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Issue Backgrounder

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State Budget Scrutiny Reveals Ref C Shuffle

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By Mark Hillman and Amy Oliver

Executive Summary

Two years ago, lawmakers asked voters for a "time-out" from the spending restrictions of the Taxpayers Bill of Rights (TABOR) in order to allow the state budget to rebound from the recession of 2001-2002.

Referendum C, approved by a narrow 52 percent to 48 percent margin, erased the TABOR spending limits for five years and permanently increased the spending caps thereafter. Voters were assured by Ref C proponents that K-12 education, colleges and universities, and health care would split the lion's share of the resources if the measure passed.

But a funny thing happened after Ref C passed. Spending on programs that rarely were identified with Ref C has grown at more than twice the rate of spending on education and health care.

Now, some of the key players in convincing voters to pass Ref C are dissatisfied, and voters have cause to believe they were sold a bill of goods.

The Promise

Two years ago, lawmakers faced the bizarre conundrum of cutting spending on certain programs while sending taxpayers a surplus refund check, so they asked voters for relief by proposing Referendum C.

Referendum C erased the state's constitutional spending cap for five years and permanently raised the cap thereafter to allow spending to continue at elevated levels. However, Ref C proponents knew that taxpayers weren't likely to vote for a blank check, so they promised to divide the bulk of the Ref C windfall between education and health care—programs to which voters were most sympathetic.

Voters narrowly approved the measure 52 percent to 48 percent, while rejecting Referendum D, a companion bond issue for transportation, demonstrating widespread skepticism toward government's perennial "crisis" mentality.

Conveniently ignoring other fiscal complications, referenda proponents clearly implied that K-12 education, colleges and universities, and the amorphous "health care" would be the primary beneficiaries if Ref C passed.

The Bell Policy Center, a left-leaning Colorado think tank whose staff participated in an "outreach tour" with leading Referenda C and D proponents campaigning for the ballot measures, stated in a widely distributed publication that "additional revenues retained under Referendum C would be divided in thirds and used to restore cuts in K-12 education, public colleges and universities, and health care."[1]

In fact, Vote Yes on C and D campaign literature explained that the additional revenue would be divided evenly 30 percent for K-12 education, 30 percent for higher education and 30 percent for health care. The remaining 10 percent would be used to repay the Referendum D bonds.[2]

When Referendum D failed, the question became how the state would use the additional 10 percent that was earmarked for repayment of Ref D bonds.

Two days after the 2005 election, a *Rocky Mountain News* article stated: "Leaders of the Democratic-controlled legislature argue that" the Ref D money "should be allocated equally by thirds to health care, K-12 schools and higher education – the services designated in the Ref C ballot measure." In the same article, Colorado Senate President Joan Fitz-Gerald assured voters, "'We already agreed, if Ref D failed, it would be 33 1/3, 33 1/3 and 33 1/3,' for schools, colleges and health."[3]

Fitz-Gerald's promise and the Ref C campaign literature conveniently slipped the minds of the *Denver Post* editorial board, which wrote, "The legislature never promised such a precise split." Furthermore, the *Post* trivialized what was clearly a campaign promise when it cavalierly wrote, "The notion of a specific one-third for K-12 education, one- third for higher education and one-third for health care was bandied about by some supporters of Referendum C on the campaign trail."[4]

The Reality

But as any economist knows, money is fungible.

According to a Joint Budget Committee report, nearly $3.2 billion in Ref C surplus has been split almost evenly between K-12 public schools, tuition stipends for college students, and health care subsidies for Medicaid participants.[5]

However, a closer look at the state budget shows that the supposed beneficiaries have not benefited nearly as much as the remainder of the state budget.

However, a closer look at the state budget shows that the supposed beneficiaries have not benefited nearly as much as the remainder of the state budget. Since the 2005-06 budget, passed prior to Ref C, general fund spending has increased by $1 billion, or 16.1 percent. Spending on Ref C "targets"—K-12, higher ed and health care—has grown by just 11.9 percent, or $557 million. Meanwhile, the remainder of the general fund, which wasn't targeted for a Ref C infusion, has grown by 28.7 percent, or $446 million.

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Advocates for loosening the state's remaining spending limits complain that the six-percent cap on annual growth in general fund spending is too restrictive. However, it is within this limit that lawmakers chose to shift spending away from Ref C beneficiaries and into other programs.

The first "Excess State Revenue Report," mandated by Ref C as a report card to measure whether legislators kept their promises to the voters, explains: "While these areas (programs not identified in Ref C) may have received funds that would not have otherwise been available, they did not receive funding directly from Referendum C."

How It Happened

After Ref C passed, lawmakers approved a fiscal shell game, reducing K-12, higher ed and Medicaid spending from existing sources, then replacing those funds with money from Ref C. In some instances, education and health care actually received less money immediately after Ref C passed.

The 2006-07 Appropriations Report, published by the legislature's Joint Budget Committee, shows what happened. After Ref C passed in November 2005, the legislature cut $306 million in K-12 spending from the general fund and "replaced" it with $261 million from Ref C. The same cut-and-switch took place in Medicaid. Higher ed initially absorbed a $271 million general fund cut, mostly offset by a $253 million Ref C appropriation. Such maneuvering gave the legislature a free hand to divert ordinary resources to programs seldom, if ever, mentioned in the Ref C campaign.

Not surprisingly, some who expected their programs to be bolstered by Ref C are fuming now at the "Ref C shuffle."

Higher Education

University of Colorado President Hank Brown, widely credited with convincing moderate Republicans and Democrats to support Ref C, recently told higher ed leaders, "I would not use the terminology that higher ed gets 30 percent of Ref C. We are not getting 30 percent."[6]

Brown has cause to feel double-crossed. Prior to Ref C, the state's annual subsidy to colleges and universities was cut from $750 million to $498 million – with students and parents taking up the slack by paying higher tuition.

Voters also have a right to feel double-crossed. They were told that without its share of Ref C dollars, Colorado's public institutions of higher education could be privatized and lower-income students could kiss goodbye to their college dreams. Brown argued that the campaign for Ref C boiled down to one simple question: "Do you want to help low-income kids go to college…Or is it something you want to phase out?"[7]

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Colorado State University President Larry Penley warned that CSU "could become a private school if voters don't support budget reform that could mean $1 billion for higher education." Penley further scared Coloradans by predicting that without the $1 billion in additional funding "CSU would have to raise tuition 30 to 50 percent…and…might have to raise tuition up to 400 percent for high-cost science and engineering programs."[8]

For the budget year that began July 1, general fund spending on higher ed is $746 million —still below pre-recession levels and certainly not "rebounding with the economy," as Ref C proponents promised.

Despite the passage of Ref C, the University of Colorado proposed a 14 percent hike in tuition for in-state college students, those who actually pay for the Ref C tax increase. According to the *Denver Post*, "The proposal would increase financial aid at CU-Boulder by 40 percent, in addition to meeting increases in utilities costs and staff salaries."[9] Not to be outdone, CSU is asking 16 percent more from its in-state students,[10] a smaller increase than the 21 percent that President Larry Penley wanted originally.[11]

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Indeed, higher ed has benefited from increased spending on capital construction, but as recent tuition hikes have shown, nice new facilities inevitably drive up tuition and fees for students and their parents.

Health Care

During the campaign, Ref C proponents scared voters with fantastic stories of scores of children without immunizations, massive health care shortages, and hundreds of thousands of uninsured residents overwhelming Colorado's emergency rooms. Furthermore, if Ref C didn't pass, elderly nursing home patients would be thrown out in the streets, hospitals would close and insurance premiums would skyrocket.

The *Rocky Mountain News* quoted state officials who warned that without Ref C, "a Medicaid benefit that provides artificial limbs" may be cut. They also threatened to slash the Office of Suicide Prevention. Readers learned that Colorado has the fourth-highest suicide rate, yet prevention programs for both children and adults were on the "chopping block."[12]

Ironically, Ref C's health care beneficiaries have fared even worse than higher education. Despite the Bell Policy Center's assurance to voters that "the General Assembly has committed to spending a third of those [Ref C] revenues on programs to lower the cost of health insurance premiums for individuals and small businesses, and on health care for Colorado's elderly, low income and disabled people…,"[13] general fund spending on Medicaid's "medical services premiums" has actually dropped by $67 million or 6.4 percent since Ref C passed. Moreover, the Department of Health Care Policy and Finance's budget has increased by 3.6 percent since 2005-06, making it the only major department in state government that hasn't grown by at least 13 percent since Ref C passed.

K-12 Education

By contrast, K-12 education, which was shielded from cuts during the recession by its sugar daddy, Amendment 23, has reaped a $359 million general fund increase. A broader view of state spending reveals similar results.

The general fund includes primarily income and sales taxes, totaling about $7.2 billion for FY 2007-08. Other revenue sources, such as fuel taxes, college tuition and various state fees, bring state spending to $13.2 billion—excluding money from the federal government.

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By this measure, state spending has grown $1.7 billion, or 14.8 percent, since Ref C passed. Among the Ref C beneficiaries, K-12 spending grew $523 million, or 17.2 percent; higher ed gained $130 million, or 26.1 percent; and medical services fell $13 million, or 1.2 percent. But the combined growth of education and health care ($640 million or 13.9 percent) still accounts for less than other programs ($1.1 billion or 15.4 percent) not specifically targeted for Ref C funds.

The spending growth in non-Ref C areas is particularly troubling when considering K-12 education. Voters read in the *Rocky Mountain News* that despite a more than 33 percent increase in spending since 2001, K-12 education still was under-funded and unable "to keep up with the rising costs in transportation, health care and students with special needs." Without the increased Ref C revenue some school districts faced "cuts of up to $100,000 per school," according to educators.[14]

Monte Moses, superintendent of the Cherry Creek School District, wondered, without the additional revenue for K-12 education, would parents and the community "think it was great if students had to walk farther because there was no bus, or wait longer because there were fewer…."[15]

At least the *Rocky Mountain News* warned readers that even if Ref C passed, it would be a "misconception" to believe that schools would be "flush with money."[16] Voters subjected to the relentless campaign for K-12 education funding should ask a fundamental question: If K-12 education funding is still so low, why did legislators violate voters' wishes and fund other projects over it?

Conclusion

It's fair to assume the 52 percent of Colorado voters who approved Ref C expected, at a minimum, education and health care spending to fare better than those programs not specifically mentioned in Ref C. So far, their expectations have not been met. With more than half the Ref C proceeds already spent, convincing voters to approve new taxes for higher ed, transportation and health care—as many leading Democrats have proposed—will be a tough sell.

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Just days after Colorado voters narrowly approved the ballot measure, Speaker of the House and active Referendum C supporter Andrew Romanoff penned an opinion-editorial titled "Lessons to remember in wake of C's victory." In it he accused opponents of the massive tax increase of trying "to trick voters…."[17] Judging from the changes in the past two years of the state budget, it seems that proponents were the tricksters.

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ADDITIONAL RESOURCES on this subject can be found at: http://www.independenceinstitute.org/

Endnotes

[1] Robin Baker, Ph.D. *Warning: State Budget Cuts can be Hazardous to Your Health: The Health Care Safety Net*, The Bell Policy Center (2005), http://www.thebell.org/PUBS/tour/2005/HealthCuts.pdf.

[2] Amy Oliver and Jessica Littman, *Unabashed Bias: How the Denver dailies campaigned for rather than reported on Referenda C and D*, Independence Institute Issue Paper 5-2006 (September 2006), p. 6. http://www.i2i.org/articles/IP_5_2006_d.pdf

[3] Kevin Flynn, "Road plans divide referendum allies: Some want money from Ref C to pay for Ref D projects." *Rocky Mountain News*, 3 November 2005.

[4] "Asphalt beats Ivory on Ref C spending," *Denver Post*, 12 July 2007.

[5] Colorado General Assembly Joint Budget Committee, *Appropriations Report Fiscal Year 2007-2008*. http://www.state.co.us/gov_dir/leg_dir/jbc/jbchome.htm

[6] Brian Newsome, "Higher ed could hit funding crisis; Ref C allotment less than expected," *Colorado Springs Gazette*, 9 June 2007.

[7] Laura Frank, "Struggling to succeed: Students paying more as colleges see big cuts in state higher-education funding," *Rocky Mountain News*, 22 October 2005.

[8] Jennifer Brown, "C and D put CSU 'at a crossroads': Public or private?" *Denver Post*, 9 September 2005.

[9] Vimal Patel, "CU proposes 14% in-state tuition hike," *Denver Post*, 27 June 2007.

[10] Ibid.

[11] Mark Couch, "CSU threatens program cuts in tuition dispute," *Denver Post*, 29 March 2007.

[12] Lynn Bartels, "What the state would cut: Owens' office warns of 'serious consequences' if Ref C is voted down," *Rocky Mountain News*, 21 October 2005

[13] Baker, *Warning*, p. 21.

[14] "Schools: the system is broken," Rocky Mountain News, 18 October 2005.

[15] Ibid.

[16] Laura Frank, "Misconceptions about K-12 education in Colorado," *Rocky Mountain News*, 18 October 2005.

[17] Andrew Romanoff, "Ref. C and the state's future: Lessons to remember in the wake of C's victory," *Denver Post*, 6 November 2005.

Appendix A

State Spending after Referendum C

	2005-06(1)	2007-08(2)	Change	Percent
Total Appropriations	$15,107	$17,105	$1,998	13.23%
Total State Spending(3)	$11,511	$13,245	$1,734	15.06%
General Fund	$6,233	$7,236	$1,003	16.09%

General Fund	2005-06(1)	2007-08(2)	Change	Percent
Total	$6,233	$7,236	$1,003	16.09%
K-12, Higher Ed, Health Care	$4,678	$5,235	$557	11.90%
All Other Departments	$1,555	$2,001	$446	28.71%

ALL DEPARTMENTS

General Fund	2005-06(1)	2007-08(2)	Change	Percent
Agriculture	$4.3	$7.4	$3.1	72.1%
Capital Construction (7)	$51.8	$272.6	$220.8	426.3%
Corrections	$533.0	$636.5	$103.5	19.4%
Education(4)	$2,698.3	$3,064.2	$365.9	13.6%
Governor	$16.1	$11.8	-$4.3	-26.7%
Health Care Policy & Finance (5)	$1,382.0	$1,424.4	$42.4	3.1%
Higher Ed (6)	$597.9	$746.2	$148.3	24.8%
Human Services	$500.2	$641.9	$141.7	28.3%
Judicial	$236.7	$297.8	$61.1	25.8%
Labor & Employment	$0.0	$0.0	$0.0	-
Law	$7.1	$8.7	$1.6	22.5%
Legislature	$29.7	$32.6	$2.9	9.8%
Local Affairs	$8.6	$11.0	$2.4	27.9%
Military & Veterans Affairs	$4.1	$5.5	$1.4	34.1%
Natural Resources	$22.8	$30.3	$7.5	32.9%
Personnel	$8.5	$10.8	$2.3	27.1%
Public Health & Environment	$15.3	$23.9	$8.6	56.2%
Public Safety	$59.4	$72.8	$13.4	22.6%
Regulatory Agencies	$1.1	$1.4	$0.3	27.3%
Revenue	$82.7	$94.3	$11.6	14.0%
State	$0.0	$0.0	$0.0	-
Transportation (8)	$0.0	$306.3	$306.3	INF%
Treasury	$26.1	$114.2	$88.1	337.5%

(1) 2005-06 budget taken from the Joint Budget Committee's 2005-2006 "Appropriations Report" and reflect spending before the passage of Referendum C.

(2) 2007-08 figures taken from Joint Budget Committee's FY 2007-08 "Appropriations Report" and reflect the most recent spending approved by the Legislature.

(3) "Total State Spending" reflects all budgeted sums, except for federal funds.

(4) Although Ref C proceeds are specifically directed to support for public schools, the Department of Education budget reflects spending on additional items and programs.

(5) Although Ref C proceeds are specifically directed to "Medical Services Premiums", the Department of Health Care Policy and Finance budget reflects spending on additional items and programs.

(6) Although Ref C proceeds are specifically directed to "College Opportunity Scholarships," the Department of Higher Education budget reflects spending on additional items and programs.

(7) Capital Construction spending is exempt from the 6% limit on general fund spending; however, these amounts reflect spending from general fund sources.

(8) Transportation spending from general fund sources, e.g., SB 97-1, HB 02-1310.