



AC-REP LEAD Government Day

Presented by:

Carolynne White

The background of the slide features a photograph of the Colorado State Capitol building, showcasing its iconic gold-domed roof and classical architectural details. A large, semi-transparent rainbow flag is overlaid on the left side of the image, partially obscuring the building's facade.

Colorado Constitution

- Easy to amend
- Creates framework within government operates and policy decisions are made
- Three key constitutional provisions shape Colorado public policy
 - Home Rule (1912)
 - Gallagher (1982)
 - TABOR (1992)



Home Rule and Local Control
Gallagher
TABOR

Home Rule Authority (municipal)

Colorado Constitution, Article XX, Section 6 (1912)

- *The people of each city or town of this state, having a population of two thousand inhabitants as determined by the last preceding census taken under the authority of the United States, the state of Colorado or said city or town, are hereby vested with, and they shall always have, power to make, amend, add to or replace the charter of said city or town, which shall be its organic law and extend to all its local and municipal matters.*
- *Such charter and the ordinances made pursuant thereto in such matters **shall supersede** within the territorial limits and other jurisdiction of said city or town **any law of the state in conflict therewith.***



Home Rule/ Local Control

- Why does it matter in Colorado?
 - Sales Tax
 - What is taxable
 - Who collects
 - Wayfair Case
 - Land Use regulations (zoning, “rent control”)
 - Affordable Housing
 - Oil and Gas
 - Gun Control
- Must be a matter of “local concern”



Local v. Statewide Concern

- “statewide” v. “local” concern - factors
 - demonstrated need for statewide uniformity in regulation;
 - demonstrated impact of municipal regulations on people living outside the municipality;
 - historical considerations of whether the matter has traditionally been regulated at the state or municipal level;
 - demonstrated need for the state to be involved to resolve intergovernmental conflict at the local level;
 - specifically delineated home rule authority in the Constitution Article XX
 - *City and County of Denver v. State of Colorado*, 788 P.2d 764 (Colo. 1990).

Home Rule Authority - County

- Home Rule Counties - Virtually identical to statutory county powers
- Article XIV, Sec. 16
 - . . . , the registered electors of each county of the state are hereby vested with the power to adopt a home rule charter establishing the organization and structure of county government consistent with this article and statutes enacted pursuant hereto.
 - The general assembly shall provide by statute procedures under which the registered electors of any county may adopt, amend, and repeal a county home rule charter.
 - A home rule county shall provide all mandatory county functions, services, and facilities and shall exercise all mandatory powers as may be required by statute.
 - A home rule county shall be empowered to provide such permissive functions, services, and facilities and to exercise such permissive powers as may be authorized by statute applicable to all home rule counties, except as may be otherwise prohibited or limited by charter or this constitution.



Gallagher Amendment

- What is Gallagher?
 - Constitutional Amendment – approved by voters 1982
 - Named after Dennis Gallagher, state legislator
 - Intent – to limit tax increases on residential property owners
 - Required ratio of commercial to residential property taxes be fixed at 55/45
 - Commercial assessment rate fixed at 29%; residential rate reduced to 21%
 - Result – residential assessment rate continually declining

Effect of Gallagher

- Overall effect is to shift property tax burden statewide to commercial taxpayers, away from residential taxpayers
- Residential assessment rate reduced from 21% in 1983 to approximately 7% in 2019
- Most direct impact on counties and other local governments financed primarily by property taxes (school districts, fire districts)
 - Especially where residential properties make up a high percentage of total assessed valuation within boundaries
- Indirect impact on municipalities



2020 Election – Amendment to Gallagher

- A **"yes"** vote supported the following:
 - repealing the Gallagher Amendment, which set residential and non-residential property tax assessment rates in the state constitution;
 - allowing the Colorado State Legislature to freeze property tax assessment rates at the current rates (7.15% for residential property and 29% for non-residential property);
 - allowing the state legislature to provide for future property tax assessment rate decreases through state law; and
 - continuing to require voter approval for rate increases due to TABOR.

TABOR

Taxpayers Bill of Rights





Taxpayer's Bill of Rights

- Constitutional Amendment passed by voters 1992
- Restricts ability of government to make certain fiscal decisions
- 14 different provisions
- Most well known
 - Debt and tax increases must go to a vote of the people
 - Spending Limit => TABOR Refund – a.k.a. "Black Box"

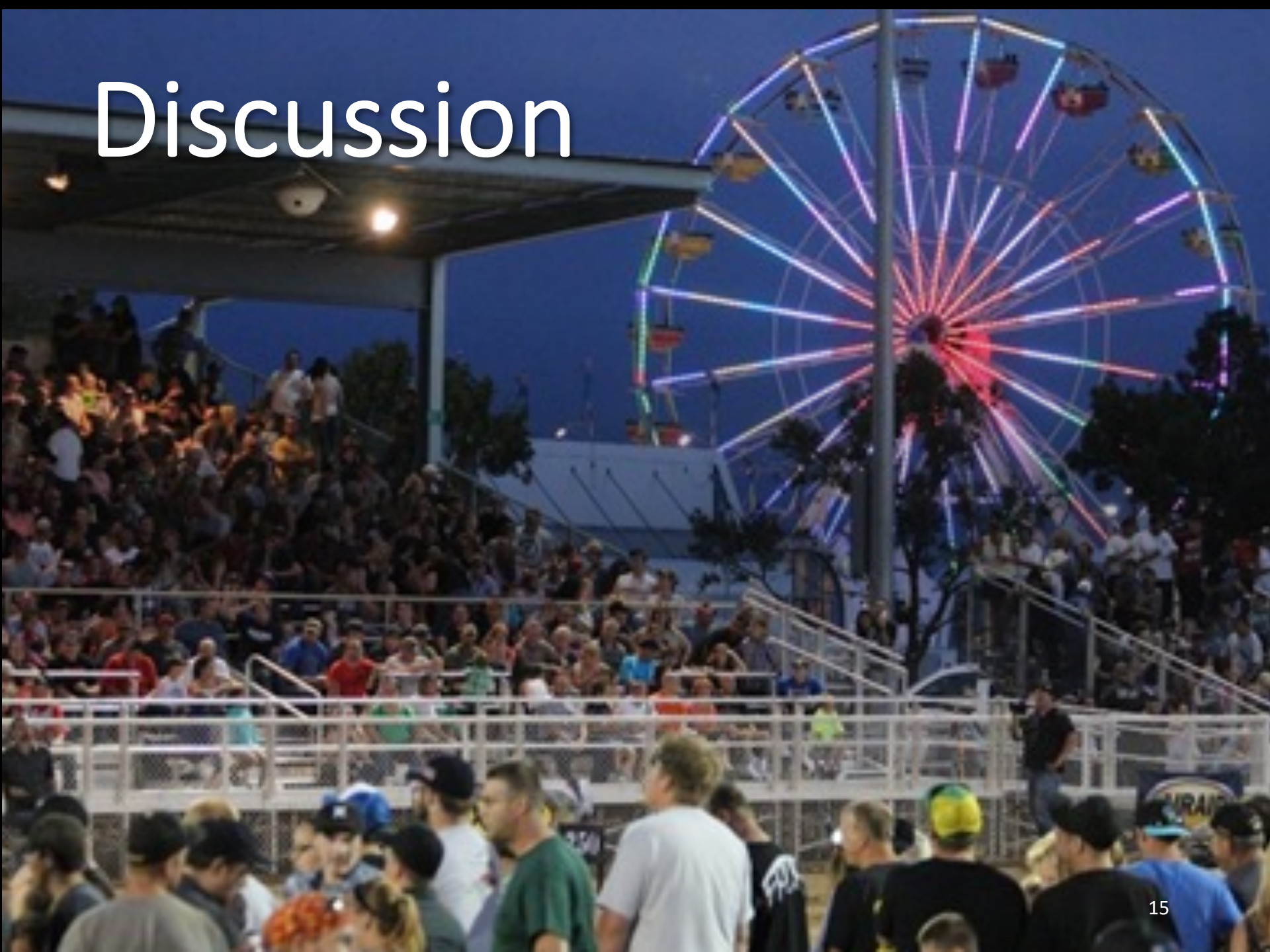
TABOR Spending Limit

- In each fiscal year, government may keep and spend
 - Same amount of revenue as last year; *plus*
 - prior year inflation measured by the Denver-Aurora-Lakewood consumer price index; *plus*
 - the estimated prior year change in the state's population.
- “Black Box” calculation
- What revenue is included; what is excluded
- Enterprises

TABOR - continued

- How affect local government?
 - Fiscal implications
 - Policy implications
 - State and local governments look for ways to raise revenue that are not “taxes”
 - State and local governments look for ways to keep revenue by “debrucing”
 - State and local governments look for ways to borrow capital that is not “debt”
 - Implications of straight “fee for service” government
 - Fire response
 - Police

Discussion





Brownstein

Questions?

CONTACT

Carolynne White
cwhite@bhfs.com
303-223-1197