Amendment 61
Limits on State and Local Government Borrowing and Debt

Amendment 61 proposes amending the <u>Colorado Constitution</u> to:

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

Summary and Analysis

This measure places new restrictions in the state constitution on government borrowing and debt. Table 1 compares the borrowing requirements of current law and the changes under the measure.

Table 1. Borrowing Requirements under Current Law and Amendment 61

	Current Law	Amendment 61
State Government		
Long-term debt paid from general government revenue	Prohibited	Prohibited
Long-term debt funded through a dedicated revenue source	Requires voter approval	
Government-owned businesses such as colleges and universities, and public transportation enterprises	Requires board approval (board members may be voter-elected or appointed)	
Local Governments		
Cities and counties	Requires voter approval Subject to certain spending limits	Requires voter approval Amount borrowed limited to 10 percent assessed taxable value of real property Must be repaid within 10 years
School districts	May require voter approval Most districts limited to 20 percent of assessed taxable real and personal property value	
Government-owned businesses such as Denver International Airport and public water authorities	Requires board approval (board members may be voter-elected or appointed)	

	Current Law	Amendment 61
Both State and Local Government		
Short-term borrowing (for less than one year)	Typically requires a demonstration of financial need Borrowing must be repaid by year's end	Prohibited (state) Requires voter approval (local)
Lease-to-own agreements	Subject to legislative (state) or board (local) approval and yearly appropriation	

Current law. Current law allows state and local governments in Colorado to borrow money and pay it back over multiple years in certain circumstances. Similar to a home mortgage, this type of long-term debt allows for the cost of public roads and buildings to be spread over several years. Governments also borrow money on a short-term basis, for less than one year, and repay the debt with taxes or fees collected later in the year.

For *state* government, the constitution allows borrowing in limited situations. If approved by voters, the state may borrow money and pay it back using a specific source of funds, like federal highway funds or money collected from a particular tax or fee. Voter approval is not required to borrow money that is paid back within the same year. For example, 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 throughout the year. The state can also enter into lease-to-own agreements without voter approval if the lease payments are not automatic and ongoing but instead must be approved each year by the state legislature. In the past, the state has used these types of agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities.

For *local* governments, borrowing varies widely and voter approval is required for some, but not all, types of borrowing. School districts are limited by state law in the amount of debt they may have. Most districts are capped at 20 percent of the value of all property within the district. Other local governments, such as counties, cities, towns, and special districts like the Regional Transportation District (RTD) have no specific debt limit in state law. For those governments, the amount borrowed is limited only by their ability to pay back the debt and the willingness of lenders to make the loans. For most large public projects, borrowed money is paid back over a period of 20 or 30 years. Elections at which voters are asked to approve local government debt occur at various times throughout the year. Counties and school districts hold elections in November; some cities and towns hold elections in the spring, and special districts may hold elections at any time throughout the year.

Changes under Amendment 61. The measure prohibits all future borrowing by state government and limits future local government borrowing. Table 2 provides examples of state and local government projects that would be affected by the measure. The restrictions under Amendment 61 may not apply to any existing borrowing or debts, unless the terms of those existing debts are changed. At the state level, government projects and programs will have to be paid for in full at the time of purchase instead of financed over time with borrowing.

Table 2. Examples of Affected State and Local Governments

Borrower	Examples of Projects Funded through Borrowing
State Government - prohibited by Amendment 61	
Universities and colleges	Classroom buildings, dormitories, and student centers
E-470 Highway Authority and the Colorado Bridge Enterprise	Public tollways and bridges
State government agencies	Public roads and buildings (including prisons)
Colorado Housing and Finance Authority	Loans to homeowners, businesses, ranchers, and farmers
Colorado Water Resources and Power Development Authority	Improvements to water treatment plants and wastewater treatment systems
Local Government - limited by Amendment 61	
School districts	School construction or improvements
Cities	Public buildings such as jails or recreation centers
Counties	Roads, public buildings, and vehicles
Denver International Airport	Airport facilities and runways
Regional transportation authorities (e.g., RTD)	Buses and trains, including maintenance and repair
Water and sewer districts	Water and sewer infrastructure
Urban renewal authorities and business improvement districts	Urban and downtown development projects like the 16th Street Mall in Denver

For local governments, Amendment 61 requires that all future borrowing first be approved by voters, and any future election seeking voter approval must be held in November. In addition, government-owned businesses that were not previously required to seek voter approval for borrowing, such as Denver International Airport (DIA), water and sewer districts, and urban renewal authorities, would now be required to hold elections. Under current law, these businesses usually pay back borrowed money using fees and grants.

Under Amendment 61, future local government debts must be repaid within 10 years, instead of the typical current term of 20 or 30 years. Shorter-term borrowing requires higher annual payments because the loan must be paid sooner, but total costs are less because interest costs are lower. The measure also specifies that all future debts may be repaid early and without penalty. In this way, a local government could pay off a project sooner than 10 years if it has the money.

For most local governments, the measure caps the total amount that may be borrowed at any given time at 10 percent of the value of land within the jurisdiction. Local governments that currently hold more than this amount of debt would be prohibited from additional borrowing until some existing debt is repaid or property values increase. Currently, about one in four school districts are over or near the 10 percent debt limit.

The measure takes effect in 2011, and in that year will require a change to operations currently funded with short-term borrowing. For example, 27 school districts last year borrowed money at the start of the year in anticipation of taxes collected later in the year. This practice would be prohibited under Amendment 61 without voter approval. However, the first time voters can approve any borrowing is in November 2011, at least two months after the school year starts. Furthermore, an estimated 30 districts that are already at their debt limit would not be allowed to borrow more.

Finally, the measure requires that both state and local governments lower tax rates after a debt is repaid, even if the debt was repaid from a source other than taxes. This may apply to both current and future debts. For example, Boulder County recently borrowed money to build a parking garage. The debt is being repaid by parking garage user fees. Under Amendment 61, the county may be required to lower its tax rate once it finishes paying for this project. In cases where voters approved a tax increase to repay a debt, the measure will bring taxes back to the level that existed before the debt was incurred. However, if the debt is repaid from another source such as a private or federal grant, taxes will be lowered.

Arguments For

1) Amendment 61 encourages fiscal restraint through a pay-as-you-go approach to government spending. This approach prevents governments from passing on debt to future generations. The measure also restores the state constitution's original prohibition on state government debt so that things are paid for in full at the time of purchase.

2) Borrowing is the same as spending money that you do not have. Sometimes borrowing is an appropriate and necessary financial tool. However, too much borrowing can jeopardize a government's ability to provide other basic public services and the existing limits on government debt are not strict enough.

3) Over the past five years, government debt in Colorado has doubled while interest payments have tripled. Recent data show Colorado state and local government debt is 20 percent of the state's economy, the 9th highest of all states.

Debt is expensive because it includes both interest payments and fees. Limits like those in Amendment 61 are needed to help ensure government spending directly benefits the public, instead of being committed to repay lenders.

4) The public is responsible for paying back government debt and voters should give permission before money is borrowed. Under current law, governments sometimes borrow money without first asking voters. Amendment 61 requires that any future debt questions be submitted to voters and prevents governments from borrowing without the voting public's express agreement.

Arguments Against

1) Amendment 61 restricts the ability of communities to decide for themselves how much to spend on public amenities and how to pay for them. Limiting public borrowing to 10 percent of land values unfairly restricts voters from choosing something else in the best interests of the community. For example, some communities are supported mainly by tourists paying sales taxes, so the public can have better schools, parks, and libraries without raising property taxes on residents.

2) This measure limits the use of a crucial tool for financing public infrastructure projects. Similar to the way that private citizens sometimes need a loan to buy a home or a car, borrowing is often the only feasible way for governments to build and maintain safe and adequate bridges, roads, and schools. Furthermore, Amendment 61 limits the ability of elected officials to manage public finances and respond in a timely manner to the needs of citizens, even in emergencies.

3) The adjustment to Amendment 61 could create serious financial disruptions for some governments. For example, starting 2011, a number of school districts, may be in a fiscal deficit until spring tax collections are received. This will likely jeopardize the ability of these school districts to maintain normal day-to-day operations in 2011.

4) All those who use public facilities should share in the cost of those facilities. Some public buildings are built to last 30 years or more, but Amendment 61 requires that borrowing be paid back in 10 years or less. This means that current taxpayers must pay the full cost of buildings and projects like new schools, rather than sharing the cost with others who may also use these facilities in the future.