

A Property Tax Increase by Any Name: The “Colorado Children’s Amendment” and Growing School Revenues

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Summary

On March 12, 2007, Colorado Governor Bill Ritter proposed the “Colorado Children’s Amendment,” a plan to spend \$84 million to expand preschool and kindergarten programs. To free state money to fund the programs, he proposed a mill levy rate “freeze” that would shift some of the school funding burden to local sources. On April 10, the governor revised the plan—offering tax relief to property owners in 33 school districts while creating higher property tax bills in 104 districts. The annual revenue estimate for the plan’s new version is \$55 million.

State analysts argue the property tax increase would be legal. The proposal nevertheless clearly violates the spirit of the Taxpayer’s Bill of Rights (TABOR). Moreover, voters have strongly resisted plans to raise local property taxes to fund statewide programs.

An examination of statewide revenue data shows education funding grew significantly in the first four years after Amendment 23 mandated annual K-12 spending increases, as follows:

- Colorado school districts received 15.6 percent more per student in state dollars
- Colorado school districts received 11.6 percent more per student in total dollars
- Colorado school districts received 50 percent of revenues from local sources in 2005, down from 53 percent in 2001

From 2001 to 2005, Colorado schools also received 8.5 percent more per student in property tax dollars. Out of 176 school districts:

- 103 districts, representing three-fourths of the state’s public school students, received more property tax dollars per student
- 20 districts increased per-pupil property tax revenues by 30 percent or more
- Only 10 districts lost 20 percent or more in per-pupil property tax revenues

The “Colorado Children’s Amendment” is a one-size-fits-all proposal that raises taxes unevenly depending on a property owner’s district of residence to pay for new statewide education priorities. If voters in a particular school district wish to pay more property taxes to fund local schools, they should be asked specifically and directly first.

“Colorado Children’s Amendment”

On March 12, 2007, Governor Bill Ritter publicly introduced the “Colorado Children’s Amendment” at a State Capitol press conference. The proposal aims to spend \$84 million, mostly on new slots for preschool and kindergarten students. To help free state dollars to fund the plan, Ritter called for a “freeze” in school district mill levy rates that would raise an estimated \$65 million. On April 10, he modified the plan to offer property tax relief to 33 of Colorado’s 178 school districts for a smaller revenue increase of \$55 million.¹

The proposal also is estimated to raise property tax bills for homeowners and business owners in 104 school districts. Taxpayers in certain school districts would bear a heavier burden to fund statewide priorities. The hardest hit would be taxpayers in Idalia and Wray on the Eastern Plains, who otherwise would receive dramatic mill levy rate reductions. The owner of a \$150,000 home in Idalia would pay \$100 more on next year’s bill, while the owner of a \$300,000 business would pay an additional \$720 in taxes. Among others estimated to face large tax hikes would be property owners in Alamosa, Grand Junction (Mesa Valley), and Englewood (see table 1).²

Table 1. Largest Proposed Property Tax Increases, by School District

District	County	Mill Levy Change	Property Tax Increase per \$100,000 of Residential Value	Property Tax Increase per \$100,000 of Commercial Value
Idalia	Yuma	8.322	\$66.24	\$241.34
Wray	Yuma	5.961	\$47.45	\$172.87
Sangro de Cristo	Alamosa	5.058	\$40.26	\$146.68
Hayden	Routt	3.860	\$30.73	\$111.94
Alamosa	Alamosa	3.594	\$28.61	\$104.23
Archuleta County	Archuleta	3.444	\$27.41	\$99.88
Mesa Valley	Mesa	2.794	\$22.24	\$81.03
Cotopaxi	Fremont	2.489	\$19.81	\$72.18
Englewood	Arapahoe	2.446	\$19.47	\$70.93
Steamboat Springs	Routt	2.442	\$19.44	\$70.82
STATE AVERAGE		0.799	\$6.36	\$23.16

Source: Legislative Council Staff, Colorado General Assembly

Ritter’s proposal was designed to be included in the 2007 authorization of the School Finance Act, Senate Bill 199. The governor and fellow Democrats chose to bypass debate in the Senate and to introduce it as an amendment in the House. An opponent of the proposal, Senate Minority Leader Andy McElhany, R-Colorado Springs, introduced the original amendment during the March 20 second reading of S.B. 199 on the Senate floor. Senate Democrats did not want to debate or vote the issue, because a legal analysis of the amendment had not yet been completed. They were compelled to join in a 33-1 vote to defeat the tax hike. The legislature rejected a very similar proposal in 2004.

¹ Office of Governor Bill Ritter, “Gov. Ritter Unveils Colorado Children’s Amendment,” Press Release, 13 March 2007, <http://www.colorado.gov/governor/press/march07/children-amendment.html>; Mark Couch, “Ritter retools freeze on taxes,” *Denver Post*, 11 April 2007.

² *Ibid.* Colorado General Assembly, Legislative Council Staff Document, “Estimated Impact of Mill Levy Freeze on \$100,000 of Residential and Commercial Market Value,” 28 February 2007.

Questions have been raised about the constitutionality of the proposal. Proponents of the tax rate “freeze” point out that 174 of Colorado’s 178 school districts have won elections to suspend TABOR spending caps. Yet these “de-Brucing” elections were not held to fund a statewide proposal. The governor’s plan would shift taxpayer dollars from various voter-approved local priorities to expand statewide early childhood education programs. Further, it has not been shown that any or all of the elections applied to the program mill levy tax rate. The program mill levy raises property tax funds for the School Finance Act’s “total program.” It is separate from voter-approved mill levy overrides, or levies to redeem bonds or to finance special projects.

Under the 1992 Taxpayer’s Bill of Rights (TABOR), a “tax policy change directly causing a net tax revenue gain to any district” must be approved by voters in that district.³ State legal analysts have asserted that the legislature could pass the tax increase without voter sanction. They determined that the proposal is not a “tax policy change,” and would not necessarily cause “a net tax revenue gain.”⁴ However, their claims are dubious. The proposal clearly would change state law to the detriment of many taxpayers, and it has been designed specifically to generate more revenue for school districts.

Property Taxes and School Funding in Colorado: Recent History

Through the 1994 School Finance Act, Colorado public schools are funded primarily through a combination of local property and vehicle ownership taxes, and state income taxes. The interaction of several state constitutional measures has contributed to a slow, long-term decline in the local *share* of education funding. The 1982 **Gallagher Amendment** fixed the proportion of total property taxes paid by homeowners relative to taxes paid by business owners. Gallagher has limited the growth of revenues from residential properties.

Additionally, **TABOR** limits property tax growth to inflation plus the increase in student enrollment, unless the affected voters say more can be taken. As local property values rise, mill levy rates are adjusted downward to prevent a net tax increase above the rate of inflation. This feature of TABOR has helped to spur property construction and development while restraining excessive growth in tax revenues.

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Amendment 23 (2000) requires annual automatic funding increases to K-12 education at the rate of inflation plus one percent.⁵ As long as the state guarantees more funds, districts losing property tax revenue have less reason to ask voters to raise mill levy rates. Colorado’s funding of public schools outpaced inflation most years after TABOR. Amendment 23 accelerated the funding increases and has grown the state’s burden. In fiscal year 2006-07, more than \$3.3 billion in state money has been set aside as public school aid for Colorado’s 794,026 students.⁶

³ Colorado Constitution, Article X, § 20(4)(a).

⁴ “Ritter tax plan clears legal hurdle,” *Rocky Mountain News*, 30 March 2007. Colorado General Assembly, Office of Legislative Legal Services, Legal Memorandum to Senator Sue Windels, 28 March 2007.

⁵ Colo. Const., Art. IX, § 17. Amendment 23 mandates spending increases on statewide base per-pupil funding and categorical programs that include transportation, English proficiency, special education, and vocational education.

⁶ State of Colorado Joint Budget Committee, “Fiscal Year 2006-07 Appropriations Report,” 60. Colorado Department of Education (CDE) Statistics and Data, http://www.cde.state.co.us/index_stats.htm

Three years after Amendment 23 was narrowly approved, more than three-fourths of Colorado voters overwhelmingly rejected Amendment 32. The statewide ballot proposal would have revoked Gallagher and raised the assessment rate on residential property from 7.96 percent to 8 percent. The amendment would have placed a greater share of education funding on local property taxes.⁷ In 2005, a narrow majority approved Referendum C, which was advertised in part to provide additional state dollars to support K-12 education. Thus, when Coloradans have expressed their support for public school funding increases, they have favored adding state-collected income tax revenue rather than locally-collected property tax revenue.

Examining Colorado Revenue Data

A closer look at recent school revenue figures provides significant context to the discussion. For the purpose of this report, Colorado revenue figures were collected and analyzed from two different years: 2000-01 (the oldest available property tax revenue data and the year before Amendment 23 was enacted) and 2004-05 (the most recent available revenue data). All comparisons of changing revenues between different years factored out changing dollar values (inflation) and the number of students (enrollment), unless otherwise specifically stated. The comprehensive analysis of revenues includes more than just the dollars raised to fund the total program requirements of the state’s School Finance Act.⁸

Local revenues are comprised of property taxes, vehicle ownership taxes, and other sources. There has been no general shortfall of property tax revenue. Property tax revenue grew by 8.5 percent between 2001 and 2005, substantially more than revenues from the other two components. Meanwhile, state revenues grew by a considerably larger 15.6 percent during the same time span. Revenues from all other combined sources rose by 9.3 percent. Total public school revenue growth equaled 11.6 percent.⁹

Figure 1. Colorado Public School Revenues, by Source



Source: Colorado Department of Education, School Finance Unit

Amendment 23 forced the state government to accelerate the previous pace of public school funding increases. The 6 percent rate of total revenue growth between 1997 and 2001 doubled

⁷ Legislative Council of the Colorado General Assembly, “Analysis of the 2003 Ballot Proposals,” Research Publication No. 515-0, http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2003/ballot/2003BlueBookforInternet2.pdf

⁸ All revenue data collected and calculated from CDE, School Finance Unit. Dollar value adjustments made according to the Denver-Boulder-Greeley Inflation Rate. Enrollment figures come from National Center for Education Statistics, Common Core of Data. Colorado Revised Statutes § 22-54-101 *et seq.*

⁹ Data from CDE, School Finance Unit; NCES CCD; adjustments made by Denver-Boulder-Greeley Inflation Rate.

between 2001 and 2005. Local revenue growth dipped slightly from 7 percent in the four years immediately before Amendment 23 to 5 percent in the first four years afterward. Over the same four-year spans, state revenue growth increased dramatically from 3.2 percent to 15.6 percent.¹⁰

The percentage of funds Colorado school districts generated from local sources remained steady at 53 percent between 1997 and 2001. As a result of the state's accelerated increases, local dollars only accounted for 50 percent of total revenue in 2005 (see figure 1).

Property Taxes and Other Revenues at the District Level

Statewide figures are very telling, but the effects on individual Colorado school districts' coffers vary based on local conditions. Out of 176 school districts,¹¹ 103 gained more property tax revenues in 2005 than in 2001. The average district with increasing property tax revenue was more than twice as large as the average district with decreasing property tax revenue. More than three-fourths of the state's public school students are enrolled in an increasing revenue district.

Table 2. School Districts with Significant Growing Property Tax Revenues

District	County	2001 Property Tax Revenue per Student (2005 Dollars)	2005 Property Tax Revenue per Student (2005 Dollars)	Change	2005 Program Mill Levy Rate
Garfield 16*	Garfield	\$1,561	\$3,606	131.0%	5.888
Hanover	El Paso	\$1,557	\$3,587	130.3%	9.067
Cheyenne Cty	Cheyenne	\$3,235	\$7,400	128.8%	9.412
Florence*	Fremont	\$1,266	\$2,337	84.5%	16.740
Garfield Re-2	Garfield	\$1,663	\$2,998	80.3%	9.294
Ridgway*	Ouray	\$4,046	\$7,182	77.5%	16.455
La Veta*	Huerfano	\$2,469	\$4,028	63.2%	27.898
Plateau Re-5	Logan	\$2,596	\$4,111	58.3%	18.774
Peyton*	El Paso	\$1,176	\$1,805	53.5%	24.558
Plateau Valley*	Mesa	\$1,552	\$2,375	53.0%	19.922
Windsor‡	Weld	\$2,548	\$3,883	52.4%	34.100
STATE AVERAGE		\$2,966	\$3,218	8.5%	23.812

* School districts facing an estimated tax increase under the Governor's proposal

‡ School districts facing an estimated tax cut under the Governor's proposal

Source: Colorado Dept. of Education, School Finance Unit (Dollars adjusted by Denver-Boulder-Greeley inflation rate)

In all, 20 Colorado school districts increased property tax revenues by more than 30 percent between 2001 and 2005. Eleven districts jumped 50 percent or more over the four-year stretch. Property owners in six of the 11 highest property tax revenue-growth districts would pay higher taxes next year under the governor's proposal. The new version of the proposal would cut taxes for property owners in only one of the 11 districts (see table 2).

¹⁰ Ibid.

¹¹ Colorado has 178 school districts, but Idalia School District RJ-3 and Liberty School District J-4 in Yuma County were not incorporated before the 2001-02 school year. Therefore, they were omitted from the comparison.

By contrast, 10 districts saw per-pupil property tax revenue declines of 20 percent or more between 2001 and 2005. Five of the 10 districts also ranked in the top 10 of program mill levy rates. Branson and Vilas experienced the steepest declines, in part because of vast growth in students living outside their districts enrolled in online programs. Six of the 10 districts would face a tax cut from Ritter’s amendment, and four would face a tax increase (see table 3).

Table 3. School Districts with Significant Declining Property Tax Revenues

District	County	2001 Property Tax Revenue per Student (2005 Dollars)	2005 Property Tax Revenue per Student (2005 Dollars)	Change	2005 Program Mill Levy Rate
Branson*	Las Animas	\$6,253	\$203	-96.8%	26.174
Vilas‡	Baca	\$1,332	\$373	-72.0%	37.415
Karval‡	Lincoln	\$2,149	\$789	-63.3%	30.802
Edison‡	El Paso	\$1,245	\$891	-28.5%	36.195
DeBeque*	Mesa	\$6,848	\$4,945	-27.8%	18.860
Stratton‡	Kit Carson	\$2,185	\$1,633	-25.3%	35.151
Sargent‡	Rio Grande	\$3,013	\$2,364	-21.5%	34.574
West Grand*	Grand	\$5,307	\$4,198	-20.9%	21.113
Arickaree*	Washington	\$6,591	\$5,226	-20.7%	18.496
Lone Star‡	Washington	\$1,918	\$1,522	-20.7%	40.080
STATE AVERAGE		\$2,966	\$3,218	8.5%	23.812

* School districts facing an estimated tax increase under the Governor’s proposal

‡ School districts facing an estimated tax cut under the Governor’s proposal

Source: Colorado Dept. of Education, School Finance Unit (Dollars adjusted by Denver-Boulder-Greeley inflation rate)

Today, most Colorado school districts receive greater shares of revenue from the state than from local sources. One hundred twenty of 176 districts depended on a greater share of state dollars in 2005 than in 2001. The amount of state money per pupil also increased in most school districts: 168 of 176 districts saw more state funding in 2005 than in 2001.

Only 18 districts declined in total revenues during the same period. Conversely, nine districts experienced growing total revenue receipts of 40 percent or more. Cheyenne County School District Re-5 on the Eastern Plains went from \$2.86 million in 2000-01 total receipts to \$4.05 million in 2004-05 total receipts, while student enrollment dropped by 24 percent. Adjusted for inflation, Cheyenne County’s total per pupil revenue increased nearly 71 percent over the four-year period. Local aid grew 98 percent per student, while state aid grew 42 percent per student.¹²

Many factors explain the disparity of districts’ changes in total revenue, including the following:

- Local mill levy override elections to support specific programs
- State or federal government grants for specific projects
- Changes in the numbers of special education students or English Language Learners
- A state funding formula that protects districts with falling enrollments

¹² Data from CDE, School Finance Unit; NCES CCD; adjustments made by Denver-Boulder-Greeley Inflation Rate.

Conclusion

The “Colorado Children’s Amendment” seeks to raise taxes even as funding for most school districts has been on the rise. Per-pupil revenues to public schools grew slowly and steadily under TABOR, and have increased considerably more since Amendment 23 was enacted. Rapidly rising state government contributions have fueled the increase. Even so, most school districts continue to receive more property tax revenue for each student enrolled.

To fund his new statewide education programs, the governor’s proposal would shift the tax burden unevenly based on a property owner’s district of residence. A few property owners would receive a tax cut, while many more would face a tax increase. The “Colorado Children’s Amendment” places most of the burden on selected property owners while requiring nearly \$30 million more from the state budget.

State officials should not use state law to raise local taxes so they can spend more money on a statewide program. The question of hiking property taxes should be presented directly and specifically to the people, as TABOR requires. Voters in each school district can determine whether they wish to pay more to fund local education priorities.

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