MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1394

2005 HOUSE APPROPRIATIONS

HB 1394

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1394
Budget Stabilization Fund

House Appropriations Full Committee

☐ Conference Committee

Hearing Date January 25, 2005

Tape Number	Side A	Side B	Meter #
1	X	X	#26 (a) - 30.4 (b)
Committee Clerk Signature	Chris Alexander		

Minutes:

Rep. Ken Svedjan, Chairman opened the hearing, roll call was taken, and the clerk read the bill title.

Rep. Al Carlson reviewed the bill and distributed handout #16-1 (attached). Rep Carlson explained how the bill would work using this biennium's numbers. We had an ending fund balance projected at $10 million when we started, the next $40 million would go into the Budget Stabilization fund and then anything over and above that would go into the reserve fund which would require a 2/3 vote to get that money out. Within the budget stabilization fund the governor still has the authority to do allotments if there is a shortfall in revenues. (meter #35.3)

Rep. Ken Svedjan, Chairman clarifies the intent of the bill by saying it would keep the budget stabilization fund in place but it would change the limit from $65 million to $40 million and it would create a reserve fund that would collect anything over the $40 million that would have otherwise gone into the budget stabilization fund and then to expend any funds out of this reserve fund it would take a 2/3 vote out of the assembly.

Rep. Al Carlson referred to the chart in handout #16-1 and explained that government spending was rising faster than our personal incomes and other indicators of economic growth. The government should not grow faster than the economy for two reasons (1) we need to be sustainable in our growth and (2) we need to be able to sustain the levels of spending we've established without raising taxes in the next biennium. The budget stabilization fund allows us to maintain a sustainable level of government spending.

Rep. Ken Svedjan, Chairman commented for summary that in the current biennium we targeted a $10 million ending fund balance. We actually ended with $126.7 million. The excess would go to the budget stabilization fund (up to $40 million) and the reserve fund. The flexibility that is allowed in this is that the $40 million can be accessed if we find ourselves more than 2.5% below in revenues and the other moneys in the reserve fund can be accessed too but only with a 2/3 vote of the assembly. (meter #44.2)

Rep. Al Carlson answered that this was correct.

Rep. James Kerzman asked what would happen if we lost a lot of our federal dollars and we needed to put more of our own moneys in to keep these programs going?

Rep. Al Carlson answered that it is exactly for this type of scenario that this fund would work because you would be setting money aside that would guarantee that you had the money available should anything like losing federal dollars should occur and you won't have to raise taxes or cut programs. All this bill does is sets limits on government growth.

Rep. Ken Svedjan, Chairman says that he hears in Rep Kerzman's question that it is the responsibility of the state to pick up the shortfall if federal funding is cut, yet that is an issue unto itself as to whether or not the state should cover those cuts. (meter #51.1)

Rep. Joe Kroeber commented that in essence this is saying that the governor cannot take this money and use it in their budget, but when the legislators get here we can get to this money.

Rep. Al Carlson answered that its not really true to say this since this bill would set limits on both of us and if we run out of money we have to decide together whether we're going to put more money into it, and that is our job since we're the appropriators.

Rep. Joe Kroeber but it is true that if this were in place, the governor would have had less money to work with in the budget.

Rep. Al Carlson yes that is true but then our decision would be at that time then to set our priorities and decide if we want to take that money out to fund programs.

Rep. Ken Svedjan, Chairman clarifies that this bill does set limits and says spend within your means, but don't forget the other piece to this bill that says there are moneys that are set aside and accessible if the economy turns south.

Rep. Al Carlson says he would argue with the budgeting process we currently have in place that assumes that all moneys in our growth and in our economy is spendable money. He believes some should be set aside in the case of a sudden downfall of revenues.

Rep. Ron Carlisle commented that we use the contingency fund transfer system now to borrow moneys when we need them and pay them back when we have an excess. Why can't we continue to use this system?

Rep. Al Carlson answered that we have a lot of options for borrowing and paying back money but if money is harder to get at then the spending will stabilize or go down. It forces us to prioritize our spending. (meter Tape #1, Side B, #0)

Rep. Pam Gulleson mentioned that she was concerned with the restrictions on the funds because it might deter any initiatives for new ideas when the economy is doing well and straps the governor's hands from putting things in his budget so that he can be a champion of new ideas. This is a problem because we are also responsible for growing the economy as well as limiting spending. She is wondering whether there is a way to limit spending without limiting our initiative as well.

Rep. Al Carlson answered that this was an interesting idea and that the committee should work with this bill and figure out some ways to do this. But this bill does force us to stop and think about the programs we are spending the funds on and decide if these programs are growth initiatives for the economy or for growth in the government. We have to realize that just releasing the funds for government growth does not necessarily mean growth in the economy.

Rep. Eliot Glassheim commented that he is all for savings and putting money aside, but in addition to savings you are cutting off spending significantly, and I think these are two separate issues. To cut off spending while almost every program in the state is under funded, is a terrible mistake. North Dakota is not spending wildly, we're spending money quite mildly by all measures. Rep Glassheim continued that in the handouts he noticed that more than half of the states listed use personal income growth with the theory that you would be taxing and spending at the same level as the people's ability to pay is rising. Personal income rose 64.7% whereas general fund appropriations rose only 48.4% so in fact we have been under spending relative to personal income. So my question is would you consider using the personal growth income rather than the CPI index if this bill were to go further. (meter Tape #1, Side B, #6.5)

Rep. Al Carlson discusses the different indicators that could be used and comments that this bill still allows us to spend to the total of our capacity. This is a statutory bill which means that the legislature would have to look at this in each and every assembly. Discussion concerning the Tax Payers Bill of Rights (TABOR) which is a constitutional measure adopted by other states which really ties the hands of the government concerning spending and these states are in trouble because of that so we decided it would be best to look at this as a statutory measure.

Rep. Ole Aarsvold questioned Section 2 on page 1 that lists the vote as a 2/3 vote of the assembly and wondered if there is any other law that demands this standard.

Mr. Jim Smith from Legislative Council answered that the only other one is any transfers Permanent Oil Trust fund.

Rep. Jeff Delzer wanted to go on record as being in favor of this bill. If we had had this in place this time we would have had the money to pay down our bonding or set aside moneys to pay for bonding in the future. I think these issues should be in the hands of the legislature because its very hard to make changes if it is already in the governor's budget. Meter Tape !1, side B, #10.9)

Rep. Pam Gulleson mentioned that we have under funded many of the programs throughout the state, especially K-12 education where we have transferred the responsibility from the state level to the local level so it looks like we haven't raised taxes at this level though we have certainly raised property taxes at the local level. Her concern is that this bill does not address growth on the property tax side at all because we don't control that. How do we justify that we are putting more and more responsibility on the local funding by us limiting spending.

Rep. Jeff Delzer answered that he doesn't see that this bill limits anything other than how the budget is presented to the next legislative assembly. Each individual legislative assembly would be responsible then for either alleviating the need for property taxes at the local level or not.

Ms Pam Sharp from OMB distributed and read written testimony opposing HB1394 (handout #16-2, attached).

Rep. Ken Svedjan, Chairman asked how this bill would limit growth further in the future like she referred to in the fourth paragraph of her testimony.

Ms Pam Sharp answered that if expenditure growth is limited now and this bill is still on the books in ten years, it will limit growth ten years from now too.

Mr. Dan Hinnenkamp an educator from Grand Forks testified in opposition to HB1394. Mr. Hinnenkamp said that the public schools in North Dakota were under funded almost to the point of unconstitutionality. State funding of schools is at a 50% level and anything under 70% shifts the responsibility to the local level and local citizens for an undo burden.

Ms Linda Johnson Wurtz from AARP testified in opposition to HB1394. She distributed a survey (handout #16-3, attached) that was done regarding the TABOR legislation in Colorado, where people are extremely unhappy with the results.

Rep. Ken Svedjan, Chairman commented that there were significant differences between what was done in Colorado and what we are proposing here. (meter Tape #1, side B, #23.3)

Ms Mary Wall from the North Dakota Council of Educational Leaders testified in opposition to HB1394. Ms Wall was deeply concerned that the introduction of such a bill as this meant that the state legislature had no intention of dealing with the issue that the public schools are so terribly under funded, and urged the representatives to look at this issue.

Rep. Eliot Glassheim asked if there had been any discussion about whether this bill is constitutional or not.

Ms Pam Sharp answered that there have been questions raised regarding the role of the governor and the legislator's ability to restrict future legislatures.

Rep. Jeff Delzer asked that the Legislative Council to check into this concerning where the authority comes from for the governor's ability to spend.

Rep. Ken Svedjan, Chairman asked for additional testimony on HB1394. Seeing none, the discussion on HB1394 was closed and this bill was sent to the Government Performance Subcommittee for further discussion. (meter Tape #1, side B, #30.4)

Govt Performance
1394

General Discussion

- ❑ Committee on Committees
- ❑ Rules Committee
- ❑ Confirmation Hearings
- ❑ Delayed Bills Committee
- ☒ House Appropriations
- ❑ Senate Appropriations
- ❑ Other

Date January 31, 2005

Tape Number	Side A	B Side	Meter #
1	X		4850-End
		X	1-End
2	X		1-275

Committee Clerk Signature Stephanie N Thomas

Minutes:**Chair Carlson** opened the general discussion hearing on HB 1394, relating to the budget stabilization fund.

Discussion on amendment. **(SEE AMENDMENT 50614.0201)**

Chair Carlson: The next money going into the stabilization fund would be how much?

Jim Smith, Legislative Council: It's changed to 2 ½ % of the current budget.

Chair Carlson: Was there ever a 65 million dollar figure written into the stabilization fund?

Sheila, OMB: That's current budget.

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Rep. Skarphol: Your saying anything in excess of 10 million goes into the Budget Stabilization Fund, at 2 ½ percent of the state's general fund appropriation that is in the Budget Stabilization Fund goes into the reserve fund?

Chair Carlson: No, it builds to that 2 ½ percent level, anything over 2 ½ times of our general fund budget. 50 million would go into the stabilization fund, anything over the 50 million goes into the reserve fund.

Rep. Glassheim: What is the reserve fund?

Chair Carlson: It's a brand new fund, section 2.

Rep. Skarphol: If this would have been law during past biennium, 2001, at the end of 2003 this scenario would play out that your referring to, and 9 million would have been transferred?

Sheila: We're not going to cancel out the unexpended appropriations until August of 2005. Your already dealing with the revenue that has come in, that would have been there when we canceled it at the end of 2003.

Rep. Skarphol: What your saying is that the Budget Stabilization Fund is really something that's just ploy, because we are hear prior to that ever occurring, and we have the opportunity to appropriate.

Sheila: It won't happen to be an unexpended appropriation, because you would have already decided that you were going to spend it.

Chair Carlson: We appropriated money not already collected?

Jim: Anything that you put in law here is subject to the legislature doing something different.

Rep. Skarphol: By putting it in the statute, it would be a predictor of what we think should happen in the next legislative session.

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Chair Carlson: The only solution, if you don't have a Budget Stabilization Fund, is if you have a revenue shortfall in an allocation. The only solution is allotments, if you don't take into account that you have revenue set somewhere to assist you in those.

Rep. Skarphol: What do other states do, because we're the only ones with a bank.

Pam Sharp, OMB: They have different funds. Some are called Budget Stabilization Funds, or Rainy Day Funds.

Chair Carlson: Do we actually appropriate money into the bank, and have it sit there, or do we just assume that it's on our undivided property when we give the authority to have a transfer?

Jim: There was one occasion where there was money transferred back to the bank, in an attempt to restore some of the profits.

Rep. Skarphol: How much money was involved in 93 and 97, in excess of 65 million?

Pam: It was 12 million. It would have gone in there, and the legislature directed it to go into the general fund.

Rep. Skarphol: In both instances, the 65 million was spent?

Pam: It was carried forward under the beginning balance to the general fund. It was zeroed out in 91, there's been no activity in that fund since 91.

Rep. Monson: If were broke in 91, and broke in 93, how could there have been money put in there?

Sheila: We did an unallotment.

Pam: We ended the biennium in 91 with 105 million dollars.

Rep. Monson: If this bill would have been in place in 91, we actually would have had money going in?

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Pam: If you look at page 2 line 11, and the underlined words "at the end of the biennium" if you take out those six words, you will get to what you thought this bill was going to be doing.

Chair Carlson: Where is are rainy day fund when we take away the stabilization fund, other than we have robust growth and money in the bank?

Pam: Right now the Oil Tax Trust Fund is a reserve fund.

Rep. Skarphol: We need language that would require that any oil revenue is transferred to the state general fund would be reduced by the amount of dollars collected in excess of 65 million. Otherwise nothing would ever flow into the Budget Stabilization Fund.

Chair Carlson: So that's your method for making sure there's money set aside for revenue shortfalls.

Pam: That's correct, it's the Oil Tax Trust Fund as the number one contingent transfer, and number two would be reserved from the Bank of North Dakota.

Lt. Governor Dalrymple: I'm the one who created the Oil & Gas Trust Fund, because we were afraid that we had a low forecast for oil prices, and we thought there was a pretty good chance oil would go up a lot while we were gone. We've lately been using the Bank of North Dakota reserves as a solution to cash flow problems. Regardless of what fund you put it in, or what you call it, the Governor is looking at the total budget, and is still going to have the prerogative of saying how funds are utilized.

Rep. Skarphol: If we decide that we don't want to spend 60 million dollars of what your recommending, then we just increase the capital assets of the bank required under the law to stay at 210 or 220 million, and allow for contingency transfer of 10 15 20 million?

Lt. Governor: Your hitting on the essential point which is that the appropriations committee are the spending policy makers. If you want to save funds, you'll have to vote as a committee to do so.

Rep. Skarphol: In HB 1278, with regard to the federal funds, that we receive the 50 million dollars, and how to in essence ensure that they don't get spent in that biennium without some legislative action. So what your telling us is that maybe the proper mechanism there is just to say that any federal dollars that are not for a specific purpose or program would be transferred to the Bank of North Dakota Capital assets, until the next legislative session has the opportunity to appropriate them.

Lt. Governor: That certainly would be an option. We also decided that in absence of legislature, funds parked in the general fund should be safe since they need an appropriation to be spent.

Rep. Skarphol: The 50 million dollar windfall from the federal government doesn't distort our ending fund balance, and if fact encourages us to spend more than would probably be appropriate, based on what the reality is of what's happened in our state.

Lt. Governor: I think we are facing a very unusual and difficult situation with our Human Services budget this time. When we lose the amount of federal funds that we are losing, that is a shock to the system.

Rep. Skarphol: Are we unique as a state? What's different about what happened to us in regard to what's happened in any other state who didn't have the fortunate situation of having the type of budget surplus situation that we had?

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Lt. Governor: I think in some cases they are. The problem is we face the same shortfall that other states do, we never reach the cash flow rates that other states do.

Rep. Glassheim: As I understood, the Lt. Governors remarks were to suggest that we turn the Bank of North Dakota into our Rainy Day Fund, by simply putting any surpluses there.

Rep. Skarphol: My point is that if we have 100 or 200 million dollars in the general fund ending fund balance, don't you think there's not massive amounts of pressure to make us spend it all.

Chair Carlson: From what I read, the Governor's responsibility is to provide a draft of the budget to us. What is the best management of the money? What is your plan for if revenue is short, and what should be our plan?

Lt. Governor: I think there is nobody around here who has more reverence than I do for the right of the legislature to set spending policy for the state of North Dakota.

Rep. Monson: How do we sustain this, because this 56 million dollars of federal funds, we **Lt.** don't see that happening again next year. How are we going to sustain all these levels?

Governor: If your willing to accept that revenue growth will continue on a strong trend along the lines of what we haven't seen, and if your willing to accept the fact that are spending levels can return to somewhat normal increases, then you will see an ending fund balance at the end of 07/09.

Chair Carlson: If you spend beyond what you can sustain, what's your plan to get out of that if that happens? Can you sustain if there's a downfall?

Lt. Governor: We have identified 60 million, and we think it was there for that. The allocation process, in my mind, has always been popular with legislators. It all depends on what you feel is the right combination of tools to have available.

Rep. Skarphol: In preparing your budget, you must have had some kind of an anticipated oil price. Do you know what the number was that you used?

Pam: For the current biennium, roughly 40 dollars a barrel, and then tapering a little bit down towards the end of this biennium.

Rep. Skarphol: What net effect does the price of oil really have on state government?

Pam: Some research firm would love for us to pay a lot of money to them to do that study. It's really hard to balance out both sides. Overall, higher prices of oil generally benefit the state more than it hurts it.

Rep. Monson: If your expecting the price of oil to go down to the twenties, why are you not locking it in at forty?

Lt. Governor: I feel like North Dakota is pretty well self hedged, when it comes to petroleum pricing taxes.

Closed General Discussion Hearing.

Govt Performance
1394

General Discussion

- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date February 11, 2005

Tape Number	Side A	B Side	Meter #
2	X		5260-End
		X	1-1605

Committee Clerk Signature Stephanie N Thomas

Minutes:**Chair Carlson** opened general discussion on HB 1394, relating to the budget stabilization fund.

Rep. Skarphol: I would move Amendment 0201, with the addition that removes the last six words on page 2, line 11 "at the end of any biennium".

Rep. Monson: Second.

Discussion of Amendment. **(SEE AMENDMENT 50614.0201)**

Sheila, OMB: Section 4 of the bill, "at the end of the biennium," how are you going to make that work? I mean is this everyday we have to look if there's a nickel over, and if it goes in there? We know that revenues fluctuate, there is timing issues at the end of the month. I think that this has to happen at some point in time for different points in time throughout the biennium, but with cashflow staying at 10 million dollar a gallon, we can't be doing this daily.

Chair Carlson: Why won't it work at the end of the biennium again? Explain that to me, because that's the way I would interpret it now, is that we have any money left on the last day of the biennium, it would have gone into the Stabilization Fund.

Pam, OMB: After the books have been closed, at the end of the biennium, the appropriations cancels.

Chair Carlson: How would we fund money into there today?

Sheila: If we had this bill two years ago, and they closed the book on the 01/03 biennium in about August of 03, at that point in time, we may have had maybe 15 million above the 10 million ending balance projected at the time your in session. That 15 million would have gone into the Budget Stabilization Fund. Now if it's in place, if the ending fund balance as of June 30, 2005 is expected to be 120 million, then it would kick in.

Chair Carlson: What are you going to do if the Stabilization Fund isn't removed? Right now it is still in existence. What are you going to move the money to? So this should have been left in, because it's no different then the way you would have done it.

Pam: We need to close the books first.

Chair Carlson: Isn't that what we think we wanted to do. That would have been my intention that when you close the book, if there's money left over the ending fund balance we projected, it goes into the Stabilization Fund.

Rep. Glassheim: Is this 65 million back in, or is it out?

Chair Carlson: The amendment goes to 2 ½ times. It doesn't put 65 million, it goes to 2 ½ percent.

Rep. Monson: So your going to take 45 million, roughly into the Budget Stabilization Fund, and then what did you say was going into the other fund?

Chair Carlson: Whatever is left over. The Reserve Fund we will call it.

Rep. Glassheim: So 80 million would go into that?

Chair Carlson: Yes.

Rep. Glassheim: What do you do with that?

Chair Carlson: You hide it, or you give it back to the people.

Pam: I have a question for the timing of bids, is this intended to be in effect at the end of this biennium coming up?

Rep. Skarphol: The effective date would be August 1.

Chair Carlson: It really wouldn't apply until next biennium.

Chair Carlson: Voice vote on amendment.

Rep. Skarphol: I would move do pass on HB 1394, as amended.

Rep. Monson: Second.

Rep. Monson: So your intention would be if this were to pass, that we would put away 120 million dollars roughly.

Chair Carlson: What we don't have is a real good mechanism for the transfer of money, if we decide to get at the Reserve Fund.

Rep. Skarphol: Could I ask to withdraw my motion, and further amend?

Rep. Monson: I second that.

Rep. Skarphol: In the interest of expediting the discussion on this bill, I would move that we remove all sections except section 1, and to insert the amendments on 0201 that are relative to section 1.

Rep. Glassheim: I second.

Chair Carlson: Voice vote taken.

Rep. Skarphol: I would move do pass, as amended on HB 1394.

Rep. Monson: Second.

Chair Carlson: Roll call vote on HB 1394.

HB 1394 is a do pass, as amended.

Closed General Discussion Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1394
General Fund Appropriations Guideline

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 15, 2005

Tape Number	Side A	Side B	Meter #
1		X	#44.4 - # end
2	X		#0 - #4.5
Committee Clerk Signature Chris Alexander			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1394.

Rep. Bob Skarphol explained that this bill has an amendment that eliminates all but section 1 of the bill and the changes in section 1 changes the language from a mandate to intent language. This bill asks that we receive our budgets in a fashion that we deem is more appropriate and to limit spending with the intentions listed in the bill. If the budget figures exceed the guidelines then the Governor is asked to report on the justifications for the excess and the plan for paying the excess.

Rep. Bob Skarphol moved to adopt amendment #0202 to HB1394.

Rep. Al Carlson commented that there has been a great deal of discussion on what indicators are best for basing the growth of government. This bill uses the CPI and the percentage of increase of North Dakota's personal income. There has been conversation about how we should tie this to our revenue projections so you could not exceed our revenue. So we might want to change this from the CPI index and the Gross Personal Income to our revenue and this would allow us more flexibility when we look at the whole process. There is an amendment that has been drafted to reflect this language change.

Rep. Ken Svedjan, Chairman clarified that this would then change the language from CPI and Personal income to revenue growth. So in the case of this year's budget, it would be the intent of this that the budget would have come at no greater than 5.3% growth because that is what the revenue is projected to grow according to Economy.com.

Rep. Al Carlson moved to adopt amendment #0203 to HB1394.

Rep. Bob Skarphol seconded.

Rep. Al Carlson withdraws motion.

Rep. Al Carlson seconded the motion to adopt amendment #0202 to HB1394.

Rep. Ole Aarsvold commented that this was done right in the last assembly and the test comes when we implement this budget. (meter Tape #1, side B, #50.6)

Rep. Al Carlson commented that we need to understand the concept in which are budgets are drafted. They are nothing more than a draft and our recommendations. We have the authority to go in and do our own budget if we want and to set our own spending limits. We need to set some restraints because our budgeting process is such right now that we spend all the money.

Rep. Jeff Delzer asked if in the amendment it was intent language also on the Governor's reporting on the sustainability.

Rep. Al Carlson commented that this does not speak to intent but to justification and sustainability.

Rep. Jeff Delzer commented that the intent language is in the top of the same paragraph so it is unclear to me.

Rep. Ken Svedjan, Chairman comments that the first part is the intent, but the last sentence says that if it comes in higher than the guidelines recommend then there has to be a justification for the excess.

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to adopt amendment #0202 to HB1394. Motion carried.

Rep. Al Carlson moved to further amend HB1394 with a language change that replaces CPI and Personal income with projected revenue growth. (meter Tape #2, side A, #1.8)

Rep. Mike Timm, Vice Chairman seconded.

Rep. Ken Svedjan, Chairman called for a voice vote to further amend HB1394. Motion carries.

Rep. Bob Skarphol moved a Do Pass As Amended motion to HB1394.

Rep. Al Carlson seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion to HB1394. Motion carried with a vote of 14 yeas, 9 neas, and 0 absences. Rep Skarphol will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1394.

FISCAL NOTE

Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1394

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Unable to determine fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Pam Sharp	**Agency:**	OMB
Phone Number:	328-4606	**Date Prepared:**	01/19/2005

50614.0201
Title.

Prepared by the Legislative Council staff for
Representative Carlson
January 28, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1394

Page 1, line 1, after "for" insert "a" and replace "budget limits" with "appropriations guideline"

Page 1, line 5, replace "**Limitation on general fund budget increases by governor or**" with "**General fund appropriations guideline**"

Page 1, line 6, remove "**legislative assembly**", replace "Total" with "It is the intent of the legislative assembly that total", and remove "as recommended by the"

Page 1, line 7, remove "governor or as approved by the legislative assembly may not increase"

Page 1, line 8, after "assembly" insert "may not increase"

Page 1, line 11, after the underscored period insert "If the governor recommends general fund appropriations that exceed the general fund appropriations guideline in this section, the governor shall present information as part of other budget data presented pursuant to section 54-44.1-07 on the justification and sustainability of the recommended general fund appropriations level."

Page 1, line 12, remove "**- Limits on appropriations**"

Page 1, line 15, remove "The principal and interest"

Page 1, remove line 16

Page 1, line 17, remove "members elected to each house of the legislative assembly."

Page 2, line 3, after "~~five~~" insert "two and one-half" and remove the overstrike over "~~percent of the current biennial state general fund budget, as finally~~"

Page 2, remove the overstrike over line 4

Page 2, line 5, remove "forty million dollars"

Renumber accordingly

Date: 2-11-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1394

House Government Performance Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50614.0201

Action Taken Do ~~Amended~~ Pass As Amended

Motion Made By Rep Skarphol Seconded By Rep Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson	X		Rep. Glassheim	X	
Vice Chairman Skarphol	X				
Rep. Monson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment Chairman Carlson

If the vote is on an amendment, briefly indicate intent:

Date: February 15, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1394

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number **50614..0203**

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Skarphol** Seconded By **Rep Carlson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson		X	Rep. Eliot Glassheim		X
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold		X	Rep. Alon C. Wieland	X	
Rep. Pam Gulleson		X	Rep. James Kerzman		X
Rep. Ron Carlisle		X	Rep. Ralph Metcalf		X
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber		X			
Rep. Clark Williams		X			
Rep. Al Carlson	X				

Total Yes **14** No **9**

Absent **0**

Floor Assignment **Rep Skarphol**

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1394: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 9 NAYS, 0 ABSENT AND NOT VOTING). HB 1394 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide a general fund appropriations guideline.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. General fund appropriations guideline. It is the intent of the legislative assembly that total biennial general fund appropriations when compared to the previous biennium's general fund appropriations approved by the legislative assembly may not increase by a percentage greater than the percentage increase in projected baseline ongoing general fund revenues when compared to the previous biennium. If the governor recommends general fund appropriations that exceed the general fund appropriations guideline in this section, the governor shall present information as part of other budget data presented pursuant to section 54-44.1-07 on the justification and sustainability of the recommended general fund appropriations level."

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1394

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1394

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 03/10/05

Tape Number	Side A	Side B	Meter #
1	x		0-2500
Committee Clerk Signature			

Minutes: **Chairman Holmberg** opened hearing of HB 1394.

Rep. Carlson, District 41 appeared in support of HB 1394, he is also a sponsor of the bill. Written testimony was provided, see appendix I. Appendix II is a copy of chapter 54-27.2 of NDCC. Rep. Carlson provided the committee with an overview of the bill, stating that its purpose was to put a limit on government growth. He also stated that this bill is a guideline, so that we (government) will not grow faster than our state's economy. Revenue increases have kept ND in the black.

Sen. Andrist: Could you explain the last line of the bill?

Rep. Carlson: Our job is to appropriate the money, his [Governor] is to implement the laws that we have passed.

Sen. Thane: Governor past and present has always justified his budget. This is done through the separation of powers, it is our job to maintain accountability, both the House and Senate appropriation committee's try to do this every session.

Rep. Carlson: Constitutionally, it is not the Governor's job, but we have decided to turn it over to the Governor, because we are citizen legislators.

Sen. Mathern: How would this look in practical application, is this a narrative or will this be in In a special report? How do you see the Governor making the justification?

Rep. Carlson: This bill deals with the General Funds and on going revenues. If there are exceeding revenues, the Governor must justify the spending, in other words he must explain how the state is going to cover the costs. This justification will be supplied in his budget overview.

Rep. Svedjan, District 17 appeared in support of this bill, he is also a sponsor of the bill. Rep. Svedjan discussed the budget and rational behind the bill. Much of his statements ecoed Rep. Carlson's.

No further questions were asked.

Chairman Holmberg closed hearing on HB 1394.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1394

Senate Appropriations Committee

☐ Conference Committee

Hearing Date April 14, 2005

Tape Number	Side A	Side B	Meter #
2	a		803 - 1009
Committee Clerk Signature			

Minutes:

Chairman Holmberg opened the hearing on HB 1394. This is a guideline bill for OMB.

Senator Mathern moved a DO NOT PASS on HB 1394, Senator Krauter seconded. No discussion. A roll call vote was taken, resulting in 8 yes, 6 no, 1 absent. The motion carried and Senator Tallackson will carry the bill.

Chairman Holmberg closed the hearing on HB 1394.

Date 4/14/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1394

Senate SENATE APPROPRIATIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Mather Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG			SENATOR MATHERN	/	
SENATOR ANDRIST		/	SENATOR ROBINSON	/	
SENATOR CHRISTMANN		/	SEN. TALLACKSON	/	
SENATOR FISCHER		/			
SENATOR KILZER		/			
SENATOR KRINGSTAD		/			
SENATOR SCHOBINGER		/			
SENATOR THANE	/				

Total (Yes) 8 No 6

Absent

Floor Assignment Tallackson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1394, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1394 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1394

Budget Stabilization Fund

Status – no activity in fund since 1991.

Last transfer to general fund – 1991 – during Governor Sinner's last term. Balance of $23 million was transferred. Governor Sinner also did an allotment that biennium.

1993 Legislature directed all money that normally would have gone into the Budget Stabilization fund go instead into the general fund.

1997 Legislature directed that any money that would have gone to the budget stabilization fund instead be deposited in the Bank of North Dakota and become part of the Bank's undivided profits. As a result, $17 Million was transferred to the Bank.

1997 Legislature authorized contingent transfers from the Bank to the general fund in the amount of $23 million in the case of a shortfall during the 97-99 biennium. None was transferred.

1999 Legislature authorized $40 Million of contingent transfers for 99-01 biennium – None was transferred.

2001 Legislature authorized $25 million of contingent transfers for 01-03 biennium. $18 million was transferred.

2003 Legislature authorized $9 million of contingent transfers. None will be transferred.

2005 – $60 million proposed as reserves:

$10 million ending balance
$41 million oil tax trust fund
$10 million reserve at BND

House Apps - Full Committee

Handout 16-2
Pam Sharp
OMB
1-25-05
HB1394

Testimony on HB 1394
Pam Sharp
Office of Management and Budget
January 25, 2005

Good morning Mister Chairman and members of the House Appropriations Committee. For the record, I am Pam Sharp, Director of the Office of Management and Budget.

I am here to testify in opposition of House bill 1394.

House Bill 1394 is not about budgeting more or less this biennium. It is about restricting future legislatures and future Governors.

The attempt to limit future legislature's appropriations or future governor's recommended appropriations are in conflict with current constitutional provisions.

Both the legislature and the Governor need to have the ability to set or recommend an appropriate level of spending every biennium based on the needs and the situation at the time. How could this legislature possibly know what the appropriate budget increase should be ten years from now, or even two or four years from now? It is inappropriate to restrict future legislatures and future Governors in any way.

This bill is a solution looking for a problem.

As you will recall, North Dakota was one of only three states in the nation that did not experience devastating budget deficits in recent years. We learned in November that Moody's upgraded North Dakota's bond rating. We should all be very proud of that upgrade. One of the things they attributed the upgrade to is the fiscal responsibility of our State. The following is a quote from Moody's:

"The outlook for the state is stable, based on Moody's expectations that the state's fiscally conservative management practices will continue to result in positive financial results even in the event that the state's economic recovery proves less robust than the nation's."

North Dakota has been, is, and will continue to be fiscally responsible.

Governor Hoeven has recommended a responsible budget; has held the line on taxes, and has provided a healthy reserve consisting of \$10 million in the ending balance, \$41 million in the oil tax trust fund and an additional \$10 million available in reserves at the Bank of North Dakota. I'm confident the legislature will adopt a responsible budget as well.

We don't need this bill.

59470

Prepared by the North Dakota Legislative Council staff for Representative Carlson
January 2005

1-25-05
Al Carlson handout

COLORADO AND OTHER STATES' LIMITS ON GOVERNMENT GROWTH

This memorandum provides summary information on Colorado's and other states' limits on state taxes and expenditures.

COLORADO

In 1992 Colorado voters approved a constitutional amendment called the taxpayer's bill of rights (TABOR) which limits the growth of state and local government in Colorado. As amended, the Colorado Constitution:

1. Requires voter approval of any tax increase.
2. Limits the amount of revenue that the state or a local government may collect each year. For the state, the constitution limits annual state **revenue growth to the inflation rate plus the annual percentage change in state population**. Any revenue collected above these limits must be returned to taxpayers in the form of refunds or credits, unless the voters approve a plan for spending any surplus revenue.
3. Requires voter approval to change any existing spending limits in Colorado statute. When the amendment was approved, Colorado statutes included a provision that general fund appropriations were limited to the lesser of 5 percent of total personal state income or 6 percent over the previous year's appropriation. Prior to the TABOR amendment, these provisions could be changed anually by the Colorado General Assembly; however, after the amendment was approved, only the voters may change these statutory provisions.

A copy of Article X, Section 20 of the Constitution of Colorado (the TABOR amendment) is attached as an appendix.

OTHER STATES

The following schedule identifies provisions in other states that limit government spending:

State	Statutory or Constitutional Limit	Type of Limit	Description of Limit
Alaska	Constitution	Spending	Annual appropriations increases are limited to the increase in population and inflation.
Arizona	Constitution	Spending	Appropriations may not exceed 7.41 percent of total state personal income.
California	Constitution	Spending	Annual appropriations increases are limited to population growth and per capita personal income growth.
Connecticut	Statute	Spending	Appropriations are limited to the average growth in personal income for the previous five years or the prior year's increase in inflation, whichever is greater.
Delaware	Constitution	Appropriations	Appropriations are limited to 98 percent of revenue estimate.
Florida	Constitution	Revenue	Revenue increases are limited to the average increase in state personal income for the previous five years.
Hawaii	Constitution	Spending	General fund spending increases must be less than the average increase in personal income in the prior three years.
Idaho	Statute	Spending	General fund appropriations may not exceed 5.33 percent of total state personal income.
Indiana	Statute	Spending	State spending increases are limited to a growth rate set according to a formula for each biennial period.
Iowa	Statute	Appropriations	Appropriations are limited to 99 percent of the adjusted revenue estimate.
Louisiana	Constitution	Spending	Expenditures are limited to 1992 appropriations plus the annual growth in state per capita personal income.
Massachusetts	Statute	Revenue	Revenue increases may not exceed the inflation rate for government purchasing plus 2 percent.
Michigan	Constitution	Revenue	Revenue is limited to 9.49 percent of the prior year's state personal income, plus 1 percent of that amount.
Mississippi	Statute	Appropriations	Appropriations are limited to 98 percent of projected revenue. The statute was amended to allow for appropriations at 100 percent of revenue estimates for fiscal year 2004.
Missouri	Constitution	Revenue	Revenue is limited to 5.64 percent of the prior year's total state personal income.
	Constitution	Revenue	Voter approval is required for tax increases over $70 million, or 1 percent of state revenues, whichever is less.
Montana	Statute	Spending	Spending is limited to a growth index based on state personal income.
Nevada	Statute	Spending	Proposed expenditures are limited to the biennial percentage growth in state population and inflation.

New Jersey	Statute	Spending	Expenditures are limited to the growth in state personal income.
North Carolina	Statute	Spending	Spending is limited to 7 percent, or less, of total state personal income.
Oklahoma	Constitution	Spending	Expenditures are limited to 12 percent annual growth adjusted for inflation.
	Constitution	Appropriations	Appropriations are limited to 95 percent of certified revenue.
Oregon	Constitution	Revenue	Any general fund revenue collections in excess of 102 percent of revenue estimates must be refunded to taxpayers.
	Statute	Spending	Appropriations growth is limited to 8 percent of projected personal income for the biennium.
Rhode Island	Constitution	Appropriations	Appropriations are limited to 98 percent of projected revenue.
South Carolina	Constitution	Spending	Spending growth is limited by either the average growth in personal income or 9.5 percent of total state personal income for the previous year, whichever is greater. The number of state employees is limited to a ratio of state population.
Tennessee	Constitution	Spending	Appropriations increases are limited to the growth in state personal income.
Texas	Constitution	Spending	Biennial appropriations increases are limited to the growth in state personal income.
Utah	Statute	Spending	Spending increases are limited by a formula that includes growth in population, inflation, and personal income.
Washington	Statute	Spending	Spending increases are limited to the average of inflation for the previous three years plus population growth.

ATTACH:1

license, registration fee, or other charge with respect to the operation of any motor vehicle upon any public highway in this state and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel except aviation fuel used for aviation purposes shall, except costs of administration, be used exclusively for the construction, maintenance, and supervision of the public highways of this state. Any taxes imposed upon aviation fuel shall be used exclusively for aviation purposes.

As amended November 5, 1974 Effective upon proclamation of the Governor, December 20, 1974. (See Laws 1974, p. 459.)

Section 19. State income tax laws by reference to United States tax laws. The general assembly may by law define the income upon which income taxes may be levied under section 17 of this article by reference to provisions of the laws of the United States in effect from time to time, whether retrospective or prospective in their operation, and shall in any such law provide the dollar amount of personal exemptions to be allowed to the taxpayer as a deduction. The general assembly may in any such law provide for other exceptions or modifications to any of such provisions of the laws of the United States and for retrospective exceptions or modifications to those provisions which are retrospective.

Adopted November 6, 1962. (See Laws 1962, p. 312.)

Section 20. The Taxpayer's Bill of Rights.
(1) General provisions. This section takes effect December 31, 1992 or as stated. Its preferred interpretation shall reasonably restrain most the growth of government. All provisions are self-executing and severable and supersede conflicting state constitutional, state statutory, charter, or other state or local provisions. Other limits on district revenue, spending, and debt may be weakened only by future voter approval. Individual or class action enforcement suits may be filed and shall have the highest civil priority of resolution. Successful plaintiffs are allowed costs and reasonable attorney fees, but a district is not unless a suit against it be ruled frivolous. Revenue collected, kept, or spent illegally since four full fiscal years before a suit is filed shall be refunded with 10% annual simple interest from the initial conduct. Subject to judicial review, districts may use any reasonable method for refunds under this section, including temporary tax credits or rate reductions. Refunds need not be proportional when prior payments are impractical to identify or return. When annual district revenue is less than annual payments on general obligation bonds, pensions, and final court judgments, (4) (a) and (7) shall be suspended to provide for the deficiency.

(2) Term definitions. Within this section: (a) "Ballot issue" means a non-recall petition or referred measure in an election.

(b) "District" means the state or any local government, excluding enterprises.

(c) "Emergency" excludes economic conditions, revenue shortfalls, or district salary or fringe benefit increases.

(d) "Enterprise" means a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined.

(e) "Fiscal year spending" means all district expenditures and reserve increases except, as to both, those for refunds made in the current or next fiscal year or those from gifts, federal funds, collections for another government, pension contributions by employees and pension fund earnings, reserve transfers or expenditures, damage awards, or property sales.

(f) "Inflation" means the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index.

(g) "Local growth" for a non-school district means a net percentage change in actual value of all real property in a district from construction of taxable real property improvements, minus destruction of similar improvements, and additions to, minus deletions from, taxable real property. For a school district, it means the percentage change in its student enrollment.

(3) Election provisions.

(a) Ballot issues shall be decided in a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years. Except for petitions, bonded debt, or charter or constitutional provisions, districts may consolidate ballot issues and voters may approve a delay of up to four years in voting on ballot issues. District actions taken during such a delay shall not extend beyond that period.

(b) At least 30 days before a ballot issue election, districts shall mail at the least cost, and as a package where districts with ballot issues overlap, a titled notice or set of notices addressed to "All Registered Voters" at each address of one or more active registered electors. The districts may coordinate the mailing required by this paragraph (b) with the distribution of the ballot information booklet required by section 1 (7.5) of article V of this constitution in order to save mailing costs. Titles shall have this order of preference: "NOTICE OF ELECTION TO INCREASE TAXES/TO INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE." Except for district voter-approved additions, notices shall include only:

(i) The election date, hours, ballot title, text, and local election office address and telephone number.

(ii) For proposed district tax or bonded debt increases, the estimated or actual total of district fiscal year spending for the current year and each of the past four years, and the overall percentage and dollar change.

(iii) For the first full fiscal year of each proposed district tax increase, district estimates of the maximum dollar amount of each increase and of district fiscal year spending without the increase.

(iv) For proposed district bonded debt, its principal amount and maximum annual and total district repayment cost, and the principal balance of total current district bonded debt and its maximum annual and remaining total district repayment cost.

(v) Two summaries, up to 500 words each, one for and one against the proposal, of written comments filed with the election officer by 45 days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The election officer shall maintain and accurately summarize all other relevant written comments. The provisions of this subparagraph (v) do not apply to a statewide ballot issue, which is subject to the provisions of section 1 (7.5) of article V of this constitution.

(c) Except by later voter approval, if a tax increase or fiscal year spending exceeds any estimate in (b) (iii) for the same fiscal year, the tax increase is thereafter reduced up to 100% in proportion to the combined dollar excess, and the combined excess revenue refunded in the next fiscal year. District bonded debt shall not issue on terms that could exceed its share of its maximum repayment costs in (b) (iv). Ballot titles for tax or bonded debt increases shall begin, "SHALL (DISTRICT) TAXES BE INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY...?" or "SHALL (DISTRICT) DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST OF (maximum total district cost), ...?"

(4) Required elections. Starting November 4, 1992, districts must have voter approval in advance for:

(a) Unless (1) or (6) applies, any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly caus net tax revenue gain to any district.

(b) Except for refinancing district bonded debt at a lower interest rate or adding new employees to existing district [illegible]on plans, creation of any multiple-fiscal year direct or indirect district debt or other financial obligation [illegible]ever without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years.

(5) Emergency reserves. To use for declared emergencies only, each district shall reserve for 1993 1% or more, for 1994 2% or more, and for all later years 3% or more of its fiscal year spending excluding bonded debt service. Unused reserves apply to the next year's reserve.

(6) Emergency taxes. This subsection grants no new taxing power. Emergency property taxes are prohibited. Emergency tax revenue is excluded for purposes of (3) (c) and (7), even if later ratified by voters. Emergency taxes shall also meet all of the following conditions: (a) A 2/3 majority of the members of each house of the general assembly or of a local district board declares the emergency and imposes the tax by separate recorded roll call votes.

(b) Emergency tax revenue shall be spent only after emergency reserves are depleted, and shall be refunded within 180 days after the emergency ends if not spent on the emergency.

(c) A tax not approved on the next election date 60 days or more after the declaration shall end with that election month.

(7) Spending limits. (a) The maximum annual percentage change in state fiscal year spending equals inflation plus the percentage change in state population in the prior calendar year, adjusted for revenue changes approved by voters after 1991. Population shall be determined by annual federal census estimates and such number shall be adjusted every decade to match the federal census.

[illegible]e maximum annual percentage change in each local district's fiscal year spending equals inflation in the prior [illegible]ar year plus annual local growth, adjusted for revenue changes approved by voters after 1991 and (8) (b) and (9) reductions.

(c) The maximum annual percentage change in each district's property tax revenue equals inflation in the prior calendar year plus annual local growth, adjusted for property tax revenue changes approved by voters after 1991 and (8) (b) and (9) reductions.

(d) If revenue from sources not excluded from fiscal year spending exceeds these limits in dollars for that fiscal year, the excess shall be refunded in the next fiscal year unless voters approve a revenue change as an offset. Initial district bases are current fiscal year spending and 1991 property tax collected in 1992. Qualification or disqualification as an enterprise shall change district bases and future year limits. Future creation of district bonded debt shall increase, and retiring or refinancing district bonded debt shall lower, fiscal year spending and property tax revenue by the annual debt service so funded. Debt service changes, reductions, (1) and (3) (c) refunds, and voter-approved revenue changes are dollar amounts that are exceptions to, and not part of, any district base. Voter-approved revenue changes do not require a tax rate change.

(8) Revenue limits. (a) New or increased transfer tax rates on real property are prohibited. No new state real property tax or local district income tax shall be imposed. Neither an income tax rate increase nor a new state definition of taxable income shall apply before the next tax year. Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed at one rate, excluding refund tax credits or voter-approved tax credits, with no added tax or surcharge.

[illegible]ch district may enact cumulative uniform exemptions and credits to reduce or end business personal property t[illegible]

(c) Regardless of reassessment frequency, valuation notices shall be mailed annually and may be appealed annually, with no presumption in favor of any pending valuation. Past or future sales by a lender or government shall also be considered as comparable market sales and their sales prices kept as public records. Actual value shall be stated on all property tax bills and valuation notices and, for residential real property, determined solely by the market approach appraisal.

(9) State mandates. Except for public education through grade 12 or as required of a local district by federal law, a local district may reduce or end its subsidy to any program delegated to it by the general assembly for administration. For current programs, the state may require 90 days notice and that the adjustment occur in a maximum of three equal annual installments.

Enacted by the People November 3, 1992 -- Section 1 of article V of this constitution provides that initiated measures shall take effect upon the Governor's proclamation. Subsection (1) of this section provides that this section shall take effect December 31, 1992, or as stated. (See subsection (4).) The Governor's proclamation was signed January 14, 1993. (For the text of this initiated measure, see L. 93. p. 2165.); section 20 (3)(b)(v) amended November 8, 1994 -- Effective upon proclamation of the Governor, January 19, 1995. (See L. 94, p. 2851.); the introductory portion to section 20 (3)(b) and (3)(b)(v) amended November 5, 1996 -- Effective upon proclamation of the Governor, December 26, 1996. (For the text of the amendment and the votes cast thereon, see Laws 1995, p. 1425, and Laws 1997, p. 2393.)

For Independence Institute research on the TABOR Amendment and its consequences, see:

TABOR Legislative Handbook. A guide for legislators (and everybody else) about the Colorado Constitution's Taxpayers Bill of Rights

Rent Seeking and Surplus Expenditures in Colorado. By Barry Poulson. How the Colorado Legislature manipulate refunds to benefit interest groups and redistribute income.

What to Do with the Surplus in Colorado. Issue Paper by Dr. Barry Poulson proposes a permanent 10% cut in Colorado income taxes.

Please send comments to Independence Institute, 14142 Denver West Pkwy., suite 185, Golden, CO 80401 Phone 303-279-6536 (fax) 303-279-4176 (email) webmngr@i2i.org

Go to the Colorado Constitution Table of Contents

Prepared by the North Dakota Legislative Council
staff for Representative Carlson
December 2004

ECONOMIC INDICATORS FOR 2003 AND 2004

CONSUMER PRICE INDEX - NATIONAL[1]

The consumer price index is a measure of the average change or inflationary increases over time in the prices paid by urban consumers for a market basket of consumer goods and services. The 2003 and 2004 annual percentage increase in the consumer price index is:

2003	2.3%
2004	2.7% (estimated)

GROSS DOMESTIC PRODUCT - NATIONAL[2]

The gross domestic product represents a broad measure of economic activity and signals the direction of overall aggregate economic activity. The five main components of the gross domestic product are private consumption, fixed investments, change in inventories, government consumption, and net exports. The 2003 and 2004 annual percentage increase in the gross domestic product is:

2003	3.0%
2004	4.4% (estimated)

GROSS STATE PRODUCT - NORTH DAKOTA[3]

The gross state product is the economic value added in production by the labor and property located in the state. The gross state product estimates the sum of the costs incurred and incomes earned in the production of the gross domestic product. The gross state product excludes and the gross domestic product includes the compensation of federal civilian and military personnel stationed abroad and government consumption of fixed capital for military structures located abroad. The North Dakota gross state product for the years 1998-2003 averaged 2.3 percent, as compared to the estimated gross state product for the years 2003-08 of 2.6 percent. The 2003 and 2004 annual percentage increase in the gross state product is:

2003	2.7%
2004	2.6% (estimated)

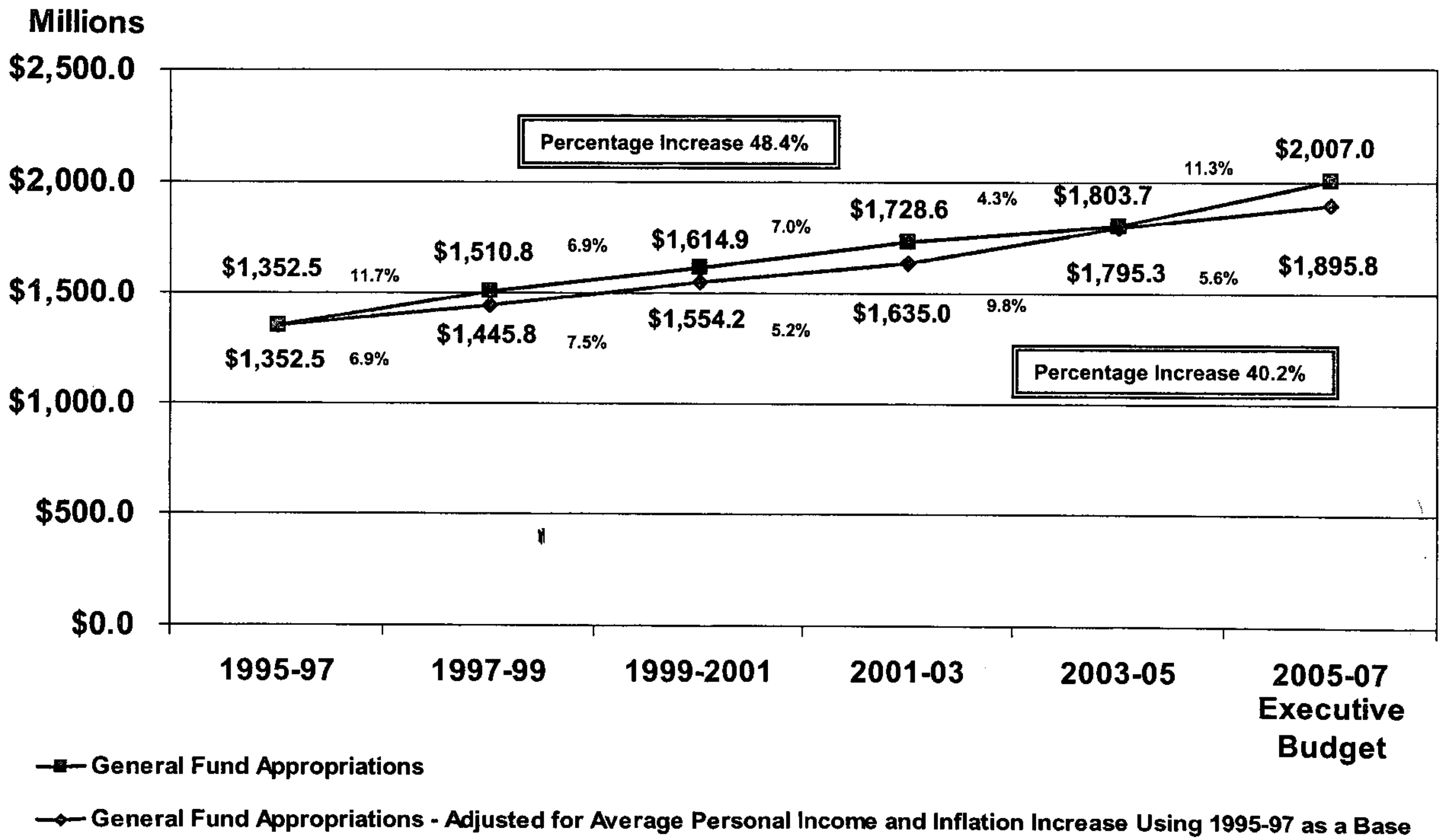
[1] Percentage change - Consumer price index - Economy.com.

[2] Percentage change - Gross domestic product - Economy.com.

[3] Percentage change - Gross state product - Economy.com.

Prepared by the North Dakota Legislative Council staff for Representative Carlson

Comparison of General Fund Appropriations to Average Personal Income and Inflation Increases



Colorado TABOR:
A Survey of Colorado Likely Voters
Age 18+

Data Collected by Alan Newman Research, Inc.
Report Prepared by Joanne Binette

Knowledge Management
601 E Street NW
Washington, DC 20049
http://research.aarp.org

AARP is a nonprofit, nonpartisan membership organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. We produce *AARP The Magazine*, published bimonthly; *AARP Bulletin*, our monthly newspaper; *AARP Segunda Juventud*, our bimonthly magazine in Spanish and English; *NRTA Live & Learn*, our quarterly newsletter for 50+ educators; and our Web site, www.aarp.org. AARP Foundation is our affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

Acknowledgements

AARP staff from the Colorado State Office, State Affairs, and Knowledge Management contributed to the design and implementation of this study. Special thanks go to AARP staff including Jon Looney, Kelli Fritts, and Morie Kiusalaas, Colorado State Office; Clare Hushbeck, State Affairs; Gretchen Straw, Darlene Matthews, Anita Stowell-Ritter, Rachelle Cummins, and Jennifer Leslie, Knowledge Management. In addition, special thanks go to Robin Baker, Wade Buchanan, Evan Enarson, Carrie Harman, and Laurie Zeller from the Bell Policy Center for their collaboration on this project. John Fries of Alan Newman Research, Inc. insured a timely and high quality survey. Joanne Binette, AARP Knowledge Management, managed all aspects of the project and wrote the report. For more information, contact Joanne Binette at (202) 434-6303.

Background

The Taxpayers' Bill of Rights, or TABOR, was passed by Colorado voters in 1992 as an amendment to the state's constitution. TABOR has had wide-ranging, profound fiscal effects that could not have been foreseen. Most Coloradans were not aware of most of TABOR's provisions and believed they were voting primarily on taxpayers' right to vote on any tax increases. While this is one aspect of TABOR, the amendment's reach and complexity have largely contributed to Colorado's current fiscal problems.

TABOR limits revenue growth for state and local governments in Colorado and requires that any tax increase in any state or local government (counties, cities, towns, school districts and special districts) must be approved by the affected voters. Specifically, TABOR limits revenue the state government can retain each year from all sources except federal funds to the previous year's allowed collections, plus a percentage adjustment equal to the percentage growth in population plus the inflation rate. Any revenues received in excess of this limit must be refunded to the voters. TABOR does not allow increases in funding for state services, so once they have been cut back they cannot be restored, even if state revenues increase as the economy grows.

The effects of TABOR are compounded by Amendment 23 which was passed by Colorado voters in 2000. This amendment guarantees that funding for K-12 education increases every year after adjusting for population growth and inflation. Under current TABOR rules, this means that not only is spending growth on all other state services such as health and long-term care restricted, it is actually reduced each year. Funding for all state services with the exception of K-12 education is gradually being squeezed out of the budget. For example, it is projected that by the year 2010, there will be no state support for higher education in Colorado. Only citizens with private financial means will be able to attend college in Colorado.[1]

From November 12 through November 23, 2004, AARP conducted a telephone survey of 1,001 randomly selected Colorado residents age 18 or older who report they are registered to vote and are likely to vote in the 2006 Colorado state election. The survey explores their opinions about the Colorado state budget, ways to generate money for state services, and changing or repealing TABOR.

[1] Clare Hushbeck. (December 2004). State Affairs, AARP.

Highlights

- More than eight in ten likely voters in Colorado strongly (46%) or somewhat agree (35%) that the state has a serious budget problem.

- More than three-quarters of likely voters in Colorado say that it is very (51%) or somewhat important (25%) that TABOR be changed to allow funding for state services to be restored when economic growth gets back on track.

- About seven in ten (72%) Colorado likely voters support changing TABOR to allow funding for state services that were cut during periods of recession to be restored to previous levels when the economy improves, while only about one in five (22%) oppose this action.

- Of those Colorado likely voters who oppose changing TABOR permanently to restore funding for state services, more than one in five (21%) support changing TABOR for one time only to allow funding for state services to be restored.

- Likely voters in Colorado are split in their agreement with the state keeping all or part of the projected tax refunds as ways to generate money for state services.
  - About half (48%) agree with the state keeping <u>all</u> of the projected tax refunds and nearly as many (44%) disagree.
  - Almost half (47%) agree with the state keeping <u>part</u> of the projected tax refunds and about the same proportion (46%) disagree.

- More than half of Colorado likely voters disagree with selling public buildings and leasing them back from the buyer (57%) and selling the proceeds from tobacco settlement for 50 cents on the dollar (55%) to generate money for state services.

- More than four in five Colorado likely voters believe it is important to restore funding for services that allow the elderly and disabled to stay in their own homes (89%), services for the mentally ill (86%), and higher education (83%).

- More than half of likely voters in Colorado strongly (30%) or somewhat (25%) support repealing TABOR outright. About nine in ten (91%) of these voters would still repeal TABOR even if it meant they would no longer receive a TABOR refund.

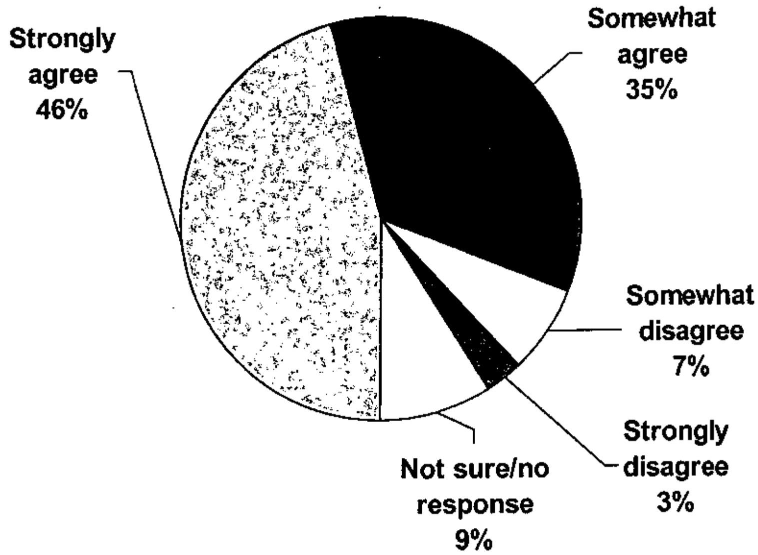
- Three in four Colorado likely voters strongly (45%) or somewhat support (30%) changing TABOR so that funding for state services can be increased as the population grows and the need for services increases.

Findings

More than eight in ten Colorado likely voters agree that the state has a serious budget problem.

Over eight in ten likely voters in Colorado strongly (46%) or somewhat agree (35%) that Colorado has a serious budget problem. Only one in ten disagree.

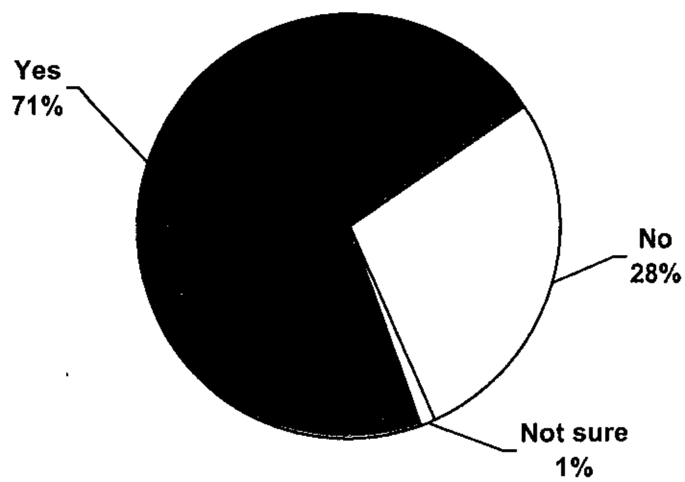
Does Colorado have a serious budget problem? (N=1,001)



About seven in ten Colorado likely voters have seen, read, or heard something about TABOR in the last two years.

Just over seven in ten (71%) likely voters in Colorado say they have seen, read, or heard something about TABOR in the last two years, while fewer than three in ten (28%) have not.

Have Colorado likely voters seen, read or heard anything about TABOR in the last two years? (N=1,001)

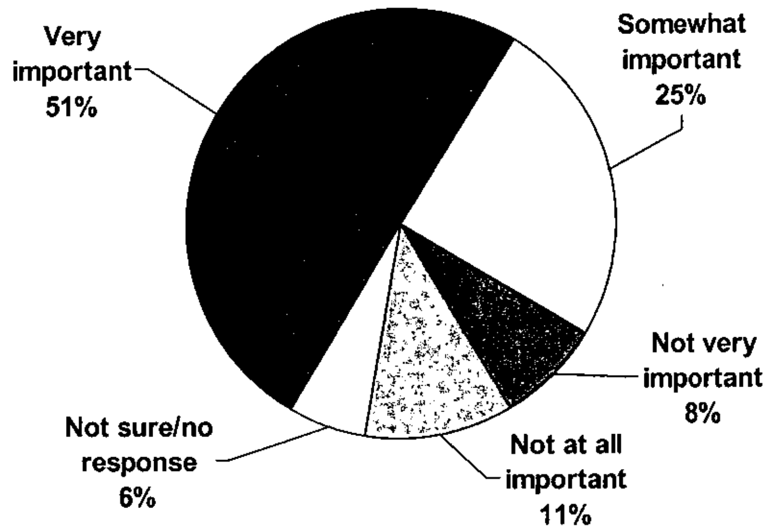


More than three-quarters of Colorado likely voters believe that it is important to change TABOR so that funding for state services can be restored.

During the recent economic recession, in order to balance the state budget Colorado cut state services such as health, transportation, and higher education. TABOR does not allow spending for services to be restored when the economy improves.

Over three in four likely voters in Colorado say that it is very (51%) or somewhat important (25%) that TABOR be changed to allow funding for state services to be restored when economic growth gets back on track.

Importance of Changing TABOR to Allow Funding for State Services to Be Restored*
(N=1,001)

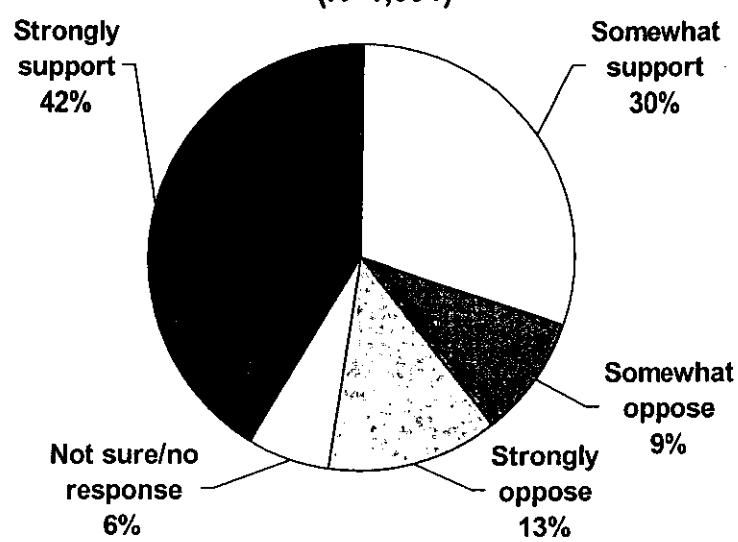


*Percentages do not add up to 100 due to rounding.

More than seven in ten likely voters in Colorado support changing TABOR to allow funding for state services cut during recession periods to be restored.

Over seven in ten likely voters in Colorado strongly (42%) or somewhat support (30%) changing TABOR to allow funding for state services that were cut during periods of recession to be restored to previous levels when the economy improves.

Support for Changing TABOR to Allow Funding for State Services to Be Restored
(N=1,001)

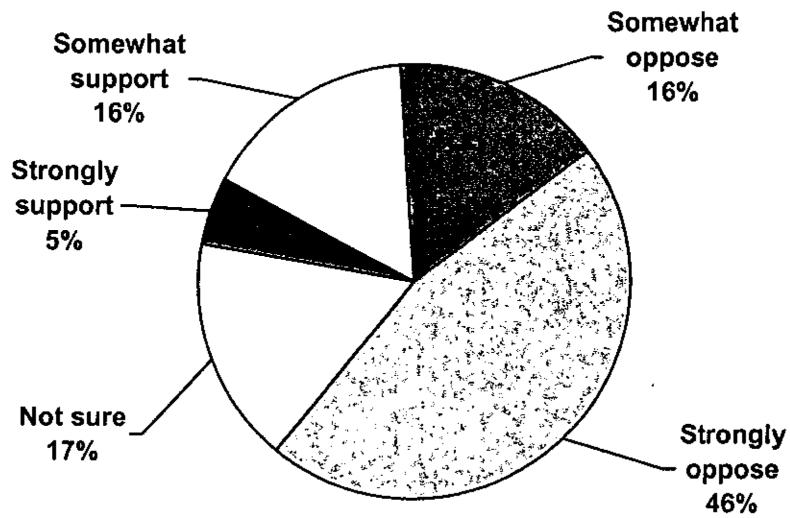


Of those Colorado likely voters who oppose changing TABOR permanently to restore funding for state services, more than one in five say they would support changing TABOR one time only to restore funding.

The 22 percent of Colorado likely voters who oppose changing TABOR permanently to allow funding for state services that were cut during recession periods to be restored or who were not sure about a permanent change were asked whether they support or oppose changing TABOR for one time only in order to restore funding (n=280).

More than one in five (21%) of these likely voters support changing TABOR for one time only in order to restore funding for state services. More than six in ten (62%) are opposed and about one in six (17%) are unsure.

Support for Changing TABOR One Time Only to Allow Funding for State Services to Be Restored Among Likely Voters Who Oppose Changing TABOR Permanently (n=280)



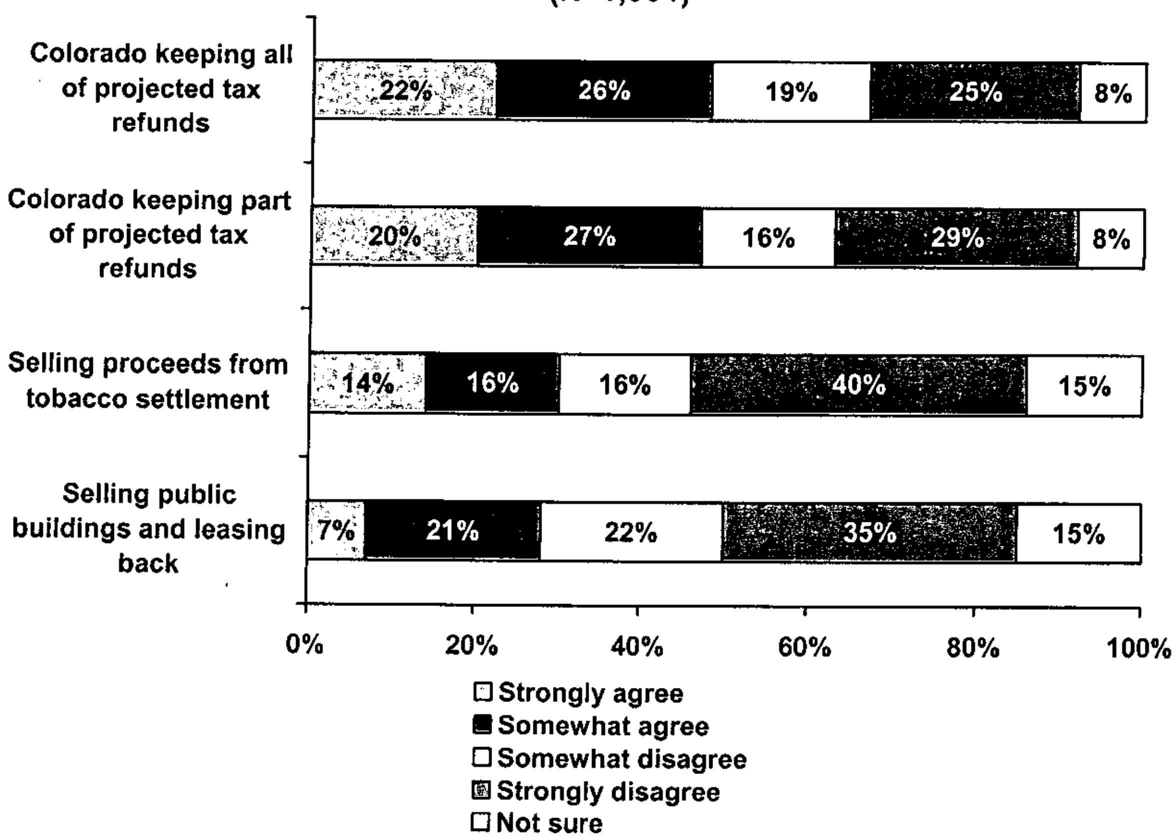
Likely voters in Colorado are split in their agreement with the state keeping all or part of the projected tax refunds as ways to generate money for state services.

Likely voters in Colorado were given four proposals to generate money for state services and asked whether they agree or disagree with each one. Colorado likely voters are nearly evenly split on their agreement with the state keeping all or part of the projected tax refunds to generate money for state services. Nearly half (48%) agree with the state keeping <u>all</u> of the projected tax refunds, while slightly fewer (44%) disagree. Likewise, almost half (47%) agree with the state keeping <u>part</u> of the projected tax refunds, while almost as many (46%) disagree.

Over half of Colorado likely voters disagree with selling public buildings and leasing them back from the buyer and selling the proceeds from tobacco settlement for 50 cents on the dollar to generate money for state services (57% and 55%), compared to about three in ten who agree with these proposals (28% and 30%).

It is worth noting that 15 percent of Colorado likely voters are not sure whether they agree or disagree with selling and leasing back public buildings and selling the tobacco settlement. This is almost twice as many who are not sure whether they agree or disagree with the state keeping all or part of the projected tax refunds.

Opinion on Proposals to Generate Money for State Services*
(N=1,001)



*Percentages in graph may differ slightly from text due to rounding.

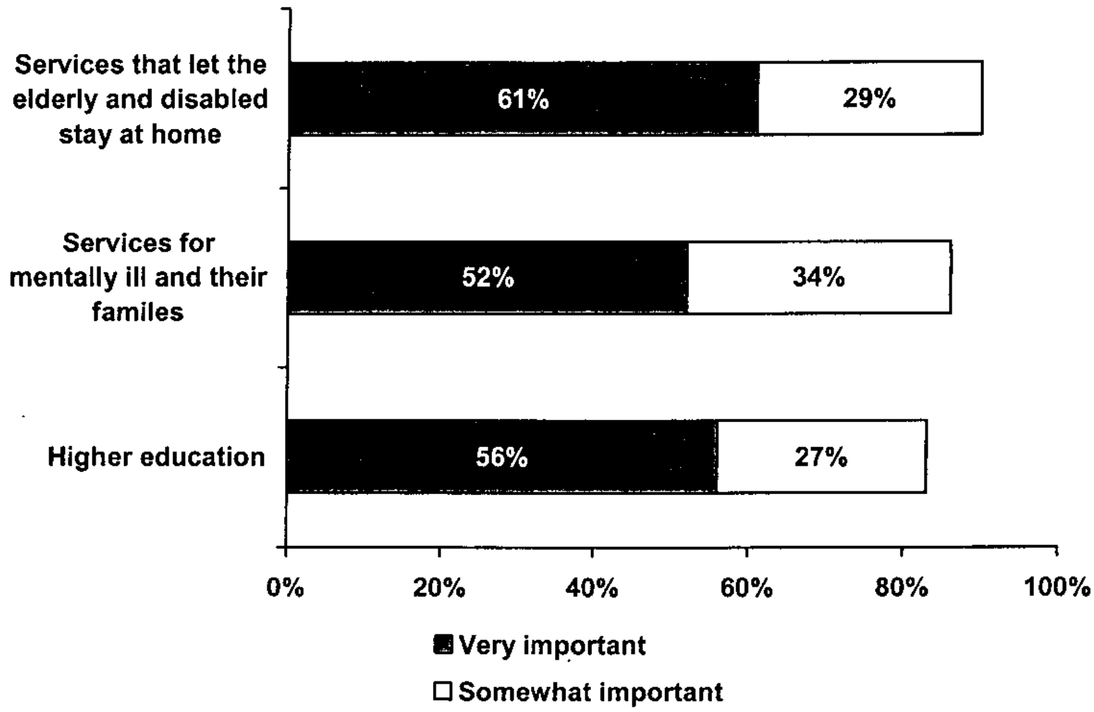
More than four in five Colorado likely voters believe it is important to restore funding for services that allow the elderly and disabled to stay at home, services for the mentally ill, and higher education.

Likely voters in Colorado were asked how important it is to restore funding for specific state services. More than six in ten (61%) believe it is very important to restore funding for services that allow elderly and disabled people who need assistance with daily activities to stay in their own homes as long as possible, and about another three in ten (29%) say it is somewhat important.

More than half (52%) believe it is very important to restore funding for services for the mentally ill and their families, while approximately another third (34%) say it is somewhat important.

Over half (56%) of Colorado likely voters think it is very important to restore funding for higher education, and more than a quarter (27%) believe it is somewhat important.

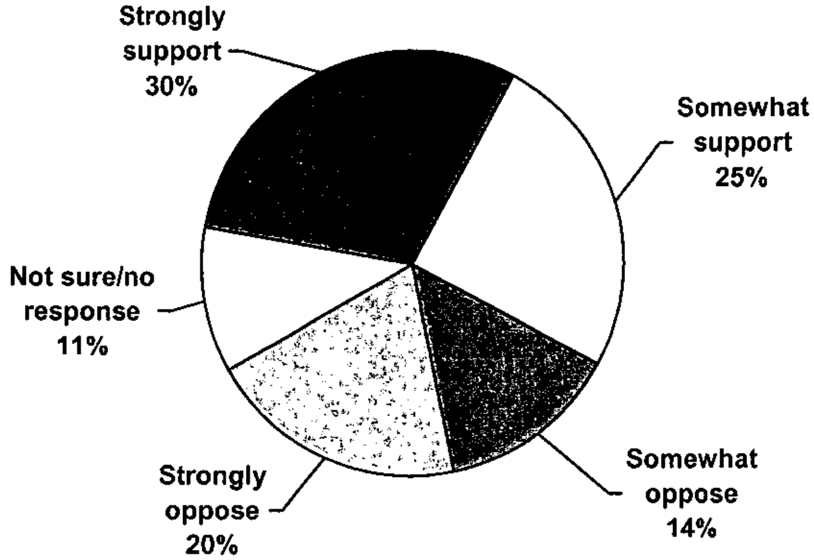
Importance of Restoring Funding for State Services (N=1,001)



The majority of Colorado likely voters support the repeal of TABOR.

More than half of likely voters in Colorado strongly (30%) or somewhat (25%) support repealing TABOR outright. About a third is opposed and about one in ten is unsure.

Support for Repealing TABOR (N=1,001)

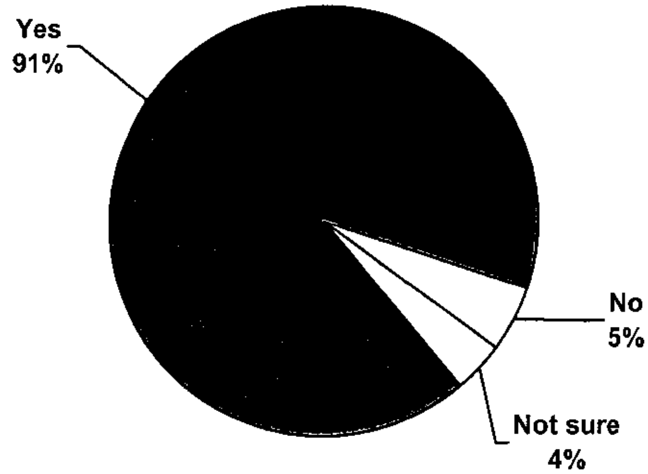


An overwhelming majority of Colorado likely voters who support the repeal of TABOR, still support repeal even if it meant giving up their TABOR refunds.

Colorado likely voters who support the repeal of TABOR were then asked if they would still support the repeal of TABOR even if they would no longer receive their TABOR refunds (n=547).

More than nine in ten (91%) still support the repeal of TABOR under this condition.

Support for Repealing TABOR Even if It Meant Colorado Residents Would No Longer Receive TABOR Refunds Among Likely Voters Who Support Repealing TABOR Outright (n=547)

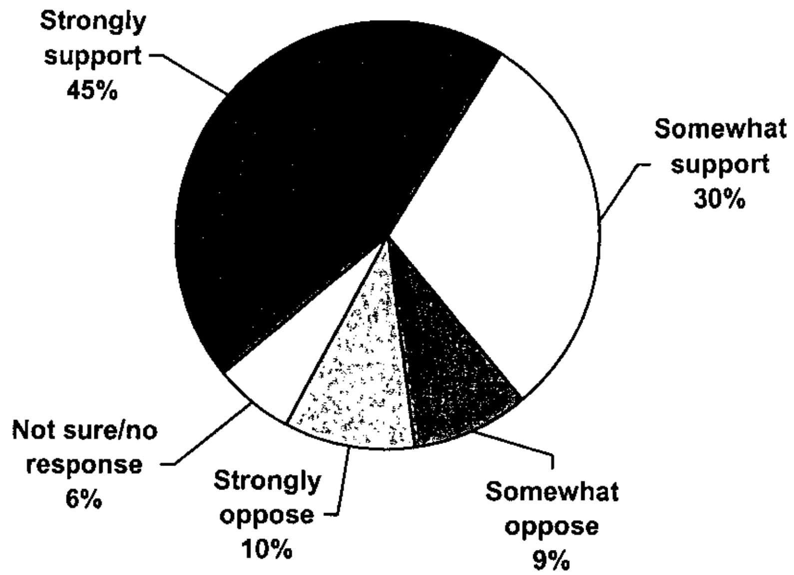


Three-quarters of Colorado likely voters support changing TABOR so that funding for state services can be increased as the population grows and the need for services increases.

Likely voters in Colorado were asked whether they would support or oppose changing TABOR so that funding for state services such as higher education, health care for children, roads and highways, and nursing homes could be increased as the population grows and the need for these services increases.

Three in four strongly (45%) or somewhat support (30%) changing TABOR for this purpose.

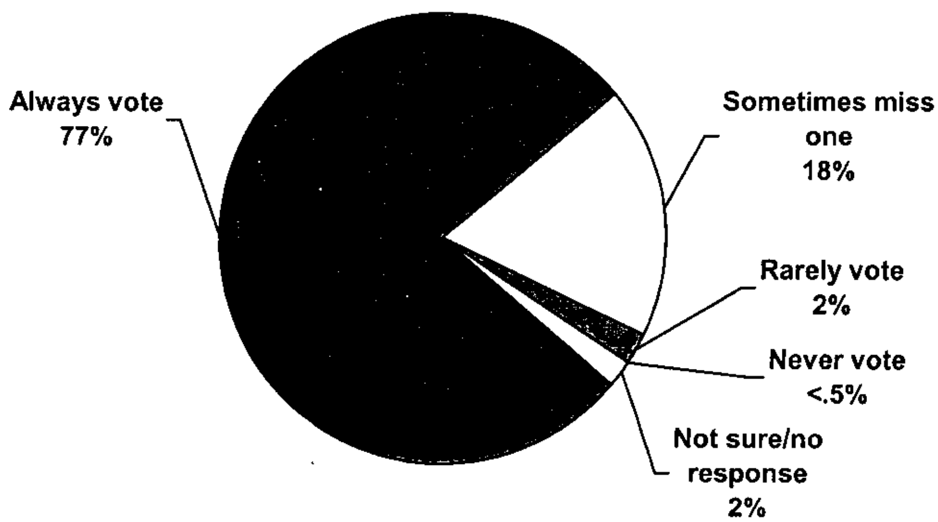
Support for Changing TABOR so that Funding for State Services Could Be Increased as the Population Grows (N=1,001)



A Profile of Colorado Likely Voters

One thousand and one Colorado likely voters participated in the survey. Almost all (95%) respondents are regular voters. Seventy-seven percent of those surveyed report they *always vote* while another 18 percent say they *sometimes miss one* vote. Respondents are fairly evenly split across the political parties. Thirty-seven percent are Republicans, 29 percent are Democrats, and 28 percent are Independents. Respondents are split in their political views between conservative and moderate while fewer are liberal. Thirty-eight percent are conservative, another 38 percent are moderate, and 18 percent are liberal.

Voting Behavior in State Elections in the Last 10 Years*
(N=1,001)



*Percentages do not add to 100 due to rounding.

More than half (55%) of respondents are age fifty or older. Most respondents are women (54%). More than two-thirds (68%) of respondents are married; while one in ten have never been married (11%) or are divorced (10%). Over half (55%) of respondents have a college education or higher, while 14 percent hold high school diplomas or the equivalent. Sixty-two percent are employed either full-or part-time. Another 24 percent of respondents are retired. Just over one in eight (14%) respondents have an annual household income below $30,000, more than a third (37%) have a household income of $30,000 but less than $75,000, and over a quarter (28%) have a household income of $75,000 or more. Respondents represent 55 of Colorado's 63 counties; there were no respondents from Bent, Clear Creek, Costilla, Hinsdale, Kiowa, Mineral, Saguache, and San Juan Counties.

Conclusions

Most likely voters in Colorado believe that the state has a serious budget problem and many have seen, read, or heard something about TABOR in the last two years. Colorado likely voters support changing current TABOR law to allow funding for state services that have been cut during recession periods to be restored to their previous levels. Furthermore, likely voters in the state also support changing TABOR so that funding for state services can continue to increase as the population grows. More than eight in ten likely voters in Colorado believe it is important to restore funding for services that allow the elderly and disabled to remain in their homes, services for the mentally ill, and higher education.

Although Colorado likely voters believe it is important to restore funding for state services they are unsure about specific ways to go about it. About half agree and another half disagree with allowing the state to keep all or part of the projected tax refunds as ways to generate money for state services. Over half disagree with selling public buildings and leasing back from the buyer and selling the tobacco settlement fund; and another 15 percent say they are unsure of these two methods.

Many likely voters in Colorado would like to see total repeal of TABOR. More than half support total repeal and more than nine in ten of these respondents still support repeal even if it meant they would no longer receive a TABOR refund.

Methodology

AARP commissioned Alan Newman Research, Inc. to conduct a random digit dial (RDD) telephone survey of self-reported registered likely voters age 18 or older in Colorado. A total of 1,001 interviews were completed including 551 interviews among registered voters age 50 or older. The survey was conducted between November 12 – November 23, 2004.[2] The survey has a sampling error of plus or minus 3.1 percent. This means that in 95 out of 100 samples of this size, the results obtained in the sample would fall in a range of 3.1 percentage points of what would have been obtained if every registered likely voter age 18 or older in Colorado had been surveyed. Survey responses are not weighted due to the fact that there is no reliable state-specific source on registered likely voters in Colorado. Unweighted responses to all survey questions are in the attached annotated questionnaire.

[2] The response rate is 25 percent and the cooperation rate is 52 percent. The response rate is Response Rate 3 and the cooperation rate is Cooperation Rate 3 from the following publication: The American Association for Public Opinion Research. 2000. *Standard Definitions: Final Dispositions of Case Codes and Outcome Rates for Surveys.* Ann Arbor, Michigan: AAPOR.