



COLORADO FISCAL
POLICY INSTITUTE

Frequently Asked Questions: The 6% Directive

Does eliminating the Arveschoug Bird 6% provision raise taxes?

No. Eliminating the 6% provision does not in any way affect taxes nor does increase spending. Removing the 6% changes **how** General Fund dollars can be spent **not how much** can be spent.

Won't government grow out of control?

No. Removing the 6% provision changes **how** dollars can be spent **not how much** can be spent. It allows the General Assembly to decide on the priorities of the state based upon the unique circumstances of the time rather than being constrained by formulas that ignore economic conditions.

Doesn't it require voter approval to change it?

No. Current private legal analysis concludes that it can be changed by a vote of the General Assembly because it is not a "spending limit" as contemplated in TABOR. The Office of Legislative Legal Services is on record saying that they believe a vote is required to change this provision. We believe that OLLS has adopted a very conservative interpretation that provides its client, the General Assembly, with the advice that will most likely keep them from being sued. While that is a great approach in many circumstances, the current crisis and the future enhanced crisis that results from the ratchet in the 6% warrants a bolder approach.

What happens to funding for transportation?

That depends on the decisions of the General Assembly. Currently they are considering a proposal for fee increases, in future years they will have the flexibility to consider transportation funding on a level playing field with all other critical public services. The automatic transfers to transportation will be eliminated but the General Assembly's ability to fund transportation will remain the same. They will just need to make their funding for transportation an affirmative decision rather than an automatic transfer.

How does this help public services now?

In the short term, it increases the options available for balancing the budget like use of cash fund balances, general fund reprogramming with federal stimulus dollars and other budget tools. This flexibility comes from the understanding that cuts today won't become the default policy decisions of tomorrow.

In the long term, it allows the General Assembly to restore program cuts made during this time and to increase the amount of money available to fund critical services for Colorado families. Without this change, economic recovery can't fuel recovery of state services.

Won't this turn into a lawsuit?

There is a possibility that someone will challenge the General Assembly's authority to make this change. That challenge will finally settle an important question on the interpretation of one of TABOR's most restrictive provisions. Now, in a time when there is no money above the 6%, is a great

time to pursue that answer since whatever decision the Court makes will not result in disruption of funding.

Why now, there isn't any money above the 6%?

Now is the right time precisely because there is no money above the 6%. It is the best time for a potential legal challenge, it is the best time because the debate can focus on the question of responsibility to make budget decision rather than how much money is subject to the automatic transfer.

It is also the right time because the federal stimulus money dramatically illustrates the problem with the ratchet effect of the formula. It is so much smarter to prepare for the economic recovery before it happens than to wait until the constraints of the provision actually extend the effects of the recession.

Shouldn't this go to the ballot?

One strategy is to ask the voters, but that is an expensive and burdensome approach to dealing with a very technical change. Most voters believe TABOR was about giving them to right to approve tax increases. This is not a tax increase, does not affect the amount of government spending, and is really complicated and arcane. Removing the 6% changes how General Fund dollars can be spent not how much can be spent. A campaign is a limiting and expensive environment for explaining complex and arcane budget processes.

If this is so bad why hasn't it been changed before?

The education effort needed to help policy makers understand the working of the 6% has been building for years. The effects of the ratchet on spending from the last recession have really demonstrated the constraints and reductions in services the 6% provision has caused.

Didn't Ref C fix the ratchet?

Referendum C addressed the ratchet in TABOR, but not the separate and independent ratchet of the 6%. The two ratchets, however, work are functionally the same but of course the people voted to change the ratchet in TABOR.

Does this make it harder for the state to save for a rainy day?

No. In fact eliminating the 6% provision makes it possible to save more, but eliminating the requirement that the General Assembly must spend all excess reserves.

For more information, please contact:

Carol Hedges
Senior Fiscal Analyst
Colorado Fiscal Policy Institute
303-573-5669 ext. 309
chedges@cclponline.org
www.cclponline.org
<http://coloradopolicymatters.blogspot.com>