



Issue Brief

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From the Colorado Fiscal Policy Institute

The Colorado Economic Recovery Act HJR05-1057 and HB 05-1333

Referendum D

The General Assembly and the Governor developed the Colorado Economic Recovery Act as a means to avoid further cuts in important public services and to expand investments in Colorado's infrastructure. The Colorado Economic Recovery Act is comprised of two separate but related ballot issues—Referendum C and D. Referendum C (HB05-1194), dealing with the impact of the TABOR amendment on the ability of the state to recover from the recent recession and avoid further cuts in programs, cleared the General Assembly on 4/18/05. (For a detailed analysis of Ref C please visit the COFPI website: www.cclponline.org click on “what’s new”.) The second component, Referendum D, made its way through the General Assembly in May and is the focus of this analysis. Both Referendum D and Referendum C will be considered by voters in November 2005.

Referendum D (HJR05-1057) asks voters to approve a multi-year financial obligation for the purposes of financing investments in transportation, K-12 education building construction and maintenance, higher education building maintenance and replacement and pensions obligations for local fire and police personnel. Voter approval is required in order for the state to enter into these kinds of bonding obligations. Authority for and oversight of the bonding authority is found in separate legislation (HB05-1333).

The multi-year financial obligations spelled out in Referendum D can only be undertaken if voters approve both Referendum C and Referendum D. If Ref C passes and Ref D does not, the bonds cannot be issued. Similarly, if Ref D passes but Ref C does not, the bonds cannot be issued.

PROVISIONS OF REFERENDUM D AND HB 1333

1. Referendum D asks the voters the question, “Without increasing any tax, shall the state be authorized to address critical state needs by issuing notes...up to \$2.072 billion with a maximum total repayment cost of \$3.125 billion...”
2. The notes would be issued on a schedule that would allow for maximum total annual principal and interest payments of \$55 million in FY 50-06, \$95 million in FY 06-07 and \$125 million each subsequent fiscal year. No more than \$25 million can be used each year to pay for notes issued for non-transportation purposes.
3. The bonds can be used in the following amounts:

- a. \$1.7 billion to repair and replace highways and bridges and to accelerate completion of transportation projects included in the strategic transportation project investment program;
 - b. \$147 million for school capital construction;
 - c. \$50 million for capital construction needs at state universities, colleges and community college facilities; and
 - d. \$175 million to address shortfalls in funding for pensions for police officers and firefighters.
4. The maximum amount of annual debt can be limited by action of the General Assembly. If for any fiscal year '06,'07, '08, the retained revenues, authorized by Ref C, are less than the authorized debt service amount, the legislature may limit, by resolution, the amount of additional debt authorized. For example, if the retained revenue for 2007 is less than \$95 million, the General Assembly could choose to not allow for issuance of additional debt for FY 2008. The Department of Transportation, regardless of other limits, is limited to \$600 million in debt before January 1 2007 (see HB 1333).

PROS

1. The state has incredible pent up demand for capital investments. The budget cuts of the last few years have taken a toll on the infrastructure of the state.
 - a. **Transportation**

Between 1998 and 2001, transportation projects received nearly \$750 million in general fund transfers to supplement dedicated gas tax revenue. Since 2001, however, funding for transportation has dwindled as the general fund transfer evaporated and the gas tax funding stagnated.

While funding has dwindled, need has increased. The State's current strategic transportation six-year plan identifies \$3.65 billion in unmet transportation needs and the long-range twenty five-year plan identifies \$30 billion in transportation infrastructure needs. The bonding approach makes it possible to invest up to \$1.7 billion in transportation projects.
 - b. **School Capital Construction**

In January 1998, the state settled a lawsuit brought against it for not meeting the constitutional requirement to provide a thorough and uniform system of free public education because it failed to adequately meet school capital construction needs throughout the state. The state was to provide \$190 million over 11 years to fund the most serious capital construction needs. The state has only provided \$43 million and owes \$147 million. The bonds would be used to pay this school construction obligation.
 - c. **Fire and Police Pension**

The state, in 1977, agreed to contribute a certain amount to pay for pension for police officers and firefighters hired before 1978. Due to budget cuts, the state began withholding payments to the pension fund in 2002. The bonds will provide

the \$175 million needed in 2006 to fulfill the states obligation to the Fire and Police Retirement plans.

d. Higher Education Capital Construction

Universities and state and community colleges have identified more than \$550 million in unfunded construction needs. There has been virtually no capital construction allocation for these needs since FY 2001. Referendum D bonds will provide \$50 million for life and safety improvements at higher education facilities.

2. In most years, the annual bond obligations are paid off with money that would otherwise have to be returned to taxpayers. By utilizing revenue collected in excess of the TABOR revenue limit, this proposal expands the amount of tax revenue that is used for public goods. In fact, the debt service amount, up to \$125 million, is the only money that is “de-bruced” in fiscal years after FY2011.
3. The bonding package phases in the amount of debt service the state must bear in the first three years of the bonding.
4. This bonding package is part of a compromise struck by Democratic and Republican leaders and is supported by a wide array of community partners.
5. If some of the more pressing infrastructure needs are met, it may take away some of the pressure to continue to fund infrastructure, particularly transportation, out of general fund revenues.

CONS

1. Roads over services. In years when general fund revenues are insufficient to fund operating expenses at the current services rate (6%), funding for programs will have to be reduced by the amount needed to pay the debt service. In other words, payment of bond indebtedness will be prioritized over other expenditures. Current OSPB estimates of revenue project that there will not be sufficient general fund revenue to increase operating expenses by 6% any fiscal year in the projection period (FY 06-FY10). Legislative Council Staff estimates differ significantly, however, and project sufficient revenue to both increase the operating base by 6% and pay for the debt service.

Based on the economic history of Colorado it is likely that sometime in the next 25 years, the state will experience slow revenue growth. In such an event, under Colorado’s current tax and expenditure limitations, operating expenditures would likely have to be cut in order to finance bond payments.

2. Bonding is debt. It transfers the bulk of the cost of financing major infrastructure investments to the future and increases the cost of those investments when compared to a pay-as-you-go strategy.
3. Prior to the most recent economic downturn, the legislature found creative ways to invest in transportation and capital construction without issuing significant debt.
4. This bonding package give transportation projects three sources of general fund support: 1) the new bonding approach; 2) Senate Bill 97-1 allocations, which divert a portion of the sales tax to transportation funding when the general fund operating budget exceeds the 6% growth limit; and 3) a 2/3 share of any excess general fund revenue that is collected after appropriations are made by the legislature. In a year where the general fund is increasing faster than 6%, the extra revenue couldn’t easily be used for on-going

services, but could be saved for a time when general fund revenue was insufficient to fund the 6% or current services budget.

For more information, please contact Carol Hedges at hedgesc@cclponline.org or 303-573-5669 ext. 309.