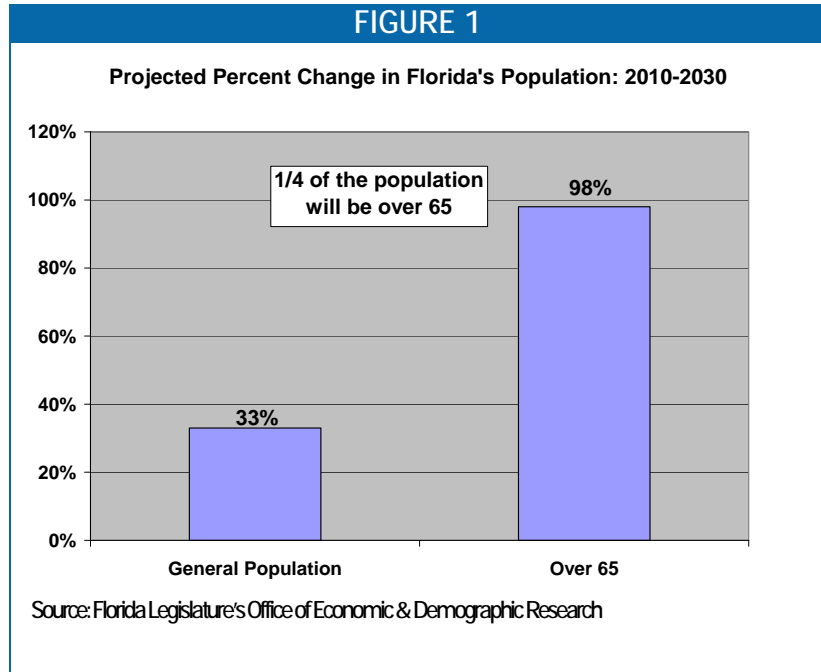
The first part of the population-growth-plus-inflation formula is the change in overall population growth.

Overall population growth, however, is not a good proxy for the change in the populations served by public services. The segments of the population that states serve tend to grow more rapidly than the overall population used in the formula.

An example is senior citizens. According to Florida's Office of Economic and Demographic Research, Florida's total population is projected to increase by 33 percent from 2010 to 2030, while Florida's population aged 65 and older is projected to increase three times as fast, increasing by 98 percent from 2010 to 2030.¹¹ As Florida's elderly population — which will be a quarter of its total population — increases, so will the cost of providing the current level of health care and other types of services. The allowable state revenue limit, however, would prevent health care and other services from growing with need because it would be calculated using the much slower growing total population. Services to the elderly could be maintained only if Florida residents were willing to make sharp cuts in other areas of the state budget, such as education or public safety.

Inflation

The second part of the formula — inflation — also does not accurately measure the change in the cost of providing public services. The measure of inflation used in both Colorado and CP 45 is the nationwide "Consumer Price Index-All Urban Consumers (CPI-U)," which is calculated by the U.S. Bureau of Labor Statistics. The CPI-U measures the change in the total cost of a "market basket" of



¹⁰ For a more detailed analysis of the problems with the population-growth-plus-inflation formula, please see David Bradley, Nick Johnson and Iris Lav, "The Flawed "Population Plus Inflation" Formula: Why TABOR's Growth Formula Doesn't Work," Center on Budget and Policy Priorities, January 2005. Available at <http://www.cbpp.org/1-13-05sfp3.htm>.

¹¹ Florida Legislature's Office of Economic & Demographic Research, Demographic Estimating Conference Database, updated August 2007, <http://edr.state.fl.us/population/table1-4.xls>.

goods and services purchased by a typical urban consumer. Since a typical urban consumer spends a majority of his or her income on housing, transportation, and food and beverages, those items are the primary drivers of the CPI-U. By contrast, the state of Florida spends its revenue primarily on education, health care, corrections, and roads. In short, the market baskets of spending are entirely different.

Moreover, the “goods” — or public services— in the state of Florida’s basket (and in every other state’s) are in economic sectors that are less likely to reap the efficiency and productivity gains achieved by other sectors of the economy. For example, teachers can only teach so many students, and nurses can only care for so many patients. As a result, the costs of these public services are rising faster than the costs in other sectors. Indeed, the items in the “basket of goods” most heavily purchased by states — such as health care, education, and prescription drugs — have seen significantly greater cost increases in the past decade than the items in the basket of goods purchased by consumers, and those faster-growing costs are expected to continue. Limiting the growth in revenues to a formula that uses the rate of growth in general inflation will not affect the level or growth of these costs in the economy; instead, it will affect the quantity and/or quality of public services the state is able to provide to its citizens.

The Extra 1 Percent

The formula proposed in CP 45 differs from the formula in Colorado’s TABOR. Under CP 45, 1 percent would be added to the sum of inflation plus population growth to determine the allowable revenue growth. This obviously allows a little more growth than was allowed under Colorado’s TABOR.

Even with the additional 1 percent, however, the growth formula would still be restrictive and would still result in a deterioration of public services. The 1 percent “bonus” is not enough to accommodate the normal increase in the cost of government. The formula will still not be enough to accommodate the growth of certain Florida population segments. As one example, the elderly represent one-quarter of the population and are growing at three times the rate of the general population. And health care costs, as reflected in the cost of employee health insurance, Medicaid, SCHIP, and other programs often grow far more rapidly than the formula would allow.

For school districts, the formula uses the change in student enrollment plus inflation plus 1 percent. Under Colorado’s TABOR formula, voters passed Amendment 23 in 2000 to give schools an extra 1 percent beyond inflation that is similar to the CP 45 formula. Despite that extra 1 percent, however, Colorado schools continued to be funded at levels well below national averages.¹² By the time TABOR was suspended in 2005, schools were charging large fees for transportation,

¹² CO ranked 47th in the nation in K-12 spending as a percentage of personal income in 2003. (Source: Center on Budget and Policy Priority (CBPP) calculation of National Education Association (NEA) and Bureau of Economic Analysis (BEA) data) CO ranked 37th in per-pupil expenditures adjusted for regional cost differences in 2003. (Source: Editorial Projects in Education Research Center, “Quality Counts at 10: A Decade of Standards-Based Education,” *Education Week*, 2006, <http://www.edweek.org/ew/toc/2006/01/05/index.html>) CO ranked 44th in the percent of total taxable resources spent on K-12 education in 2003. (Source: Editorial Projects in Education Research Center, “Quality Counts at 10: A Decade of Standards-Based Education,” *Education Week*, 2006, <http://www.edweek.org/ew/toc/2006/01/05/index.html>)

Business Leaders in Colorado Frustrated with TABOR

The effort to suspend TABOR for five years—known as Referendum C— was strongly backed by Colorado’s business community. After witnessing declines in the public services the business community cares most about (higher education, transportation, infrastructure), over 80 businesses and business groups, including 10 Chambers of Commerce, endorsed the TABOR suspension. Some business groups suggest that the successful campaign to suspend TABOR already has had some positive impacts for the business climate.

- “For businesses to be successful, you need roads and you need higher education, both of which have gotten worse under TABOR and will continue to get worse.” — Tom Clark, Executive Vice President of the Denver Metro Chamber of Commerce^a
- “[Business leaders] have figured out that no business would survive if it were run like the TABOR faithful say Colorado should be run — with withering tax support for college and universities, underfunded public schools and a future of crumbling roads and bridges.” — Neil Westergaard, Editor of the Denver Business Journal^b
- “The business community has said this is not good for business, and this is not good for Colorado.” — Gail Klapper, director of the Colorado Forum, an organization of 60 leading CEOs^c
- “Referendum C's passage was a statement by the electorate that assured business that Colorado's transportation network and higher education system would be able to meet their needs. We saw a spike of activity of out-of-state businesses interested in relocating here when Referendum C passed.” — Joe Blake president of the Denver Metro Chamber of Commerce^d

^a Quoted in Daniel Franklin and A.G. Newmyer III, “Is Grover Over?,” *Washington Monthly*, March 2005.

^b Neil Westergaard, “Business folks fed up with TABOR worship,” *Denver Business Journal*, July 22, 2005.

^c Will Shanley, “State businesses unite to urge TABOR deal,” *The Denver Post*, March 9, 2005.

^d “Ref. C aids economic recovery,” *The Denver Post*, June 30, 2006.

sports, field trips, and school supplies. Parent-teacher associations in many parts of the state were raising funds to support instruction in the schools, books, and other purposes.

The increases in the costs of education rise faster than Colorado’s formula or the formula in CP 45 for a number of reasons: it is difficult to retain highly qualified teachers if they never receive a pay raise beyond the rate of inflation, the costs of health insurance and pensions for teachers and other school employees may be rising faster than the formula allows, and Florida residents have expressed a desire for some school improvements such as smaller class sizes. In addition, schools can be hit with unexpected expenses that cannot be accommodated under the cap; an example is the recent increases in gasoline and diesel fuel that has been exceedingly expensive for school bus transportation. Under CP 45, schools might have to cut classroom expenses in order to pay for the fuel cost increases.

On the Cutting Block

It is also important to note that *all* state and local programs— not just those with cost pressures exceeding the formula — are threatened by a rigid population-growth-plus-inflation limit. This is because the revenue cap applies to all of Florida’s state and local revenues. Under the proposal, if one area were to grow faster than population growth plus inflation plus 1 percent (for instance due to cost pressure, court order, or popular demand), then another area would have to grow at a slower pace — which would mean a reduced level of services in this second area. This type of formula-driven budgeting hamstrings meaningful discussions about the priorities of the citizens and the ability of the state and localities to respond to them.

Breaking Something That’s Not Broken

Florida already has a constitutional revenue limit in place. This limit—based on a five year average of personal income growth— allows state revenues to grow at roughly at the same pace as the economy. The proposed limit, on the other hand, would restrict revenue growth at both the state and local level to the generally slower measure of population growth plus inflation plus 1 percent, causing public services to shrink over time.

The proposed revenue limit also has another significant difference from the current limit: it would include Medicaid revenues—revenues used to provide matching funds for the federal Medicaid program. As mentioned above, the inclusion of Medicaid revenue would do absolutely nothing to affect the cost pressures facing the program. Instead, it would considerably reduce the amount of money available to other key programs.

Lastly, the distinct time periods of the two limits have important ramifications. The current limit was implemented during a time of economic growth. By contrast, CP 45 uses *this* year — fiscal year 2007 - 2008 as the base year. Revenue forecasts for this year already have been revised downward twice, and may yet have to be revised downward once again. The latest revision estimates that 2007-2008 revenues subject to the current limit are below the revenues collected in 2004-2005.

Using this time of low economic growth as the starting point increases the severity of the proposed limit.

How Would the Cap Affect Revenues and the Programs Funded by Them?

In order to better understand the magnitude of cuts this proposal would require, we conducted an analysis of how state revenues would be limited by CP 45 if the measure had been implemented in fiscal year 2001-2002. Fiscal year 2001-2002 was a recession period and the first year of the fiscal crisis in the early part of this decade. The economic and fiscal conditions in fiscal year 2001-2002 are in many ways comparable to the conditions this year.

Looking Back

If the proposed revenue limit based on population growth plus inflation plus 1 percent had used fiscal year 2001-2002 revenues as the base year, Florida state government would have been able to

expend \$5.7 billion *less* than it actually did between fiscal years 2002-2003 and 2006-2007. (See Table 1)

The greatest gap between actual and allowed revenues would have been in fiscal year 2005-2006, when the state would have had \$3.7 billion, or 9.4 percent, less revenue to expend than it actually had. To help understand the magnitude of this shortfall, the \$3.7 billion shortfall in fiscal year 2005 would have been equivalent to:

- Nearly all state appropriations for corrections and public safety (\$3.8 billion);
- Nearly one dollar out of every five that the state provided as aid to local governments; or
- Half of all general revenue spent on all health and human services programs.¹³

Table 1
Comparison of Actual Revenue and CP 45 Limit
(millions of dollars)

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	Cumulative 2002-03 through 2006-07
Actual Revenue*	28,527.2	29,569.5	31,613.5	35,676.4	39,600	38,360	
CP 45 Limit**	28,527.2	29,942.5	31,705.3	33,593.3	35,875.3	38,036.9	
Difference		373	92	-2,083	-3,725	-323	-5,666

* Actual revenue is total receipts less refunds, debt service, and lottery prizes.

** CP 45 limit is computed using the change in average CPI-U during the applicable two 12-month periods ending in December of each year (which are the most recent data available in February as specified in CP 45) and April 1 population figures.

Local Government

The preceding analysis looks at the potential impact on Florida's state government. Florida's local governments and school districts would potentially be harmed in two ways by CP 45.

If state revenues are constrained by the limit and some spending has to be cut, school aid and other aid to local governments are highly likely to be among the first items cut.

Local governments would not, however, be able to make up for any shortfall in state aid because their own revenue-raising ability would be constrained by CP 45. So the cuts in locally-provided services are likely to be much deeper and more harmful than the cuts in state services.

¹³ The Florida Legislature. Fiscal Analysis in Brief 2005 Legislature Session at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=&Session=2005&DocumentType=Fiscal%20Analysis%20In%20Brief&FileName=Fiscal%20Analysis%20in%20Brief%202005.pdf>

Overriding the Limit

As mentioned earlier, Colorado's TABOR was suspended for five years in 2005. (See also box above) This suspension required majority approval of the legislature and of voters. The override mechanism for the proposed revenue limit in Florida arguably presents a higher hurdle to overcome should circumstances require an override. CP 45 would require three-fourths of each house of the legislature to override the state limit, or three-fourths of the local governing body to override a local limit. While voters in Colorado were able to choose to override TABOR permanently (as many localities did) or for a specific period (as was done with respect to the overall limit), CP 45 limits overrides to a duration of 10 years.¹⁴

How Far Can Florida Fall?

When Colorado adopted TABOR it ranked in the middle of the pack among states on a number of key public services. Over the subsequent 13 years, Colorado fell to the bottom in many of these rankings. Florida is not in the same situation; it already ranks near the bottom on measures of education and health care:

- Florida ranks 50th in the nation in K-12 spending as a percentage of personal income.¹⁵
- Florida ranks 42nd in average per-pupil funding—\$1700 less per student than the national average.¹⁶
- Florida ranks 42nd in the nation in the average number of students per teacher.¹⁷
- Florida ranks 42nd in state and local college and university funding as a share of personal income.¹⁸
- Florida ranks 45th in the percentage of all low-income individuals with health insurance.¹⁹
- Florida ranks 45th in the share of low-income children with health insurance.²⁰
- Florida ranks 48th in the percentage of low-income adults under 65 with health insurance.²¹

¹⁴ In both states, voters could in theory also use the initiative process to suspend the limit.

¹⁵ Source: Center on Budget and Policy Priority (CBPP) calculation of National Education Association (NEA) and Bureau of Economic Analysis (BEA) data.

¹⁶ Source: CBPP analysis of National Center for Education Statistics (NCES) data.

¹⁷ Source: CBPP analysis of NCES and NEA data.

¹⁸ Source: Grapevine, An Annual Compilation of Data on State Tax Appropriations for the General Operation of Higher Education. Center for the Study of Education Policy, Illinois State University.

¹⁹ Source: CBPP analysis of the US Census Bureau's Current Population Survey.

²⁰ Source: CBPP analysis of the US Census Bureau's Current Population Survey.

²¹ Source: CBPP analysis of the US Census Bureau's Current Population Survey.

Adopting the proposed revenue cap, which would restrict the amount of money available to fund these key programs at both the state and local level, would be devastating to Florida. It would hurt not only Florida's children and adults, but also the economy, which relies on healthy, educated individuals in order to grow.

Conclusion

Florida's revenue cap proposal contains the core elements of Colorado's TABOR, even though it allows an additional 1 percent per year growth. It is this population-plus-inflation formula that caused serious damage to the state's public services. Thus, it can be expected to cause declines in public services in Florida similar to those experienced in Colorado under TABOR.