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Refunds for taxpayers key part of TABOR's design

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The passage of Question 4 on Tuesday's ballot -- a measure to impose government tax and spending limits -- would automatically give taxpayers annual refunds unless voters decided otherwise in a state election.

Because the spending cap would be set during a period of plummeting state revenue, tax refunds would become possible once the economy rebounds.

Neither proponents nor opponents of the measure, known as the Taxpayer Bill of Rights, are talking much about tax refunds. It is one of the many details in the 4,783-word-bill that have received little attention during a political campaign that has consisted largely of competing catch phrases.

The refunds play a key role in how TABOR is designed to work, however.

If the measure passes, tax refunds could come annually, with the state tax assessor issuing a refund by Oct. 15 to every taxpayer based on the number of personal exemptions claimed on the taxpayer's return.

That's what happened in Colorado, where voters in 1992 passed the only other such measure in the nation. By 1997, revenue began to exceed the spending cap, and over the next five years taxpayers got annual tax rebates totaling $3.2 billion, according to the Cato Institute, a conservative think tank based in Washington, D.C.

Those rebates ended when a recession forced major cuts throughout state government.

'One-time bonus'

Question 4 in Maine would impose two separate ways to limit the Legislature's authority over the budget. It would require voters' approval for any tax increase, and for spending that exceeds a cap based on inflation and population growth.

If TABOR passes, the spending cap in fiscal 2010-11 -- the measure's first year -- will be an estimated $2.87 billion for the general fund, said Grant Pennoyer, director of the state Office of Fiscal Program Review.

The general fund is the portion of the budget funded by broad-based taxes such as sales and income taxes.

What would happen if revenue exceeded the TABOR cap? The answer is in a section of the bill titled "Transfers and refund of unappropriated General Fund surplus."

If state revenue exceeded the cap, 20 percent of the surplus would go into an existing rainy-day fund.

If the surplus were at least 1 percent of the general fund (an estimated $29 million in the first year), the Legislature would have to give taxpayers refunds, in the form of temporary or permanent broad-based tax rate reductions.

If the Legislature refused to act, according to the TABOR bill, the state tax assessor would calculate a "one-time bonus personal exemption refund" and put the checks in the mail.

The spending cap would also apply to other state revenue funds, such the fuel tax, which is used for road improvements. If fuel tax revenue exceeded the cap, the state would lower the fuel tax the next year.

The cap could be exceeded in any year, if legislators decided to put it on a statewide ballot and voters agreed to the additional spending. If those things happened, there could be no tax refunds in that year.

Recession equals low cap

Adjusted for inflation, the general fund in 2010-11 under TABOR would be about the size of the general fund in 1998-99. It would be $360 million less than general fund in 2000-01.

Establishing the TABOR baseline during a recession would prevent the government from growing too much during boom times, thus preventing painful cuts when the economy sours again, said Karl Turner, a former Republican senator from Cumberland who helped convince the Portland Regional Chamber to endorse TABOR.

"It has the effect of dampening down both extremes," he said. "I don't think you will have as far to fall when the times are so lean, because you won't have the upswings."

The spending cap, he said, would also help the Legislature make the hard decisions that are needed to make government less wasteful and more efficient.

TABOR's opponents say there couldn't be a worse time for a spending cap. They say TABOR would "freeze" state spending at recessionary levels and effectively block state government from responding to changing needs, such as the aging population or crumbling infrastructure, once the economy improves and state revenue increases.

They also say that a spending formula based on a consumer inflation index is unrealistic because the state spends money on services whose costs are increasing faster than inflation, such as health care.

As a result, they argue, the state would be doling out tax rebates and cutting services at the same time.

"TABOR will actually reduce spending, because (the costs of) so many items grow faster than others," said Christopher St. John, executive director of the Maine Center for Economic Policy, a liberal nonprofit that opposes Question 4. "It will also mean that there will be deeper cuts in some things than others."

St. John speculates that TABOR's supporters don't emphasize the tax refund because many Maine residents might recall the back-to-back tax rebates that Gov. John McKernan gave in the late 1980s. They were followed by a recession in the early 1990s that produced a budget crisis that forced an unprecedented shutdown of state government.

Tarren Bragdon, chief executive officer of the Maine Heritage Policy Center, said it's more about timing.

It will be as long as five years before revenue is enough for the spending limit to be breached, and for residents to start receiving tax refunds, Bragdon said.

In the near term, he said, TABOR's only function would be to block the Legislature from filling anticipated budget gaps with tax increases.

Pennoyer, of the state Office of Fiscal Program Review, said tax rebates could be issued much earlier because the spending cap would be set at a low level because of the recession. He said it might require only a modest uptick in revenue to trigger rebates.

At the same time the state could be issuing rebates, he said, it could be struggling to fill huge gaps in the budget because federal stimulus spending will be ending.

In the current budget, for example, $258 million in stimulus money is being spent to help fund programs, in lieu of state revenue that vanished during the recession. That federal money will go away next year.

Douglas Hodgkin, a retired political science professor from Bates College, said TABOR's proponents are campaigning on a simple message that it would provide tax relief and give voters more say over spending.

While the idea of tax refunds would seem politically appealing, proponents probably don't want to step on their main message with too many details about how the measure would work.

"You don't want to muddy up your message with too many complexities," he said.

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