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Colorado: Budgetary Reform to Capitalize on Economic Growth

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Abstract

Restrictions on revenue and spending imposed by the Taxpayer's Bill of Rights (TABOR) challenge Colorado legislators annually. Despite a generally positive economic environment and increasing population growth providing greater tax revenue, the state is prohibited from spending revenue collected in excess of prior year's spending after accounting for inflation and population growth. This legislative session witnessed the collapse of a referendum to increase transportation funding, but also the success of a major reform to state revenue collection in the form of the hospital provider fees.

Introduction

Following the pattern established in prior years, partisan debate on the Colorado state budget is once again intense. This is not entirely surprising given the constitutional and statutory constraints that combine to make budgeting a perennial challenge in the Centennial State. Debates over budgetary matters are further complicated this year by divided partisan control in one of the most ideologically polarized legislatures in the nation (Shor and McCarty 2011). After an amendment to block state funding to sanctuary cities was ruled out of order during debate on the budget, the measure's sponsor used a parliamentary tactic to force the reading aloud of the entire budget bill. As the state's budget is often referred to as the "long bill," the media described the forced reading of the 600-page bill as a filibuster. Television cameras captured the visible outrage among many Democrats in the chamber as a result of this tactic. Party tensions continued to simmer over a controversial proposal to reclassify hospital provider fees into a government enterprise fund. This initiative, which failed in the prior session, is intended to circumvent restrictions on government revenue imposed by the Taxpayer's Bill of Rights (TABOR). In addition to this proposal, legislators were tasked by Democratic Governor John Hickenlooper with bridging a projected $500 million shortfall in the budget.

The budget released by Governor Hickenlooper for the 2017–2018 fiscal year proposes $26.8 billion in General Fund spending, which represents an increase of 4.2 percent from the prior year. Although the state economy is on an upward trajectory, spending obligations, coupled with TABOR revenue caps produced a projected budget deficit of $500 million when the governor originally released his budget in November. An accompanying press release identified $926.1 million in new mandatory spending. These requirements included education spending ($243.5 million), TABOR rebates ($195.0 million), transportation and building transfers ($164.0 million), Medicaid costs ($142.8 million), and repaying the reserve fund for the current fiscal year ($180.8 million). Since new revenue in the General Fund was projected at only $426 million, legislators were forced to make difficult decisions to bridge the $500 million shortfall.

Proposals from the governor's office to cover this funding gap included a reduction in hospital provider fees in order to bring state revenue below the TABOR cap, reducing education funding and planned transfers of transportation funds, and transferring severance tax and surplus employee salary funds to the General Fund (Colorado Office of State Planning and Budgeting 2016). Updated economic forecasts increased the expected shortfall to $700 million by the time the Joint Budget Committee began work on the budget in the spring.

Divided partisan control of the state's legislature has made compromise difficult. Democrats currently hold 37 of the 65 total seats in the state House, while Republicans enjoy a razor-thin advantage in the 35-member state Senate—18 to 17. Current Speaker of the House, Representative Crisanta Duran, is the third woman to hold the leadership post. Senator Kevin Grantham currently serves as the president of the Senate. Typical of the past several sessions, party divisions are evident in debates on many issues including the budget.

In addition to Oklahoma and Oregon, Colorado is one of just three states with constitutional limitations on both revenue and spending (Waisanen 2010). Colorado voters ratified TABOR into the state constitution in 1992. TABOR and subsequent constitutional amendments have imposed substantial constraints on the budgetary process. Economic growth in Colorado since the recession has produced conditions whereby TABOR requirements could compel the government to issue tax refunds to state residents. Such refunds are mandatory if revenues exceed the prior year's spending after accounting for inflation and population growth. In 2016, residents received TABOR refunds ranging from $13 to $41. Though TABOR refunds are unlikely in the current year, potential TABOR refunds for next year were projected to be even greater, but legislators appeared poised to impose revenue reductions that would obviate the need to issue refunds to state residents.

Demographics

Colorado's population growth continues to be among the highest in the United States. According to the census, the state's population in 2010 was about five million residents. By 2016, the population exceeded 5.5 million (United States Census Bureau 2017). This population growth of 10.2 percent is exceeded by only North Dakota (12.7 percent), Texas (10.8 percent), and Utah (10.4 percent). Much of Colorado's population gains over this period have occurred in the Denver metro area and along the Front Range. In contrast, data from the state demography office shows that 23 of Colorado's 64 counties have actually decreased in population since 2010. While many predominantly rural counties continue to shrink, the most recent population growth forecast projects that the statewide population is likely to increase by more than 50 percent by 2050 (Colorado State Demography Office 2015).

Numerous consequences have followed this rapid population growth, including transportation challenges and a lack of affordable housing. Home prices in Denver relative to their prerecession peak have increased by a greater percentage than any of the 20 major metropolitan markets included in analysis conducted by S&P Dow Jones Indices (2016). The median home price in the Denver area is nearly $100,000 above the national average. While per capita incomes in Denver are about $6,000 above the national average, median household income in the capital city is slightly below the median household income nationwide of nearly $54,000. The rental housing market is also challenging for many residents. The demand for rental properties currently exceeds the rate at which they are being built or made available. According to one estimate, developers made 2,442 new housing units available during the second quarter of 2016. Even with these additional units, the rental vacancy rate actually decreased from 6.1 percent to 5.4 percent (Cook 2016). Table 1 reports selected data from the Census Bureau (2017) and Bureau of Labor Statistics (BLS) (2017) for Denver County, Colorado, and the United States.

The 2016 population estimate for Colorado is slightly greater than 5.5 million people. Projecting the state's population growth to 2020 relative to the rest of the nation suggests that the state will likely gain an additional seat in the House following the next reapportionment (Trende 2016). In 2015, the census reported that Colorado's African-American population was 4.5 percent, which is much lower than the national figure of 13.3 percent. The proportion of African Americans in Denver County was slightly more than 10 percent (Census Bureau 2017). In contrast, Colorado's Hispanic or Latino population is 21.3 percent, which is several points higher than the nationwide proportion. The census estimates the share of foreign-born residents in the U.S. at 13 percent. For the entire state of Colorado, the percentage of foreign-born residents is about three percent lower, but in Denver County the figure is nearly three percent greater.

According to preliminary BLS estimates, the February unemployment rate in Denver and Colorado was 3.2 percent and 3.4 percent, respectively (2017). The seven metropolitan statistical areas tracked by the BLS had an average unemployment rate of 3.75 percent. In only two of the state's major cities was unemployment greater than the national unemployed rate of 4.7 percent—Pueblo (4.9 percent) and Grand Junction (5.3 percent). Labor force participation in Denver and Colorado each exceed the national civilian labor force participation rate of 63.3 percent. Employment opportunities in the state have increased over the past year in nearly every sector except for manufacturing and mining. Colorado continues to be among the most educated states judging by the share of the population with a bachelor's degree or higher, which is nearly 40 percent. The most recent estimates from the census place Colorado second in the nation to only Massachusetts (40.5 percent) in this category (Census Bureau 2017). Despite these mostly positive economic indicators, Denver's poverty rate exceeds 15 percent, while the statewide poverty level is slightly lower than the national average.

Revenue

Colorado's economic trajectory remains positive, especially relative to other states, but downturns in the energy industry have had substantial consequences. This sentiment is reflected in Governor Hickenlooper's letter to the Joint Budget Committee. In framing the state's current economic conditions, the budget letter states, "Though most economic statistics for the Colorado and national economies reflect positive news, there has been a marked slowdown in overall state General Fund tax revenue growth and recent forecasts reflect dampened expectations about the future" (Hickenlooper 2016). A large majority of the revenue that goes into the state's General Fund comes from individual and corporate taxes. According to the OSPB forecast, individual income taxes constitute \$7.19 billion of the expected \$10.9 billion in General Fund revenue for the 2017–2018 fiscal year. Sales and use tax revenue are projected at \$3.2 billion. Corporate income tax revenue is expected to provide an additional \$0.67 billion (OSPB 2016). Combined, these three sources represent 96 percent of General Fund and State Education Fund revenue. After leveling around \$10.0 billion during the two fiscal years from 2014 to 2016, the revenue forecast for the 2016–2017 fiscal year was \$10.4 billion. The \$10.9 billion revenue estimate for the upcoming fiscal year represents a 63 percent increase in state revenue over the past decade. Ta-

Table 1. Demographic Comparison Table: 2015–2016

	Denver County	Colorado	United States
Population	693,060	5,540,545	323,127,513
Population change from 2010	15.5%	10.2%	4.7%
Race and Ethnicity			
White	80.8%	87.5%	77.1%
African American	10.1%	4.5%	13.3%
American Indian	1.9%	1.6%	1.2%
Asian	3.9%	3.2%	5.6%
Hispanic or Latino	30.5%	21.3%	17.6%
Foreign-Born Persons	16.1%	9.8%	13.2%
Per Capita Income	$35,218	$32,217	$28,930
Median Household Income	$53,637	$60,629	$53,889
Median Home Price	$271,300	$247,800	$178,600
Owner-Occupied Housing Unit Rate	49.4%	64.3%	63.9%
Poverty Rate	15.7%	11.5%	13.5%
Bachelor's Degree or Higher	45.0%	38.1%	29.8%
Unemployment Rate	3.2%	3.4%	4.7%
Civilian Labor Force Participation Rate	70.8%	67.6%	63.3%

Source: Data from the Census Bureau (2017) and the Bureau of Labor Statistics (2017).

ble 2 shows revenue trends and estimates according to the state's Office of State Planning and Budget (OSPB).

Following the Great Recession, individual income tax revenue has increased each year since 2009, although these gains have exhibited some annual variations. According to the OSPB, contraction in the state's energy industry had a depressing effect on income tax revenue. In 2013, income tax revenue grew by more than 10 percent. The following year, however, income tax revenue growth slowed to less than three percent (OSPB 2016). The state projects income tax revenue to increase by 4.6 percent in the current fiscal year, with a 5.3 percent increase expected for the next fiscal year. Sales and use tax revenue has also increased each year over the past decade. Greater fluctuations can be seen in the state's corporate tax revenue stream.

Since the year 2000, corporate income tax revenue in Colorado has ranged from less than $200 million (FY 2001–2002) to greater than $700 million (FY 2013–2014). Corporate tax revenue decreased for three consecutive years following its peak in 2013. Explaining this trend, the OSPB argues, "A main contributor to the decreases in corporate income tax revenue in the past couple of years has been the strong appreciation in the dollar that weighed on exports and the profits of multinational corporations. Further, the manufacturing industry, which includes petroleum refining, typically pays the largest share of corporate income tax collections. Therefore, the recent weaknesses in the global economy that have weighed on the demand for manufactured goods as well as the steep drop in oil and gas and other commodity prices have been important factors in the weakness in corporate income tax revenue to the state" (2016, 7). This three-year decline in corporate tax revenue is projected to end during the next fiscal year with a projected

Table 2. State General Fund Revenue and Revenue Projections from OSPB

Fiscal Year	General Fund Revenue (billions)	Fiscal Year	General Fund Revenue (billions)
2000–2001	$6.5	2009–2010	$6.4
2001–2002	$5.5	2010–2011	$7.1
2002–2003	$5.4	2011–2012	$7.7
2003–2004	$5.7	2012–2013	$8.5
2004–2005	$6.1	2013–2014	$9.0
2005–2006	$6.9	2014–2015	$9.8
2006–2007	$7.5	2015–2016	$10.0
2007–2008	$7.7	2016–2017	$10.4 (est.)
2008–2009	$6.7	2017–2018	$10.9 (est.)

Source: Office of the State Controller and OSPB September 2016 forecast (Hickenlooper 2016).

increase of 6.6 percent. With this reversal, state revenues are expected to show modest gains in the near term.

Constitutional restrictions on government growth mean that the state may not have the ability to increase spending in accordance with revenue gains. Partly because of this, Governor Hickenlooper's state of the state address called for a transportation tax to be placed on the ballot to generate funds dedicated to improving the state's ever-present transportation challenges. In March, all House Democrats voted in favor of referring the tax increase to the ballot. Four Republicans joined the opposing party to support a ballot measure proposing to increase the state's sales tax from 2.9 percent to 3.52 percent (Eason 2017a). Such an increase was projected to provide more than $700 million in the first year and would be used to secure billions in bonds for road improvement and transportation development for local governments. While many, including the governor, were optimistic about the possibility of a "grand bargain on transportation," the bill faced a larger challenge in the Republican-controlled Senate (Frank 2017). Despite receiving the support of Senate President Grantham along with other Republicans in the chamber, the Senate Finance Committee defeated the bill when all three Republicans on the committee voted against the measure. This unsuccessful vote in committee was especially disappointing for supporters since it appeared likely that the bill had sufficient support to pass the full chamber. The committee's vote, however, prevented the tax increase from being referred to voters in November. An alternative proposal to allocate a greater share of existing government revenue to address transportation needs did advance from the finance committee, but failed to receive a vote in the Senate before the end of the legislative session.

Spending

Echoing themes of prior years, Governor Hickenlooper's November letter to the Joint Budget Committee highlighted education, health care, infrastructure, and public safety (2016). The proposed funding levels for state departments and changes from the prior year's budget are reported in Table 3. Combined, these proposed spending figures represent a four percent increase from the

Table 3. Proposed Colorado General Fund Appropriations

Department	FY 2016–17 Spending	FY 2017–18 Request	Percent Change
Agriculture	10.75	10.50	-2.3
Corrections	759.20	771.36	1.6
Education	3,764.63	3,965.47	5.3
Health Care Policy and Financing	2,654.39	2,797.23	5.4
Higher Education	871.03	898.15	3.1
Human Services	831.64	865.64	4.1
Judicial	486.33	505.38	3.9
Labor and Employment	20.79	21.34	2.6
Law	15.14	15.57	2.8
Legislative	44.79	45.02	0.5
Local Affairs	26.01	28.66	10.1
Military and Veterans Affairs	8.31	9.29	11.8
Natural Resources	28.74	30.75	7.0
Personnel	13.15	11.07	-15.8
Public Health and Environment	47.63	47.42	-0.4
Public Safety	123.11	122.49	-0.5
Regulatory Agencies	1.77	1.87	5.6
Revenue	100.7	108.39	7.6
Treasury	146.01	158.93	8.8

Note: Numbers reported are in millions.
Source: Data are from Hickenlooper's FY 2017–2018 budget request.

current fiscal year. State employees would receive a small salary increase under the governor's proposal, and as seen in Table 3, the proposed funding levels for most state departments are requested to increase slightly. The median proposed increase is 3.9 percent.

In remarks to the press, Governor Hickenlooper lamented that this year's budget would be unpopular in many circles on account of the need to "cut everything" (Frank 2016). During the budget's initial stages it quickly became evident that state hospitals were most adversely affected by spending cuts. Over the past few years, lawmakers have debated proposals to bring revenue below the level necessary to avoid issuing TABOR refunds. State residents received small TABOR refunds in 2016, while revenue in the current fiscal year is not expected to approach the TABOR limit. Once again, taxpayer refunds may be triggered if revenue projections for the next two fiscal years are realized. During the past several legislative sessions, representatives grappled with a proposal to reclassify the hospital provider fee into an enterprise fund, thereby exempting these collections from the state revenue figure. Lawmakers prioritized the successful passage of such a reform again in 2017. While legislators considered this measure, the governor's budget proposed reducing hospital provider fee collection by $195 million in order to prevent TABOR refunds. Although this allows the state to keep additional revenue, it imposes substantial cuts to hospitals, especially since these fees are matched by federal funds to further promote health care needs in the state. In the press, hospital industry representatives have warned that cuts of this magnitude could force the closure of several rural hospitals (Daley 2017).

Unfortunately for the state's hospitals, the proposal to cut the provider fee is driven by the need to keep revenues below the TABOR cap. As shown in Table 3, several other spending areas in the governor's budget were proposed to receive modest increases. In dollar amounts, the largest increases in proposed spending relative to the current fiscal year are K-12 education and Medicare costs. The outlays for the Education and Health Care Policy and Financing Departments are the two largest lines in the budget, and they are the only two with a General Fund budget request in excess of $1 billion. Per pupil funding for K-12 education is expected to increase by $185 in spite of not fully funding the state's educational commitments due to the budget shortfall.

Similar to previous years, other departments with large budgets include Higher Education ($898.15 million), Human Services ($865.64 million), and Corrections ($771.36 million). The proposed correctional budget seeks to expand several programs providing services and care to a relatively stable population of nearly 20,000 offenders. Likewise, the Human Services budget proposes greater investments in youth programs including child welfare and juvenile corrections.

In March it seemed likely that the hospital cuts would occur when the sponsor of a bill to reclassify the hospital fee revoked the measure as it was pending before committee in the Senate. Debate over the budget continued late into the legislative session with legislators finally agreeing on a budget bill with just two weeks remaining before adjournment. The budget agreement included cuts to state hospitals in the amount of $264 million, which corresponds to a cumulative loss in hospital funding of $528 million when also considering the accompanying loss in federal matching funds. Because cuts of this magnitude threatened the ability for many rural hospitals to remain in operation, they were aptly described as "catastrophic" (Eason 2017b). However, legislators of both parties averted these drastic spending cuts with just days remaining in the 2017 legislative session by enacting legislation titled, "An Act Concerning the Sustainability of Rural Colorado" (Senate Bill 17-267).

The rural sustainability bill is the product of several years of debate over hospital provider fees and TABOR. The bill repeals the prior hospital provider fee structure and authorizes the Colorado Healthcare Affordability and Sustainability Enterprise (CHASE) to collect healthcare sustainability and affordability fees. Importantly, because these fees are now received as an enterprise fund, they do not count as state revenue for the purposes of TABOR. Both chambers cycled through many amendments on this bill during the final weeks of the session. The last-minute compromise between the parties staved off hospital cuts in addition to imposing several other substantial reforms. The bill sanctions the leasing or sale of state buildings up to $2 billion for the purpose of generating capital construction and transportation funding. Across the next two fiscal years, the first $120 million from such agreements is dedicated to capital construction projects. Funds collected in excess of this amount are allocated to the state strategic transportation project investment program. Also included was an increase in the tax rate levied on recreational marijuana sales from 10 percent to 15 percent, with a greater share of marijuana tax revenues being allocated to rural school districts. The legislation also provides greater tax credits for personal property used for business purposes. Regarding the budget for subsequent years, the bill also encouraged state agencies to submit budget requests at least two percent less than the current year in addition to reducing the TABOR revenue cap by $200 million. Among the more controversial provisions in the final bill is an increase in Medicaid co-pays for pharmacy and hospital outpatient services as an effort to reduce Medicaid spending.

In addition to policy disagreements, the bill's opponents also raised objections that the bill violated the single-subject rule by addressing multiple issues. Indeed, the bill was described in the press as a "sweeping measure that touches nearly every aspect of state government spending—including health care, transportation, and taxes" (Vela 2017). Despite a vocal opposition, the bill passed comfortably in the House with 12 Republican representatives joining all 37 Democrats voting in favor of the measure. Sixteen House Republicans voted to defeat the bill. In 2016, it was the Senate Finance Committee that defeated legislation to reclassify the hospital fee. In 2017, four Republicans on the committee joined all Democrats to advance the bill forward to the full chamber. The vote distribution in the Senate was similar to that in House with all Democrats voting in favor. The Republican caucus was divided on the major reform with 10 GOP senators voting opposed.

Conclusion

Crafting the state budget in accordance with TABOR restrictions is a perennially challenging enterprise in Colorado. This legislative session witnessed some notable successes and failures as legislators sought to devise reforms aimed at various areas of concern. Of particular importance this year was funding for state hospitals, which stood to lose $528 million in operating funds. Among stakeholders in the healthcare industry, it was not hyperbole to suggest that cuts of this magnitude would threaten the viability of many hospitals. The final budget reconciled by the Joint Budget Committee was less bleak than some initially projected, especially with regard to education funding. However, the final budget bill approved in late April did impose a monumental cut to the state hospitals as a way to circumvent TABOR. Legislation passed on the final day of the legislative session to reclassify hospital provider fees into a government enterprise fund prevented these cuts from being actualized. While TABOR will continue to impose restrictions on state revenue and spending, the new enterprise fund will have important budgetary implications in the years ahead.

There are signs that the downturn in the state's energy economy is reversing course, which has important consequences for the state's broader economic well being. The practice of fracking remains controversial in Colorado with industry and environmental groups each seeking to advance their agenda in the state legislature and through the ballot box. Environmental groups remain concerned about the injection of undisclosed chemicals into the ground and environmental degradation that may occur, while industry representatives argue that the practice is safe and based upon sound science.

A compromise among elected officials in 2014 resulted in several fracking measures being withdrawn from the ballot. In 2016, more than 15 ballot measures seeking to impose restrictions on fracking were filed in advance of the election. Support coalesced around two of these measures. The first sought to empower local governments with the authority to limit or ban oil and gas development within their community. The second proposed the imposition of "mandatory setbacks" to require any new oil and gas development facility to be constructed at least 2,500 feet from any occupied structure. Signatures for each measure were delivered to the secretary of state's office by the established deadline, but neither measure was deemed to have collected the required number of valid signatures to progress toward ballot certification. Because unsuccessful legal challenges were waged for each of these measures, it is possible that "fracktivists" will redouble their efforts to place similar initiatives in the next election cycle, although none have been filed to date. The successful passage of more restrictive energy development regulations could jeopardize the recent turnaround in the state's energy sector, but it will be more difficult to place citizen initiatives on the Colorado statewide ballot in the future following the passage of the "Raise the Bar" initiative in 2016. Voter ratification of this initiative raised the signature threshold necessary to gain ballot access for citizen initiatives moving forward.

Despite serving during an economic environment that is generally positive, elected officials faced many budgetary challenges this year. Most notable of these was how to mitigate the negative effects of a $700 million General Fund shortfall. While many officials appear cautiously positive about the state's economic climate, statutory and constitutional requirements on revenue and spending make budgeting a difficult exercise. After years of debate, the successful reclassification of the hospital provider fee will provide some flexibility to meet growing spending obligations. This appears especially important in the near term as taxpayer refunds were otherwise expected to be required. The OSPB had argued that without these types of meaningful reforms, TABOR restrictions would continue to prevent the government to meet the needs of the state.

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