

Moving Forward – Ideas and Solutions
(Amicus Briefs – Lobato)

REVENUE AVAILABLE NOW:

1. Fees for state services
2. Over \$680 million dollars in ED fund - why not for school districts?
3. \$1 billion under TABOR limit currently - legislature has available

TABOR SAYS:

1. Emergency exceptions: In TABOR - the state could declare system unconstitutional and unconscionable and invoke emergency clause.
2. TABOR does not prohibit the court from ordering the state and/or school districts to spend additional money or to increase taxes to provide a thorough and uniform system of free public schools: Any additional spending or tax increase ordered by a court as a remedy for failure to provide a thorough and uniform system of free public schools is exempted from the voter-approval provisions of TABOR by the express terms of TABOR itself. The last sentence of TABOR subsection (1) specifically provides that the provisions of TABOR requiring voter approval for spending and tax increases are “suspended” when revenue of a district (which includes the state and each school district) is less than the amount required to pay “final court judgments.” Any additional spending or tax increase required to provide a thorough and uniform system of free public schools is not limited by TABOR because Article IX, section 2 of the Colorado Constitution does not conflict with TABOR and the obligation to provide a thorough and uniform system of free public schools existed prior to the enactment of TABOR. A conflict between two constitutional provisions exists only when one provision authorizes what the other forbids or forbids what the other authorizes. Where no such conflict exists, a court should presume that the later enacted provision (TABOR in this case) has been “framed and adopted ‘in the light and understanding of prior and existing laws and with reference to them.’” An interpretation which harmonizes different constitutional provisions is favored over one that would create a conflict between them. In re Submission of Interrogatories on Senate Bill 93-74, 852 P.2d 1, 6 (Colo.1993); and Bickel v. City of Boulder, 885 P.2d 215, 228-229 (Colo. 1994).

LEGISLATURE STATED IN 2010 BY SENATE JOINT RESOLUTION E CONCERNING A REQUEST FOR A COMPREHENSIVE TAX STUDY.

1. WHEREAS, The General Assembly is constitutionally obligated to provide by law for an annual tax sufficient, with other resources, to defray the estimated expenses of state government and is authorized to vest counties, cities, towns, districts, or other local government entities with the power to assess and collect taxes;

SENATE SPONSORSHIP: Heath, Brophy, Morse - HOUSE SPONSORSHIP: Court, Ferrandino, Gerou

OTHER ISSUES TO CONSIDER:

1. Substantive versus procedural rights.
2. Why was K12 treated differently than other local governments? How did state have authority to lower taxes collected at local jurisdiction? Why did mills have to drop?
3. Multi-year plan