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# TABOR, GALLAGHER, AND MILL LEVIES



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# **TABOR, Gallagher and Mill Levies: Are Local Revenues Being Shortchanged?**

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## **Introduction**

In a number of state and local tax policy discussions the “Gallagher Amendment” has been identified as a problem for local government property tax revenues. State policy makers are particularly concerned about its effect on the state Public School Finance Act.<sup>1</sup> The data show that Gallagher, in and of itself, is only one of the factors causing the gradual erosion of local property tax revenue.

Gallagher had been in effect for a decade when the Taxpayer’s Bill of Rights (TABOR) passed. The latter has contributed substantially to the decrease in local government property tax revenue. This erosion of the tax revenue base is obfuscated by two separate and independent issues. First, although aggregate property tax revenues statewide have increased each year since TABOR was enacted, certain local governments have experienced decreases in property tax revenue in some of those years. This, in turn, causes budget cuts which, if they continue, could require drastic decreases in local services. These are primarily small, rural counties, fire protection districts, and other property tax based jurisdictions.

The second complicating factor is that some of the text of TABOR can be interpreted in different ways. It is possible that the property tax revenue problem which many attribute to TABOR is actually caused by the prevailing interpretation of TABOR’s unclear language. This analysis examines the property tax revenue loss that has been influenced by the effects of TABOR and Gallagher since 1992 and examines one aspect of local TABOR implementation which has not to date been interpreted by the courts.

## **Summary of Local Revenue Losses**

An analysis of property tax revenues shows that in the budget years since TABOR became effective (1993-2001), the total taxable value of property declined in 2,678 entities in which the same operating mill levy was imposed as in the previous year.<sup>2</sup> This combination has resulted in a loss of nearly \$70 million dollars in property tax revenue statewide.<sup>3</sup>

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<sup>1</sup>22-53-101, C.R.S.

<sup>2</sup>The actual number of individual entities is less, because in some cases the same local government has lost revenue in more than one year. The Rio Blanco County example below is one case in point. In this example, Rio Blanco County is counted 5 times, since they lost revenue in 1993, 1995, 1996, 1999 and 2000.

<sup>3</sup>The over \$32 million decline in school district property tax revenue has been replaced with state general fund money, due to the operation of the School Finance Act, which is covered in detail in “Understanding Colorado School Finance, 1996-97,” published by the Colorado Department of Education.

**Figure 1: Losses in Local Revenue from Holding Mill Levies Constant  
When Taxable Value Declines**

Number of entities and dollars, local budget years 1990-2001<sup>4</sup>

Budget Year	Counties	Municipalities	School Districts	Other Districts	Total
<b>Before TABOR</b>					
1990	0	2	0	71	73
	-	\$57,174	-	\$918,972	\$976,146
1991	1	17	0	77	95
	\$781,548	\$61,633	-	\$252,145	\$1,095,326
1992	1	24	0	81	106
	\$35,890	\$419,174	-	\$591,663	\$1,046,727
1990-1992	2	43	0	229	274
	\$817,438	\$537,981	-	\$1,762,780	\$3,118,199
<b>After TABOR</b>					
1993	20	78	67	261	426
	\$1,773,218	\$373,776	\$4,310,031	\$3,591,985	\$10,049,010
1994	25	132	87	358	602
	\$6,270,118	\$1,825,300	\$18,439,520	\$3,565,684	\$30,100,622
1995	11	40	46	157	254
	\$1,081,295	\$221,513	\$2,334,371	\$426,674	\$4,063,853
1996	18	75	68	216	377
	\$1,837,337	\$371,424	\$4,095,835	\$1,183,523	\$7,488,119
1997	10	50	37	173	270
	\$1,543,499	\$153,054	\$3,271,318	\$983,732	\$5,951,603
1998	6	29	23	77	135
	\$168,068	\$75,108	\$356,299	\$147,564	\$747,039
1999	12	42	40	176	270
	\$374,502	\$163,668	\$1,324,003	\$637,557	\$2,499,730
2000	6	13	22	82	123
	\$1,052,814	\$16,883	\$2,396,006	\$811,077	\$4,276,780
2001	6	10	28	177	221
	\$540,162	\$76,405	\$1,455,579	\$2,680,416	\$4,752,562
1993-2001	114	469	418	1677	2678
	\$8,370,957	\$3,277,131	\$37,982,962	\$14,028,212	\$69,929,318

<sup>4</sup>Fiscal years referred to in this paper are local government budget years, which correspond to calendar years for all local government except school districts.

Figure 1 shows the change which occurred after the 1992 enactment of TABOR, compared to the three years prior. In 1990-1992, 274 entities lost \$3,118,199 in property tax revenue due to imposing the same mill levy as in the previous year on a decreased taxable value. This averages \$1,039,996, and about 91 entities, per year. In 1993-1995, the first three years after TABOR's enactment, the increase in losses was dramatic: 1,282 entities lost \$44,213,485, an average of \$14,737,828, and 427 entities, per year. Over the nine years after TABOR's enactment (1993-2001), 2,678 entities have experienced lost property tax revenue totaling \$69,929,318, for an average of 298 entities and nearly \$7.8M per year, a good deal higher than in the three pre-TABOR years. The lower figure in later years is due, at least in part, to local governments being able to rely upon interpretations of TABOR from court cases to conduct successful elections that eliminate certain TABOR limits.

### **TABOR and Mill Levies**

TABOR placed a number of new restrictions on local governments, especially on property taxes. Before TABOR's enactment, local taxing jurisdictions generally could levy the same amount of property tax revenue as they received in the previous year. If the total taxable value of property increased substantially, the mill levy would be required to drop, and if it declined the mill levy could usually rise.<sup>5</sup> The mill levy changed each year based upon the revenue from property tax which the government needed for general operations, and the annual increase of this amount has been limited for many years prior to TABOR, as will be discussed more fully below. Thus property tax was a stable source of revenue, and not generally affected by changing economic conditions, as are sales or income taxes. Since it has been a relatively dependable source of revenue, the property tax has traditionally been used to finance some of the most essential local government services, such as roads, public education and public safety.

Since the enactment of TABOR, however, this once stable source of financing has become less reliable, due to the local implementation of TABOR's "mill levy limitation" in subsection (4)(a), which says

Starting November 4, 1992, districts<sup>6</sup> must have voter approval in advance for ... any new tax, tax rate increase, mill levy above that for the prior year, ... or a tax policy change directly causing a net tax revenue gain to any district.<sup>7</sup>

Since the enactment of TABOR, a number of its provisions have required court interpretation<sup>8</sup> for its implementation. One of the earliest TABOR lawsuits directly addressed the mill levy limit. In Bolt v. Arapahoe County School District #6,<sup>9</sup> the Colorado Supreme Court declined to adopt a

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<sup>5</sup>The mathematical relationship in calculation of property taxes is the same for a taxpayer as for a local government, and is relatively simple:

$$\text{Property value} \times \text{Mill Levy} = \text{Tax}$$

<sup>6</sup>TABOR defines district as "the state or any local government, excluding enterprises" (Art. X, Sec. 20(2)(b), Colo. Const.). "Enterprise," in turn, has its own unique definition in TABOR, but it is not particularly relevant to this discussion.

<sup>7</sup>Art. X, Sec. 20(4), Colo. Const.

<sup>8</sup>TABOR subsection (1) states that its provisions are self-executing. No specific authority is given to the Legislature to enact laws which would enable TABOR's provisions to be interpreted in specific ways. Therefore, the Legislature has not passed any statute which clarifies the operation of the TABOR mill levy limitation.

<sup>9</sup>898 P.2d 525 (Colo. 1995).

rigid interpretation of the TABOR mill levy limitation which would have the “effect of working a reduction in government services.” The Court stated

The overriding scheme of Amendment 1 with respect to taxes evidences an intent on the part of the voters to limit tax *increases* that do not receive prior voter approval.<sup>10</sup> (emphasis in original)

Further, in its discussion of the ballot title in that case, the Court stated

The voters must approve the total amount of an ad valorem tax increase in dollars, and are not required by Amendment #1 to approve the mill levy *rate* used by the school district to collect that dollar amount.<sup>11</sup> (emphasis in original)

In a later case, Havens v. Archuleta County<sup>12</sup>, the Court reaffirmed this principle by refusing to accept an argument that would have required the County to reduce services. Thus, in both the Bolt and Havens cases, the Court stated that, while TABOR should be interpreted to restrict government growth, it should not necessarily require a cut in the services that government provides to citizens.

The above-cited provision of TABOR in (4)(a) could be interpreted in either of two ways: (1) to prohibit any increase in mill levy from one year to the next regardless of the revenue produced, or (2) to prohibit any mill levy increase “causing a net tax revenue gain.”<sup>13</sup> Local governments have tended to follow the former, more strict interpretation. This approach leads to a reluctance of local officials to propose increases in any tax rate.

### **Actual Value vs. Taxable Value**

Property in Colorado is taxed on only a portion of its actual value. The actual value of each property is determined by the county assessor, based upon state-mandated assessment practice. State law then requires the property’s actual value be reduced by a percentage to arrive at the taxable value (also called “assessed value”). The percentage is determined by which class of taxable property used to categorize it.

For example, a commercial property’s taxable value is 29% of its actual value. If a particular business’ property is determined by the assessor to have an actual value of \$100,000, then the taxable value of that property is \$29,000.

In 2001, residential property is valued for tax purposes at 9.15% of actual value. If a house has a \$100,000 actual value, then its taxable value is \$9,740.

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<sup>10</sup>898 P.2d 537 (Colo. 1995).

<sup>11</sup>Ibid.

<sup>12</sup>924 P.2d 517 (Colo. 1993).

<sup>13</sup>Some analysts have noted that if there were a comma between the words “change” and “causing,” then it would be more clear that the final clause of the sentence could apply to each item in the list which precedes; some have said that the missing comma clarifies the meaning; or, if the word “other” were placed before the words “tax policy change,” the final clause could be taken to refer to the preceding list.

### **Increases in Taxable Value**

Under normal conditions, the value of property within a taxing jurisdiction increases when (a) new taxable properties are built and added to the tax roll, and/or (b) existing taxable properties become more valuable due to improvements or local market conditions. Under the property tax formula (see footnote #3), if the mill levy were left the same when value increases, there would also be an increase in local government property tax revenue.

Annual property tax revenue increases have been limited in state statute since 1913. Under current law, local taxing jurisdictions are allowed a 5.5% increase, plus an additional amount to accommodate increases in service demands from growth, such as new construction and annexations.<sup>14</sup> This limitation precludes a local jurisdictions from levying as much revenue as they want or may need in any given year. If taxable value increases inordinately due to large increases in taxable value, then the mill levy must be lowered to accommodate the revenue limitation, unless local voters approve otherwise.

As an example of this effect in operation, Ouray County's tax levy in 1993 was 16.810 mills, which generated \$585,253 in revenue from nearly \$35 million in taxable value. The next year, the County's total taxable value increased to over \$45 million. If the County had maintained the 16.810 mill levy from the previous year, the County would have received \$763,127, more than a 30% increase. The statutory limitation on the County's revenue required that no more than \$670,516 be collected and spent, so the mill levy was lowered to 14.770 mills.

### **Ouray County**

Property Taxes: Budget Years 1993 - 1996

Figure 2

Year	Taxable Value	Mill Levy	Revenue
1993	\$34,815,750	16.810	\$585,253
1994	\$45,397,180	14.770	\$670,516
1995	\$49,711,670	14.770	\$734,241
1996	\$59,128,840	13.101	\$774,647
1997	\$62,776,910	13.101	\$822,440
1998	\$78,397,550	11.604	\$909,725
1999	\$81,978,474	11.604	\$951,278
2000	\$94,035,700	11.126	\$1,046,241
2001	\$95,192,240	11.126	\$1,059,109

The same situation occurred in 1996. Ouray County gained another 19% in taxable value over

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<sup>14</sup>29-1-301, C.R.S. This limitation specifically does not apply to home rule cities and towns. TABOR also includes a limitation on property tax revenue (Article X, Section 20(7)(c), Colo. Const.), which is independent of the 5.5% limitation. It operates in a somewhat similar way, and so is not discussed here. School districts have two separate limitations on property tax revenue: one in the School Finance Act, and one in TABOR.

1995. If it had maintained a 14.770 mill levy, a 19% increase in revenues would have followed. The limitations on revenues were interpreted as requiring the County to lower its levy to 13.101, for a 5.5% increase. Under the operation of the TABOR (4)(a) mill levy limit, as the County's levy is required to decrease when values rise, it cannot be raised again without an election, unlike the practice prior to TABOR. Thus, if the taxable value of property within the County should decrease in some future year, the County would then lose revenue over the previous, unless the voters approve an increased mill levy.

For the 1999 budget year, the county had to lower its levy again to 11.604 in order to prevent collecting more than the statutory limit would allow. This regular lowering of the levy, often referred to as "ratcheting down" has serious implications for future years' revenues, especially in years when the total taxable value decreases.

### **Decreases in Taxable Value**

There are also a number of factors that can cause a loss in taxable value. Economic conditions, such as the closing of a mine or a major business, or reduced oil and gas production or prices, can cause such a decrease. Social and political factors, including the implementation of new legislation, can also cause the taxable value of property to decline. Also, in some instances large properties can become tax-exempt, if they are purchased by a government or nonprofit tax-exempt organization, removing them from the tax roll.

### Economic Factors

Some jurisdictions, especially in the rural parts of the state, are economically and property-tax dependent upon one industry. Their property tax base can depend primarily upon one class of property. For example, 75% of the taxable value of Rio Blanco County in 1994 was comprised of oil and gas property. When the value of those wells decreased, the county lost taxable value, resulting in decreased revenue. Figure 3 shows how much Rio Blanco County lost in revenues in recent years as a result of the County not raising its mill levy to compensate for decreasing taxable values.

In three years (1995-97) Rio Blanco County lost \$954,867, or over 29% of its 1994 property tax revenue. An interesting variant of this phenomenon occurred in 1995, when the county lost about \$27.5 million in oil and gas taxable value, but only about \$22 million in total value in all classes of property. Gains in other classes of property values included about \$600,000 in residential taxable value, which presumably caused some increase in demand for county services by new residents. The loss in revenue, then, coincided with an increased demand for services, and had an even more negative effect on county operations. As shown in Figure 3, Rio Blanco County lost revenue in each year that the taxable value of oil and gas declined.

## Rio Blanco County

Changes in taxable value (in 000s) and revenues, 1994-99

Figure 3

Budget Year	Total AV	Oil & Gas AV	Mill Levy	Total Revenue	Revenue Change	% Change
1994	\$313,030	\$228,767	10.38	\$3,249,251	-	-
1995	\$291,075	\$201,185	10.38	\$3,021,359	\$-227,893	-7.01%
1996	\$263,915	\$177,859	10.38	\$2,739,438	\$-281,921	-9.33%
1997	\$253,523	\$167,130	9.05 <sup>15</sup>	\$2,294,385	\$-445,053	-16.25%
1998	\$276,387	\$195,914	9.05	\$2,501,300	\$206,915	9.02%
1999	\$272,602	\$181,105	9.05	\$2,467,052	\$-34,248	-1.37%
2000	\$221,764	\$127,753	9.05	\$2,006,966	\$-460,086	-18.65%
2001	\$242,198	\$145,313	9.05	\$2,191,892	\$184,926	9.21%

### The “Gallagher Amendment”

In 1982 the voters of Colorado approved an amendment to the Colorado Constitution which included the so-called “Gallagher Amendment.”<sup>16</sup> Implementing this provision has resulted in more than a 50% cut since 1982 in the rate at which residential property is valued and taxed. This has caused some taxing jurisdictions, which are mostly residential in character and not experiencing growth, to lose taxable value.

The actual value of taxable properties in Colorado is re-assessed every odd-numbered year, so that the values which are taxed are reasonably current. The Gallagher Amendment requires that during years when re-assessments occur, the assessment rate for residential property be adjusted so that the total statewide assessed value of residential property be maintained at the same ratio to non-residential property after adjustments are made for new construction.<sup>17</sup> The intent of this provision was to stabilize residential real property’s share of the property tax base.<sup>18</sup>

In 1983, when it became effective, the Gallagher amendment reduced the residential assessment rate to 21% of actual value, requiring 29% for all other classes.<sup>19</sup> These rates resulted in approximately 45% of all property taxes in the state being paid by residential property, while the remainder, about 55%, was generated by non-residential property. However, during the following

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<sup>15</sup>The county’s voters had previously approved a temporary 1.33 mill increase which expired this year, causing the county to lower the mill levy.

<sup>16</sup>Article X, Sec. 3(1)(b), Colo. Const., codified at 39-1-104.2(5)(a), C.R.S.

<sup>17</sup>Non-residential property includes commercial, industrial, agricultural, natural resources, producing mines, oil & gas, state-assessed properties, and vacant land.

<sup>18</sup>Analysis of Historical Changes to the Statutory Residential Assessment Rate, Report to the Executive Committee of the Colorado General Assembly, Colorado Division of Property Taxation, March 11, 1993, page 7.

<sup>19</sup>Producing mines and oil & gas properties are an exception, their taxable value being based upon the property’s production.



## % of Actual Value by Class

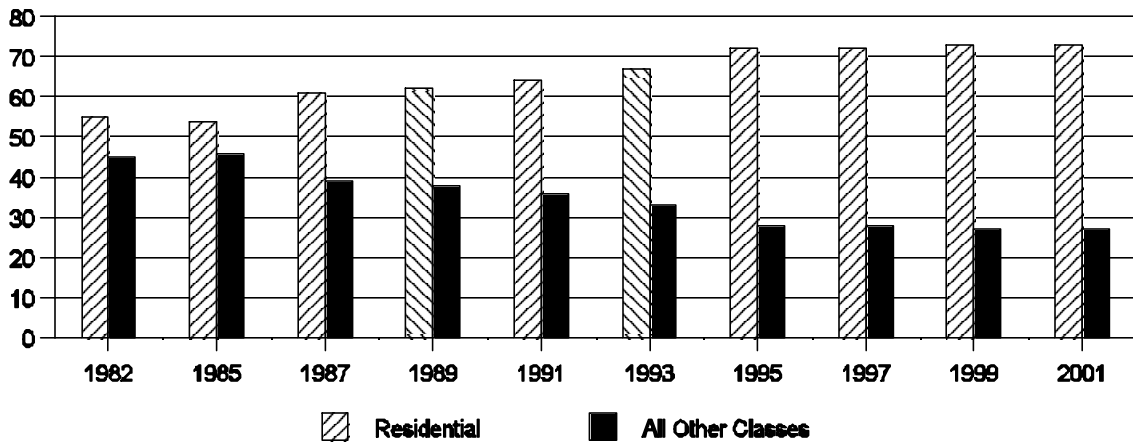


Figure 4

decade, the value of residential property increased much more than the value of all other classes. By 1997, the actual value of residential property was 73% of total taxable properties, and the actual value of all other classes made up 27%. In order to maintain the required ratio in assessed value, the assessment rate for residential property was gradually reduced in each biennial reassessment year. The rate has been reduced in 2001 (for tax collections budgeted in 2002) to 9.15%, which has had the effect of requiring that 73% of all property pay approximately 45% of all property taxes.

Figure 4 depicts the increase in actual value of residential property as a percentage of all taxable property statewide. As the residential assessment rate is annually decreased to accommodate this shift so as to maintain the 45/55% ratio in assessed value and property taxes paid, the relative burden of property tax is increasingly borne by properties in all other classes collectively. Therefore, although the actual value of all other classes is relatively less each year, they still have to pay the same 55% proportionate share of all property taxes paid.<sup>20</sup>

Therefore, the operation of Gallagher has not only limited tax increases to residential property owners, as was its intent, but has also resulted in an increased relative burden of property tax to non-residential classes. Based upon this shift in tax burden, some members of the business community have begun to “question the direction of property taxation,”<sup>21</sup> and there has been some discussion about the repeal of the Gallagher Amendment, or elimination of property tax as a major source of local revenue.

Local governments have a different perspective on the effects of Gallagher. A taxing entity which consists primarily of residential property can experience a loss of total taxable value when the residential assessment rate drops significantly and the local market values of residential property do not increase at the statewide average. In order to maintain property tax revenues in such a case, the mill levy must be raised, since to keep the same levy causes a reduction in revenues, as was noted above.

<sup>20</sup>The residential rate remained 9.74% in 1999, the only time since Gallagher was implemented that the biennial reassessment has not caused a change in that rate.

<sup>21</sup>Colorado Public Expenditure Council Taxpayer Report, Vol. XXXIX, No. 3, September 3, 1993, page 1.

In 1993 the residential assessment rate changed from 14.34% to 12.86%, a drop of over 10%. In 1995, the residential rate was lowered to 10.36%, a drop of over 19%. As Figure 1 (page 2) shows, in the budget year immediately following each of those changes, the revenue losses from keeping the mill levy the same with declining taxable values were greater than in subsequent years when the residential rate did not change. This leads to the conclusion that when the Gallagher residential rate changes, there is a greater negative effect on property tax revenue than when the residential rate stays the same. The loss of property tax revenue is due to the prevailing strict interpretation that the TABOR(4)(a) mill levy limit caps the mill levy at the prior year's rate, and cannot automatically be raised to compensate for the loss in taxable value.

For example, the City of Pueblo's taxable value in 1995 was 57% residential. When the residential assessment rate dropped from 12.86% to 10.36% in 1995, the city lost about \$13.5 million in residential taxable value, even though the actual value of residential property in the city increased by about \$265 million, or 16%.<sup>22</sup>

A strict interpretation of the TABOR(4)(a) mill levy limit kept the City from increasing its operating levy, as would have been possible prior to TABOR. The resulting loss in revenue was about \$99,000, as is shown in Figure 5.

### City of Pueblo

Losses in taxable value and revenues, 1995-96  
(In 000s)

Budget Year	Total Taxable Value	Decrease	Residential Value	Decrease	Operating Mill Levy	Revenue	Rev. Loss
1995	371,427	-	210,591	-	17.1	\$6,346	-
1996	365,386	-6,041	197,078	-13,513	17.1	\$6,247	-\$99

Figure 5

Additional experience will prove whether or not there is a continuing and direct relationship between Gallagher and the TABOR(4)(a) mill levy limit. However, it is clear that losses in taxable value caused substantially more lost revenue since the passage of TABOR, apparently due to its strict legal interpretation by many local governments.

### Elections

As noted above, TABOR allows a local jurisdiction to conduct an election to ask voter approval for an increase in the mill levy. Since 1992, many local governments have been trying to make financial ends meet within TABOR constraints without holding an election. Many local officials have tried to avoid ballot issues for mill increases due to the difficulty of explaining the complexities of the property tax system to the voters. In addition, anecdotes indicate that voters appear to be confused by the "ballot clutter" resulting from many simultaneous TABOR election questions, since many of them are posed at November elections.

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<sup>22</sup>A small amount of value was lost in the commercial (\$74,330), industrial (\$56,680), and state-assessed (\$303,110) classes. (Source: Twenty-Fourth Annual Report, Colorado Division of Property Taxation and 1994 Certification of Valuation)

Timing is also a problem in the election process. Values are certified to taxing jurisdictions by August 25th each year. If a local governing body decides to conduct an election, a ballot has to be certified to the County Clerk and Recorder by the second week of September, a very short time to carefully calculate all the various limits on property tax, and consider how to approach the issue with the voters. Long advance planning and communication with the voters is required for an election to be successful.

Perhaps the primary reason for local officials' reluctance to hold a mill levy election is that the property tax is inherently unpopular, and people tend to vote against increasing taxes. There is a common perception that voters equate a mill rate increase with an increase in taxes, even though a mill levy increase may only maintain the same tax revenue level as the previous year, especially in years of "Gallagher" reappraisal, or some other cause for a decreased taxable value. Even though there have been relatively few elections which solely address increases in mill levies, there have been numerous elections in which the primary issue was debt or "debrucing" revenue questions and referred to mill levy increases as an ancillary but often necessary issue.

As Figure 6 shows, 83% of the elections held solely to increase mill levies in the years 1994-1998 were approved by voters. The rate of passage was about 70% for municipalities and school districts, about 39% for counties, and 89% for special districts.

**Mill Levy Election Summary  
1994 through 1998**

Figure 6

	Counties	Municipalities	School Districts	Special Districts	Total
Passed	9	23	17	342	391
Failed	14	10	10	44	78
Total	23	33	27	386	469

**Is there a problem?**

To put these revenue losses in perspective, all counties in the state levied \$856.3 million of property tax revenue for collection in 2000. County property tax revenue collected in 2001 increased by about 4.9% to \$900.4 million. These numbers make it appear that from 2000 to 2001 counties increased their property tax collections. This is true in the aggregate, but in many specific cases counties lost revenue, as Figure 1 on page 2 shows. In this example, six counties lost \$540,162 in property tax revenue in 2001. Similar numbers for municipalities, school districts and special districts make it appear that, in the aggregate, there is not a property tax revenue problem resulting from the strict interpretation of the TABOR mill levy limit alone. In specific cases, however, losses in revenue continue.

Statewide, property tax revenues increased about 5.3% in local budget year 2001, which may be adequate to accommodate inflation and local growth. However, there were 221 entities which lost over \$4.7 million in property tax revenue that year. This is over 20% of all property taxing jurisdictions, many of which are small, rural entities facing severe budget cuts, although their decline in revenue represented less than 1/10 of one percent loss in the overall property tax

## Total Property Tax Revenue

1998-1999 (in millions)

Figure 7

	Counties	Municipalities	School Districts	Special Districts	Total
2000	\$856.3	\$179.4	\$1,947.0	\$508.2	\$3,490.9
2001	\$900.4	\$188.4	\$2,040.0	\$557.3	\$3,686.1
Change	4.9%	4.8%	4.6%	8.8%	5.3%

system. The question remains: is this a enough of a problem in some jurisdictions for the state as a whole to search for solutions? In looking at the aggregate property tax revenues, the answer appears to be “no.” Officials in those local jurisdiction which are losing revenues might not agree. They may say that interpreting TABOR to require an election simply to maintain revenues doesn’t make sense, especially when the overall purpose of TABOR appears to not have been cutting government services.

An alternative interpretation of the TABOR mill levy limit would allow an increase of an entity’s mill levy without a vote, if the mill levy increase did not cause an increase in revenues. This is not a common interpretation, probably because, as noted above, local officials are very cautious about their actions. In any case, the resolution of this issue would probably require the courts to specifically address this question. It may only be a matter of time before that happens, but in the meantime, local officials are faced with a dilemma. Should they try to maintain local property tax revenue to maintain services? Should they risk an expensive, likely unpopular lawsuit to challenge a common interpretation of TABOR? Or should they try to explain the problem to local voters in an election campaign?

Many agree that the economy in Colorado may soon bring another “bust” cycle. What will happen to government services in property-taxed financed jurisdictions when that occurs, and taxable values decline to an even lower level? Innovative solutions have been mentioned as possible, but the ultimate solution may be found in a future court decision. In the meantime, local officials run the risk of service declines if the prevalent interpretation of the TABOR(4)(a) mill levy limit continues.

This paper is produced by the Division of Local Government pursuant to its statutory charge to perform such research as necessary to study local governments, local government finance, and assist in defining local government problems and developing solutions thereto. (24-32-104, C.R.S.)

**NOTE:** this is the “fourth edition” of this paper. Previous editions were dated March 26, 1997 and May 21, 1997 and December 13, 1999. This update reflects new data from the 2000 and 2001 local budget years (1999 and 2001 tax years).