COLORADO

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The six member Joint Budget Committee of the Colorado General Assembly is composed of the Chairs of the House and Senate Appropriations Committees, plus one majority and minority party members. It has dominated the state’s budget process for nearly three decades, leaning against gubernatorial and legislative winds to direct a fiscally conservative course through two Democratic governors from 1974-1998, as well as economic booms and deep recessions during that period (Straayer 2001). In the midst of the 2002 legislative session, economic downturn and short revenues combined with recently constructed revenue and budgeting institutions (both Constitutional and statutory) to disorient budgeting from its relatively straightforward decision rules and roles. Additionally, the Governor’s mansion has been occupied since January 1999 by the first Republican governor in 24 years which has altered the relations between branches. Finally, the 2000 election brought a Democratic majority in the Senate with able leadership and created the first partisan split in the General Assembly since the 1974-1976 sessions when the Democrats held the House.

In February of this year, a story circulated among some members of the Colorado House of Representatives that the Chair of the General Assembly’s Joint Budget Committee ‘didn’t really understand’ the budget process very well because he was having a hard time offering some brief explanations of the budget to members from the floor of the House. Accounting for the fact that Colorado’s term limits have kicked in and created one of the most inexperienced House memberships ever, this impression may be understandable. Yet, an analyst of the Colorado budget and the current fix it is in finds that the complications of revenue legislation and Constitutional amendments over the past decade are only now becoming apparent. This state of increasing relative ignorance is widely shared among legislators. The ‘taken-for-granted’ roles and strategies of budget partisans are being consciously reconsidered even as this is being written. Before examining the budget activity during this year’s legislative session, this paper will first map the larger institutional context within which state budgeting occurs in Colorado. The best starting point is the Taxpayer’s Bill of Rights and the various adaptations budgeting has undergone in response.

Background to Colorado’s Finances

“TABOR”- 1992

The passage of tax and expenditure limitation by Constitutional Amendment in 1992 has proved to be a challenge to the Colorado General Assembly which had not fully been appreciated until the 18 or so month run-up to the making of the 2002-2003 budget. Passed
by 54 percent of the voters in an election year marked by high turnout (80 percent) due to several ballot initiatives,\(^1\) and the “Perot factor;” it failed to gain approval in only 3 of the populous eight Front Range counties (Denver, Boulder and Larimer). The amendment, referred to as TABOR,\(^2\) henceforth required a popular vote on any new tax or tax increase within any jurisdiction, including the entire state. It prohibited expenditure increases in any state jurisdiction above the sum of percent population increase in the prior year and the increase in the Denver-Boulder CPI. The amendment provides for an overall 3 percent state emergency reserve. Excess revenues, beyond the TABOR limits (inflation plus population growth) must be refunded to the taxpayers. The TABOR amendment required the state to account comprehensively for all General Fund and Cash Fund revenues and expenditures in a way it had not done before.

Prior to the successful passage of the TABOR amendment, the General Assembly attempted in 1991 to rein in General Fund growth through a statutory measure called “Arveschoug-Bird,” after the bill’s sponsors. The statute limited state General Fund spending growth to the lower of two numbers: 106 percent of the prior year or 5 percent of state personal income. The former has always been the lower of the two. Budgeteers characteristically term Arveschoug-Birds a “6 percent annual General Fund growth limit.”

The General Fund and Cash Funds. “General Fund” revenues are those not earmarked or dedicated for specific uses. That is, it is with General Fund revenues that the General Assembly retains discretion. In 1998-1999, the state’s General Fund made up $5.6 Billion, the destination of over 87 percent of all state tax collections in 1998-1999 (Tax Handbook, 2000). It is the state’s primary operating fund. Actual General Fund appropriations, however, were “only” $4.7 Billion, after having had the difference drawn off in part for transfers to other funds and in part for return to the taxpayers through state income tax refunds. “Cash Funds” are primarily those collected from users and dedicated to particular purposes. Tuition is the largest cash fund in the state accounts. In 1998-1999, for example, tuition payments amounted to $643 million of the nearly $1 billion of the state’s appropriations from cash funds. The TABOR amendment set off a flurry of legislative attempts to exempt some cash funds from the TABOR limits. In 1998-1999, appropriations from exempt cash funds totaled $2.2 Billion, a sum which was 21 percent of all of that year’s appropriation. Yet another category of funds is “Cash Funds Exempt,” that is, for political or technical reasons, exempt from the TABOR limits. The volume of exempt cash funds has expanded by about 50 percent in from 1998-99 to 2001-2002, while total state appropriations have increased by only about 30 percent in the same period. The statutory exemption of cash funds from TABOR limits has been one of the ways in which the legislature has sought to allow some state programs to grow without denying other agencies their “normal” increases. See the table below for fund source proportions contained in the 2001 Long Bill.
Fund Transfers at the Legislature’s Discretion. Created in 1988, the Capital Construction Fund received monies appropriated to it by the General Assembly, from which funds would be appropriated to finance the state’s capital construction needs. Between 1989 and 1999, General Fund contributions to the Capital Construction Fund totaled over $1.6 Billion.

It has become acceptable for the General Assembly to transfer funds from the General Fund to other funds. This apparently began in 1993 as the Colorado economy was growing very rapidly, generating General Fund revenue growth which averaged over 10 percent between 1992 and 2000. While legislators did not want to use all the windfalls for their own designs, significant volumes of surplus funds [Over the 6 percent limit] were transferred out of the General Fund, thereby technically skirting the Arveschoug-Bird limits. In 1993, for example, the legislature passed a law permitting itself to transfer up to 50 percent of General Fund “surplus” into the new Controlled Maintenance Trust Fund up to $50 million per year.

During the prosperous 1990s it became normal for the legislature to distribute capital construction more broadly than had been the case. A Capital Development Committee was formed in the legislature to distribute capital expenditures throughout the state by making recommendations to the Joint Budget Committee for inclusion in the JBC’s Long Appropriations Bill (or “Long Bill”).

Auto-Government Fund Transfers. In 1997, House and Senate leadership secured passage for Senate Bill 1, which added a twist to transfers of General Fund revenues. This bill specified an automatic mechanism for fund transfers. This bill secured for highways a 10.4 percent share of total state sales tax revenues, under the condition that the 6 percent Arveschoug-Bird limit had been met before any of the 10.4 percent could be transferred. This is a substantial sum of money: In 1997-1998, the state’s 3 percent sales tax collected $1.4 Billion, making over $140 million available to supplement the year’s Highway User Trust Fund [“gas tax”] revenues of

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Original 2001-2002 APPROPRIATIONS REPORT summary.

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Amount</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$6,086,840,853</td>
<td>44.7%</td>
</tr>
<tr>
<td>Cash Funds</td>
<td>$4,744,659,040</td>
<td>34.8%</td>
</tr>
<tr>
<td>Exempt from TABOR limits</td>
<td>$3,425,704,345</td>
<td></td>
</tr>
<tr>
<td>Non-Exempt</td>
<td>$1,318,954,695</td>
<td></td>
</tr>
<tr>
<td>Federal Funds</td>
<td>$2,784,533,079</td>
<td>20.4%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,616,032,972</strong></td>
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</tbody>
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$644 million (Highway User Fund Fact Sheet 2001). Early in the current (2002) General Assembly, HB02-1310 passed the House and would be the subject of a late compromise with the Senate: This would increase (in stages) the automatic General Fund transfer to 15 percent of state sales tax collections over several years. While the “automatic transfers” from the General Fund passed with healthy majorities in 1997, the prospect of drawing such amounts out of the general fund, even having increased General Fund appropriations to its 6 percent limit, has created a new set of pressures and contingencies for budgeteers.

November 1998: A Republican Governor

Republican Bill Owens defeated Democratic Lt. Governor Gail Schoettler by less than 8,000 votes. A Republican would occupy the Governor’s office for the first time since 1974. In that time, the state’s relationship to the federal government and to its citizen had changed, as had its internal compositions. The party had been a legislative party in a legislatively dominant state during this time. The Constitutional separation of powers between legislature and governor was coincident with the partisan political geography of the state. 1998 altered that by giving Republicans both branches. No longer threatening with a veto of extremely partisan or regressive tax measures as circulated freely when the legislators could rail with heat and symbolism, the Republicans were now in the position of creating a government and living (or dying) by the consequences of handiwork unsheltered by “the Democrat” in the Governor’s mansion. After assuming office, Owens would consistently promote highway spending, as well as educational reform defined as school standards and testing, combined with teacher accountability. Events, both political and economic would frustrate both to a great extent.

1999: The Republicans craft a novel capital financing method for Transportation. The legislature and the governor were in accord regarding one of the Governor’s goals framed from the beginning of his term: highway construction. Where legislators differed with the governor were matters of means. The Governor’s package of transportation measures was carried by various Republican and Democratic sponsors. The primary features of the package [in HB99-1325] included bonding against anticipated federal highway revenues, (using RAN’s - revenue anticipation notes) a novel financing vehicle then advanced successfully by only three states (with combined issues of only $800 million). Also notable was legislative authorization [HB99-1324] for a design-build contract arrangement under which contractors would perform broader functions more flexibly and permit more rapid project completion and would permit selection of bidders based on “best value” (versus “low bid”) criteria. However, constitutional issues were raised concerning “revenue anticipation notes,” used to finance the $1.3 billion in projects, as to whether RAN’s represented a debt under the Constitution’s definition (Young, 1999a; Young, 1999b) Three interrogatories were made to the State Supreme Court and the Court issued its opinions on April 23, with weeks left for the General Assembly to correct the bills’ Constitutional defects. Three interrogatories were made to the Colorado Supreme Court and quickly scheduled by the Court for argument and consideration. The Court ruled on April 23 that although the RAN’s did not meet the criteria for debt under Article XI section 3 because they do not pledge revenues and are not legally enforceable against the state in future years.
Second, however, the Court held that the RAN’s did constitute a “multiple fiscal year debt” obligation under the definition of Article X, section 20(4)(b). Consequently, the RAN’s were held by the Court to require a statewide referendum under the requirements of the TABOR amendment. (See Colorado Supreme Court, 1999) Legislators incorporated into HB99-1325 the referendum wording and scheduled a General Election for November and passed it.

Referendum A garnered only one organized opponent: TABOR author and protagonist Douglas Bruce, who grumpily complained that the Governor had fallen into bed with the “bond dealers” and “big-spending liberals,” this after Bruce had only months before sported an Owens campaign button. Jon Caldara and the Independence Institute were silent on the issues of vagueness and blank check permission used to defeat Referendum B in the prior year. Owens, the only statewide candidate in 1998 who publicly opposed Referendum B, about-faced following Spring (1999) to promote “his” transportation plan in Referendum A. The conventional wisdom however, was that the measure would be defeated. Democrat Roy Romer had seen his preferred state financing referendum campaigns defeated, from 1998’s Referendum B to 1997’s proposed 5-cent gas tax increase for highways; to his 1992 1 percent sales tax for K-12 education (Blake, 1999).

Owen’s reputation for fiscal conservatism ironically allowed him to weather this test. Owens’ strategists were also more clever than Romer’s in positioning the issue in the public mind. While Romer’s campaigns were rather pleading, fact-packed enterprises, for Owens the themes of congestion crisis and “no new taxes” sold well to voters statewide. The mobilization of Republicans certainly helped. Owen’s Transportation Director, termed out former Senator and former gubernatorial candidate Tom Norton and other Republican allies took to the hustings to defend the “cost free” and efficient solution to the daunting statewide problems of traffic congestion and disrepair (Norton, 1999). Referendum A passed with 62 percent of a light statewide vote, a complete reversal of the public vote on Referendum B’s 62 percent opposed votes a year before. This freed $1.7 billion over several years for use in high-priority transportation projects.

When it comes to voter approval for financial initiatives, even involving obligations of $2.3 Billion (including interest costs) backed by mere statutory federal assurances, Owen’s proved that a Republican Governor can do things in Colorado that a Democrat could not.

Democrats take the Senate in 2000

In the midst of revenue surpluses and the legislative happiness concerning refunds, two years of Republican control of the General Assembly and the Governor’s office was ended by the election of a one-vote majority of Democrats in the State Senate. The Democratic caucus elected attorney Stan Matsunaka of Loveland to the Senate Presidency. Matsunaka had earlier been elected to a seat in a predominantly Republican district which had never been held by a Democrat. Matsunaka would to energize a long-demoralized Senate Democratic caucus. Split
houses added complexity to party strategy for which the House Republicans had an overarching response: more partisanship. Many of the caucus’ ideologically driven new members had benefited from the enforced turnover of term limited incumbents. A political generation had passed since either party had to reckon with how to share the second floor of the Capital with another party. The tonalities of conservative pragmatism voiced by senior legislators such as Speaker Russell George and his predecessor Chuck Berry, were competing with the shriller partisanship of the more junior cohort.

1999 - 2001 Revenue Legislation: Base Reduction

Over several years, the General Assembly has arranged mechanisms for the TABOR surpluses. These have discussed elsewhere (Moore, 2002), but suffice it to say that these refunds have been substantial. See the table below.

<table>
<thead>
<tr>
<th>Colorado’s Surplus “TABOR” Revenues</th>
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<tbody>
<tr>
<td>1996-1997</td>
<td>$139 million</td>
</tr>
<tr>
<td>1997-1998</td>
<td>$563.2 million</td>
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<tr>
<td>1998-1999</td>
<td>$679.6 million</td>
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<tr>
<td>1999-2000</td>
<td>$941.1 million</td>
</tr>
<tr>
<td>2000-2001</td>
<td>$971.2 million</td>
</tr>
<tr>
<td>2001-2002</td>
<td>0</td>
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</tbody>
</table>

Source: Colorado Focus: Economic and Revenue Forecast, Colorado General Assembly. Legislative Council, various reports.

A chronic tendency of American governments is to erode whatever purposive characteristics by granting exemptions, credits, or exceptions. The effect of this well-intentioned brand of fiscal particularism is to erode the tax base (Rubin, 1993). The years 1998-2001 set off a flurry of both narrow and broad assaults on the state’s tax base. If the transportation crisis so lamented by Governor Owens was on the minds of Republican legislators in the 1999 and 2000 sessions, they had a hard time aligning that concern with a healthy desire to cut taxes.
The TABOR limits brought Coloradans tax rebates of the surpluses first incurred for 1996-1997. Two years of surpluses saw caution thrown to the wind as the legislature began to cut state taxes in ways more profound than any in memory. Fifty-three tax relief bills were enacted between the 1999 and 2001 sessions reducing the income tax rate to 4.75 percent in 1999 and then to 4.63 percent in 2000 and the 2002-2003 impact of these is $427.7 million (Colorado Economic Perspective, 2001, Table A1).

Thirty-one permanent tax relief bills passed via three bills from 1999 and 2001. Three tax reduction bills cost the state $507.1 million by FY 2003.

- **HB 99-1207 Income Tax Rate reduction to 4.75%** — $276.6 million
- **HB 00-1103 Income Tax Rate reduction to 4.63%** — $151.1 million
- **HB 00-1259 Sales Tax Rate reduction to 2.9%** — $79.4 million

Another $97.2 million was permanently cut by the other 28 bills passed from 1999-2001. However, even after having achieved permanent tax cuts of $580 million for 2001-2002 and $604 million for 2002-2003, Colorado was forecast to reap some $898.7 million in surplus revenues (above the TABOR limit) for 2001-2002 and $328 million for 2002-2003. Another 50 temporary revenue measures were passed as well with a cumulative impact for 2000-2001 of well over $300 million.\(^1\)

The outlook in June 2001 estimated that the cumulative effect of tax legislation passed in the 1999 and 2000 legislative sessions reduced state revenues by an estimated $830.6 million in 2002-2003. Even after having made these tax reductions, the state was still beyond the TABOR limits and had to dispose of some through income tax refunds. Currently, it appears that the last TABOR refunds will have been refunded with the year 2000 tax returns. Rank and file legislators have been late to grasp that “there won’t be any more TABOR refunds.”

**Amendment 23: Trumping TABOR through Constitutional Earmarking for Education**

The Governor’s highway funding plans and the legislature’s capital spending habits would be directly challenged by the Initiated Constitutional Amendment 23. Crafted and recrafted by a former budget analyst for Governor Romer named Cary Kennedy, the amendment gained 53 percent of the vote in a statewide turnout of nearly 67 percent.\(^2\) It was actively opposed by highway interests and opponents also included six of the seven members of the State Board of Education as well as the Corrections Department.
The Amendment became Section 17 of Article IX of the Colorado Constitution which created a new State Education Fund consisting of .0033 percent of Colorado’s federal taxable income, to be funded annually from transfers of the state income tax revenues. This amount was expected to be $312 million in 2001-2002, its first full year of funding, while $121 million was collected for the incomplete 2000-2001 year. From this fund the legislature may appropriate for a number of very broad categorical purposes (Appropriations Report, 2000, 525). In addition, the section requires annual state expenditure increases by a factor of the inflation rate plus 1 percent. The contents of the State Education Fund not subject to Tabor limits or the 6 percent Arveschoug-Bird limits on General Fund Appropriations.

Section IX mandates a maintenance of effort under existing school finance law and requires the new funds to be spent under eleven categorical purposes. These range from annual per pupil funding increases, accountability, class size reduction, technology education expansion, teacher performance incentives, and building construction. Over half the fund appropriations for 2001-2002 ($71 million) were made under SB01-212 for partial funding of the state’s funding of inflation increases ($64 million) and for funding inflation costs for existing categorical programs ($7 million.) Another $14 million was appropriated for textbook purchases (HB01-1272) and $12 was appropriated for a teacher pay incentive program SB01-98). The opportunity for program-shaping generally occasioned tensions between Republicans who favored a stricter categorical approach to spending and Democrats who favored more discretion for local school districts.

It has been speculated by some that the impetus for some of the ‘hard core’ support for TABOR was to avoid the legislative obligation to fund the School Finance Act of 1988 which was to phase in a new set of state financial responsibilities for local school finance. TABOR’s most vocal adherents spoke of TABOR as the final solution to extravagant (by definition) government waste by Constitutionalizing expenditure and tax limits which they thought would stand for time immemorial. If that were the case, this Constitutional variant of fiscal ‘structural choice politics’ of tying the hands of succeeding policy makers (Moe, 1989), failed in the long term. Instead, TABOR provoked an even more clever strategy of trumping TABOR with Constitutional fund separation and revenue earmarking, without limiting the expenditures of the ‘rest’ of state government. However, it because the SB97-1 mechanism of sales tax revenue transfer could only be triggered after the General Fund expenditures had otherwise reached their 6% levels, the passage of Amendment 23 were seen by most of the advocates of highway funding as ‘crowding out’ the level of highway spending envisaged by SB97-1.

Rebudgeting for the Current Year.

Revenues for 2001-2002: Receding Targets. The December 2000 revenue estimates served as the background assumptions for the 2001 Session’s budget for 2001-2002. Though the state was growing, economist’s reports had suggested slowing of employment growth for the coming year. The December 2000 issue of Focus Colorado, the legislative staff’s primary forecast, noted that 2000 recorded the lowest non-farm employment growth since the state’s
economic expansion began in 1992. The change was attributed to the shortage of labor in the state, however. It also noted the decline of residential building permits (Denver Metro permits were down 9.8 percent though September and the statewide value of non-residential building permits was down 20 percent through October). Office vacancy rates were up 8 percent in Metro Denver in the third quarter. Yet, the report noted that manufacturing in the state was still expanding. The Joint Budget Committee representing its characteristic sobriety urged caution to their colleagues, emphasizing in January 2001 that it would be a ‘very tight’ year...from the outset, general fund revenues that had fueled expanded capital construction, were in December 2000 predicted to expand only 4 percent, as against the typical 9-10 percent average annual growth in the 1990s.

<table>
<thead>
<tr>
<th>Legislative Council Estimates of General Fund Revenues for 2001-2002</th>
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<tbody>
<tr>
<td>Dec 2000</td>
</tr>
<tr>
<td>March 2001</td>
</tr>
<tr>
<td>June 2001</td>
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<tr>
<td>Sept 2001</td>
</tr>
<tr>
<td>Dec 2001</td>
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<tr>
<td>March 2002</td>
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Source: Focus Colorado: Economic and Revenue Forecast 2000-2006. Colorado General Assembly. Legislative Council Staff, various dates

Economic Downturn and The Vulnerability of High Wage, “New Economy” Sectors.

Colorado’s revenue profile for 2001-2002 mirrored the nation’s economic slowdowns. However, developments in the Colorado economy designed to drag the state out of the deep
regional recession of the 1980s have changed the economy and brought new vulnerabilities. Some of those vulnerabilities are in business services, information technology, and manufacturing, which appear to have been hit particularly hard in 2001. An Appendix attached to this paper has a more detailed summary of economic events in Colorado. A further distillation is intended here. The Transportation sector began to contract in early 2001 and is not expected to return to normalcy until summer of 2002. The information technology sector of the national economy rippled into Colorado’s nascent IT, photonics and other manufacturing activities, already weakened by the previous year’s performance. Telecommunications weakened severely, leading the state in the volume of layoffs. The Business Services sub-sector of the service sector, the strong job engine in Colorado during the 1990s was adversely affected by the telecommunications and high tech manufacturing decline. The completion of commercial building projects combined with current lack of contracts caused some tapering off of construction employment and volume in 2001, and substantial job loss in that sector was predicted for 2002. In their successive economic soundings and forecasts over the 2001-2002 fiscal year, state economists found themselves describing increasingly worse employment performance over successive forecasting periods. In the March 15 economic and revenue report to the Joint Budget Committee, Legislative Council economists noted that the composition of the state’s net production was such that layoffs in 2001 occurred in high wage sectors while job growth was occurring in low wage sectors.

Rebudgeting

The 2001-2002 budget spilled onto the 2002-2003 budget decisions, with hearings, meetings, negotiations for the current year budget framing the 2002-2003 budget process. Nobody had a stomach for making cuts as lobbyists and legislative advocates played a vigilant game of defense all session. Ultimately, it defaulted to the legislature’s Joint Budget Committee to forge short term fixes for the state’s financial problems. They drafted relatively painless cuts and drafted legislation to backstop the General Fund with fund transfers and reduction of the General Fund Reserve Fund. The state was not without warnings of economic and revenue distress as the March 2001 revenue projections caused the JBC to recommend caution [then] through its recommendation of reversibility in allocating capital construction.

Discrete phases, contingent on revenue performance were recommended. In the late summer and early fall of 2001, it was no longer speculative to officials that an economic downturn, quite independent of September 11th events, was underway. The Governor ordered state agencies to cancel capital projects early in their life cycles and to ‘hold back’ percentages of current year expenditures (except Medicaid and K-12). These savings, combined with the cancellation or deferral of state construction projects not yet begun totaled some $390 million. Other executive branch budget exercises ensued over the course of the fiscal year.

Yet December 2001 forecasts seemed to signal the possibility for even greater volumes of cuts due to the erosion of travel and tourism-related sectors of the Colorado economy after
Sept 11 and the commensurate layoffs in the transportation and visitor industries. Growth in Personal Income Tax revenues (a 58 percent share of the General Fund revenues) was expected at this point (December 2001) to remain constant with the previous year at 6.5 percent. This seems to have been an optimistic notion given general confusion among national policy makers about the implications of terrorism, market recovery after Sept 11, the uncertainty of military responses to Sept 11 and its duration, not to mention the question as to whether the nation’s new ‘recession’ was to be short or long-lived.

As a result of these events, the 2002 legislative session began with little of the prior year’s enthusiasm for budget growth AND mixes of small tax expenditures, tax cuts, and/or tax surplus rebates. As the session began, it began to occur to members that the flush combination of TABOR surpluses and tax cuts were over. Legislative expectations tentatively grew around these new facts of life as the Joint Budget Committee and its staff began to speculate about how to reconstruct the appropriations puzzle for the current year even as it had completed the first series of agency hearings and was beginning the first of three rounds of ‘figure setting’ exercises for the operating departments of the state. Current year issues took priority for the JBC.

With the December revenue forecasts clearly in mind, the Appropriations Committees and the Joint Budget Committee, from which three members of each Appropriations Committee are drawn, considered rationales for expenditure reductions to be contained in supplemental appropriations bills for each state department. The Joint Budget Committee had developed a list of $761 million in potential cuts beyond the previous fall’s more obvious initial fixes (Kane, 2002c). The JBC, in consultation with the Governor’s staff drafted a set of bills to cut even more deeply with specifically targeted programs rather than across the board cuts. Over several months, the JBC members met with the Governor and with their caucus leadership to find common ground on the cuts.

In early March, after six weeks of consultations, the JBC introduced three bills, which engineered temporary fund transfers INTO the General Fund from the Capital Construction and other funds, so as to bring the General Fund up to the 6 percent growth limit. This had wide support in both houses and the bills passed quickly. It was widely understood that a series of ‘negative supplementals’ were ready for introduction after the Governor approved the bills. (Omnibus legislation was out of the question since it would clearly violate the state Constitution’s single subject requirement for legislative bills.) However, to the surprise of many, Owens apparently was dissatisfied or feared a double-cross and vetoed the fund transfer bills saying that the General Assembly acted unconstitutionally in legislating fund transfers in advance of cutting expenditures.

A short standoff ensued wherein startled JBC members and the Governor’s staff each publicly claimed to be doing THEIR jobs and indicating a willingness for the other party to do its job as well (Ames, 2002a). The Governor and the House Speaker attempted to bring the JBC into line with the Governor’s wishes on the budget, which included diminishing current year...
General Fund spending below the 6% level agreed in the 2001 General Session and maximizing expenditure on highway projects (Martinez and Kane, 2002). A series of telephone and face-to-face meetings among various of the JBC’s six members, the JBC staff director, the Governor and his budget staff resulted in an agreement on a Friday afternoon to bundle the entire group of 23 ‘negative supplementals’ for budget cuts and a series of bills to execute the fund transfers including those vetoed earlier in the week. All were committed to draft each of 29 bills so that the execution of most of the bills is contingent on the passage and execution of others in the ‘package.’

For the moment anyway the General Assembly’s exercise in rebudgeting was resolved to the point that the 23 bills of the JBC’s “Phase II” being held by the Committee Chair Brad Young (R- Lamar) would be introduced. These bills offer a glimpse into the JBC’s and the Appropriations Committees’ attention to detail. These are not mechanical or formulaic changes. Nor are they hurriedly conceived or targeted to specific ideological constructions of state policy priority. Each bill contains precise areas for expenditures to be reduced (or increased) and leaves little to the discretion of department heads in how to make cuts. The multiple-linked-bills approach preserves the integrity of the legislative committees and assures the departments of orderly conversation with legislators over the construction and content of the reductions, yet ties the hands of committees to some extent by linking their numbers (through the necessity of balance) with the numbers in the other bills. Over half these 23 bills contain detailed line-item spreadsheets. One battle has been apparently been won however: The protection of the General Fund levels for the Current Year, on which the 2002-2003 General Fund expenditures are dependent.

This first package of bills made cuts in operational budgets, although some departmental budgets were increased. Among the increases overall were Education ($7 million) Health Care ($48 million) and Revenue ($51 million). A net decrease in the state’s operational budget was imposed however, as Transportation sustained a $180 million cut. Also cuts were higher education ($8 million) and Corrections ($19 million). The overall changes in the operational side of the budget were $83 million cut. However, the capital construction budget was increased by $9 million in this package, netting $74,100,000 in net cuts. A more substantial set of bills (in terms of squaring current year revenues with current year expenditures) was accomplished through fund transfers. House bills 1390 through 1394 transferred $170.5 million from the Capital Construction Fund ($37.5 million) and from 20 enumerated fund transfers from smaller funds ($111.6 million) as well as transfers of annual interest from the capital construction fund ($21.4 million). The net cuts in this package were $83 million, and the fund transfers into the General Fund totaled $170.5 million, a solution worth $253.5 million, at this time.
Rebudgeting for 2001-2002 was by no means out of the woods at this point (mid-March). Not less than a week later, on Friday March 15, economists from Legislative Council Staff reported to the JBC on Friday, March 15 that General Fund revenues were another $211 million short of the December forecast (Focus Colorado, 2002). $50 million of this shortfall is occasioned not by the condition of the Colorado economy, but by the Congressional passage of the national Economic Stimulus Package which implements accelerated capital depreciation to September 11.

Revenue losses to the state in 2001-2002 since the December forecast highlight the following contributors to the $211 million General Fund losses:

- $69 million lost from corporate income tax revenues
- $67 million lost from personal income tax revenues.
- $14 million lost from sales tax revenues

Another $20 million in forecast revenue shortfalls were registered for various Cash Funds. The forecast stated...

“The Joint Budget Committee and the Governor reached an agreement to eliminate the budget shortfall based on a $140 million revenue shortfall through the end of January. Because the projected revenue is [now] much larger, the budget package is not enough to eliminate the budget shortfall. Our estimates indicate that an additional $232.3 million will need to be cut from the budget, spend from reserves, and/or added to available revenues to prevent a budget shortfall.” (Focus Colorado, 2002; 2).

A new round of solutions was considered. Again, as in the earlier negotiations, the Governor did not want to cut programs, preferring in general to find softer methods to solve the state’s near term financial issues. Attention turned to the $226 million being held in the 4% General Fund Reserve. The leadership of the General Assembly quietly agreed to use some of this reserve as a source of ‘balance’ for the current year. The use of the entire Reserve was not entertained until the final weeks of the Session, by which time word that an additional $260 million revenue shortfall would need solution after the legislature convened on May 8th.

Beyond the March package of ‘negative supplementals’ the Governor and the legislature could agree only to a short term politically expedient strategy, holding fast to the belief shared by many national economists that the recession would be temporary: It was expected that Summer 2002 would see a return to healthy revenue-supporting job, income, and consumption growth. The legislature was grappling with revenue forecasts for the 2001-2002 fiscal year to the very end of the 2002 session. The current year budget was foundational for the new budget partially from the institutional pull of incrementalism, but also because of the paralysis of meaningful attempts at cooperation between the House and the Senate and (by extension)
between the General Assembly and the Governor. This will be discussed more thoroughly below.

The JBC’s institutional commitment to guardianship of the state government was demonstrated by its insistence on the maintenance of current year General Fund expenditure at a level 6% higher than the 2000-2001 levels. Fully funding the General Fund in the current year was important to the JBC and other legislators, because it served as the base on which the limits of the 2002-2003 General Fund budget would rest. Just as the full funding of government...all state expenditures under the TABOR amendment, has become the base on which calculation of the total state expenditures are made for the subsequent year. The Governor, by all accounts and indications, did not rate the full funding of the General Fund as imperative.

**Funding the shortfall in 2001-2002 revenues: Highlights.** A rough accounting of the cuts and fund transfers employed to compensate for revenue losses in the 2001-2002 year is given below. Final and more accurate figures will be available in the 2002-2003 Appropriations Report due out in July 2002.

**September and October 2001--**

Current year expenditure reductions, many in the fall of 2001, were achieved by deferring construction on highways and public buildings. Hiring freezes for most state agencies were also imposed. A full accounting these is unavailable, but press reports place the fall ‘cuts’ which actually seem to be deferrals in the neighborhood of $360 million.

**First Round Supplementals and Fund Transfers Late March 2002:**

- **HB02-1366 through 1388 Net cut** $83 million
- **HB1390 Capital Construction Fund transfer to General Funds** $37.5 million
- **HB1391-1394 transfers to General Fund** $133 million

**Second Round: Fund Transfers April, 2002**

- **HB02-1442 Wildlife Cash Fund to Emerg Reserve Fund** $14.3 million
- **HB02-1442 Unclaimed Property Fund to Emerg Reserve Fund** $34.2 million
- **HB02-1443 Transfer of Capital Constr Funds to General Fund** $53.5 million
- **HB1444 Cash Fund transfers to General Fund** $4.1 million

**Final Round: More Fund Transfers, April and May 2002**

- **HB02-1478 General Fund Statutory Reserve reduction to zero** $226 million
HB02-1478 Major Medical Fund Transfer to General Fund $75 million

HB02-1478 authorization for Governor to transfer funds from Unclaimed Property, Tobacco Settlement Fund, and Workman’s Compensation Claims Account $275 million

Rough Total of Cuts, Deferrals, Borrowings from funds, Fund Transfers to compensate for revenue shortfalls during 2001-2002 fiscal year $1,295,600,000

The 2002-2003 Budget Process

Budgeting was harder and tardier this session for several reasons. First, it was hard for budgeteers to fix on moving targets: combinations of economic projections based on regional can-doism and booster ideologies makes it hard for the legislature to focus. The succession of economic and revenue forecasts has demonstrated the high degree of unpredictability in such forecast. Each forecast has been undone substantially by its successor. A foundation for decisions was lacking throughout the session. Legislators have no stomach for making deals that they suspect will need to be undone by new events. The exercise of budget reduction is disheartening and unrewarding, except for the most hardened anti-government ideologues. Opportunities to display institutional statesmanship and teamwork abound, but the prospect of the making the state of Colorado a better place to live is dimmed by disappointing revenue harvests. Under Colorado’s TABOR amendment, the legislature cannot raise taxes by itself: The Finance Committees are places where only revenue CUTS can seriously be entertained. But TABOR and Arveschoug-Bird (which has become just as sacrosanct) limits accomplish a greater complexity than uncertain forecasts, for they enforce linkages between successive annual budgets. In the context of recession and the concomitant revenue shortfalls, work on the successive year’s budget is contingent of the finalization of the prior year’s budget. This did not happen in the 2002 session until agreements on the 2001-2002 cuts and the broad outlines of the 2001-2002 fund transfer solutions had emerged to a reasonable certainty. In particular, the Long Bill, which under General Assembly rules was to be introduced on March 25th, was not introduced until two weeks later. The House of Representatives, delayed hearings and debate on the long bill until very late in the session. Recession created tighter linkages between successive budgets. The politics of the budgetary process became more technical and time constrained, and the stakes of budget conflict were lowered by the lack of flexibility in state finances.

The JBC and the Governor could not organize a cooperative response to the revenue crunch in order to craft a budget for 2002-2003. For one, the revenue stakes were uncertain, and some national economists were heralding the end to the national recession. Wishful thinking in Colorado allowed the hard choices to be put off onto next year’s (2002-2003) recovery. Hence, the overall state budget for 2002-2003 was some 7% higher than the troubled 2001-
2002 budget that was subject of unwelcome and recurrent rounds of attention. The early March veto of the fund transfer bills was an encapsulation of the problem. The Governor and the JBC didn’t trust each other. In an election year, the Governor did not want to be deprived of the high ground of tax cutting. The JBC wanted to assure that the 6% limit on General Funds would be approached, so as to ensure future years’ funding. Added to this mix were the partisan differences between House and Senate. Any compromise between the legislative and executive branches would have to satisfy the newly energized Senate Democrats and the highly partisan wing of the House Republicans who dominated the caucus. Little in the legislative and business careers of most of the legislative leadership would prepare them to make deals across deepening party lines. The JBC on the other hand, was a bastion of partisan comity. It and its capable staff did the hard and unhappy work of offering marginal pragmatic changes with budgets in the absence of bi-partisan leadership that could unite the two majority caucuses and the Governor around the same. The incrementalism of the 2002-2003 budget was a rather workmanlike but dispirited incrementalism driven by the attempt to avoid catastrophe. First partisan catastrophe would be avoided in the form of failure to muster majorities to pass the Long Bill. Second, governmental catastrophe would be avoided by assuring, as much as possible, that the essential services of government would continue to be provided albeit (in some cases) in hobbled form.

The Long Bill Narrative issued with this year’s Long Bill (HB02-1420) was matter-of-fact. In some instances, the narrative recorded the availability of new federal funds and their inclusion in the budget. $100 million in Education grants and $65 million in funding for acute and long-term Medicaid services were the clear standouts in federal fund changes from the prior year. In other instances, the allowance of higher than normal tuition increases (to 7.7% at colleges and universities) was justified as were new accounting rules under GASB rulings regarding scholarship accounting for TABOR (a $111 million distinction). Otherwise, a handful of minor ($10-15 million) changes in cash fund appropriations were all that was made.

Finally, General Fund funded programs increased to fund existing commitments in school finance ($153 million), to match federal grants in Medicaid ($74 million), grants to higher education governing boards ($44 million) for scholarships. In all, several of the larger past commitments to state departments under state law were kept even though expensive in some cases. It is conceivable that changes in or deferrals of some of these statutes could have been made, but the monetary value appears to have been low compared to the political cost of cutting in an election year. The bill was largely untouched in committee and floor considerations, but there were contentious issues that stopped the Long Bill.

Prickly Partisan Denouement to a Lousy Session.

The Long Bill proposed a budget that was approximately 7% beyond the final 2001-2002 budget, or so it was estimated. The budget bill (HB02-1410) submitted by the JBC on April 8 was finally passed almost a month later, May 7, the day before adjournment. There had been no budget in memory that had taken so long to put before the General Assembly but it passed
essentially as it had been proposed. Changes made to the bill were no more than $3 million, according to the Senate’s senior member on the JBC. There were two main areas of contention that changed the bill.

First was the appropriation for the Judicial branch. The Senate (and Democratic) position was that the final phase of salary increases and support budgets to be funded ($1.4 million) for state judges needed to be brought up to the level at least even with administrative law judges. The Republican House position was to expand the number of positions at a cost of $2.3 million. Negotiators could not find a way for the House Republicans to accept a compromise to do both, at reduced increments over the year. A compromise was struck late in the session which took funds out of a higher education line for “Programs of Excellence” and a refinancing (stretch-out) of compliance with a federal court order in mental health.

The second was the education component, which was nominally separate from the Long Bill, but essential to its passage. The stopping point in negotiations was that the House wanted more funds for Charter Schools, esp. funds for Capital Construction of these schools. The Senate wanted to raise the base funding under the school finance formula. This was the stopping point in the discussion. The conferees finally used the House version as the basis for a compromise: Each chamber was invited to write $10 million to use in its preferred manner. The House used $7 million for cap construction and $2 million for construction debt reserve for charter schools.

The Senate used its money to fund raising the base and increasing the number of preschool slots under the state allocation formula. These are trivial differences in a $13.8 billion budget. Were there more stomach for making policy choices within the context of these tight budget parameters, the result might have been different.

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<td>Corrections</td>
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<td>Education</td>
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### Long Bill Operating Total

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GRAND TOTAL $13,828,028,725

2001 figures account for the negative supplementals, at least the first two packages, September 2001 & March 2002.

The 2001 figures are “current” up to the introduction of the Long Bill on April 8, 2002. Two remaining sets of 2001-2002 supplementals are not included in these and will not be available until July 2002.

Although it did not directly affect this year’s budget drastically, a third series of issues was negotiated in the context of the late session pressure to complete all work. This was the disposition of the transportation bills. Bills had been introduced in each chamber which took distinctive views of a solution to the state’s transportation funding crisis. The House Bill (1310) provided that the SB97-1 transfers of 10.4% sales tax revenues to the Highway Fund would be expanded to 15% over several years. This increment was (correctly or not) referred to by many legislators as the growth dividend brought by the census correction of 1990’s population growth. The bill’s provisions also included the creation of a statewide toll way authority. The Senate bill (SB02-179) sponsored by the Senate President Stan Matsunaka included provisions that the House objected to and the Governor would rather not see. One was provision for the Regional Transportation District to seek an increment to its regional sales tax base in order to build out more rail lines to the north (to Longmont) and to southern Denver suburbs. This flew directly in the face, or so opponents claimed, to the Governor’s earlier pledge of “No New Taxes” under an Owens administration (Leib and Seibert, 2002a). Another feature of SB02-179 was the provision to distribute the funds and toll way board representation to the various regions of the state, an obvious play to transportation officials beyond the metro area.

The Senate bill also wanted some of the money set aside for mass transit and entered the conference negotiation with a 50/50 offer, while the House conferees wanted 75/25 in favor of highways. The House wanted the full 15% (state sales tax revenue money) outright, with no assurances that the Arveschoug-Bird 6% threshold would be met before any ‘automatic’ transfer could take place. The Senate wanted to retain the 6% ‘trigger’ whereby the General Fund would have to reach 6% growth before any increment could be transferred to the Highway Fund.

The Greater Denver Chamber of Commerce and Denver area public officials weighed in very visibly to support a compromise that was eventually struck Leib, 2002a). Matsunaka would lead the Senate conferees with broad commitments from the Senate Majority caucus and, with the help of the Governor, the Senate struck a deal in which it gave the sales tax diversion (the >15%’) but got a bill with every other major provision it wanted. The House Republican caucus on the other hand had backed itself into a very partisan corner, with a very inflexible set of instructions to its conferees. It was the Governor, who briefly chatted with conferee Rep. Fairbank, that persuaded Fairbank to support Matsunaka’s compromise with his tie-breaking vote ((Leib and Seibert, 2002b; Denver Post editorial, 2002e). Even so, the House conferees voted against the conference bill on final passage. The bill’s passage was something of a triumph for both Matsunaka and Owens. For Owens, the state could point to a broader stream of highway money to back bond issues that had been stalled for their poor bond
ratings. This will help him consolidate some core support for the 2002 gubernatorial race. Still, the result is packed with irony: What a democratic governor couldn’t accomplish, in promoting mass transit across the state and in supporting full build-out of the current phase of RTD’s rail service, was accomplished with the intercession of Governor Owens. Finally, the deal accomplished something for the soft parts of the state General Fund budget, like Higher Education and Human Services (K-12 having already acquired a constitutional guarantee of funds through Amendment 23). Although these may someday be sacrificed, it will not be due to the legislature’s writing highway finance bills which crowd out other softer expenditures. The bill was passed late on the evening of the last day of the session.

Budgeting Institutions in Colorado: Prospects

The tax limitations of TABOR forced the General Assembly to account for ALL revenues, even those Cash Fund revenues regarded as the special province of interests in the state obtained through user fees and charges. In addition, although it began modestly, the practice of making statutory transfers of General Fund Revenues into Capital Construction and Capital Maintenance funds has proved very popular to legislators, rural fiscal conservatism and anti-government conservatism notwithstanding. The capital funding arrangement created a legislative constituency for ‘maxing out’ the General Fund growth to 6% (and cheering sales tax and income tax revenue growth) in order to draw funds for Capital development projects distributed throughout the state. The booming economy permitted members to enjoy a legislator’s nicest dream: To be fiscal conservatives by reducing taxes and refunding surplus revenues AND big spenders on construction and maintenance.

Initially intended in the late 1980’s to serve as an upper limit on General Fund expenditure spending up to the 6% level has come to represent for legislative moderates insurance for General Fund expenditure and financial flexibility for the state’s operations, the vast majority of which are financed from the General Fund. So, the combination of Colorado’s Arveschoug-Bird and its TABOR Amendment with the booming economy turned the logic of Arveschoug-Bird statute on its head. General Fund appropriations were seen by conservatives and moderates alike as the normative base of successive year’s budget. To limit its growth was to jeopardize next year’s governmental operations budget and to jeopardize the legitimacy of capital construction funding. A bipartisan, trans-ideological norm has developed around this necessity.

Although legislative life has probably not become more complex in Colorado’s General Assembly, the complexity of budgeting has jumped markedly over the years since the passage of TABOR. Increasing the technical complexity of budgeting is the backwards linkage of each year’s budget to the prior year’s. That is, budgeteers find their legislative tasks constrained by the prior year’s General Fund and overall expenditure totals. So too are budgeteers mindful of the forward-linkages, since their current legislative choices by statute and by Constitution
constrain the following year’s totals. Overall, these linkages combined with the internal complexities of the state’s multiple, but interlaced revenue sources and the state’s intricate inter-fund transfers have added to the opacity of the legislature’s budget process to those without the patience or legislative experience to understand it. In the past, it has been the General Assembly, not the Governor (as institutions) which have been most mindful and attentive to the attachments of the budget to the state’s political interests and history. The Joint Budget Committee became the repository and guardian of this history and, more broadly, the bulwark against change and centralization most commonly identified with the managerial imaginations and intentions of the state’s Governors.

It is the legislature not the Governor which is most mindful of this, and to JBC members most acutely schooled in the intricacies of the state’s finances, this is a normative foundation for state financial decisions. JBC stewardship has several bulwarks. The socialization of members into this role is encouraged by the complexity of the budget process for the budget committee on whose shoulders the primary weight of budgeting has fallen for over 30 years. Long and difficult hours of work simply to understand the budget and state finances typically forges strong bonds among members of different ideological stripe. The primacy of the legislature in Colorado’s budget process is well known for students of Colorado politics, but the invention of the Joint Budget Committee in the 1970's to centralize the legislative budget process thus bringing discipline to legislative life, is less well known. The rise of liberal Democrat Richard Lamm and his ascendance to the Governor’s Office in the 1970's caused many Republicans and fiscal conservatives to breathe easier: The JBC would protect the budget from interference and profligacy of a liberal or visionary governor. This financial bulwark against gubernatorial power has been religiously preserved by Republicans over the past two decades when Colorado had the liberal Lamm serving as Governor for 12 years and a conservative Democrat, Roy Romer for another 12 years.

Successive legislative leaderships self-consciously joined their mission as dominant force in Colorado government in the past three decades by supporting its JBC members. And by having an institutional memory which understood the legislature’s role as sole guarantor of historical legislative commitments and governing arrangements. All this independence rankles the current Republican leadership in the General Assembly, as well as Republican Governor. The irony of the current situation, then, is readily apparent. Under conditions where Republicans control the House and the Governor’s Mansion, the guardianship of the budget process and the budget itself, is NOW seen to be a source of meddling, if not antagonism to the plans of the party’s dominant House faction of conservative Republicans. For the first time in recent memory, in the middle of the 2002 session, the Speaker issued vague warnings to the JBC’s House Republican veterans, Gayle Berry (R-Grand Junction) and Brad Young (R-Lamar) that the Speaker may appoint others to take their places during the session. (Martinez and Kane, 2002; Denver Post editorial, 2002c).

For several reasons, this was an exceptional year in budgeting for Colorado. First, the end of the decade long economic expansion stopped, eliciting a scramble for solutions for the
shortfalls which would beset the legislature all session. The 2002-2003 budget began its trajectory under the well-formed clouds of revenue loss. Before the JBC would begin its hearings in November, it was already notable that a joint approach to solving the shortfall would be a shallow one. The Governor’s budget submittal in November was criticized by the Democrats as not taking the state’s current revenue losses seriously enough. Owens submitted a $13.6 Billion budget after the current year budget had just been cut $390 million to $13.2 Billion. (Brown, 2001; Sanko, 2001). Even granting that the executive budget in Colorado is more a political document than a policy document, Owen’s political message was that he was not going to make the cuts should the recession likely continue for a while. While the Governor was public in voicing concern about the receding state revenue picture, he was unable to frame a strategy of guiding the General Assembly through the political minefields. Overall, his approach to the JBC was, at best, standoffish, at worst, opportunistic. The Governor had his own problems of eliciting party unity with the House Republican Caucus, whose partisanship ultimately made it an unreliable partner for the Governor. In spite of the common partisan label of the Governor and House majority, the institutional differences between them were magnified by the siren call of the fall elections.

Avoiding blame is one important part of the task in deep budget cuts, and without the ability to “circle the wagons” (Weaver, 1986) of his own partisans, much less to acquire political cover for cuts from the partisan opposition, the Governor’s aloofness from the General Assembly was perhaps inevitable. Putting the best face on it, the Governor was forced by the unsteadiness of his legislative party into an overall strategy of hedging. A legislative program was not going to be made from the state’s budget problems. He and the General Assembly studiously avoided this. Ultimately the 2002-2003 budget was a rather meek “dodging” exercise oddly insulated from events. For example, in a state with a surplus of vocal fiscal conservatives, alarm over the $1 billion plus revenue shortage was never sounded. A crisis could easily been declared and a political legend could have been forged by a conservative Governor with the help of his political and ideological allies. Yet, the reaction of the Governor and others was remarkably subdued. In part this reaction was fueled by a hope that the recession and the additional “Sept 11 downturn” would yield to the halcyon days of 1999 when there was money to both grow the budget within its TABOR limits and refund revenue surpluses to taxpayers. Leadership would default to the Joint Budget Committee, which members and staff would work to square the revenue and expenditure numbers, as it alone would superintend the grim details. To add to the vertiginous unreality of the beginning of the 2002-2003 budget process, the year 2000-2001 figures on revenue surpluses were published. Individual income tax filers could each expect more than $200.00 in refunds in Spring 2002.

Other lesser institutional factors were in play as well. For one, the Governor’s disposition on the current year and 2002-2003 budget has also put cramps on the staff work conducted by the JBC. For the first time in memory, the Governor’s office required clearance for many informational requests made by the JBC and its staff. This added burdens to a staff already working on two sets of budgets in parallel. The political misunderstanding and standoff between the Governor and the JBC has resulted in stalling the 2002-2003 Figure Setting Process, an
iterative process of estimating and deciding the magnitudes of the Long Bill requests. Given the
delay in getting to the final Figure Setting and the Long Bill, and the compression of the JBC’s
schedules for hearing final staff presentations and recommendations, the contents of the Long
Bill are more obscure to the normal legislator and observer alike. This is simply because of the
pace of JBC activity, which if less furious as in a normal budget process, the construction of the
bill would have time to percolate through the normal, but informal information circuits consisting
of members, agency staff, legislative staff, and lobbyists. It is not surprising that increasing
relative ignorance of the budget has spread to many quarters in the State Capitol.

For another, the partisanship of the House Republicans caused it to do some unprecedented
things. Long insulated from legislative free-for-all by the constitutional requirement that the
Long Bill may only fund ‘current statute,’ the budget is not the object of ‘Christmas tree’
spending pressures common in the U.S. Congress appropriations process. This endows the
JBC substantial insularity from the percolating alliance politics of the members. Nonetheless, the
House Republican leadership tried on occasion to reverse the historical orientation of the caucus
to its JBC members, by bringing pressure to bear on Chairman Brad Young (R-Lamar) and
member Gayle Berry (R-Grand Junction). Although no JBC member is affiliated with the
extreme wings of their party, the Republican right has pressured Young and the other two
Republicans to fall in line with caucus and gubernatorial priorities. The latter were not however
clearly articulated. There has been talk of the current Speaker replacing two House Republican
JBC members (the JBC Chair, Representative Brad Young and Representative Gayle Berry) in
the middle of the 2002 session. This would break from tradition and erode the independence
of the legislative budgeting process from the Governor and substantially alter the state’s budget
process forever. This time around, however, the backbone of the legislature seems to be
supplied with uncommon talent and perspective with which to assert its historical stewardship
over state finance.

Had the membership of the JBC, been different, the budget revisions for 2001-2002 and
the formation of the 2002-2003 might have been very different. In the past the caucuses have
been kept closely abreast of the JBC deliberations and choices and the caucuses have been
generally supportive of their members. The Senate Democrats apparently kept with this
tradition (even though their long absence as majority party must have found them out of
practice), with the JBC members nearly continuously educating and re-educating, briefing,
explaining the process and the situations to the caucus. There appears to have been little of this
in the House Republican caucus.

In this context the insularity of the JBC probably saved the General Assembly what might
have been a great deal of chaos, even while the grinding workload of the committee was
palpable to observers.

Barring a breakdown of the institutionalized budget process, which seems unlikely in the
short term given its recent re-assertion, the JBC’s Long Bill is expected to have a fairly clear
sailing in spite of clear impatience (and disbelief) among members with the disappointing harvest
of state revenues since Fall 2001. Broad dissatisfaction with its contents for 2002-2003. It would be false to conclude that the institutional budget process has prevailed however. The relative seniority of its ranking Senator (Peggy Reeves D-Fort Collins) and Representative (Brad Young, R-Lamar) perhaps make the long term legislative and JBC dominance of the state’s finances appear more certain than they are in fact. Both these legislators have had long careers in the House, Young having returned after some several years of political semi-retirement from the House and Reeves a long-standing legislator from Fort Collins. Senator Dave Owen, a long time moderate veteran Republican legislator from Greeley, allows the JBC to cover a vast institutional memory, political custom, patience, and strategic aplomb that is so out of step with the rest of the General Assembly as to astound. Its three most junior members, Representative Gayle Berry (R-Grand Junction), Representative Todd Saliman (D-Boulder) and Senator Penfield Tate (D-Denver) are distinguished for their very hard work and mastery over the nuance of the state’s finances and their patient approach to the legislative process. Meetings of the JBC are interesting public demonstrations of legislative virtuosity on the wane in Colorado’s legislative institution.

The blunter potential effects of increasing relative ignorance brought by term limits have not imposed itself on the JBC with full force, yet. Representative Saliman (D-Boulder) makes a term-limit retirement this year while Senators Reeves (D-Fort Collins) has two years remaining and Dave Owen (R-Greeley) has another four-year term remaining under the term limit law. Senator Penfield Tate has several years remaining, but apparently is ambitious to run for Denver Mayor next year. Representative Gayle Berry has several years remaining, but faces a strong Republican primary challenger this summer in her Grand Junction district. Clearly one of the ablest and most thoughtful legislators in the House Republican caucus, her defeat would invite lesser talent to the JBC. After these legislators, it is hard to find current legislative talent in either chamber or party to renew the JBC. In the light of several years, we may see ourselves conclude that the strength of this JBC membership had a forestalling effect on institutional changes underway since the dawn of term limits. In the long term, the handcuffing of state finances by TABOR and succeeding innovations related to it, in addition to the slow erosion of the legislature’s talent pool may succeed in having the effect of elevating the role of the governor in ways unanticipated by the authors of term limits whose goals were to increase the responsiveness of the legislature to the electorate. While enforced turnover may have had that effect, the authors of term limits overlooked the importance of legislative skill and institutional potency as essential to representing the legislature itself.
1. Also on the ballot were Amendment #2 which sought to void protection of gay rights (later overturned by the U.S. Supreme Court); three items which would have permitted expansion of gambling to twelve new sites; one item pushed by the governor to dedicate a sales tax increase to K-12 education, etc.

2. **Taxpayers Bill of Rights.** The historical reference among longtime Colorado citizens is hard to miss. Horace Tabor was a Colorado ‘silver king’ who by blind luck stumbled upon a huge vein of Colorado silver in the late 1800’s, only to exhaust a huge fortune by reckless and desperate spending and unsound investments.

3. These included HB 99-1311 Personal Property Tax Credit [$85.0 million]; HB 99-1137 Dividend, Interest & Capital Gains Exemption [$38.4 million]; HB 99-1237 Colorado Capital Gains Modification [$36.7 million]; HB 99-1383 Earned Income Tax Credit [30.6 million]; HB 00-1227 Motor Vehicle Registration Fees [34.8 million]; HB 99-1383 Earned Income Tax Credit [$30.6 million]; HB 00-1227 Motor Vehicle Registration Fees [34.8 million]; HB 00-1209 Expand Capital Gains Modification [$30.6 million]; HB 00-1104 Income Tax Credit for Health Benefits [$22.9 million]; HB 00-1351 Increase Child Care Tax Credits [$22.1 million]; HB 00-1351 Child Care Tax Credits [$22.1 million]

4. The 2000 candidate elections collided with several ballot referenda and initiatives. These included a statewide initiative on growth control, another tax reduction measure authored by TABOR crusader Douglas Bruce, medical marijuana. The measure won in all the urbanized front range counties from north (Larimer) to south (conservative El Paso), including all the counties of Metro Denver, along with the central and northern Colorado ‘ski counties’ (Summit, Eagle, and Routt). Typically it failed to win majorities in the rural counties, but it also failed in Weld (containing Greeley and the state’s largest cattle feeding and butchering operations) and deindustrialized Pueblo Counties

5. These figures are derived from the package of 23 House bills, HB02-1366 through HB02-1388, available from the General Assembly web site.

6. The legislature had precise amounts in mind when it passed this bill (HB02-1391) but the actual value of the interest and the full balance of the family support registration fund cannot be ascertained by the writer. Fund transfers from the other 19 funds varied between $30 million (the Hazardous Substance Response Fund) to $500,000 (the Persistent Drunk Driver Cash Fund).

7. This includes $3 million from the Species Conservation Trust Fund, as well as the Environmental Leadership Fund ($491,527 est.) and the Waste Tire Recycling Cash Fund ($600,000). Values for the fourth fund included in HB02-1444 transfers, the balance of the Auto Dealers License Fund, could not be found).
8. The exact figures are unavailable on the total amount made available here, but the additional increment available to deal with the revenue shortfalls appears to be in the neighborhood of $100 million from the Tobacco Fund and $175 million from the Workmen’s Comp Account.

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