2nd Draft

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all state government borrowing;
- prohibit local government borrowing unless approved by voters;
- limit the amount and length of time of local government borrowing; and
- require that tax rates be reduced after borrowing is repaid.

Summary and Analysis

This measure places new restrictions in the state constitution on government borrowing. Similar to a home mortgage, borrowing spreads the cost of public roads and buildings over several years. Borrowing is also used so governments can make loans to homeowners, small business owners, and students. Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments.

Impact of Amendment 61 on state government. Under current law, the state may borrow money in certain circumstances. Amendment 61 prohibits all future borrowing by state government. Therefore, projects and programs will have to be paid in full at the time of purchase instead of financed over time with borrowing. Table 1 provides examples of projects funded through borrowing and the requirements and restrictions under current law compared to Amendment 61.

Under current law, the state borrows money in the following ways:

- *Bonded debt* — Bonded debt is money borrowed through the sale of government bonds that are guaranteed to be repaid from a specific source of funds like taxes or fees. Voter approval is required for this type of borrowing. In 1999, voters approved the use of bonded debt for state highway projects, including work on Interstate 25. The money that was borrowed for the project is guaranteed to be repaid mainly with federal highway funds.
- *Short-term borrowing* — In Colorado, most state revenue is received at the end of the budget year, so the state sometimes borrows money early in the year to cover costs for its day-to-day operations and repays the money later in the year.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new facilities over a number of years until the cost of the facility and any interest and fees are repaid. The state legislature must authorize lease-to-own agreements in a bill and approve payments for lease-to-own agreements every year during its annual budget process. Once the cost of a new building is paid, ownership of the building is transferred to the state. The state is currently using these types of agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities.

- *Enterprise borrowing* — Enterprises such as public colleges and universities are permitted to borrow for projects and programs without voter approval. Enterprises usually borrow with bonded debt repaid from grants or fees for services. Generally, enterprises are self-funded, do not have a defined voter base, and do not hold public elections. For example, most public colleges and universities in the state have recently borrowed money using bonded debt to build new classroom buildings and other facilities. This borrowing is guaranteed to be repaid from sources such as tuition money, student fees, donations, or federal grants.

The measure requires that the state government, but not its enterprises, lower tax rates after borrowing is repaid, even if the borrowing was repaid from a source other than taxes. Assuming this provision is applied to current borrowing, it would require that state government taxes be reduced by over $500 million per year when fully implemented. This reduction equates to cutting the state income tax rate from 4.63 percent to 4.18 percent. Taxes for a household earning $55,000 annually would fall by an estimated $130 per year.

Table 1. State Government Borrowing Requirements and Restrictions Under Current Law and Amendment 61

Examples of Existing Projects Funded Through Borrowing	Restrictions and Requirements	
	Current Law	**Amendment 61**
Bonded debt — money borrowed by issuing government bonds that are guaranteed to be repaid from a specific source of money like taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • Legislative authorization required	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to homeowners, businesses, ranchers, and farmers **Colorado Water Resources and Power Development Authority** Improvements to water and wastewater treatment plants	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	
Other borrowing — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by state law and the state legislature approves payments annually.		
State Department and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Similar to state government, current law allows local governments to borrow money with certain limitations. Beginning in 2011, Amendment 61 narrows allowable borrowing for all local governments, including cities, counties, school districts, and enterprises. Table 2 provides examples of projects funded through borrowing and the requirements and restrictions under current law compared to Amendment 61.

Amendment 61 narrows allowable local government borrowing in the following ways:

- *Borrowing is limited to bonded debt*. Under current law, local governments may borrow money through bonded debt as well as other forms of borrowing, such as short-term borrowing or lease-to-own agreements. Amendment 61 prohibits all forms of local government borrowing except bonded debt.

- *Voter approval is required for all borrowing*. Under current law, not all borrowing requires voter approval, and elections for bonded debt occur at various times throughout the year depending on the type of local government. Amendment 61 requires that all future borrowing first be approved by voters at a November election. In addition, enterprises, which were not previously required to seek voter approval for borrowing, will be required to hold elections.

- *For all local governments,* except enterprises*, borrowing is limited to 10 percent of the value of land and buildings within their jurisdiction*. Generally speaking this cap is less than what is allowed under current law. Local governments that currently owe more than 10 percent of the value of land and buildings within their jurisdiction would be prohibited from additional borrowing until some existing debt is repaid or property values increase.

- *Borrowing must be repaid in 10 years and may be repaid early without penalty*. Under Amendment 61, future local government borrowing must be repaid within 10 years, instead of the typical current term of 20 or 30 years. Borrowing for a shorter length of time requires higher annual payments because the loan is spread over fewer years; however, total interest costs are typically lower.

Similar to state government, the measure requires that local governments, but not their enterprises, lower tax rates after borrowing is repaid, even if the borrowing was repaid from a source other than taxes. Assuming this provision is applied to current borrowing, it would require that local government taxes be reduced by about $2.8 billion per year when fully implemented. This reduction equates to cutting the average property tax rate from about 70 mills to about 41 mills. Property taxes on a home valued at $295,000 would fall by an estimated $678 per year.

Table 2. Local Government Borrowing Requirements and Restrictions Under Current Law and Amendment 61

<table>
<tr><th rowspan="2">Examples of Existing Projects Funded Through Borrowing</th><th colspan="2">Restrictions and Requirements</th></tr>
<tr><th>Current Law</th><th>Amendment 61</th></tr>
<tr><td colspan="3">Bonded debt — money borrowed through the sale of bonds that are guaranteed to be repaid from a specific source of money like taxes or fees over a fixed period of time.</td></tr>
<tr><td>School Districts
School construction or improvements</td><td>• Voter approval required
• Borrowing capped at 20% of assessed (taxable) property values</td><td rowspan="4">• Voter approval required
• All local governments capped at 10% of assessed property values (real property only)
• Term of borrowing is limited to 10 years</td></tr>
<tr><td>Counties
Roads, public buildings, and vehicles</td><td>• Voter approval required
• Borrowing capped at 3% of actual (market) property values</td></tr>
<tr><td>Cities
Public buildings such as jails or recreation centers</td><td>• Voter approval required</td></tr>
<tr><td>Special Districts
Water and sewer districts: water and sewer infrastructure
Urban renewal authorities and business improvement districts: downtown development projects like the 16th Street Mall in Denver</td><td>• Voter approval required in some instances</td></tr>
<tr><td>Enterprises
Denver International Airport: airport facilities and runways
Regional transportation authorities: buses and trains, including maintenance and repair</td><td>• No voter approval required
• No dollar limit on borrowing</td><td>• Voter approval required
• No dollar limit on borrowing
• Term of borrowing is limited to 10 years</td></tr>
<tr><td colspan="3">Other borrowing — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by local boards and local board approves payments annually.</td></tr>
<tr><td>Local Governments and Enterprises
Short-term borrowing, lease-purchase agreements</td><td>• No voter approval required
• No dollar limit on borrowing
• Subject to local board approval</td><td>• Prohibited, unless in the form of bonded debt</td></tr>
</table>

How do Amendments 60 and 61 and Proposition 101 interact? These ballot measures contain provisions that affect state and local government finances by decreasing taxes for households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts. Since these measures are all phased-in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time.

Amendment 60 reduces local property taxes, while requiring state expenditures for K-12 education to increase by an amount that offsets the property tax loss for school districts. Amendment 61 reduces state and local government revenue by requiring a decrease in tax rates when debt is repaid. The analysis of Amendment 61 assumes that this provision applies to the existing debt of state and local governments. Proposition 101 reduces state and local government revenue by cutting income taxes, sales taxes, specific ownership taxes, vehicle registration fees, and telecommunications fees.

The estimated savings to taxpayers and the financial impacts to governments assume that all three measures are approved by voters and fully implemented today. An average household making $55,000 per year that owns a $295,000 house would save an estimated $1,800 per year in taxes. State government would lose an estimated $2.1 billion annually, while state spending for K-12 education would increase by $1.6 billion per year to offset local funding losses for school districts. This would leave the state's general operating budget almost entirely committed to paying for the constitutional requirements of K-12 education, with no money left to pay for other government functions. Local government would lose an estimated $3.8 billion per year if these measures were fully implemented today.

Arguments For

1) Recent data show that over the past ten years, borrowing by the state and its enterprises in Colorado has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees, and too much government borrowing today could affect public services in the future. Limits on borrowing are needed to be sure spending directly benefits the public instead of being committed to repay debts.

2) Amendment 61 encourages fiscal restraint through a pay-as-you-go approach to government spending. This approach prevents government from passing on debt to future generations.

3) Because the public is responsible for paying government borrowing through taxes and fees, voters should be asked before money is borrowed. Governments have found creative ways to borrow because the existing limits on government borrowing are not strict enough and the government can still borrow without voter approval. Amendment 61 requires that any future local government borrowing be submitted to voters for consideration.

4) Amendment 61 reduces taxes when borrowing is repaid, giving individuals and businesses more money to spend as they please. Tax rates should go down when borrowing is repaid because the government no longer needs money for the annual payments.

Arguments Against

1) Borrowing is a crucial tool for financing large public investments. Similar to the way that private citizens use a loan to buy a home or car, borrowing is often the only way governments can afford to build and maintain safe bridges, roads, and schools. Amendment 61 makes it harder to manage public finances at the lowest cost and to respond in a timely manner to the needs of citizens.

2) Amendment 61 limits the ability of communities to meet the demands of a growing economy. Colorado's population has grown almost 20 percent in the last decade, requiring new roads, schools, and water treatment plants. These public investments are the foundations needed by communities to operate and to attract residents and businesses.

3) Some governments will face serious financial disruptions as a result of Amendment 61. For example, in 2011, school districts that rely on short-term borrowing will be in fiscal deficit until spring tax collections are received, and will have to consider options such as reducing or suspending teacher pay, closing schools, or selling buildings.

4) Some public buildings are built to last 30 years or more, but Amendment 61 prohibits borrowing by the state. This means that current taxpayers must pay the full cost of state buildings and roads rather than sharing the cost with future residents who benefit from these improvements. Amendment 61 places a disproportionate the full burden on today's taxpayers.

Estimate of Fiscal Impact

Impact on state and local governments. The measure contains provisions that reduce revenue and limit the financial activities of the state and local governments.

- *Borrowing restrictions*. Amendment 61 prevents the state and restricts local governments from borrowing money. This could affect the construction or maintenance of public structures such as highways, bridges, and schools. It could also affect cash flow management for the state and school districts, which in the past have borrowed money to finance current operations in anticipation of taxes collected later in the year.

- *Revenue reductions*. Amendment 61 requires that tax rates decline when borrowing by state and local governments, excluding publicly owned enterprises, is repaid. Assuming this provision is applied to current borrowing, it would require that the state reduce taxes by over $500 million per year and local governments reduce taxes by over $2.8 billion per year when all borrowing is repaid. These reductions equate to cutting the state income tax rate from 4.63 percent to 4.18 percent, and cutting the average property tax rate from about 70 mills to about 41 mills. It will result in a decrease in existing levels of service, an increase in fees, or some combination of both.

Taxpayer impact. If all current borrowing by state and local governments was repaid in 2011, a household earning $55,000 per year living in a $295,000 home would save over $800 per year as a result of Amendment 61. Table 3 summarizes the impact of tax reductions required by Amendment 61 if all current borrowing was repaid.

Table 3
Annual Estimated Tax Impacts Based on Current Borrowing

	Current Borrowing (Excludes Enterprises)	**Government Impact** Revenue Reduction	**Taxpayer Impact*** Tax Reduction
State Government	$5.3 billion	$0.5 billion	$130
Local Governments	$29.3 billion	$2.8 billion	$678
Total	$34.6 billion	$3.3 billion	$808

*Based on a household earning $55,000 per year living in a $295,000 home.