



OLD AGE PENSION PLAN

Citizens are rightly concerned about the future stability of the Social Security Administration in Washington. They know the promised benefits are higher than the expected income from FICA taxes.

Even so, Colorado has maintained the Old Age Pension Plan since its inception in

1937. A recipient may qualify even if he or she has never paid any taxes in Colorado. Out of the sales taxes collected for the State, the Colorado Constitution requires that 85 percent be diverted to this program. Only after the program is fully funded may the rest of the diverted funds be returned to the General Fund. The funding is automatic and off-budget, as far as the legislature's ability to adjust either

the flow of funding or the amount spent each year. The total cost of the program in fiscal year 2008-09 was \$100.1 million. According to the preliminary figures for the year just ended and the projections for the current budget, the amounts each year generally should be about the same. The program is an entitlement, so that anyone who qualifies may obtain the distribution. Funds are continually appropriated based on program demands, and not budgeted by the legislature. This program cost \$5.7 million in 2008 to administer, equal to 5.6 percent of the program.

Back in the depths of the Great Depression, 38 (of the then-48) states operated old-age assistance plans, and Colorado's

was the most generous.¹ The pension plan was passed in the 1936 general election as Article XXIV of the State constitution. The structure was modified in the 1956 general election to its current status. With the establishment of the federal Social Security System, most other states quickly dropped their programs. Colorado today is the only state with its own old age pension plan.²

To qualify one must be a resident of Colorado over age 60 and meet the need-based standard for eligibility. On the first day a person declares himself a Colorado resident, he becomes eligible to receive a free pension from taxpayers. A requirement that the beneficiary needed to reside in Colorado for 35 years was overturned by the Colorado Supreme Court in 1979.³ Based on the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996,"⁴ a person does not even need to be a U.S. citizen. A legal immigrant may receive these benefits, as long as the sponsor rules have been met.⁵ The Old Age Pension provides financial benefits up to \$699 per month to nearly 24,000 beneficiaries.

Many forms of income—such as wages, social security benefits, disability benefits, pension or Veteran's Assistance—can reduce the amount paid by the Old Age Pension. Some applicants are required to apply for federal Supplemental Security Income benefits as a condition of receiving the Old Age Pension and the SSI benefits reduce the amount of the Old Age Pension. However, owning a residence does not disqualify a Colorado resident from receiving the pension and there is no limit to the size and value of that property. If someone can maintain a large estate and pay its taxes, that person still may qualify. The presence of relatives who may be able to contribute to the pensioner's upkeep is no condition for disqualification by law. Beneficiaries never need to pay back the moneys, even if they come into an extraordinary amount of new income or assets.

Plenty of existing state and federally funded programs assist the elderly with their living expenses, including energy rebates, Meals

...Colorado has maintained the Old Age Pension Plan since its inception in 1937. A recipient may qualify even if he or she has never paid any taxes in Colorado.

On the first day a person declares himself a Colorado resident, he becomes eligible to receive a free pension from taxpayers.



on Wheels, Medicaid and Medicare. Colorado allows income tax filers to shelter a portion of pension earnings from the state income tax. In strong revenue years for the State, many elderly residents do not pay property taxes on the first \$200,000 of their homes' values. The Old Age Pension Plan is the only program to offer direct income assistance through stipend payments.

The Plan is even more generous than Social Security in the sense that, unlike the federal program, beneficiaries do not need to show they have ever earned income, lived in the state before applying for benefits, nor ever paid any taxes of any nature to Colorado. Social Security must be earned with 40 quarters of employment at a

minimum wage (today it is \$1,220 per quarter of employment), although supplemental security income (SSI) for the disabled does not have that requirement. The Colorado Supplement program fills in the amounts of SSI benefits that are not fully paid by the federal government, and the Old Age Pension covers those not covered by Social Security or SSI.

Colorado at some point may be forced to cancel the program, if it becomes a magnet state to draw in the elderly poor. According to the Social Security Reform Center, Social Security will run into an inevitable funding problem as it begins to pay out more in

benefits than it receives in taxes. If benefits are curtailed, people may find the incentive to move to Colorado in order to replace the lower federal Social Security benefits.

A modest attempt at reforming the Old Age Pension Plan, Colorado House Bill 1384, was passed and signed by the Governor in the past legislative session. It requires a five-year waiting period for legal immigrants to the U.S., and requires that a sponsor's resources be counted for eligibility except in unusual circumstances. The legislation follows an earlier attempt by State Representative Jack Pommer (D-Boulder), who withdrew HB 1353 before its first vote in the chamber of origin, citing citizen backlash.⁶ Although the ear-

lier bill's Fiscal Note showed annual savings would be \$24.5 million⁷ from all sources, the later bill saved about half that amount.⁸

The assumption of incapacity at old age has greatly diminished over the years. Most people now do not make a living in menial tasks that become ever more difficult as we age. The person exhausted at age 60 by physically demanding work to the point of being forced into retirement is a rare occurrence. Most 60 year olds are rather hale, and physical decline to the point of being invalidated is rare. For those so disabled for any of a host of reasons, there are other Human Services programs.

When the Old Age Pension was put into place in 1936, the earliest age to qualify was 65 years old. At that time, an individual attaining that age could expect on average an additional 12.6 years of life. When the age was lowered to 60 years in 1956, the average person at that age could expect to live 17.5 more years, and a person 65 years old could expect another 14.2 years of life. Today, the average person who reaches 60 years old has an expected actuarial lifespan of 21.8 more years. In order to return to the assumptions of the initial deal, the qualifying age should be raised to 73 years old. To assume the longer lifespan expected of a 65-year-old person in 1956, the qualifying age only would need to go up to 70.⁹

All parsing of actuarial lifespan aside, the larger question of the Old Age Pension's

The person exhausted at age 60 by physically demanding work to the point of being forced into retirement is a rare occurrence.

The Plan is even more generous than Social Security in the sense that, unlike the federal program, beneficiaries do not need to show they have ever earned income, lived in the state before applying for benefits, nor ever paid any taxes of any nature to Colorado.



The program provides a direct and unapologetic redistribution of income from the younger segment of society to an older group.

validity remains. The program provides a direct and unapologetic redistribution of income from the younger segment of society to an older group. No one need

pay into the fund at any point during his or her working life. Indeed, people from outside the country are eligible for these benefits (with the correct sponsor requirements), although they may now be subject to a five-year waiting period. There are a host of other funded assistance programs for the elderly. The Old Age Pension is a redundancy and an anachronism.

A repeal of the program would require some minor reorganization. Spending on the Old Age Pension program is used by the Department of Human Services as matching funds with the Social Security Administration in a formal agreement known as a Maintenance of Effort (MOE). A 2008 document produced by the state legislature's Joint Budget Committee explains:

The MOE agreement specifies that the State must maintain expenditures at the same level as the highest previous calendar year. If the Maintenance of Effort agreement amount is not met, the State risks the loss of over one billion dollars of Federal matching funds in the Medicaid program.¹⁰

The Department of Human Services already uses other assistance programs for the elderly to support the matching funds. Other states use general assistance program funding to the same purpose, since those states lack such a general pension plan. Colorado can repeal the Old Age Pension without jeopardizing matching federal program funds if the Department of Human Services includes a step in the transition to modify the MOE through the identification of other supporting programs dollars to insert into the MOE.

To repeal the Old Age Pension Plan would take a vote of the people, and one that could not be scheduled before the next general election in 2012. If it were to pass, some modest transition time would likely be built into the measure, so the reduction in spending would likely impact the 2012-13 budget year.

ACKNOWLEDGEMENTS

Penn R. Pfiffner was primarily responsible for the content of this section. See his biographical material in the Authors section.

We extend our thanks to **Don Bammes**. He contributed to the basic documentation of the program and researched the requirements to qualify and the application procedures. Mr. Bammes is a retired regional sales and marketing executive in the construction industry, and currently operates a private consulting practice. He serves on the Board of Directors of the TABOR Foundation and is active in local politics in Douglas County. He earned a Masters degree in Marketing from Webster University and an MBA from the University of Phoenix.

A substantial portion of the research of the facts and figures in this section was conducted by **Sam Beck**. Mr. Beck is an economics major with Senior credits at the University of Colorado at Boulder. Mr. Beck is working as an intern at the Independence Institute in the summer and fall of 2010. He will pursue a career in government after his anticipated graduation in May, 2011.

We want to thank Budget Analyst **Amanda Bickel** at the Joint Budget Committee for clarifying information on budget expenditures for this program.



We extend our thanks to **Richard Bratten**. He contributed the research on the actuarial figures within this section. Mr. Bratten is Partner of Bank Financial Services Group, a national firm specializing in non-qualified benefit plan design and funding. He holds designations as a Fellow, Society of Actuaries (FSA) and as a Chartered Financial Analyst (CFA Charter). He has 21 years of experience in the field after a first career teaching math and physics in high school. He is also the volunteer executive director of the Republican Study Committee of Colorado. He earned a degree in Education from the University of Cincinnati.

We want to thank Financial Officer **Cheryl Duncan** in the Division of Aging and Adult Services for confirming information regarding the use of Old Age Pension Plan funds in the Maintenance of Effort agreement for Medicaid.

We extend our thanks to **Justine Fink** of the American Legislative Exchange Council. When no current research could be located on the history of other states' terminations of similar programs, she conducted a census of all the states (not a survey of some select states), using direct interviews and web-based research. Ms. Fink is a research assistant at ALEC and a business major at James Madison University studying Marketing and Economics.

The **Honorable Phil L. Pankey** graciously reviewed the material presented in this section for factual interpretation. He served in the Colorado House of Representatives from 1983 to 1998, during which he sponsored legislation dealing directly with this issue. In his private life, Mr. Pankey started and built a large medical accounting firm. He earned a master's degree in Marketing from the University of Colorado at Boulder.

ENDNOTES

¹ As reported by the Colorado Welfare Director, Earl M. Kouns, Colorado paid \$30 on top of the \$15 sent by the Social Security Administration, the highest average in the nation. "Discord Between Various Factions Are Smoothed Out; Question of Raising Huge Sum is Big Problem for the Legislature," Gene Cervl, *Denver Post*, November 5, 1936, pg. 6.

² Justine Fink, Tax and Fiscal Policy Task Force of the American Legislative Exchange Council. "Census of States' Pension Plans." Unpublished paper, July 2010.

³ *Jeffrey v. Colorado Department of Social Services*, 198 Colo. 265, 599 P.2d 874 (1979).

⁴ Public Law 104-193.

⁵ Colorado Revised Statutes § 26-2-137(2).

⁶ Tim Hoover, "Bill to Close Old Age Pension Loophole Withdrawn" *Denver Post*, March 18, 2010, http://www.denverpost.com/politics/ci_14696624 (accessed July 23, 2010).

⁷ *Actuarial Study No. 120*, Felicitie C. Bell and Michael L. Miller; found at www.socialsecurity.gov/OACT/NOTES/actstud.html; 2001 CSO Table (as a cross-reference for the information from Actuarial Study 120 as well as for use in some interpolation) which can be found at http://www.actuary.org/life/cso_0702.asp.

⁸ Cost of Living Adjustment decision item, 2010 Schedule 13 Change Application, October 15, 2008, pg. DI-21-4.

⁹ HB10-1353 State Fiscal Impact, February 22, 2010, http://www.leg.state.co.us/clics/clics2010a/csl.nsf/fsbillcont3/3EDCB43A4CCACD2E872576AA00696A8F?Open&file=HB1353_f1.pdf.

¹⁰ HB10-1353 State Fiscal Impact, April 1, 2010, at http://www.leg.state.co.us/clics/clics2010a/csl.nsf/fsbillcont3/22B43CC0B2DB612B872576F10065FD4D?Open&file=HB1384_r1.pdf.