

Amendment 52 Use of Severance Tax Revenue for Highways

1 **Amendment 52 proposes amending the Colorado Constitution to:**

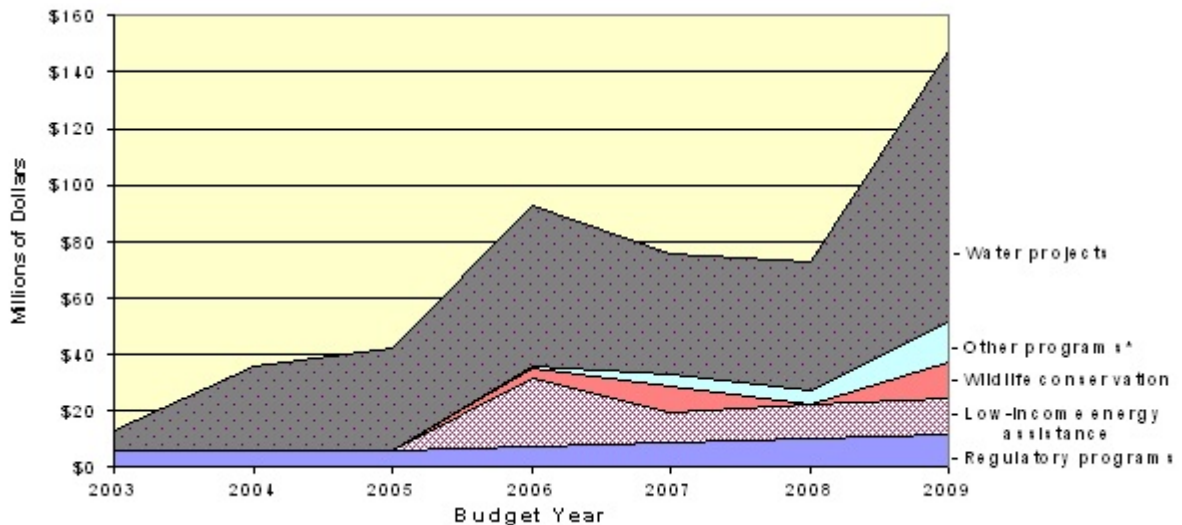
- 2 ◆ require the state legislature to spend a portion of state severance tax
3 collections on highway projects.

4 **Summary and Analysis**

5 ***What is the severance tax?*** Companies that extract nonrenewable natural
6 resources such as coal, oil, natural gas, gold, and silver from the earth pay the state
7 severance tax. The amount of severance tax paid is based on company income or the
8 volume of the resource mined.

9 ***How is severance tax revenue spent now?*** The state legislature determines how
10 severance tax revenue is spent. Under existing statutes, it is evenly divided between
11 local governments and state programs. State statute distributes the local government
12 portion to communities impacted by the mineral extraction industry — either directly
13 based on mining activity in the area or through competitive loans or grants. The state
14 portion is spent on loans for local water projects like dams, pipelines, and canals;
15 programs regulating mining activity; and, in recent years, programs like low-income
16 energy assistance and wildlife conservation. Figure 1 shows the amount of severance
17 tax revenue spent on different state programs over the past six years and the amount
18 budgeted for 2009.

19 **Figure 1. Severance Tax Revenue Spent on State Programs**



20 * Other programs include: zebra mussel, tamarisk, and pine bark beetle control; soil conservation; renewable
21 energy; agriculture; state parks; and wildlife conservation.

How does Amendment 52 change current law? Of the 50 percent of severance taxes spent on state programs, Amendment 52 constitutionally limits the amount that the state legislature can spend to the prior year's amount plus inflation (with an adjustment if severance tax collections decrease). The remaining amount of the state portion must be used to construct and maintain highways, with priority given to relieving congestion on Interstate-70 (I-70). The state legislature is responsible for budgeting the highway money. The state legislature maintains the ability to allocate both the money that is currently returned to local governments and the money spent on state programs in any way it chooses, just as it does now.

What is the projected change in spending under Amendment 52? Table 1 shows the projected shift in spending from state programs to highway projects under Amendment 52. For example, in 2009, state programs receive \$181 million under current law. Under Amendment 52, these programs receive \$92 million, and \$89 million is shifted to highway projects aimed at relieving congestion on I-70.

Table 1. Projected Change in State Portion of Severance Tax Spending in Millions of Dollars

	2009	2010	2011	2012	Four-Year Total
State Program Money under Current Law	\$181	\$130	\$148	\$154	\$613
Amount for State Programs under Amendment 52*	\$92	\$95	\$99	\$102	\$388
Shift from State Programs to Highway Projects under Amendment 52	\$89	\$35	\$49	\$52	\$225

* Based on a projected annual inflation rate that varies between 2.2 and 3.5 percent.

How are transportation projects currently funded? Fuel taxes, vehicle registration fees, a portion of income and sales taxes, and federal highway money finance transportation projects in Colorado. The state received about \$1.2 billion for transportation projects in budget year 2008, with fuel taxes and registration fees at \$415 million, federal funds at \$408 million, and income and sales taxes at \$426 million.

How do Amendment 52 and Amendment 58 interact? Both Amendment 52 and Amendment 58 change how the state spends severance tax revenue, but the two measures propose different uses for the money. Thus, some of the provisions of these measures appear to conflict with one another. Should both measures pass, the state will be required to implement these conflicting provisions, but if challenged the courts will have to decide how the measures take effect. Amendment 52 proposes a change to the state constitution, while Amendment 58 proposes a change to state statute. To date, Colorado courts have not addressed this type of conflict between ballot measures, but it is likely that the constitutional provision would prevail.

1 **Arguments For**

2 1) Amendment 52 increases funding for highways by an estimated \$225 million
3 over the next four years without raising taxes. The most recent statewide transportation
4 plan expects highway revenue to fall short of the cost of maintaining the current highway
5 system. This revenue shortfall has occurred in part because better vehicle fuel
6 efficiency and higher road construction costs have decreased the purchasing power of
7 gasoline taxes, which is one of the system's primary funding sources. By amending the
8 state constitution, Amendment 52 creates a new, dedicated source of money for
9 highways that cannot be changed without another vote of the people.

10 2) Amendment 52 creates a permanent revenue stream for highway projects, with
11 emphasis on congestion relief for I-70. I-70 is a key transportation corridor for both
12 Colorado residents and visitors to the state. The highway supports both intra- and
13 interstate commerce, provides access to key ski and recreational areas, and is an
14 important commuter route. However, funding for construction and maintenance has not
15 kept pace with increased traffic on the highway. A new source of money is vital for
16 relieving congestion in this transportation corridor.

17 3) The recent growth in oil and gas production has resulted in severance tax
18 revenue that far exceeds the funding requirements of the state programs it has
19 traditionally supported. The money available for state programs has grown from
20 \$8 million to over \$100 million in the past few years, and is expected to continue to
21 grow. Amendment 52 increases funding for existing state programs by inflation, while
22 refocusing future growth in severance tax revenue on transportation problems facing the
23 state.

24 **Arguments Against**

25 1) Amendment 52 diverts money that would help meet Colorado's rapidly growing
26 water demand and maintain its aging water supply system. Half of the money shifted to
27 highway projects under this measure would be available under current law to provide
28 loans and grants for water projects, water conservation, and other programs. A recent
29 study indicated that current and planned water supply projects are likely to meet about
30 80 percent of the estimated new demand between 2004 and 2030. By shifting over
31 \$100 million in the next four years from water projects to transportation projects,
32 Amendment 52 hurts the state's ability to meet long-term water supply needs.

33 2) Amendment 52 could politicize funding for transportation projects. To prevent
34 political considerations from influencing the allocation of transportation money, an
35 independent commission develops a statewide transportation plan that identifies,
36 prioritizes, and selects transportation projects for funding. Giving budgeting authority for
37 some of the money to the state legislature could result in the legislature selecting
38 transportation projects based on political considerations.

39 3) Amendment 52 does not guarantee that any new money will go to projects that
40 relieve congestion on I-70. The money could instead replace current funding for

1 existing projects on I-70. Thus, the measure could result in growth in transportation
 2 spending in areas unrelated to relieving I-70 congestion.

3 Estimate of Fiscal Impact

4 **State Impacts.** Amendment 52 does not change state severance tax collections.
 5 Instead, it caps the amount of severance tax revenue that can be allocated by the
 6 legislature and diverts money above the cap to highway projects. Under the cap,
 7 funding for existing state programs is expected to grow from \$92 million to \$102 million
 8 over the next four years. Based on a state forecast of severance tax revenue,
 9 Amendment 52 shifts \$89 million to transportation in the current budget year, and
 10 \$225 million over the next four years.

11 Table 2 shows the change in spending that is expected to occur due to Amendment
 12 52. Several existing programs will receive less money under Amendment 52 than they
 13 would have under current law. Money for water projects is expected to drop by
 14 \$45 million in 2009, with the actual spending reduction occurring in the following year.
 15 Existing state programs will see a total reduction of \$2 million from budgeted amounts in
 16 2009. These programs include wildlife conservation, low-income energy assistance,
 17 bark beetle control, zebra mussel control, and soil conservation. In addition, based on
 18 the forecast, the legislature would have been able to spend another \$42 million in the
 19 current year. Over the next four years, spending on existing state programs is expected
 20 to be about \$29 million less than under current law, revenue for water projects is
 21 expected to drop \$112 million, and spending on other programs will drop \$84 million.

22 **Table 2. Estimated State Spending Change Due to Amendment 52 in**
 23 **Millions of Dollars**

24 State Revenue:	2009	2010	2011	2012	4-year Total
25 Projected total severance tax revenue	\$356	\$255	\$288	\$301	\$1,200
26 Amount for existing state programs 27 under Amendment 52	\$92	\$95	\$99	\$102	\$388
28 Amount shifted to transportation under 29 Amendment 52	<u>\$89</u>	<u>\$35</u>	<u>\$49</u>	<u>\$52</u>	<u>\$225</u>
30 Water projects	45	17	24	26	112
31 Existing state programs	2	13	14	0	29
32 Other non-budgeted state programs	42	5	11	26	84

33 * Water projects appear in the year in which the money is received. Actual expenditure of this money occurs
 34 in the following year.