



## COLORADO FISCAL POLICY INSTITUTE

### **A NEW LOOK AT AN OLD CHALLENGE:**

**How a fresh take on Arveschoug-Bird can change Colorado's fiscal landscape  
January 4, 2008**

*“Arveschoug-Bird is a directive, not a limit.” –Jean Dubofsky*

**The Background:** TABOR was approved by voters in 1992. As a result, growth in state spending was limited to inflation plus percentage change in state population in the prior calendar year. TABOR also dictated that all existing limits on spending could only be weakened by a vote of people, thus “constitutionalizing” all existing statutes regarding spending limits.

Arveschoug-Bird was passed by the legislature in 1991, restricting the annual growth of appropriations from the General Fund to 6 percent. The General Fund is like a specialized checking account—it is used to pay for certain kinds of expenses such as higher education, criminal justice, schools, corrections, critical health care services and more. There are other kinds of state checking accounts, including the capital construction fund, the controlled maintenance fund, and many others. What Arveschoug-Bird does is direct the legislature to not write checks from the General Fund account for expenditures over and above 6% of what was spent the previous year. Left over money in the General Fund account is then transferred to other accounts and used for other things, primarily building things like roads and other infrastructure.

After TABOR passed, a single line in a non-binding Office of Legislative Legal Services memo made the assumption that Arveschoug-Bird was a spending limit had been “constitutionalized” by TABOR and could not be changed by the legislature. The OLLS stated: “A court would probably conclude that, for purposes of [TABOR], the Arveschoug-Bird limit is a limit on spending” because “spending and appropriations are closely related concepts....”

**The Bottom Line:** The Legislature has operated as if it cannot write checks for General Fund items over and above the 6 percent, based solely on the fifteen-year-old assumption of what a court would “probably conclude.” In turn, policymakers are restricted in what kinds of investments can and cannot be made in critical areas like education, health care services, and more. By accepting this unnecessary restriction on its authority, the Legislature has allowed its hands to be tied when it comes to fixing Colorado's fiscal mess. The result for Coloradans is an inability for policymakers to make the effective investments in vital areas.

**The Big News:** The big news is that today some of Colorado's most respected legal minds are coming forward to provide a new look at the 6 percent and an updated take on the OLLS interpretation. Since Arveschoug-Bird never limited the amount of money spent – but just directed how its spent,– it is not a limit as defined by TABOR. And thus, if the legislature sees fit, it can vote to change Arveschoug-Bird and finally be able to make fiscal decisions based on what's best for Coloradans, not based on an old assumption. Eliminating Arveschoug-Bird would not raise taxes or fees by a single cent, nor would it increase the amount of money the state spends. It would simply help ensure that tax dollars are being invested according to Coloradans' priorities.

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