

**Amendment 52
Use of Severance Tax Revenue for Highways**

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

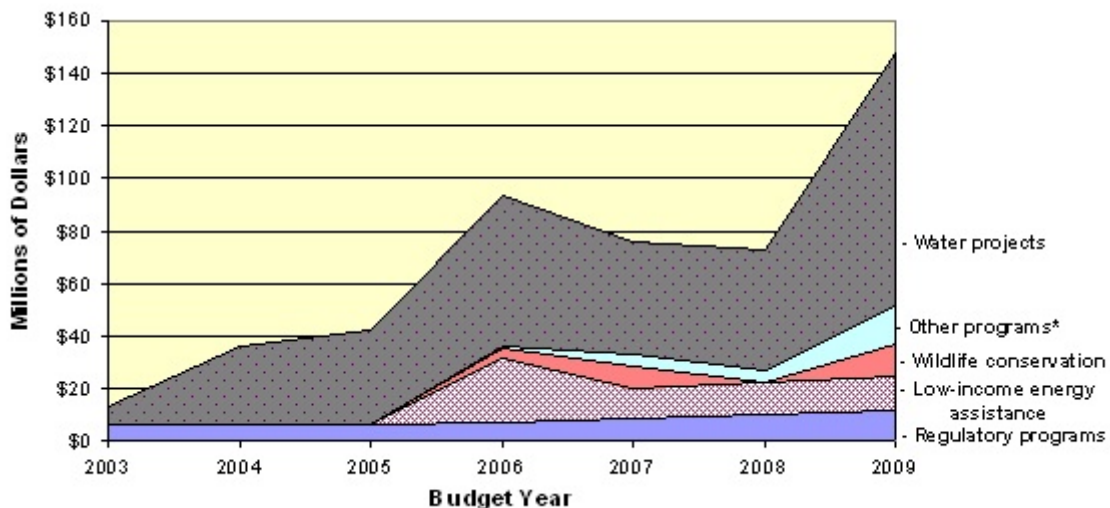
- 2 ♦ require the state legislature to spend a portion of state severance tax
3 collections on highway projects.

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 energy;
21 agriculture; state parks; and wildlife conservation.

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

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

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

	2009	2010	2011	2012	Four-Year Total
Projected Total Severance Tax Revenue	\$347	\$246	\$278	\$290	\$1,160
State Program Money under Current Law	\$181	\$131	\$147	\$154	\$613
Amount for State Programs under Amendment 52*	\$92	\$95	\$98	\$101	\$387
Shift from State Programs to Highway Projects under Amendment 52	\$89	\$36	\$49	\$53	\$226

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

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

33 **How do Amendment 52 and Amendment (#113) interact?** Both Amendment
 34 52 and Amendment (#113) change how the state spends severance tax revenue, but
 35 the two measures propose different uses for the money. Thus, some of the provisions of
 36 these measures appear to conflict with one another. This measure proposes a change
 37 to the state constitution, and Amendment (#113) proposes a change to state statute.
 38 When conflicts arise between the constitution and statutes, the constitution prevails.

1 Since this measure is a constitutional change, if both measures pass, any parts of
2 Amendment (#113) that are found to be in conflict with this measure will not take effect.
3 These issues will be resolved after the election. The state will likely implement the
4 measures based on a state legal opinion, or the court may have to decide how the
5 measures take effect.

6 **Arguments For**

7 1) Amendment 52 increases funding for highways by an estimated \$226 million
8 over the next four years without raising taxes. The most recent statewide transportation
9 plan expects the cost of maintaining the current highway system to be significantly
10 greater than the available money. This revenue shortfall has occurred in part because
11 better vehicle fuel efficiency and higher road construction costs have decreased the
12 purchasing power of gasoline taxes, which is one of the system's primary funding
13 sources. By amending the state constitution, Amendment 52 creates a new, dedicated
14 source of money for highways that cannot be changed without another vote of the
15 people.

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

23 3) The recent growth in oil and gas production has resulted in severance tax
24 revenue that far exceeds the funding requirements of the state programs it has
25 traditionally supported. The money available for state programs has grown from
26 \$8 million to over \$100 million in the past few years, and is expected to continue to
27 grow. Amendment 52 allows funding for existing state programs to grow by inflation,
28 while refocusing future growth in severance tax revenue on transportation problems
29 facing the state.

30 **Arguments Against**

31 1) Amendment 52 diverts money that would help meet Colorado's rapidly growing
32 water demand and maintain its aging water supply system. Half of the money shifted to
33 highway projects under this measure would be available under current law to provide
34 loans and grants for water projects, water conservation, and other programs. A recent
35 study indicated that current and planned water supply projects are likely to meet about
36 80 percent of the estimated demand by 2030. By diverting over \$100 million in the next
37 four years from water projects to transportation projects, Amendment 52 hurts the
38 state's ability to meet long-term water supply needs.

39 2) Amendment 52 circumvents the statewide transportation planning process by
40 giving decision-making authority for some of the money to the state legislature. The

1 statewide transportation plan, developed by an independent commission, identifies,
2 prioritizes, and selects transportation projects for funding. When legislators prioritize and
3 select transportation projects, political considerations may enter the decision-making
4 process.

5 3) Amendment 52 results in cuts to state programs that are currently funded by the
6 severance tax, such as low-income energy assistance and wildlife conservation. In
7 addition, the measure does not guarantee that any new money will go to projects that
8 relieve congestion on I-70. The money could instead replace current funding for
9 existing projects on I-70. Thus, the measure could result in growth in transportation
10 spending in areas unrelated to relieving I-70 congestion.

11 **Estimate of Fiscal Impact**

12 **State Impacts.** Amendment 52 does not change state severance tax collections.
13 Instead, it caps the amount of severance tax revenue that can be allocated to existing
14 state programs and diverts money above the cap to highway projects. Under the cap,
15 funding for existing state programs would grow from \$92 million to \$102 million over the
16 next four years. Based on the most recent state forecast of severance tax revenue,
17 Amendment 52 *SHIFTS* \$89 million to transportation in the current budget year, and
18 \$226 million over the next four years.

19 The money shifted to transportation would have been spent on water projects,
20 existing state programs, and other programs as determined by the legislature. Table 2
21 shows the change in spending that is expected to occur due to Amendment 52. Money
22 for water projects is expected to drop by \$44.7 million in 2009, with the actual spending
23 reductions occurring in the following year. In budget year 2009, existing state programs
24 will see a total reduction of \$1.4 million. Some of the programs experiencing cuts
25 include wildlife conservation, low-income energy assistance, bark beetle control, zebra
26 mussel control, and soil conservation. In addition, based on the current forecast, the
27 legislature would have been able to spend another \$43.2 million in 2009. Over the next
28 four years, spending on existing state programs is expected to fall by about \$21 million,
29 revenue for water projects is expected to drop by \$113 million, and spending on other
30 programs will drop by \$92.6 million.

Table 2. Estimated State Spending Change Due to Amendment 52 (Millions of Dollars)					
State Revenue:	2009	2010	2011	2012	4-year Total
Projected Total Severance tax revenue	\$347	\$246	\$278	\$290	\$1,160
Amount for existing state programs under Amendment 52	\$92	\$95	\$98	\$102	\$387
Amount shifted to transportation under Amendment 52	<u>\$89</u>	<u>\$36</u>	<u>\$49</u>	<u>\$53</u>	<u>\$226</u>
Water projects	45	18	25	26	113
Existing state programs	1	10	9	0	20
Other non-budgeted state programs	43	8	15	26	93

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