Final Draft

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- ♦ prohibit all new state government borrowing after 2010;
- ♦ prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

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**
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

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Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

Table 2. Local 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 for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.**		
School Districts School construction or improvements	• Voter approval required • Borrowing capped at 20% of assessed property values for most districts	• Voter approval required • Future borrowing capped at 10% of assessed real property values • Term of future borrowing is limited to 10 years
Counties Roads, public buildings, and vehicles	• Voter approval required • Borrowing capped at 3% of actual (market) property values	
Cities Public buildings such as jails and recreation centers	• Voter approval required	
Special Districts *Water and sewer districts*: improvements to water and wastewater treatment plants *Fire protection districts*: buildings, vehicles, and equipment *Regional Transportation District (RTD)*: mass transit facilities and vehicles	• Voter approval required in some instances	
Enterprises *Denver International Airport*: airport facilities and runways *Urban renewal authorities and business improvement districts*: downtown development projects like the 16th Street Mall in Denver	• No voter approval required • No dollar limit on borrowing	• Voter approval required • No dollar limit on borrowing • Term of borrowing is limited to 10 years
***Other borrowing* — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by a local board and the local board approves payments annually.**		
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval	• Prohibited, unless in the form of bonded debt

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures

are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These

public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services.

Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

Rachel Basye, Colorado Housing and Finance Authority

Amendment 61
Limits on State and Local Government Borrowing

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- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, unless approved by voters;
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Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

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State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to homeOWNERS ~~buyers~~, DEVELOPERS OF AFFORDABLE RENTAL HOUSING, 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	
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are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

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Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These

public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services.

Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

RACHEL BASYE, COLORADO HOUSING AND FINANCE AUTHORITY (CHFA) COMMENTS ON FINAL DRAFT OF AMENDMENT 61

To whom it may concern,

I am writing to provide comments from the Colorado Housing and Finance Authority to the 3rd draft of the Blue Book language for Amendment 61.

Our comments are as follows:

We request an amendment of Page 3, Table 1, lines 16-18

from

Colorado Housing and Finance Authority
Loans to homeowners, businesses, ranchers and farmers

to

Colorado Housing and Finance Authority
Loans to homeowners, developers of affordable rental housing, businesses, ranchers and farmers.

JM Fay

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

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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**
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

JM Fay

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

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<tr><td>School Districts
School construction or improvements</td><td>• Voter approval required
• Borrowing capped at 20% of assessed property values for most districts</td><td rowspan="4">• Voter approval required
• Future borrowing capped at 10% of assessed real property values
• Term of future 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 and recreation centers</td><td>• Voter approval required</td></tr>
<tr><td>Special Districts

Water and sewer districts: improvements to water and wastewater treatment plants

Fire protection districts: buildings, vehicles, and equipment

Regional Transportation District (RTD): mass transit facilities and vehicles

LIBRARY DISTRICTS: BUILDINGS AND EQUIPMENT</td><td>• Voter approval required in some instances</td></tr>
<tr><td>Enterprises

Denver International Airport: airport facilities and runways

Urban renewal authorities and business improvement districts: downtown development projects like the 16th Street Mall in Denver</td><td>• No voter approval required
• No dollar limit on borrowing</td><td>• Voter approval required
• No dollar limit on borrowing
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Examples of Existing Projects Funded Through Borrowing	Restrictions and Requirements	
	Current Law	Amendment 61
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval	• Prohibited, unless in the form of bonded debt

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as

prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will

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gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

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	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
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Total	$27.0 billion	$2.4 billion	$578

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

JM FAY COMMENTS ON FINAL DRAFT OF AMENDMENT 61

There are 55 stand alone library districts in this state and they are going to be impacted by this yet they are not included in the special district area; just water / sewer and fire.

Second; doesn't this also require 2 ballot measures to vote for any future bonding? That means a special November election for the special districts which is an additional cost since they don't have to do this now since they have May elections unless they have a tax increase on the ballot (tabor).

This means as well one issue to ask them to increase the bond and a second issue to fund it unlike now which is just one ballot issue so if one passes and one doesn't; there are going to be problems for the special district.

Terry Howerter, Regional Transportation District

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, unless approved by voters;
- limit the amount and length of time of local government borrowing; and
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Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

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Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

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Terry Howerter, Regional Transportation District

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

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- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

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Terry Howerter, Regional Transportation District

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Prisons
Department of Higher Education
Academic facilities
State Treasurer
Short-term borrowing and K-12 school construction and renovation</td><td>• No voter approval required
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Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction of buildings, commuter rail and bus services, and other facilities financed through borrowing, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

Terry Howerter, Regional Transportation District

Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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Table 2. Local 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 for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.**		
School Districts School construction or improvements	• Voter approval required • Borrowing capped at 20% of assessed property values for most districts	• Voter approval required • Future borrowing capped at 10% of assessed real property values • Term of future borrowing is limited to 10 years
Counties Roads, public buildings, and vehicles	• Voter approval required • Borrowing capped at 3% of actual (market) property values	
Cities Public buildings such as jails and recreation centers	• Voter approval required	
Special Districts *Water and sewer districts*: improvements to water and wastewater treatment plants *Fire protection districts*: buildings, vehicles, and equipment *Regional Transportation District (~~RTD~~) (Denver) -- Transit Services*: mass transit facilities and vehicles	• Voter approval required in some instances	
Enterprises *Denver International Airport*: airport facilities and runways *Urban renewal authorities and business improvement districts*: downtown development projects like the 16th Street Mall in Denver	• No voter approval required • No dollar limit on borrowing	• Voter approval required • No dollar limit on borrowing • Term of borrowing is limited to 10 years
***Other borrowing* — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by a local board and the local board approves payments annually.**		
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval	• Prohibited, unless in the form of bonded debt

Terry Howerter, Regional Transportation District

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures

are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. Similar to private citizens using a loan to buy a home or car, borrowing is often the only way governments can afford to build and maintain safe bridges, roads, mass transit facilities and vehicles, and other public infrastructure. Amendment 61 makes it harder to manage public finances and to respond in a timely manner to the needs of citizens. Local governments will be burdened with the cost of elections for all future borrowing. The requirement for repayment of debt within 10 years will negatively impact debt ratios and ratings from rating agencies, thereby increasing the cost of borrowing funds.

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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

Terry Howerter, Regional Transportation District

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars. IN ADDITION, MASS TRANSIT AGENCIES ACROSS THE STATE WILL BE LIMITED IN THEIR ABILITY TO DEBT FINANCE ASSET REPLACEMENT (BUSES AND RAILCARS) AND EXPANSION OF SERVICES, RESULTING IN TRANSIT DEPENDENT PATRONS HAVING LIMITED OPTIONS FOR GETTING WORK AND MEDICAL APPOINTMENTS.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Terry Howerter, Regional Transportation District

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

TERRY HOWERTER, REGIONAL TRANSPORTATION DISTRICT (RTD) COMMENTS ABOUT FINAL DRAFT OF AMENDMENT 61

Chris, here are our comments from RTD. Please let me know if you need anything else and what you might need to address the box and items on page 9, line 16.

Regional Transportation District Denver (RTD)

As you may be aware RTD provides transit service for approximately 2.8 million residents in the Denver region. We represent 56% of the total Colorado population and cover 2.347 square miles. In 2009 we provided transit services to 98.7 million customers. RTD collects a .4% sales and use tax in the District to support the design, build and operations of the 2004 voter approved FasTracks project and a .6% sales and use tax to operate and maintain the current operations. Please keep in mind the RTD FasTracks program is a local stimulus program. The $2.1 billion P-3 project currently estimates adding 5,400 jobs in the District. Approximately 50% of the cost will be debt and sales tax funded.

We have the following proposed comments on the last draft of ballot analysis for Amendment 61

Page 3: Line 38—change to read “construction of buildings, commuter rail and bus services, and other facilities financed through borrowing.”

Page 4: Line 2 – change to read “ about $30.4 billion in local assets through borrowing” to include RTD

Page 4: Line 4 – change to read “ governments currently spend about $3.2 billion per year to repay borrowed money” to include RTD

Page 4: Line 5 – change to read “ including an estimated $2.7 billion for local government agencies and” to include RTD

Page 5: Table 2—Line 21, under Special Districts. Add “Regional Transportation District (Denver) – Transit Services”

Page 7: Line 26—change to read “build and maintain safe bridges, roads, mass transit facilities and vehicles, and other public infrastructure.”

Page 7: Line 28—at end of last sentence, add: “Local governments will be burdened with the cost of elections for all future borrowings. The requirement for repayment of debt within 10 years will negatively impact debt ratios and ratings from rating agencies, thereby increasing the cost of borrowing funds.”

Page 9: Line 10—at end of last sentence, add: “In addition, mass transit agencies across the state will be limited in their ability to debt finance asset replacement (buses and railcars) and expansion of services, resulting in transit dependent patrons having limited options for getting to work and medical appointments.”
Page 9: Line 16— Change Current borrowing to “$30.4 billion” to include RTD

Page 9: Line 16 – Government Impact ????????? (I am not sure what we would do with these)

Michael Johnson, et. al, Kutak Rock

Amendment 61
Limits on State and Local Government Borrowing

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

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. ~~Borrowing is also used for other purposes, such as financing loans for small businesses.~~

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. THERE IS NOTHING IN AMENDMENT 61 INDICATING THAT IT IS INTENDED TO OVERRIDE EXISTING COLORADO LAW AND APPLY TO CONDUIT BONDS. THE REFERENCE IN AMENDMENT 61 TO BONDS OF AUTHORITIES, ENTERPRISES, AND OTHER POLITICAL ENTITIES WILL BE INTERPRETED BY THE COURTS TO APPLY ONLY TO BONDS ON WHICH THESE AUTHORITIES OR OTHER POLITICAL ENTITIES HAVE A FINANCIAL OBLIGATION. THIS WILL NOT OVERRIDE THE WELL-ESTABLISHED RULE OF COLORADO LAW THAT CONDUIT BONDS ARE NOT SUBJECT TO STATE CONSTITUTIONAL RESTRICTIONS ON DEBT OR MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS. ~~In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.~~

*[**Comment:** Eliminate any portion of the numbers that include conduit bonds or projects financed with conduit bonds throughout the document.]*

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for FROM INCREASES IN OTHER TAXES OR FEES ~~by increasing fees~~ or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the

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Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

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**
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers ~~**Colorado Housing and Finance Authority**~~ ~~Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase TAXES OR fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing ~~is limited to~~ MUST BE VOTED IN THE SAME MANNER AS BONDED DEBT*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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.~~ AMENDMENT 61 REQUIRES THAT ALL FORMS OF LOCAL GOVERNMENT BORROWING BE VOTED IN THE SAME MANNER AS 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

Michael Johnson, et. al, Kutak Rock

Table 2. Local 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 for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.**		
School Districts School construction or improvements	• Voter approval required • Borrowing capped at 20% of assessed property values for most districts	• Voter approval required • Future borrowing capped at 10% of assessed real property values • Term of future borrowing is limited to 10 years
Counties Roads, public buildings, and vehicles	• Voter approval required • Borrowing capped at 3% of actual (market) property values	
Cities Public buildings such as jails and recreation centers	• Voter approval required	
Special Districts *Water and sewer districts*: improvements to water and wastewater treatment plants *Fire protection districts*: buildings, vehicles, and equipment *Regional Transportation District (RTD)*: mass transit facilities and vehicles	• Voter approval required ~~in some instances~~	
Enterprises *Denver International Airport*: airport facilities and runways ~~*Urban renewal authorities and business improvement districts*: downtown development projects like the 16th Street Mall in Denver~~ MUNICIPAL AND SPECIAL DISTRICT WATER AND SEWER SYSTEMS, AND MUNICIPAL AIRPORTS: IMPROVEMENTS TO WATER AND WASTEWATER TREATMENT PLANTS, AND AIRPORT FACILITIES AND RUNWAYS	• No voter approval required • No dollar limit on borrowing	• Voter approval required • No dollar limit on borrowing • Term of borrowing is limited to 10 years
***Other borrowing* — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by a local board and the local board approves payments annually.**		

Examples of Existing Projects Funded Through Borrowing	Restrictions and Requirements	
	Current Law	**Amendment 61**
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval	• Prohibited, unless in the same manner as ~~form of~~ bonded debt

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. ~~Assuming~~ If this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts FOR CERTAIN PURPOSES without voter approval. Amendment 61 PROHIBITS FUTURE STATE BORROWING AND requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, REDUCING TAXES PAID BY INDIVIDUALS AND BUSINESSES. ~~giving individuals and businesses more money to spend.~~ 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 such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract JOBS, residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing TO COVER MISMATCHES BETWEEN THE TIMING OF EXPENSES AND THE RECEIPT OF REVENUES may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise TAXES OR fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- ~~Assuming~~ IF the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about

$200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise TAXES OR fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

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	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
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**Based on a household earning $55,000 per year living in a $295,000 home.*

MICHAEL JOHNSON, ET AL, KUTAK ROCK COMMENTS ON FINAL DRAFT OF AMENDMENT 61

MAJOR ISSUE - conduit bonds.

Conduit bonds are bonds issued by a state, a local government or an authority of a state or local government for the benefit of a private business or individual, a nonprofit organization or another government entity and are payable only from payments made by the private business or individual, nonprofit organization or other government. Conduit bonds are NOT PAYABLE FROM ANY REVENUES OR ASSETS OF THE ISSUER. Conduit bonds are issued by governments or government authorities for the benefit of private businesses and individuals and nonprofit organization primarily because the involvement of a government or governmental authority is a necessary condition for favorable federal tax treatment of the interest on them (tax exemption or, under new ARRAY rules, other tax advantages). Conduit bonds are issued for the benefit of another government entity for a variety of reasons, including the fact that the market is not willing to buy bonds issued by small government entities that do not sell bonds in the markets very often.

Conduit bonds issued for the benefit of private businesses and individuals include bonds issued to finance manufacturing and other business projects by the Colorado Housing and Finance Authority (CHFA) and by counties and municipalities; and bonds issued to finance multifamily housing for real estate developers and single family mortgage loans for individual homeowners by CHFA and counties and municipalities. Conduit bonds issued for the benefit of nonprofit organizations include bonds issued to finance nonprofit hospitals by the Colorado Health Facilities Authority and by counties and municipalities. Conduit bonds issued for other government entities include bonds issued by the Colorado Education or Cultural Facilities Authority to finance school projects for charter schools (which are treated for both federal and state law purposes as part of the chartering school district).

Conduit bonds have been around for more than 50 years. The Colorado Supreme Court has NEVER treated them as debt or multiple fiscal year financial obligations of the issuer, whether the issuer is the state, a local governments or a state or local government authority, specifically holding that conduit bonds are not debt for purposes of article XI of the state constitution (the pre TABOR debt limits) or debt or multiple fiscal year financial obligations under TABOR - BECAUSE NO REVENUES OR ASSETS OF THE ISSUER ARE USED TO PAY THE CONDUIT BONDS. For treatment under article XI of the state constitution, see Alaric v. Adams County, 173 Colo. 133, 476 P.2d 982 (Colo. 1970). For treatment under TABOR, see Campbell v. Orchard Mesa Irr. Dist., 972 P.2d 1037). See the following language quoted from the County and Municipality Development Revenue Bond Act, CRS title 29, article 3, one of the statutes authorizing conduit bonds: "All bonds issued by a county or municipality under the authority of this article shall be special, limited obligations of the county or municipality. Except as provided in section 29-3-116 [dealing with payment of refunded/refinanced bonds from investment earnings on the proceeds of the refunding bonds], the principal of and interest on such bonds shall be payable, subject to the mortgage provisions in this article, solely out of the revenues derived from the financing, refinancing, sale, or leasing of the project with respect to which the bonds are issued." The bond documents for conduit financings always include parallel provisions, making it clear that the issuer has no obligation to pay the bonds.

The Colorado Supreme Court has explicitly held that TABOR, of which Amendment 61 is a part, is to be interpreted in light of existing Colorado law. Bickel, et al. v. City of Boulder, Boulder Valley School District and Boulder County, 885 P.2d 215 (Colo. 1994) (holding that provisions of TABOR dealing with combination of ballot measures must be interpreted consistently with existing Colorado law to permit authorization of bonds and taxes to pay the bonds in the same ballot question). There is nothing in Amendment 61 indicating that 61 is intended to override existing Colorado law and apply to conduit bonds. Yes, 61 does say that it applies to state authorities, enterprises and other political entities. But the reason conduit bonds are not debt or multiple fiscal year financial obligations is not because they are issued by authorities or other political entities - it is because there is no governmental financial obligation involved. It is clear, based on existing Colorado law, that the reference in 61 to bonds of authorities, enterprises and other political entities will be interpreted by the courts to apply only to bonds on which these authorities or other political entities have a financial obligation and DOES NOT OVERRIDE the well-established rule of Colorado law that conduit bonds are not subject to state constitutional restrictions on debt or multiple fiscal year financial obligations or, using the new language of 61, "borrowings."

Inconsistent language in the summary to be corrected:

p. 1, delete lines 10 and 11 regarding borrowing to fund homeowner loans and p. 3, lines 16-18 delete all. These are classic conduit bonds payable solely by the private parties.

OTHER COMMENTS

PAGE 1

Lines 19-21 after "paid for" insert "from increases in other taxes or fees," Increased taxes or fees are a realistic alternative method of paying for such programs and services.

Lines 25-29 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

PAGE 2

Line 1 after "voter approval" insert "unless it is issued by an enterprise." Voter approval is not required for bonded debt issued by enterprises, as you note later in the summary at page 2, lines 20-21 and line 24.

Lines 1-3 delete the two sentences regarding the CDOT Transportation Revenue Anticipation Notes. They are NOT bonded debt. The Supreme Court specifically held that the TRANs are not "debt" for purposes of Article X, section 3 of the Colorado Constitution (which effectively already prohibits state debt) and cannot therefore be "bonded debt." The court did, however, hold that the TRANs are "multiple fiscal year financial obligations" and therefore had to be voted. Please see the Supreme Court's opinion in In re Interrogatories on House Bill 99-1325, 979 P.2d 549 (Colo. 1999). We would be happy to provide you a full set of bond documents, all of which are consistent with this ruling. (Kutak was counsel to the state in the case and has served as bond counsel for all the CDOT TRANs.)

Line 18 before "public" insert "and local government water and sewer systems and airports." Local government water and sewer system and airport enterprises are much larger, any way you measure them, than public college and university enterprises.

PAGE 3

Lines 8-11. The state has NO bonded debt because the current article XI, section 3 of the Colorado Constitution effectively prohibits it. As discussed in our comment on page 2, lines 1-3, the CDOT TRANs are NOT bonded debt, but only multiple fiscal year financial obligations. Best solution is to leave in "State Departments" in the first column but eliminate "Department of Transportation State highways and roads" and delete the words in the second column, replacing them with "Prohibited".

Lines 16-18. Delete. These CHFA bonds are conduit bonds that will not be subject to 61 as discussed under "MAJOR ISSUE" above.

Lines 19-22. The CWRPDA bonds that are payable solely from moneys paid to CWRPDA by local governments are conduit bonds and do not belong here for the reasons discussed under "MAJOR ISSUE" above. CWRPDA also issues bonds payable from CWRPDA moneys (in addition to moneys paid by local government) - those probably do belong here.

Lines 23 and 24 if you want to pick up the CDOT TRANs this is the right place to do it. You will have to add "multiple fiscal year financial obligations" to the lead in.

Line 37 after "services" insert "or increase taxes or fees to fund such programs or services". This is just as likely as reducing programs or services.

PAGE 4

Lines 1-6 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Lines 8 delete "limited to bonded debt" and replace it with "must be voted in the same manner as". The current statement and the sentence at lines 11 and 12 are simply wrong; the Amendment does NOT say that. The only logical reading of the relevant 61 language ("Future borrowing shall be bonded debt.") in the context of TABOR, which 61 amends, is to require that all borrowing be voted in the same manner as bonded debt under (3)(c) and (3)(b) of TABOR. If the purpose was really as you state, it would make no sense at all to include the long list of other forms of borrowings that are also restricted in 4(c)(i) of 61.

11 and 12 delete "Amendment 61 prohibits all forms of local government borrowing except bonded debt." and replace with "Amendment 61 requires that all forms of local government borrowing be voted in the same manner as bonded debt." See line 8 comment immediately above.

PAGE 5

Line 20, second column delete "in some instances". All special district debt must be voter approved. The only exception is if the activity qualifies as an enterprise, which you cover separately below in lines 30-33.

Lines 30-33 urban renewal authorities are NOT enterprises. Urban renewal authorities are exempt from TABOR because they are not "districts." See Olson v. City of Golden, 53 P.3d 747 (Colo. App. 2002), certiorari denied (September 3, 2002). You should replace this language with activities that ARE enterprises such as, for example, municipal and special district water and sewer systems and municipal airports. See page 2, line 18 and our comments on page 2, line 18.

Lines 36 and 37, third column delete "in the form of" and replace with "voted in the same manner as". See comment on page 4, lines 8 and 11 and 12.

PAGE 6

Line 3 delete "Assuming" and replace with "If". It is highly unlikely, based on Bolt (cited below) and other TABOR case law, that the courts will interpret the relevant language in 61 to apply to existing debt. Assuming makes it sound like it is likely to apply to existing debt. "If" is accurate but neutral. See Bolt v. Arapahoe County School District Number Six a/k/a Littleton Public Schools, et al., 898 P.2d 525 (Colo. 1995) (taxes may be increased to pay debt service on outstanding bonds after the effective date of TABOR pursuant to prior voter approval obtained in accordance with the law in effect on the date of the voter approval).

Lines 3-8 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Lines 12-15 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

PAGE 7

Line 1 delete "save" and replace with "have their taxes reduced by". This is the only effect that can be predicted with certainty. It is likely that other expenses of households and businesses will increase by a substantial amount (and perhaps more than the tax reduction) as the services/programs no longer funded by government are replaced with services/programs purchased in the private sector or from enterprises that charge higher fees.

Lines 7 and 8 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Line 17 after "borrow" insert "for certain purposes" because voter approval is required for most.

Line 17 after "61" insert "prohibits future state and" for accuracy.

Lines 19-20 delete "giving individuals and business more money to spend" and replace with "reducing taxes paid by individuals and businesses. See comment on page 7, line 1.

Line 32 insert "jobs," in front of "residents"

PAGE 8

Line 7 after "borrowing" insert "to cover mismatches between the timing of expenses and the receipt of revenues" to more accurately describe these short-term borrowings.

Line 17 add "or increase taxes or fees to fund such programs or services". This is just as likely as reducing programs or services.

Lines 18-20 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Line 24 delete "Assuming" and replace with "If" for the reasons describe in our comment on page 6, line 3.

Lines 25 and 26 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Line 33 after "borrowing" insert "or increase fees to fund such programs or services". This is just as likely as reducing programs or services.

Lines 34-36 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

PAGE 9

Lines 3-5, line 10 and lines 15-17 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Rich Jones, et. al, Bell Policy Center

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

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
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

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 for a period of more than one year that is repaid from a specific source of money like dedicated 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 property values for most districts</td><td rowspan="4">• Voter approval required
• Future borrowing capped at 10% of assessed real property values
• Term of future 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 and recreation centers</td><td>• Voter approval required</td></tr>
<tr><td>Special Districts

Water and sewer districts: improvements to water and wastewater treatment plants

Fire protection districts: buildings, vehicles, and equipment

Regional Transportation District (RTD): mass transit facilities and vehicles</td><td>• Voter approval required in some instances</td></tr>
<tr><td>Enterprises

Denver International Airport: airport facilities and runways

Urban renewal authorities and business improvement districts: downtown development projects like the 16th Street Mall in Denver</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 a local board and the local board approves payments annually.</td></tr>
<tr><td>Local Governments and Enterprises
Short-term borrowing, lease-to-own 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>

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

*[**Comment:** The local economic impact of Amendment 61's ban on state borrowing including the loss of jobs needs to be presented so that voters can weigh these effects against the projected reduction in tax rates.]*

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented, WHICH COULD TAKE UP TO 40 YEARS.

*[**Comment:** . . . while the amount of tax savings per family has been estimated for Amendment 61 and for the combination of Amendments 60, 61, and Proposition 101, the effects of this loss of revenue on the state's economy needs to be presented as well. Otherwise voters will not receive a balanced picture of the effects of these proposals. An analysis conducted by Henry Sobanet at Colorado Strategies, shows that the combined effects of the reduction in revenues will result in the loss of between 67,000 and 73,000 primarily private sector jobs statewide.]*

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as

prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about

$200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

*[**Comment:** The fact that reducing the revenues that state and local governments use to pay for services will affect specific services used by voters needs to be more clearly emphasized.]*

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars, WHICH COULD TAKE UP TO 40 YEARS.

*[**Comment:** There is a conflict between the level of analysis used to show the amount of tax reductions going to voters and the level of analysis used to show the effects of these reductions on services voters use. This ends up presenting voters with a distorted picture of the proposals' effects.]*

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

**Based on a household earning $55,000 per year living in a $295,000 home.* *SOME TAX REDUCTIONS WILL OCCUR IN THE FIRST FEW YEARS AFTER THE MEASURE TAKES EFFECT, BUT THE FULL REDUCTION WILL NOT OCCUR UNTIL ALL BORROWED MONEY IS REPAID, WHICH COULD TAKE UP TO 40 YEARS.*

RICH JONES AND WADE BUCHANAN, BELL POLICY CENTER COMMENTS ON FINAL DRAFT OF AMENDMENT 61

TO: Legislative Council Staff

FROM: Rich Jones and Wade Buchanan, Bell Policy Center

DATE: August 11, 2010

RE: Comments on the Third Draft of the Bluebook Analysis on Amendment 61

Thank you for giving us the opportunity to comment on the third draft of the Legislative Council staff's analysis of Amendment 61 relating to state and local government borrowing. Some of these comments will apply to Amendment 60 and Proposition 101 as well as the overall effects of the combination of the three proposals.

Overall Comments

1. The local economic impact of Amendment 61's ban on state borrowing including the loss of jobs needs to be presented so that voters can weigh these effects against the projected reduction in tax rates.

An analysis of construction projects on the Colorado State University campus in Pueblo funded through certificates of participation (COPs) shows they contributed $27.9 million to the local economy resulting in 240 jobs. This same analysis shows the use of state COPs financing in El Paso County resulted in $343.6 million in economic activity and 3,000 jobs.[1] There were similar types of construction projects funded by COPs throughout the state.

Amendment 61 prohibits the use of COPs and, as a result, would limit these types of construction projects. While we realize that the expenditures of retained tax revenues will also result in economic activity, this is not likely to have the same effect. The spending of retained taxes will be defused among many taxpayers and not concentrated in specific projects such as the construction of college buildings. In addition, some of the retained tax revenue is likely to be saved.

In addition, while the amount of tax savings per family has been estimated for Amendment 61 and for the combination of Amendments 60, 61 and Proposition 101, the effects of this loss of revenue on the state's economy needs to be presented as well. Otherwise, voters will not receive a balanced picture of the effects of these proposals. An analysis conducted by Henry Sobanet at Colorado Strategies, shows that the combined effects of the reduction in revenues will result in the loss of between 67,000 and 73,000 primarily private sector jobs statewide.[2]

2. The fact that reducing the revenues that state and local governments use to pay for services will affect specific services used by voters needs to be more clearly emphasized.

How the cut in tax revenues resulting from Amendment 61 will affect state and local government services needs to be more clearly presented. Fewer revenues will force policy makers to cut or eliminate services, increase fees to pay for services or do a combination of both. In order to make an informed decision, voters need to know that they might be giving up services, receiving fewer of them or paying higher fees to fund them in return for the projected reduction in taxes.

3. There is a conflict between the level of analysis used to show the amount of tax reductions going to voters and the level of analysis used to show the effects of these reductions on services voters use. This ends up presenting voters with a distorted picture of the proposals' effects.

The analysis shows the amount of tax reductions per average family while the reduction in revenues is shown for state and local governments in total. As a result, voters can easily see what they might individually save in terms of tax reductions but are not shown how much they might lose in terms of services they use individually or services that go to their communities. Because voters have a hard time determining the effects of overall cuts in state and local government revenue on the services they use, this presents a biased picture of this proposal.

One approach in presenting this information would be to show the effects of Amendment 61 on an average county or school district. In this way, voters would have a better idea of how this proposal might affect them and their communities.

Unless you can present a comparable level of detail to show how the reductions in revenues affect specific services to individuals and communities, then you should not show how the tax reductions affect individual households, businesses and individuals.

In each area that shows the average tax reductions per family, it should be pointed out that the total savings when fully implemented will occur over 40 years. This timeframe is described in some sections relating to the tax reductions (page 6, lines 10-11 and page 8, lines 26-28) but not all. In particular this point needs to be added to the sections on page 7, line 5, page 9 line 10 and in the title to Table 3 on page 9, lines 13-14.

Thank you for the opportunity to comment on this draft. Please contact us if you have any questions or would like additional information.

[1] "An Illustration of the Economic Impact of Amendment 61 on Pueblo and El Paso Counties", Kevin Duncan, The Healy Center for Business and Economic Research, Colorado State University – Pueblo, April 27, 2010. http://hsb.colostate-pueblo.edu/PartnershipsAndOpportunities/HealyCenterForBusiness/Documents/A61Impact-Study.pdf

[2] "Working Paper on Proposition 101, Amendments 60 and 61", Henry Sobanet, Capitol Strategies, Updated July 8, 2010. http://coloradostrategy.com/

Lines 7 and 8 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Line 17 after "borrow" insert "for certain purposes" because voter approval is required for most.

Line 17 after "61" insert "prohibits future state and" for accuracy.

Lines 19-20 delete "giving individuals and business more money to spend" and replace with "reducing taxes paid by individuals and businesses. See comment on page 7, line 1.

Line 32 insert "jobs," in front of "residents"

PAGE 8

Line 7 after "borrowing" insert "to cover mismatches between the timing of expenses and the receipt of revenues" to more accurately describe these short-term borrowings.

Line 17 add "or increase taxes or fees to fund such programs or services". This is just as likely as reducing programs or services.

Lines 18-20 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Line 24 delete "Assuming" and replace with "If" for the reasons describe in our comment on page 6, line 3.

Lines 25 and 26 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Line 33 after "borrowing" insert "or increase fees to fund such programs or services". This is just as likely as reducing programs or services.

Lines 34-36 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

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Lines 3-5, line 10 and lines 15-17 eliminate any portion of these numbers that include conduit bonds or projects financed with conduit bonds for the reasons discussed in "MAJOR ISSUE" above.

Anastasia Khokhryakova, et. al, Hogan Lovells US LLP

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. ~~In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.~~

*[**Comment:** We would like to express our view that the prohibitions and limitations of Amendment 61 should not apply to conduit bonds.]*

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

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**
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

Table 2. Local 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 for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
School Districts School construction or improvements	• Voter approval required • Borrowing capped at 20% of assessed property values for most districts	• Voter approval required • Future borrowing capped at 10% of assessed real property values • Term of future borrowing is limited to 10 years
Counties Roads, public buildings, and vehicles	• Voter approval required • Borrowing capped at 3% of actual (market) property values	
Cities Public buildings such as jails and recreation centers	• Voter approval required	
Special Districts *Water and sewer districts*: improvements to water and wastewater treatment plants *Fire protection districts*: buildings, vehicles, and equipment *Regional Transportation District (RTD)*: mass transit facilities and vehicles	• Voter approval required in some instances	
Enterprises *Denver International Airport*: airport facilities and runways *Urban renewal authorities and business improvement districts*: downtown development projects like the 16th Street Mall in Denver	• No voter approval required • No dollar limit on borrowing	• Voter approval required • No dollar limit on borrowing • Term of borrowing is limited to 10 years
Other borrowing — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by a local board and the local board approves payments annually.		
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval	• Prohibited, unless in the form of bonded debt

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

ANASTASIA KHOKHRYAKOVA, ET. AL, HOGAN LOVELLS US LLP COMMENTS ON FINAL DRAFT OF AMENDMENT 61

Dear Legislative Council:

With reference to the third draft of the Legislative Council Blue Book summary of Amendment 61, we understand that other bond firms have provided comments regarding application of Amendment 61 to conduit bonds. We would like to express our view that the prohibitions and limitations of Amendment 61 should not apply to conduit bonds. Conduit bonds are payable solely from payments made by a private entity for whose benefit such bonds are issued. For instance, conduit bonds issued to finance a non-profit hospital facility or an assisted living facility are payable from revenues generated by the entity that owns such facility. Moreover, Colorado statutes which authorize state authorities and local governments to issue conduit bonds expressly prohibit pledge of taxes or other state funds to repay such bonds. For example, C.R.S. Section 25-25-117 states "bonds … issued by the [Colorado Health Facilities] authority shall not constitute or become an indebtedness, a debt, or a liability of the state, the general assembly, or any county, city, city and county, town, school district, or other subdivision of the state, or of any other political subdivision or body corporate and politic within the state…. Nothing in this article shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado or to authorize the authority to levy or collect taxes or assessments; and all bonds issued by the authority pursuant to the provisions of this article are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance … and are not debt or liability of the state of Colorado." A similar provision is contained in C.R.S. Section 25-15-117 relating to the conduit bonds issued by the Colorado Educational and Cultural Facilities Authority. Applying Amendment 61 to conduit bonds would be contrary to the current state law which does not treat conduit bonds as debt of the issuer. Moreover, since the apparent goal of Amendment 61 proponents is to eliminate future state debt and to limit local government debt and thereby reduce the tax burden on the Coloradoans, prohibiting conduit bonds would not advance that goal. Based on the foregoing, we would like to suggest to you that the Blue Book summary be revised to express the notion that conduit bonds do not represent the type of borrowing covered by Amendment 61. At least the summary should acknowledge that the application of Amendment 61 to conduit bonds is unclear.

Please feel free to contact us if you wish to discuss this issue further or would like any assistance on this matter.

Respectfully,

Dave Scott and Anastasia Khokhryakova
Hogan Lovells US LLP

Chris Leding, Great Outdoors Colorado

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Chris Leding, Great Outdoors Colorado

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- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

Chris Leding, Great Outdoors Colorado

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State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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	
POLITICAL SUBDIVISION OF THE STATE **GREAT OUTDOORS COLORADO** TO ADDRESS URGENT AND PERMANENT LAND ACQUISITION PRIORITIES, INCLUDING THE ACQUISITION OF PERPETUAL CONSERVATION EASEMENTS, IN ORDER TO PROTECT THE STATE'S WILDLIFE, PARK, RIVER, TRAIL AND OPEN SPACE HERITAGE	• ALREADY APPROVED BY VOTERS IN 2001 • UP TO A TOTAL DEBT AMOUNT OF $115 MILLION • LEGISLATIVE AUTHORIZATION NOT 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

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- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

Chris Leding, Great Outdoors Colorado

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

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Water and sewer districts: improvements to water and wastewater treatment plants

Fire protection districts: buildings, vehicles, and equipment

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<tr><td>Enterprises

Denver International Airport: airport facilities and runways

Urban renewal authorities and business improvement districts: downtown development projects like the 16th Street Mall in Denver</td><td>• No voter approval required
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Short-term borrowing, lease-to-own agreements</td><td>• No voter approval required
• No dollar limit on borrowing
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</table>

Chris Leding, Great Outdoors Colorado

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures

are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These

public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services.

Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

CHRIS LEDING, GREAT OUTDOORS COLORADO (GOCO) COMMENTS ON FINAL DRAFT OF AMENDMENT 61

Thank you for a final opportunity to comment on the draft ballot analysis for Amendment 61.

We would ask that an addition be made to the chart on page 3 regarding the Great Outdoors Colorado Trust Fund:

Examples of Existing Projects Funded Through Borrowing	Current Law	Amendment 61
Political Subdivision of the State **Great Outdoors Colorado** To address urgent and permanent land acquisition priorities, including the acquisition of perpetual conservation easements, in order to protect the State's wildlife, park, river, trail and open space heritage	Already approved by voters in 2001 up to a total debt amount of $115 million Legislative authorization not required	Prohibited

Please let me know if you have any questions or if there is any additional information we can provide.

Chris Leding
Communications Director
Great Outdoors Colorado
303-226-4530

From: Kate Watkins [mailto:Kate.Watkins@state.co.us] On Behalf Of LCS amend61
Sent: Thursday, August 12, 2010 10:13 AM
To: Chris Leding
Subject: Re: Comments on Amendment 61 draft

Hi Chris,
Thank you for your input. Could you provide examples of how GOCO has used borrowing in the past?

From: "Chris Leding" <cleding@goco.org>
To: "LCS amend61" <amend61@STATE.CO.US>
Date: 08/12/2010 10:14 AM
Subject: RE: Comments on Amendment 61 draft

We haven't used it yet. We've taken a conservative approach and been able to make our cash flow work to cover the most urgent requests. However, it remains a viable tool we want to continue to have the ability to use.

David McDermott, State Controller

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

David McDermott, State Controller

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds. THE STATE CONSTITUTION CURRENTLY PROHIBITS BORROWING THAT WILL BE REPAID FROM THE GENERAL-PURPOSE TAXING AUTHORITY OF THE STATE.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. IF PAYMENTS ARE NOT AUTHORIZED THE BUILDINGS OR EQUIPMENT BECOME THE PROPERTY OF THE LENDER OR INVESTOR. ~~Once the cost is paid,~~ IN MOST INSTANCES, WHEN THE FINAL PAYMENT IS MADE, ownership is ~~typically~~ transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises~~, such as the Colorado Housing and Finance authority, act as~~ ARE financing authorities, WHICH ~~to~~ borrow FROM INVESTORS AND LEND ~~money that is lent~~ to local governments, private businesses, and individuals AS THEIR PRIMARY OR ONLY ACTIVITY. EXAMPLES INCLUDE THE COLORADO HOUSING AND FINANCE AUTHORITY AND THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.

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
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 30 years. Borrowing for a shorter length of time NORMALLY RESULTS IN LOWER INTEREST RATES BUT requires higher annual payments because the loan is spread over fewer years; however, total interest costs over the term of the loan are lower. PENALTY-FREE EARLY-REPAYMENT PROVISIONS WILL LIKELY INCREASE BORROWING INTEREST COSTS.

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 for a period of more than one year that is repaid from a specific source of money like dedicated 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 property values for most districts
• Current law does not limit the term of borrowing</td><td rowspan="4">• Voter approval required
• Future borrowing capped at 10% of assessed real property values
• Term of future 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
• Current law does not limit the term of borrowing</td></tr>
<tr><td>Cities
Public buildings such as jails and recreation centers</td><td>• Voter approval required
• Current law does not limit the term of borrowing</td></tr>
<tr><td>Special Districts
Water and sewer districts: improvements to water and wastewater treatment plants
Fire protection districts: buildings, vehicles, and equipment
Regional Transportation District (RTD): mass transit facilities and vehicles</td><td>• Voter approval required in some instances
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Denver International Airport: airport facilities and runways
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</table>

Examples of Existing Projects Funded Through Borrowing	Restrictions and Requirements	
	Current Law	**Amendment 61**
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval • CURRENT LAW DOES NOT LIMIT THE TERM OF BORROWING	• Prohibited, unless in the form of bonded debt

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

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Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be ~~affected~~ REDUCED by the new 10-year maximum term on borrowing, BUT INCREASED BY THE PENALTY-FREE ~~as well as the~~ early repayment provisions. However, the impact will vary by locality.

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- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

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	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

DAVID MCDERMOTT COMMENTS ON FINAL DRAFT OF AMENDMENT 61

I have reviewed the Amendment 61, and I suggest the following edits to clarify the text.

****

Page 1 lines 25 through 27 - without the suggested addition the text implies that state universities have $15 billion of outstanding debt, which is misleading.

25 At the end of 2010, state agencies are estimated to have financed about
26 $2.2 billion in state assets through borrowing, and state-level enterprises, such as
27 most state universities and public financing authorities, are estimated to have financed another $15 billion.

****

Page 1 Lines 27 through 29. Without the suggested addition, the text implies state enterprises have annual debt service of $1.3 billion which I believe is not correct.

27 The state

28 currently spends about $1.5 billion per year to repay borrowed money, including an

29 estimated $200 million for state agencies and $1.3 billion for state-level enterprises.

****

Page1 lines 32-33 and Page 2 Line 1 - without the suggested addition readers likely will not know that general-purpose taxes cannot be used to pay bonded debt service.

32 • Bonded debt — Bonded debt is money borrowed through the sale of

33 government bonds that are repaid from a specific source of funds like

1 dedicated taxes or fees. This type of borrowing requires voter approval. For

****

Page 2 lines 1-4. Without the suggested addition readers likely will not know that a very significant borrowing restriction already exists the precludes general obligation debt. That information is crucial to assessing the need for Amendment 61.

1 taxes or fees. This type of borrowing requires voter approval. For

2 example, in 1999, voters approved the use of bonded debt for state

3 highway projects. The money that was borrowed for the projects is

4 repaid with state and federal highway funds. The State Constitution

currently prohibits borrowing that will be repaid from the general-purpose

taxing authority of the state.

****

Page 2 lines 12-13. The securitization of the lease-to-own debt is essential to understanding how the annual appropriation process makes this type of debt different from general obligation debt which is already prohibited by the Constitution. I suggest adding the text in line 12 as shown below.

10 number of years until the cost is repaid. The state legislature must

11 authorize lease-to-own agreements and approve payments every year

12 during its annual budget process. If payments are not authorized the

buildings or equipment become the property of the lender or investor.

****

Page 2 lines 12-13. There is no requirement that lease-to-own (lease purchase) agreements transfer ownership to the state, and in some instances the transfer of ownership does not occur. I suggest replacing the following text:
12 during its annual budget process. Once the cost is paid, ownership is

13 transferred to the state. The state is currently using these types of

with the text:

12 during its annual budget process. In most instances, when the final payment is made, ownership is

13 transferred to the state. The state is currently using these types of

****

Page 2 Lines 25-26 - The last paragraph on page 2 addresses only state agency enterprises, which do borrowing as a subset of their activities. The other state-level enterprises included in Table 1 issue a much larger portion of the state-level debt and some have debt issuance (that is financing) as their only activity. The reader needs to know these activities and the services they provide will be completely eliminate - not just a portion of their activities.

25 buildings and other facilities. This borrowing is repaid from sources

26 such as tuition money, student fees, donations, and federal grants. Other state-level enterprises are financing

authorities, which borrow from investors and lend to local governments, private businesses, and individuals as their

primary or only activity. Examples include the Colorado Housing and Finance Authority and the Colorado Water

Resources and Power Development Authority.

****

Page 3 Table 1 Lines 6-7 - Consistent with the Page1 lines 32-33 comment above, the term dedicated taxes should be used to make it clear that general-purpose revenue cannot currently be used to pay bonded debt services (yet it is a specific source). (I suspect, but don't know for a fact, that the general obligation debt prohibition applies to local governments, and the same change should be made in Line 7 on page 5 in Table 2 on Local Government Borrowing.)

6 Bonded debt — money borrowed by issuing government bonds that are repaid from a specific source

7 of money like dedicated taxes or fees over a fixed period of time.

****

Page 4 lines 1-2 - The text here says "about $29 billion" and on page 8, I believe the same amount is referenced as "about $29.2 billion". Similar variance exists between the "$5 billion" shown on page 4 and the "$4.9 billion" shown page 8. While the variance is not material, it will confuse readers or cause them to doubt the validity of all amounts presented. Within the same paragraph on page 4 you have used a one decimal point level of precision.

1 At the end of 2010, local government agencies are estimated to have financed

2 about $29.2 billion in local assets through borrowing, and local enterprises such as

3 municipal airports are estimated to have financed another $4.9 billion. Local

7 of money like dedicated taxes or fees over a fixed period of time.

****

Page 4 Line 29 - In order that the description of the term limitation be balanced, I believe the effect of the shorter term on interest rates should be disclosed. I would suggest the following insertions.

27 • Borrowing must be repaid within 10 years and may be repaid early

28 without penalty. The typical term of current borrowing is 20 to 30 years.

29 Borrowing for a shorter length of time normally results in lower interest rates but requires higher annual payments

30 because the loan is spread over fewer years; however, total interest

31 costs over the term of the loan are lower. Penalty-free early-repayment provisions will likely

increase borrowing interest costs.

****

Page 5 Table 2 - I believe a bullet should be added to each entity type in the Current Law column to show that current law does not limit the term of borrowing.

****

Page 8 Lines 20 and 36 contain the $29.2 billion and $4.9 billion amounts respectively that are not consistent with the $29 billion and $5 billion amounts on page 4 (See the third prior comment).

****

Page 8 Lines 37-39 - While the impact may vary by locality, we do know the directional impact of limiting the term of debt and the early prepayment provisions. I suggest the following clarification:

37 • The cost of future local government borrowing will likely be reduced by

38 the new 10-year maximum term on borrowing, but increased by the penalty-free

39 early-repayment provisions. However, the impact will vary by locality.

****

Natalie Menten

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- ♦ prohibit all new state government borrowing after 2010;
- ♦ prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. ~~Borrowing is also used for other purposes, such as financing loans for small businesses.~~

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, ~~programs, and services~~ that would have otherwise been financed through borrowing will have to be ~~eliminated or~~ paid for by increasing fees or using money currently budgeted for other purposes OR HELD IN RESERVE. ~~Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.~~

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Natalie Menten

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. ~~The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.~~

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects ~~and programs~~ without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  ~~Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.~~

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~~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**~~
~~***Long-term borrowing***~~ ~~— money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.~~		
~~State Departments~~ ~~Department of Transportation~~ ~~State highways and roads~~	• ~~Voter approval required~~ • ~~No dollar limit on borrowing~~	• ~~Prohibited~~
~~State Enterprises~~ ~~Public universities and colleges~~ ~~Classroom buildings, dormitories, and student centers~~ ~~Colorado Housing and Finance Authority~~ ~~Loans to home buyers, 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 Departments and Enterprises~~ ~~Department of Corrections~~ ~~Prisons~~ ~~Department of Higher Education~~ ~~Academic facilities~~ ~~State Treasurer~~ ~~Short-term borrowing and K-12 school construction and renovation~~	• ~~No voter approval required~~ • ~~No dollar limit on borrowing~~ • ~~Legislative authorization required~~	• ~~Prohibited~~

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. ~~Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services.~~ ~~Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.~~

Natalie Menten

Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed* TAXABLE VALUE OF *real property* ~~value~~ *within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are MUCH lower.

Natalie Menten

~~Table 2. Local 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 for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.~~		
~~School Districts~~ ~~School construction or improvements~~ - -	• ~~Voter approval required~~ • ~~Borrowing capped at 20% of assessed property values for most districts~~	• ~~Voter approval required~~ • ~~Future borrowing capped at 10% of assessed real property values~~ • ~~Term of future borrowing is limited to 10 years~~
~~Counties~~ ~~Roads, public buildings, and vehicles~~ - -	• ~~Voter approval required~~ • ~~Borrowing capped at 3% of actual (market) property values~~	
~~Cities~~ ~~Public buildings such as jails and recreation centers~~	• ~~Voter approval required~~	
~~Special Districts~~ ~~Water and sewer districts: improvements to water and wastewater treatment plants~~ ~~Fire protection districts: buildings, vehicles, and equipment~~ ~~Regional Transportation District (RTD): mass transit facilities and vehicles~~	• ~~Voter approval required in some instances~~	
~~Enterprises~~ - ~~Denver International Airport: airport facilities and runways~~ - ~~Urban renewal authorities and business improvement districts: downtown development projects like the 16th Street Mall in Denver~~	• ~~No voter approval required~~ • ~~No dollar limit on borrowing~~	• ~~Voter approval required~~ • ~~No dollar limit on borrowing~~ • ~~Term of borrowing is limited to 10 years~~
~~Other borrowing~~ ~~— including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by a local board and the local board approves payments annually.~~		
~~Local Governments and Enterprises~~ ~~Short-term borrowing, lease-to-own agreements~~	• ~~No voter approval required~~ • ~~No dollar limit on borrowing~~ • ~~Subject to local board approval~~	• ~~Prohibited, unless in the form of bonded debt~~

Natalie Menten

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. ~~Assuming~~ As this requirement applies to current borrowing, ~~and~~ once the measure is fully implemented, state taxes will be reduced TAX-FREE by about $200 million. Local government taxes are estimated to be reduced TAX-FREE by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

[First Preference]

~~***How does Amendment 61 interact with two other measures on the ballot?*** Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.~~

~~Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.~~

~~Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.~~

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~~Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.~~

~~Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.~~

[Second Preference]

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates ~~when~~ AFTER debt is repaid, ~~which is assumed in this analysis to apply~~ AND APPLIES to ~~the~~ BOTH existing AND FUTURE debt of state and local governments, and it prohibits any borrowing by state government. ~~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. Proposition 101 reduces state and local government taxes and fees.~~

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented BY 2050, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. ~~This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services.~~ In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by ~~at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be~~ at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion (ABOUT 2 PERCENT OF TOTAL STATE AND LOCAL SPENDING) in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. ~~The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.~~

[Comment: *Does your "first-year" impact include property tax replacement that won't occur until the second year (2012)? We dispute your $717M and $385M figures as too high. The income tax percentage point phase out occurs only when revenue grows much faster than the effect of the 0.1 percent rate trim, so there is no year-to-year loss possible. You are making up a number that cannot exist. You also ignore dynamic scoring and the stimulative effect on the Colorado economy. Your other dollar amounts are also too high.]*

[Comment: *You also need to list total state spending this year, and its projected level in the last year of the phase in, whichever one you have chosen. Give readers a sense of proportion. You also don't say when the cumulative $3.1 billion occurs - what final year are you using? You don't even say its cumulative, so it looks like it's instantly - another whopper.]*

[Comment: *You don't list the first-year (whenever that is, in your mind) local savings, so no one can see how you arrived at $1.6 billion. If $1.6 billion equals $400 per average household (undefined), that means we have 4,000,000 households in Colorado. That's an average of 1.25 people per household. That false low shows the number of households is smaller and savings for each is greater. $800 for 2.5 people per household is more plausible. Your fallacy is your obsession with claiming business gets most of the savings. News flash: business owners live in households too.]*

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future. COLORADO CAN AFFORD THIS MODEST TAX RELIEF, WHEN PLACED IN PERSPECTIVE.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still

borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

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

5) Government borrows at higher rates of interest than it earns on its bank deposits, which could fund purchases for cash. For example, the state has $2.2 billion in cash, and over $15 billion in net assets. Borrowing in such cases is wasteful and costly to taxpayers.

6) Amendment 61 repeals 655 obsolete words from the 1876 constitution and substitutes a modern, enforceable limit of 309 words that closes loopholes that courts have granted over the past 134 years.

7) Amendment 61 guarantees all existing debts will be paid, even if they are of doubtful legality. Colorado governments must never default on what they owe.

8) Our parents left us free and clear equities; we are leaving our children a pile of IOUs. That is immoral and costly.

Arguments Against

1) Borrowing is a crucial tool for financing large public investments such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

Natalie Menten

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider BUDGET ALTERNATIVES. ~~options such as reducing or suspending teacher pay, selling buildings, or closing schools.~~

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while ~~reducing~~ ALTERING THE FINANCING OF future construction of publicly owned facilities ~~and restricting the ability of the state and local governments to provide other programs and services~~.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments REALLOCATE CURRENT SPENDING PRIORITIES. ~~either raise fees, reduce construction, or reduce programs and services.~~ Additionally, the measure affects 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.

- ~~Assuming~~ As the tax reduction applies to current borrowing, the measure EVENTUALLY requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to REALLOCATE CURRENT SPENDING PRIORITIES. ~~either raise fees, reduce construction, or reduce programs or services.~~ Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The INTEREST cost of future local government borrowing will ~~likely~~ be LESS BECAUSE OF ~~affected by~~ the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Natalie Menten

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and BECAUSE ~~assuming~~ the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes TAX-FREE by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

* *Based on a household earning $55,000 per year living in a $295,000 home* AND AN AVERAGE MILL LEVY OF X MILLS .

NATALIE MENTEN RESPONSES TO FINAL DRAFT OF AMENDMENT 61

PAGE ONE

Line 6 Insert "fully" after "is" See line 15 and see text. It's not reduced along the way; only at the end.

Line 10-11 Delete. We said before, A-61 does not affect MAKING LOANS, only government borrowing.

Line 19 Change "Programs and services" to "Projects" since borrowing is for capital projects.

Line 20 Cut "eliminated or" No current capital project is affected.

Line 21 Add after "purposes" the words "or held in reserve." Govt may use its cash assets.

Line 21-22 Cut sentence as redundant. Telling voters once is enough.

Lines 22-24 DELETE. Redundant, repetitive, and duplicative! Past programs are unaffected and are
irrelevant to this policy change.

Line 26 The second draft said non-enterprise state debt was $5 billion; it has now shrunk to $2.2 billion. HOW?

Line 26-27 Delete example slanted to opposition arguments.

PAGE TWO

Line 2 TRANS were Transportation Revenue Anticipation NOTES, not bonds--change "bonded debt" to
"notes"

Line 13-17 STOP THE EXAMPLES. They are past and irrelevant (and are main opposition arguments)

Line 18--Delete REPETITIVE opposition examples. This is about borrowing, not who uses a building.

Line 19--delete "and programs" since the money is not for daily operations.

Line 23-26 DELETE. CUT IT OUT. This is your third use of this example in the first two pages!!!

PAGE THREE

DELETE TABLE 1. STOP BADGERING THE VOTERS WITH YOUR HEART-TUGGING EXAMPLES. It is also repetitive and one-sided. The issue is NOT whether voters like roads, schools, and water, but whether borrowing should be limited. The state has BILLIONS in net cash and net assets (see page 47 of CAFR); it can spend or sell those for new construction funds. You have already stated existing and proposed limits in plain English. There is no reason to repeat that in little boxes.

Lines 16-18 Delete. A-61 does not prevent the state from making loans.

Lines 35-37 Delete. Same objections as on page 1, line 21. You are implying paying cash is nearly impossible. Stop taking sides. Thus, delete the word "also" on line 37.

Lines 38-40 Delete since we also object to Table 2 as redundant, irrelevant, and slanted to favor opponents.

PAGE FOUR

Line 2-- Page 8, line 20 says $29.2 BILLION. Have this figure match it.

Lines 2-3 Delete example.

Line 21--use the text's term "assessed taxable value of real property". It is NOT 10% of market value as determined by the assessor. It is 10% of the assessor's taxable value after applying the 7.96% and 29% assessment ratios.

Line 31--Insert "much" before "lower." Example: Borrow $10 million at 7% for 30 years and repay $23,900,000. Borrow for 10 years and repay $13,900,000. Taxpayers save $10 million in interest, which is 100% of the principal borrowed. A 100% savings justifies "much."

PAGE FIVE

DELETE. Repetitive, irrelevant. It's just another plug for all those wonderful things Big Brother buys for us, with the implication they will never be seen or bought again. This is a vote on borrowing, NOT on buildings.

Right column, lines 10-13 Insert "Assessed taxable value of real property; insert "future" before "borrowing" on lines 10 and 12.

PAGE SIX

Line 3 Change "Assuming" to "As"

Line 4 Delete "and"

Line 5 Change "as" to "after" to match the text. Tax reduction is only AFTER full repayment. Delete "both" as confusing; both don't repay a single debt. Change "and" to "or" local...

Lines 18-40 DELETE. INCLUDE HERE MY COMMENTS FROM THE THIRD DRAFT OF A-60, since I believe the wording is the same, though the lines are numbered differently.

PAGE SEVEN

Lines 1-5 DELETE. See entry immediately above.

ARGUMENTS

As usual, you have allocated space unfairly. We get 15 lines, they get 22 lines. Have you no shame?

Here are some arguments to make us even and balance out the arguments:

Government borrows at higher rates of interest than it earns on its bank deposits, which could fund purchases for cash. For example, the state has $2.2 billion in cash, and over $15 billion in net assets. Borrowing in such cases is wasteful and costly to taxpayers.

Amendment 61 repeals 655 obsolete words from the 1876 constitution and substitutes a modern, enforceable limit of 309 words that closes loopholes that courts have granted over the past 134 years.

Amendment 61 guarantees all existing debts will be paid, even if they are of doubtful legality. Colorado governments must never default on what they owe.

Our parents left us free and clear equities; we are leaving our children a pile of IOUs. That is immoral and costly.

Line 12--Change "prevents" to "limits" since some borrowing is still allowed.

Line 17--after "borrow" insert "large amounts without voter approval."

Line 24--NOTE opponents are making the same arguments you have made repeatedly. Doesn't that tell you that you are not being fair? It also makes your examples redundant. Your job is not to soften up voters to re-read your claims in opposition arguments, thereby legitimizing both of them. Delete your examples and keep theirs.

Line 27--delete "at the lowest cost" since A-61 borrowing or cash payments always costs less than the status quo. Theirs is a false claim.

PAGE EIGHT

Line 8 Delete after "consider budget alternatives." That is untrue and emotionally manipulative. Districts can accept all school equalization money at the start of the year, based on a new state law. They can postpone capital improvement projects until the spring. They can use their reserves. They can request the county treasurer to pay their expected property tax early. They can adjust their school year. etc. etc. The opposition should not be allowed to end by reciting such an outrageous scare tactic. Selling a building for a few months of cash flow? GIVE ME A BREAK!

(Remember you also need to equalize the lines between the sides. This is a good place to cut.)

Line 12--change "reducing" to "altering the financing of" Governments will have more money to buy as they save on interest.

Lines 13-14--Delete after "facilities." They will have MORE money when they save on interest. Yours is a false statement.

Line 16-17--Delete after "priorities." Same false argument as above. Stop the scare tactics!

Line 24--Change "Assuming" to "As"

Line 25--Insert "eventually" before "requires" as it's a long way to the 40-year information below that

Line 32-33 Delete after "priorities" for reasons stated above. You really know how to repeat repeat repeat repeat repeat your slanted arguments, don't you?

Line 33-- Insert "timing of" before "future"

Line 34 Change "will also" to "may"

Line 37-- Change to "will be less because of the new..." and insert "interest" before "cost"

PAGE NINE

Line 2 Change "assuming" to "because"

Line 4 insert after "implemented" the words "over the next 40 years."

Line 18 Add "and an average mill levy of X mills" to reflect the statewide average.

ADDITION

In my comments to the third drafts, please include the words "tax-free" each time you mention the taxpayer savings, whether in the first year dollar amount, after full implementation, or the cumulative effect of all three (though I still object to that repetitive language you are inserting in all three analyses).

Getting added money "tax-free" is worth more than getting added money that is taxable. It should be noted.

ADDED COMMENT

Based on the new figures and recalculation of one of your colleagues, listed below, please adjust our third draft argument of "about $40 billion"and "$20,000" to fit his estimate for 2008 of $42.5 billion. It is shown on page 9, lines 8 and 9 of the third draft for P-101.

Please share it with the A-60 and A-61. It is our best argument that CO can afford this modest tax relief, when placed in perspective. We repeatedly have said we wish it stated in your analysis, which has more credibility than the arguments of either side. If you decline to put this contextual figure in your analysis, it should be in the first argument in favor in each of the three analyses.

Since you insist on making the same half-page argument three times on the cumulative effect (to which we object), that would be a logically place to insert these figures. You list total "cost" to government, which begs the question, "Compared to what?" That's where you should list the total.

The figures are out of date, but newer figures are not available. Certainly they haven't gone down. If you wish to estimate $44 billion for 2011 and "$22,000," it would be reasonable to do so. But if you need written support, contact him and stick to the $42.5 billion figure and adjust the family amount upwards by 6% to $21,200.

WAYNE PEEL, DEPARTMENT OF LABOR AND EMPLOYMENT COMMENTS ON FINAL DRAFT OF AMENDMENT 61

The department of Labor and Employment would like to take this opportunity to comment on the current draft of the blue book ballot analysis for amendment 61. There are possible ramifications that are omitted from the current document that were mentioned in prior analysis (see attached) that was sent to Leg Council on this amendment. Based on feedback from the US Department of Labor, it has been determined that there is a strong possibility that there are significant potential issues with the elimination of the ability to borrow to pay unemployment benefits. Currently, UI benefits are paid with funds borrowed from the federal government. These loans from the federal unemployment are interest free due to provisions within the Recovery Act passed by Congress. The interest free period is through calendar year 2010. It is possible that this interest free period could be extended, but the direction of Congress on this issue is still unclear.

Given the current need to borrow funds from the federal government in order to make unemployment benefit payments and the short timing between passage of this amendment and actual implementation, it is likely that Colorado will be in a position where payment of benefits is impossible for a period of time. If Colorado is unable to pay benefits, it will likely be impossible for the US Secretary of Labor to "certify" Colorado's Unemployment Insurance program as failure to pay benefits is a violation of 303(a)(1) of the Social Security Act. All states that have a certified program qualify for a 5.4% credit on their Federal Unemployment Tax Act (FUTA) taxes. Without this certification, Colorado Businesses will face approximately $1 billion in increased annual taxes from the federal government. Further, since receipt of federal administrative grants are conditioned on maintaining a certified program and complying with 303(a)(1) SSA, Colorado will also not receive over $35 million in Unemployment administrative grants and over $10 million in workforce center one-stop grants as well as other grants.

Thus, with no funds to pay benefits and no federal grant for administration, Colorado would no longer have a viable Unemployment Insurance program and will have a substantially reduced workforce center one-stop program.

The loss of the 5.4% FUTA credit will mean a transfer of $1 billion from Colorado employers to other states as FUTA taxes are used for the UI and Workforce programs which Colorado would no longer be eligible to participate in.

There are possible scenarios that avoid these significant consequences, such as legislation be run to increase premiums immediately and very significantly, and given the time it takes to collect revenue, it will also be required that general fund revenue be used to pay benefits in order to bridge any gap between receipt of revenue and passage of this amendment, but these possible consequences are large enough that we feel they need to be mentioned. Possible options to avoid the large consequences mentioned could require a special legislative session after the passage of Amendment 61.

Please let us know if there is anything else we can do to help in your efforts to fully analyze these impacts.

We are in the process of determining the fiscal impact from Amendment 61. Could you please send me a summary of the anticipated impact on your organization, including answers to the following questions. Please indicate whether any of your divisions operate as an enterprise and include information about that enterprise as well.

The unemployment compensation program does operate as an Enterprise under TABOR. HB 09-1363 made this program an Enterprise.

What is the current dollar value of your outstanding debt? (Please include all debt, including leases of equipment such as copy machines, other capital equipment, and buildings, lease-to-own agreements, certificates of participation, credit cards or purchasing cards, among other forms of debt.)

The bulk of the debt within the department of labor and employment are the current interest free loans from the federal government supporting the unemployment insurance trust fund. As of the end of April 2010, total debt is approximately $250 million in outstanding trust fund loans from the federal government.

It is anticipated that the total amount needed for continued payment of benefits during the recession and early stages of recovery will range from $500 million to close to $1 billion in total loans.

When do you expect these debt(s) to be repaid on each of these forms of debt?

The outstanding loans on the unemployment trust fund repayment will depend on the health of the economy. Repayment may not be achieved until 2015 or later or may be as early as 2013.

What is the average annual repayment for each debt?

For the unemployment trust fund, this question is not applicable. There is no set repayment schedule. Repayment occurs only when there is sufficient revenue.

What is the revenue source being used to pay back each debt?

Unemployment insurance premiums paid by businesses are used to pay back the principle balance. The interest charges, when applicable, will be paid from a special premium assessment on a specific group of employers.

What is the typical length of debt that you issue?

There is no typical length of debt for the unemployment trust fund. We have only borrowed twice in the past 3 decades and the length is fully dependent on the speed and strength of any economic recovery.

Do you have any debt instruments with nontraditional repayment, such as interest rate swaps or backloaded payments?

The trust fund debt is by its nature nontraditional. However, there are no formal interest rate swaps or schedule that dictates backloaded payments.

Do you issue any short-term borrowing, such as Tax and Revenue Anticipation Notes? If so, what is the dollar value of this debt and when is it typically repaid?

No.

Do you engage in any other types of borrowing? (i.e., outside of normal debt or lease arrangements.)

No.

Are you planning to issue any new debt in the near future? If yes, what type of debt, what are you debt-financing, and what are the terms of the debt and annual average payments?

New debt for the unemployment trust fund will be issued as needed to pay unemployment benefits.

Do you participate in any federal programs that might be affected with the passage of Amendment 61, such as interest free loans or grants that require debt?

There are significant potential issues with the elimination of the ability to borrow to pay unemployment benefits. As previously mentioned, the federal unemployment loans are interest free. The interest free period is through calendar year 2010. It is possible that this interest free period could be extended, but the direction of Congress on this issue is still unclear.

Given the insolvent nature of Colorado's unemployment fund and the short timing between passage of this amendment and actual implementation, it is likely that Colorado will be in a position where payment of benefits is impossible for a period of time. If Colorado is unable to pay benefits, it will likely be impossible for the US Secretary of Labor to "certify" Colorado's Unemployment Insurance program as failure to pay benefits is a violation of 303(a)(1) of the Social Security Act. All states that have a certified program qualify for a 5.4% credit on their Federal Unemployment Tax Act (FUTA) taxes. Without this certification, Colorado Businesses will face approximately $1 billion in increased annual taxes from the federal government. Further, since receipt of federal administrative grants are conditioned on maintaining a certified program and complying with 303(a)(1) SSA, Colorado will also not receive over $35 million in Unemployment administrative grants and over $10 million in workforce center one-stop grants.

Thus, with no funds to pay benefits and no federal grant for administration, Colorado would no longer have a viable Unemployment Insurance program and will have a substantially reduced workforce center one-stop program.

The loss of the 5.4% FUTA credit will mean a transfer of $1 billion from Colorado employers to other states as FUTA taxes are used for the UI and Workforce programs which Colorado would no longer be eligible to participate in.

The only scenario to avoid these significant consequences is for legislation to be run to increase premiums immediately and very significantly, and given the time it takes to collect revenue, it will also be required that general fund revenue be used to pay benefits in order to bridge any gap between receipt of revenue and passage of this amendment. This option would require a special legislative session after the passage of Amendment 61.

Henry Sobanet

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- ♦ prohibit all new state government borrowing after 2010;
- ♦ prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses. DEFICIT SPENDING TO COVER BUDGET SHORTFALLS OR TO EXPAND PROGRAMS IS NOT ALLOWED IN COLORADO.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing. IN THE VAST MAJORITY OF CASES, THIS

BORROWING OCCURRED WITH VOTER APPROVAL.

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

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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**
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

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Local governments and their enterprises issue an average of $4.9 billion in new borrowing annually, and spend about $4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about $2.2 billion on borrowing. Currently, local governments and their enterprises owe about $36 billion for assets financed through borrowing. IN THE VAST MAJORITY OF CASES, THIS BORROWING OCCURRED WITH VOTER APPROVAL. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

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

Examples of Existing Projects Funded Through Borrowing	Restrictions and Requirements: Current Law	Restrictions and Requirements: Amendment 61
***Bonded debt* — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.**		
School Districts School construction or improvements	• Voter approval required • Borrowing capped at 20% of assessed property values for most districts	• Voter approval required • Future borrowing capped at 10% of assessed real property values • Term of future borrowing is limited to 10 years
Counties Roads, public buildings, and vehicles	• Voter approval required • Borrowing capped at 3% of actual (market) property values	
Cities Public buildings such as jails and recreation centers	• Voter approval required	
Special Districts *Water and sewer districts*: improvements to water and wastewater treatment plants *Fire protection districts*: buildings, vehicles, and equipment *Regional Transportation District (RTD)*: mass transit facilities and vehicles	• Voter approval required in some instances	
Enterprises *Denver International Airport*: airport facilities and runways *Urban renewal authorities and business improvement districts*: downtown development projects like the 16th Street Mall in Denver	• No voter approval required • No dollar limit on borrowing	• Voter approval required • No dollar limit on borrowing • Term of borrowing is limited to 10 years
***Other borrowing* — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by a local board and the local board approves payments annually.**		
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval	• Prohibited, unless in the form of bonded debt

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures

are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These~~

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~~public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.~~

2) By restricting most types of borrowing, Amendment 61 threatens the thousands of jobs, mostly in the private sector, that exist in Colorado to support the construction of schools, roads, hospitals, and water systems. These job losses will prevent the Colorado economy from recovering from the recent recession.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully

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repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

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*[**Comment:** When the totals of state and local borrowing are mentioned, it should be clarified that these numbers are cumulative of the entire history of data, not an annual figure. It should also be noted that in the vast majority of these cases, the borrowing occurred with voter approval.]*

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

HENRY SOBANET COMMENTS ON FINAL DRAFT OF AMENDMENT 61

ColoradoStrategies

Insight | Solutions | Results

Memorandum

To: Colorado Legislative Council Staff

From: Henry Sobanet, Member and President

Date: August 11, 2010

Re: Comments on Version #3 of Amendment 61

This memorandum contains suggested changes to the third draft of the Amendment 61 Blue Book write up.

We are providing these on behalf of Coloradans for Responsible Reform. We appreciate the chance to offer these comments and commend the Legislative Council Staff on their attention and effort on all the initiatives.

We request the following changes be made to the third draft.

Throughout the document, when the totals of state and local borrowing are mentioned, it should be clarified that these numbers are cumulative of the entire history of data, not an annual figure. It should also be noted that in the vast majority of those cases, the borrowing occurred with voter approval.

Page 1, line 11. The following sentence should be added: "Deficit spending to cover budget shortfalls or to expand programs is not allowed in Colorado."

In the arguments "against" section we request the following changes. While we believe Argument 2 is meritorious, we request that this argument take its place: "By restricting most types of borrowing, Amendment 61 threatens the thousands of jobs, mostly in the private sector, that exist in Colorado to support the construction of schools, roads, hospitals, and water systems. These job losses will prevent the Colorado economy from recovering from the recent recession." We believe this argument is an appropriate and necessary counter to Argument "for" #1.

Please contact me at 303-250-3372 or at henry@coloradostrategies.com if you have any questions.

Jeffrey Zax

Amendment 61
Limits on State and Local Government Borrowing

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

- ♦ prohibit all new state government borrowing after 2010;
- ♦ prohibit new local government borrowing after 2010, 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 fully repaid.

Summary and Analysis

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for small businesses.

Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes. In certain cases, governments borrow money on behalf of private entities. Because the private entities are solely responsible for repayment, it is unclear if this borrowing is covered by the provisions of Amendment 61.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Current borrowing will be unaffected, but future projects, programs, and services that would have otherwise been financed through borrowing will have to be eliminated or paid for by increasing fees or using money currently budgeted for other purposes. Table 1 provides examples of projects funded through state government borrowing and the requirements and restrictions under current law compared to Amendment 61.

The state and all of its enterprises issue an average of $2.9 billion in new borrowing annually and spend about $2 billion annually to repay borrowing. State agencies, excluding enterprises, make annual payments of about $200 million on borrowing. At the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing.

Jeffrey Zax

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Long-term borrowing* — Long-term borrowing is money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time. Voters must approve non-enterprise borrowing. For example, in 1999 voters approved borrowing for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature authorizes lease-to-own agreements and approves payments every year during its annual budget process. Once the cost is paid, ownership is typically transferred to the state. The state is currently using lease-to-own agreements to build a prison, a museum, a court building, and several academic buildings at state colleges and universities. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Publicly owned enterprises are currently permitted to borrow for projects and programs without voter approval. Generally, enterprises generate their own revenue through fees charged for the services they offer. Enterprises usually borrow with long-term borrowing repaid from grants or fees for services. Enterprises do not have a defined voter base, and do not hold public elections.

  Most public colleges and universities are enterprises and have recently borrowed money to build classroom buildings and other facilities. This borrowing is repaid from sources such as tuition money, student fees, donations, and federal grants. Other state-level enterprises, such as the Colorado Housing and Finance authority, act as financing authorities to borrow money that is lent to local governments, private businesses, and individuals.

Jeffrey Zax

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**
Long-term borrowing — money borrowed for a period of more than one year that is repaid from a specific source of money like dedicated taxes or fees over a fixed period of time.		
State Departments ***Department of Transportation*** State highways and roads	• Voter approval required • No dollar limit on borrowing	• Prohibited
State Enterprises **Public universities and colleges** Classroom buildings, dormitories, and student centers **Colorado Housing and Finance Authority** Loans to home buyers, 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 Departments and Enterprises **Department of Corrections** Prisons **Department of Higher Education** Academic facilities **State Treasurer** Short-term borrowing and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require local governments to either increase fees, reduce construction, or reduce programs or services. Table 2 provides examples of projects funded through local government borrowing and the requirements and restrictions under current law compared to Amendment 61.

Local governments and their enterprises issue an average of \$4.9 billion in new borrowing annually, and spend about \$4.3 billion annually to repay borrowing. Local governments, excluding enterprises, make annual payments of about \$2.2 billion on borrowing. Currently, local governments and their enterprises owe about \$36 billion for assets financed through borrowing. Some local government borrowing is repaid from voter approved tax increases. After this borrowing is fully repaid, tax rates will be reduced, regardless of the outcome of Amendment 61.

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

- *Borrowing is limited to bonded debt*. Bonded debt is money that is borrowed through the sale of government bonds for a period of more than one year. 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 submitted for approval 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 assessed real property value within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

Jeffrey Zax

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 for a period of more than one year that is repaid from a specific source of money like dedicated 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 property values for most districts</td><td rowspan="4">• Voter approval required
• Future borrowing capped at 10% of assessed real property values
• Term of future 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 and recreation centers</td><td>• Voter approval required</td></tr>
<tr><td>Special Districts

Water and sewer districts: improvements to water and wastewater treatment plants

Fire protection districts: buildings, vehicles, and equipment

Regional Transportation District (RTD): mass transit facilities and vehicles</td><td>• Voter approval required in some instances</td></tr>
<tr><td>Enterprises

Denver International Airport: airport facilities and runways

Urban renewal authorities and business improvement districts: downtown development projects like the 16th Street Mall in Denver</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 a local board and the local board approves payments annually.</td></tr>
<tr><td>Local Governments and Enterprises
Short-term borrowing, lease-to-own 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>

Jeffrey Zax

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, state taxes will be reduced by about $200 million. Local government taxes are estimated to be reduced by $2.2 billion. This amount includes some bonded debt for which the tax rate will decline regardless of the outcome of Amendment 61. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, an average household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $529 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

*[**Comment:** I am concerned that the section "Impact of Amendment 61 on taxpayers" is dangerously misleading. It essentially assumes that, were Amendment 61 to pass, no further projects of the types which are currently funded by borrowing would be undertaken. That has to be false.*

Taxpayers should be made aware of the immediate costs that they will incur for each such project under this Amendment. For example, you might take the cost of all public projects funded by borrowing approved in the past year, and calculate how much additional taxes would be necessary to pay for them immediately.]

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, which is assumed in this analysis to apply to the existing debt of state and local governments, and it prohibits any borrowing by state government. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $744 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education, leaving little for other government services. In addition, the prohibition on borrowing will increase budget pressures for the state if it chooses to pay for capital projects from its general operating budget. This would further reduce the amount of money available for other government services.

Tax and fee collections for local governments are expected to fall by at least $966 million in the first year of implementation and by $4.7 billion when the measures are fully implemented. However, the net impact on local government budgets would be at least $581 million in the first year and $3.1 billion when fully implemented after the state reimburses school districts.

Total taxes and fees paid by households and businesses are estimated to decrease by $1.7 billion in the first year and $6.8 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,660 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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

3) Because the public is responsible for repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow large amounts without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

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

Jeffrey Zax

Arguments Against

1) Borrowing is a crucial tool for financing large public investments such as prisons, schools, and water projects. Similar to private citizens using 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 other public infrastructure. Amendment 61 makes it harder to manage public finances 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, hospitals, and water treatment plants. These public investments are needed by communities to operate and to attract residents and businesses. In addition, the measure may reduce private sector jobs, for instance businesses may be awarded fewer construction contracts.

3) Amendment 61 places the full burden of paying for public buildings built to last 30 years or more on today's taxpayers. Also, Amendment 61 may force governments to set aside money for several years before construction can begin on a new facility. As a result, current taxpayers may never benefit from a facility they paid to construct. Taxpayers may realize a greater benefit from borrowing than from a tax-rate reduction.

4) Some governments will face serious financial disruptions as a result of Amendment 61. For example, the Colorado unemployment fund may be unable to pay unemployment benefits for a period of time if the state is no longer be able to borrow to pay for benefits. Also, starting in 2011, school districts that rely on short-term borrowing may have cash flow disruptions until spring tax collections are received. These districts will have to consider options such as reducing or suspending teacher pay, selling buildings, or closing schools.

Estimate of Fiscal Impact

The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

Impact on the state and local governments. The measure will impact the state and local governments in the following ways.

- Borrowing restrictions will require that the state and local governments either raise fees, reduce construction, or reduce programs and services. Additionally, the measure affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires state and local governments to cut spending. The state will gradually cut spending after each borrowing is fully repaid by about $200 million over the course of the next 40 years beginning in 2018. Local governments will also cut spending after each borrowing is fully repaid by about $2.2 billion over the course of the next 20 or 30 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to either raise fees, reduce construction, or reduce programs or services. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $11 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. The measure will impact taxpayers in the following ways.

- Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.4 billion per year when fully implemented over the next 40 years. This estimate includes about $2.2 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $578 per year in today's dollars.

- Amendment 61 could make it difficult for Colorado to pay unemployment benefits, which could cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money from the federal government to pay unemployment insurance benefits. Amendment 61 could prohibit this borrowing. As a result, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$2.2 billion	$529
Total	$27.0 billion	$2.4 billion	$578

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

JEFFREY ZAX COMMENTS ON FINAL DRAFT OF AMENDMENT 61

Thank you for the opportunity to comment on this draft of Amendment 61.

I am concerned that the section "Impact of Amendment 61 on taxpayers" is dangerously misleading. It essentially assumes that, were Amendment 61 to pass, no further projects of the types which are currently funded by borrowing would be undertaken. That has to be false.

Taxpayers should be made aware of the immediate costs that they will incur for each such project under this Amendment. For example, you might take the cost of all public projects funded by borrowing approved in the past year, and calculate how much additional taxes would be necessary to pay for them immediately.

Last Draft as Mailed to Interested Parties

Amendment 61
Limits on State and Local Government Borrowing

Amendment 61 proposes amending the Colorado Constitution to:

- prohibit all new state government borrowing after 2010;
- prohibit new local government borrowing after 2010, 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

Amendment 61 places new restrictions on government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for homeowners. Beginning in 2011, Amendment 61 prohibits all future borrowing by state government and limits future borrowing by local governments, including cities, counties, school districts, special districts, and enterprises. The measure also requires that governments lower tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes.

Impact of Amendment 61 on state government. Amendment 61 affects Colorado's state government by prohibiting any future borrowing and requiring a tax cut when certain borrowing is fully repaid. Programs and services financed through borrowing will have to be eliminated or paid for using money currently budgeted for other purposes. In the future, the state will not be able to borrow to finance new buildings and other facilities. Table 1 provides examples of projects funded through borrowing and the requirements and restrictions under current law compared to Amendment 61.

At the end of 2010, state agencies are estimated to have financed about $2.2 billion in state assets through borrowing, and state-level enterprises, such as most state universities, are estimated to have financed another $15 billion. The state currently spends about $1.5 billion per year to repay borrowed money, including an estimated $200 million for state agencies and $1.3 billion for enterprises.

Under current law, the state borrows money in the following ways, which will no longer be permitted by Amendment 61:

- *Bonded debt* — Bonded debt is money borrowed through the sale of government bonds that are repaid from a specific source of funds like taxes or fees. This type of borrowing requires voter approval. For example, in 1999, voters approved the use of bonded debt for state highway projects. The money that was borrowed for the projects is repaid with state and federal highway funds.

- *Short-term borrowing* — In Colorado, 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, as revenues are collected.

- *Lease-to-own agreements* — Lease-to-own agreements allow the state to make annual payments for new buildings or equipment over a number of years until the cost is repaid. The state legislature must authorize lease-to-own agreements and approve payments every year during its annual budget process. Once the cost is paid, ownership 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. The state is also using these types of agreements for K-12 school construction and renovation.

- *Enterprise borrowing* — Enterprises, such as public colleges and universities, are currently 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. 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 repaid from sources such as tuition money, student fees, donations, and federal grants.

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 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 • No dollar limit on borrowing	• 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 and K-12 school construction and renovation	• No voter approval required • No dollar limit on borrowing • Legislative authorization required	• Prohibited

Impact of Amendment 61 on local governments. Amendment 61 applies new borrowing limits to all local governments and requires that all future borrowing be submitted for voter approval. Similar to the impact on state government, Amendment 61 will require that local governments reallocate current spending priorities to reduce or eliminate programs or services. It will also restrict the future construction of buildings and other facilities financed through borrowing. Table 2 provides examples of projects funded through borrowing and the requirements and restrictions under current law compared to Amendment 61.

At the end of 2010, local government agencies are estimated to have financed about $29 billion in local assets through borrowing, and local enterprises such as municipal airports are estimated to have financed another $5 billion. Local governments currently spend about $3.1 billion per year to repay borrowed money, including an estimated $2.6 billion for local government agencies and $500 million for local enterprises.

Amendment 61 limits 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 submitted for approval 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 real property within its borders.* Generally speaking, this cap is less than what is allowed under current law. A local government that has already borrowed an amount more than the 10 percent cap would be prohibited from additional borrowing until it repays enough of its borrowing or real property values increase enough to drop its total borrowing below the 10 percent cap.

- *Borrowing must be repaid within 10 years and may be repaid early without penalty*. The typical term of current borrowing is 20 to 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 over the term of the loan are lower.

Table 2. Local 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 through the sale of bonds that are repaid from a specific source of money like taxes or fees over a fixed period of time.		
School Districts School construction or improvements	• Voter approval required • Borrowing capped at 20% of assessed property values	• Voter approval required • Borrowing capped at 10% of assessed real property values • Term of borrowing is limited to 10 years
Counties Roads, public buildings, and vehicles	• Voter approval required • Borrowing capped at 3% of actual (market) property values	
Cities Public buildings such as jails and recreation centers	• Voter approval required	
Special Districts *Water and sewer districts*: water and sewer infrastructure *Fire protection districts*: fire protection and emergency medical services	• Voter approval required in some instances	
Enterprises *Denver International Airport*: airport facilities and runways *Urban renewal authorities and business improvement districts*: downtown development projects like the 16th Street Mall in Denver	• No voter approval required • No dollar limit on borrowing	• Voter approval required • No dollar limit on borrowing • Term of borrowing is limited to 10 years
Other borrowing — including short-term (repaid within one year) borrowing, and lease-to-own agreements where authorized by a local board and the local board approves payments annually.		
Local Governments and Enterprises Short-term borrowing, lease-to-own agreements	• No voter approval required • No dollar limit on borrowing • Subject to local board approval	• Prohibited, unless in the form of bonded debt

Impact of Amendment 61 on taxpayers. Amendment 61 requires that after borrowed money is fully repaid by a government, taxes must be reduced in the amount of the average annual payment. Assuming this requirement applies to current borrowing, and once the measure is fully implemented, taxes will be reduced by about $2.8 billion in today's dollars as current borrowing is repaid by both state and local governments. This reduction matches the estimated average annual repayment for money currently borrowed by the state and local governments and includes an estimated $200 million in state taxes and $2.6 billion in local taxes. Some tax reductions will occur in the first few years after the measure takes effect, but the full reduction will not occur until all borrowed money is repaid, which could take up to 40 years.

If the entire state tax reduction is applied to the state income tax, a household earning $55,000 annually will pay about $49 less per year in today's dollars once the measure is fully implemented. If the entire local tax reduction is applied to property taxes, the owners of a home valued at $295,000 will pay about $624 less per year in today's dollars. The impact of the local tax reduction will vary based on the location of a taxpayer's residence.

How does Amendment 61 interact with two other measures on the ballot? Amendment 61 along with Amendment 60 (see page x) and Proposition 101 (see page x) contain provisions that affect state and local government finances by decreasing taxes paid by households and businesses and restricting government borrowing. How these measures work together may require clarification from the state legislature or the courts.

Amendment 61 requires state and local governments to decrease tax rates when debt is repaid, and is assumed in this analysis to apply to the existing debt of state and local governments. 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. Proposition 101 reduces state and local government taxes and fees.

Since portions of these measures are phased in over time, the actual impacts to taxpayers and governments will be less in the initial years of implementation and grow over time. Assuming that all three measures are approved by voters, the first-year impact will be to reduce state taxes and fees by $717 million and increase state spending for K-12 education by $385 million. Once fully implemented, the measures are estimated to reduce state taxes and fees by $2.1 billion and increase state spending for K-12 education by $1.6 billion in today's dollars. This would commit almost all of the state's general operating budget to paying for the constitutional and statutory requirements of K-12 education. Tax and fee collections by local governments are estimated to decrease by $5.0 billion, but the net impact on local government budgets would be $3.4 billion after the state reimburses school districts.

Households and businesses are estimated to save $1.6 billion in the first year and $7.1 billion per year in today's dollars when the measures are fully implemented. The measures reduce the taxes and fees owed by an average household making $55,000 per year that owns a $295,000 house by an estimated $400 in the first year and $1,750 per year when fully implemented.

Arguments For

1) Over the past ten years, borrowing by the state and its enterprises has nearly tripled and interest payments have more than doubled. Borrowing is expensive because it includes interest payments and fees. Limits are needed to help ensure that borrowing costs do not reduce money for public services in the future.

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 repaying government borrowing through taxes and fees, voters should be asked before money is borrowed. The existing limits on government borrowing are not strict enough because the government can still borrow without voter approval. Amendment 61 requires any future local government borrowing to be submitted to voters for consideration at a November election.

4) Amendment 61 reduces taxes when borrowing is fully repaid, giving individuals and businesses more money to spend. 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 such as prisons, schools, and water projects. 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 other public infrastructure. 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 needed by communities to operate and to attract residents and businesses.

3) Amendment 61 places the full burden of paying for state infrastructure on today's taxpayers. Some public buildings are built to last 30 years or more, but

Amendment 61 will force current taxpayers to pay the full cost of construction up front. 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.

4) Some governments, particularly schools, 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. These districts will have to consider options such as reducing or suspending teacher pay, closing schools, or selling buildings.

Estimate of Fiscal Impact

Impact on state and local governments. The measure contains provisions that reduce the amount of taxes paid by most taxpayers over time, while reducing future construction of publicly owned facilities and restricting the ability of the state and local governments to provide other programs and services.

- Borrowing restrictions will require that state and local governments reallocate current spending priorities or eliminate certain programs and services. The measure will also restrict the use of borrowing for the future construction of buildings and other facilities. In total, state agencies currently have borrowed about $2.2 billion and local governments have borrowed about $29.2 billion. The measure also affects 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.

- Assuming the tax reduction applies to current borrowing, the measure requires the state to cut spending by over $200 million per year and local governments to cut spending by about $2.6 billion per year in today's dollars. However, this reduction will not be fully implemented until all current borrowing is repaid, which could take up to 40 years. These amounts reflect the estimated average annual repayment for money currently borrowed by the state and local governments.

- Like government agencies, publicly owned enterprises will have to reallocate current spending priorities to reduce or eliminate programs or services currently financed through borrowing. The future construction of buildings and other facilities will also be affected. Current borrowing by state-level enterprises accounts for an estimated $15 billion; borrowing by local enterprises accounts for about $4.9 billion.

- The cost of future local government borrowing will likely be affected by the new 10-year maximum term on borrowing, as well as the early repayment provisions. However, the impact will vary by locality.

Taxpayer impact. Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce taxes by about $2.8 billion per year in today's dollars when fully implemented. This estimate includes about $2.6 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments, and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by a household earning $55,000 per year and living in a $295,000 home by over $673 per year in today's dollars.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing, Once Amendment 61 is Fully Implemented

	Current Borrowing (Excluding Enterprises)	**Government Impact** Spending Reduction	**Taxpayer Impact*** Tax Reduction
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$29.2 billion	$2.6 billion	$624
Total	$31.4 billion	$2.8 billion	$673

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

AMENDMENT 60 - PROPERTY TAXES
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CONTACT LIST

Senator Abel Tapia
P.O. Box 1769
Pueblo, CO 81002
abel.tapia.senate@state.co.us

Adrienne Benavidez
Office of the State Controller
633 17th St., #1600
Denver, CO 80202
adrienne.benavidez@state.co.us

Senator Al White
P.O. Box 1627
Hayden, CO 81639
al.white.senate@state.co.us

Alicia Mullenbach
Univision Colorado
777 Grant St., #500
Denver, CO 80203
vistacomm@comcast.net

Amber Valdez
Ruben Valdez and Associates
11236 W. Ford Drive
Lakewood, CO 80226
ambernvaldez@aol.com

Amy Charlton
Colorado Rural Electric Association
5400 N. Washington St.
Denver, CO 80216
acharlton@coloradorea.org

Representative Amy Stephens
P.O. Box 207
Monument, CO 80132
amy.stephens.house@state.co.us

Andi Leopoldus
Denver, CO 80204
andileo@earthlink.net

Andy Carlson
Colorado Department of Higher Education
1560 Broadway, Suite 1600
Denver, CO 80202
andrew.carlson@dhe.state.co.us

Representative Andy Kerr
9206 W. Alameda Ave.
Lakewood, CO 80226
andy.kerr.house@state.co.us

Ann Terry
Special District Association
225 E. 16th Ave., #1000
Denver, CO 80203
ann.terry@sdaco.org

Anne Boyle
McKenna and Long
1400 Wewatta St., #700
Denver, CO 80202
aboyle@mckennalong.com

Athena Dalton
House Minority Office
200 E. Colfax #212
Denver, CO 80203
athena.dalton@state.co.us

Barb Zahn
Aurora, CO 80011
barbz@q.com

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PROPOSITION 101 - INCOME, VEHICLE, AND TELECOMMUNICATIONS TAXES AND FEES
CONTACT LIST

Barbara Fiedler
Colorado Treasurers Office
200 E. Colfax #140
Denver, CO 80203
barbara.fiedler@state.co.us

Becky Long
Colorado Environmental Coalition
1536 Wynkoop #5C
Denver, CO 80202
becky@cecenviro.org

Ben Degrow
Independence Institute
13952 Denver West Pkwy. Bldg. 53, #400
Golden, CO 80401
ben@i2i.org

Ben Stein
Department of Transportation
4201 E. Arkansas Ave.
Denver, CO 80205
ben.stein@dot.state.co.us

Beth Skinner
Broomfield, CO 80020
biskinner@comcast.net

Senator Betty Boyd
12527 W Arizona Place
Lakewood, CO 80228
betty.boyd.senate@state.co.us

Bill Fulton
The Civic Company
1625 E. 35th Ave.
Denver, CO 80205
bill@civiccanopy.org

Bill Ray
CFRR
190 E. Sherman St., #100
Denver, CO 80203
bill@wr-communications.com

Bill Skewes
ClS Public Affairs
2847 Scotia Road
Evergreen, CO
Bill@CLSPublicAffairs.com

Senator Bob Bacon
720 Gilgalad Way
Fort Collins, CO 80526
bob.bacon.senate@state.co.us

Bob Eichem
Finance Director
City of Boulder
1777 Broadway
Boulder, CO 80306
EichemB@bouldercolorado.gov

Representative Bob Gardner
P.O. Box 1082
Colorado Springs, CO 80901
bob.gardner.house@state.co.us

Bob McCluskey
719 Westshore Court
Fort Collins, CO 80525
rrmccluskey@aol.com

Bob Yuhnke
SW Energy Efficiency Project
2260 Baseline Road, #212
Boulder, CO 80302
byuhnke@swenergy.org

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AMENDMENT 61 - LIMITS ON STATE AND LOCAL GOVERNMENT BORROWING
PROPOSITION 101 - INCOME, VEHICLE, AND TELECOMMUNICATIONS TAXES AND FEES
CONTACT LIST

Brad Young
Wheat Ridge, CO 80033
brad@rxplus.com

Bradley Arnold
Cherry Creek Schools
4850 S. Yosemite St.
Greenwood Village, CO 80111
barnold4@cherrycreekschools.org

Brandon McGuire
Vail Resorts
390 Interlocken Crescent
Broomfield, CO 80021
bmcguire@vailresorts.com

Senator Brandon Shaffer
3028 Colgate Drive
Longmont, CO 80503
brandon@brandonshaffer.com

Brett Fuhrman
Denver Public Schools
900 Grant St.
Denver, CO 80203
brett_fuhrman@dpsk12.org

Representative Brian DelGrosso
1805 Grey's Peak Dr #204
Loveland, CO 80538
brian@briandelgrosso.com

Brian Elms
Denver International Airport
8500 Pena Blvd.
Denver, CO 80249
brian.elms@flydenver.com

Bruce Broderius
Greeley, CO 80634
brucebroder@comcast.net

Bruce Caughey
Colorado Assoc. of School Executives
4101 S. Bannock Street
Englewood, CO 80110
bcaughey@co-case.org

Bruce Eisenhauer
Department of Local Affairs
1313 Sherman #500
Denver, CO 80203
bruce.eisenhauer@state.co.us

Senator Bruce Whitehead
1362 CR 126
Hesperus, CO 81326
bruce.whitehead.senate@state.co.us

Representative Buffie McFadyen
385 W. Baldwyn Drive
Pueblo, CO 81007
mcfadyen2002@hotmail.com

Carol Boigon
City and County of Denver
201 W. Colfax Ave., Dept. 705
Denver, CO 80202
carol.boigon@denvergov.org

Carol Haller
101 W. Colfax Ave., #500
Denver, CO 80202
carol.haller@judicial.state.co.us

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CONTACT LIST

Carol Hedges
Colorado Fiscal Policy Institute
1490 Lafayette St., Suite 206
Denver, CO 80218
chedges@cclponline.org

Cary Kennedy
State Treasurer
200 E. Colfax #140
Denver, CO 80203
cary.kennedy@state.co.us

Casey Wardynski
Aurora Public Schools
15701 E. First Ave., Suite 106
Aurora, CO 80011
ecwardynski@aps.k12.co.us

Cathy Wanstrath
Denver, CO 80209
cathywanstrath@q.com

Charles Malick
Golden, CO 80401
cnmalick@yahoo.com

Charles Scheibe
State Treasurer's Office
200 E. Colfax #140
Denver, CO 80203
charles.scheibe@state.co.us

Charlie Brown
Littleton, CO 80123
brownchaz@msn.com

Charlie Jaquez
Centennial School District R-1
909 N. Main Street
San Luis, CO 81152
cjaquez@amigo.net

Representative Cheri Gerou
P.O. Box 940
Evergreen, CO 80437
cheri.gerou@gmail.com

Chip Taylor
Colorado Counties Inc.
800 Grant St., #500
Denver, CO 80203
jtaylor@ccionline.org

Chris Lines
Department of Reg Agencies
1560 Broadway, Suite 1550
Denver, CO 80202
chris.lines@dora.state.co.us

Chris Mendez
Colorado Counties Inc.
800 Grant St., #500
Denver, CO 80203
cmendez@ccionline.org

Senator Chris Romer
840 Detroit St.
Denver, CO 80206
chris.romer.senate@state.co.us

Christie Donner
Colorado Criminal Justice Reform Coalition
1212 Mariposa St., #6
Denver, CO 80204
christie@ccjrc.org

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AMENDMENT 61 - LIMITS ON STATE AND LOCAL GOVERNMENT BORROWING
PROPOSITION 101 - INCOME, VEHICLE, AND TELECOMMUNICATIONS TAXES AND FEES
CONTACT LIST

Chuck Berry
Colorado Association of Commerce & Industry
1600 Broadway, Suite 1000
Denver, CO 80202-4935
cberry@COchamber.com

Cindy Sovine
Denver, CO 80228
Cindy@SovineMiller.com

Clark Bolser
Department of Personnel and Administration
633 17th St.
Denver, CO 80202
clark.bolser@state.co.us

Coleen Slevin
cslevin@ap.org

Representative Cory Gardner
PO Box 86
Yuma, CO 80759
gardner@plains.net

Cris White
Colorado Housing and Finance Authority
1981 Blake St.
Denver, CO 80202
cwhite@chfainfo.com

Dan Anglin
Colorado Association of Commerce & Industry
1600 Broadway, Suite 1000
Denver, CO 80202-4935
danglin@cochamber.com

Dan Chapman
Denver, CO 80210
danmchapman@msn.com

Senator Dan Gibbs
P.O. Box 704
Silverthorne, CO 80498
dan.gibbs.senate@state.co.us

Dan Krug
Department of Higher Education
1560 Broadway, #1600
Denver, CO 80202
dan.krug@dhe.state.co.us

Dan Powers
Boulder Chamber of Commerce
2440 Pearl St.
Boulder, CO 80302
dan.powers@boulderchamber.com

Dan Hoffman
Environment Colorado
1530 Blake St., Suite 2002
Denver, CO 80202
dhoffman@environmentcolorado.org

Representative Daniel Kagan
200 E. Colfax Ave. Rm 271
Denver, CO 80203
repkagan@gmail.com

Danny L. Tomlinson
Tomlinson and Associates
7535 Yorkshire Dr.
Castle Rock, CO 80108
dtomlinson@msn.com

Amendment 60 - Property Taxes
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Contact List

Darci Mohr
Douglas County School District
620 Wilcox St.
Castle Rock, CO 80104
darci.mohr@dcsdk12.org

Darlene Jensen
Colo. Assn. of Conservation Districts
901 Rampart Range Road
Woodland Park, CO 80866
darlene@cacd.us

Representative David Balmer
6043 S. Eagle St.
Centennial, CO 80016
david.balmer.house@state.co.us

Davi Dawson
Audio Information Network of Colorado
2200 Central Ave., Suite A
Boulder, CO 80301
ainc@aincolorado.org

David Hart
Denver Public Schools
900 Grant St.
Denver, CO 80203
david_hart@dpsk12.org

David McDermott
Department of Personnel and Admin.
633 17th St.
Denver, CO 80202
david.mcdermott@state.co.us

David Oppenheim
Dept. of Health Care Policy & Financing
1570 Grant St.
Denver, CO 80203
david.oppenheim@state.co.us

David A. Ervin
The Resource Exchange
418 S. Weber St.
Colorado Springs, CO 80903
dervin@tre.org

Deb Demuth
CollegeInvest
1560 Broadway, #1700
Denver, CO 80202
ddemuth@collegeinvest.org

Deb Kugler
Department of Corrections
12157 West Cedar Drive
Lakewood, CO 80228
deb.kugler@doc.state.co.us

Representative Debbie Benefield
8370 Yarrow St.
Arvada, CO 80005
debbie@debbiebenefield.org

Debbie Wagner
Lombard & Clayton
debbie@lombardclayton.com
1560 Broadway, #1099
Denver, CO 80202

Deborah Obermeyer
MetroNorth Chamber of Commerce
2921 W. 120th Ave., Suite 210
Westminster, CO 80234
deborah@metronorthchamber.com

Dee Wisor
Sherman & Howard
633 17th St., #3000
Denver, CO 80202
dwisor@shermanhoward.com

Amendment 60 - Property Taxes
Amendment 61 - Limits on State and Local Government Borrowing
Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Diane Doney
Douglas County School District RE1
620 Wilcox St.
Castle Rock, CO 80104
diane.doney@dcsdk12.org

Dianna May
Colorado Forum
511 16th Street, Suite 210
Denver, CO 80202
diannamay@coloradoforum.com

Dianna Orf
1410 Grant St., Suite C-207
Denver, CO 80203
dianna@orfco.net

Representative Dianne Primavera
P.O. Box 192
Broomfield, CO 80038
dianne.primavera.house@state.co.us

Dick Brown
Denver, CO 80231
Rgbscuba@aol.com

Dick Hartman
Union Pacific Railroad
2120 Carey Ave., Suite 410
Cheyenne, WY 82001
dickhartman@up.com

Dina Murray
South Routt School District RE-3
305 S. Grant St.
Oak Creek, CO 80467
dmurray@southroutt.k12.co.us

Don Bain
Holme Roberts & Owen LLP
1700 Lincoln #4100
Denver, CO 80203
don.bain@hro.com

Donna Alengi
Special District Association
225 E. 16th Ave., #1000
Denver, CO 80203
donna.alengi@sdaco.org

Donna Lynne
Kaiser Foundation Health Plan
10350 E. Dakota Ave.
Denver, CO 80247
donna.l.lynne@kp.org

Douglas Bruce
Colorado Springs, CO 80936
taxcutter@msn.com

D. Capra
dcapra@aol.com

Representative Ed Vigil
P.O. Box 642
Alamosa, CO 81101
edvigil1@gmail.com

Edie Busam
Aponte & Busam
303 E. 17th Ave., #502
Denver, CO 80203
ebusam@aponte-busam.com

Representative Edward Casso
200 E. Colfax, Room 271
Denver, CO 80203
edward.casso.house@state.co.us

Elena Wilken
Colorado Assoc. of Transit Agencies
1580 Lincoln St., #780
Denver, CO 80203
executivedirector@coloradotransit.com

Amendment 60 - Property Taxes
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Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Elinor Christiansen
HCAC Foundation
P.O. Box 280767
Lakewood, CO 80228
echris7doc@gmail.com

Representative Ellen Roberts
P.O. Box 3373
Durango, CO 81302
ellen.roberts.house@state.co.us

Emily Arell
Legislative Director
Colorado House Democrats
200 E. Colfax Ave., Room 222
Denver, CO 80203
emily.arell@state.co.us

Erin Goff
Axiom Strategies Inc.
225 E. 16th Ave., #260
Denver, CO 80203
erin@axiomstrategiesinc.com

Senator Evie Hudak
7649 Harlan Way
Westminster, CO 80003
senatorhudak@gmail.com

Representative Frank McNulty
P.O. Box 630573
Highlands Ranch, CO 80163
frank@frankmcnulty.com

Frank Waterous
The Bell Policy Center
1905 Sherman St., Suite 900
Denver, CO 80203
waterous@bellpolicy.org

Fred Holden
Arvada, CO 80004
fredholden@aol.com

Senator Gail Schwartz
P.O. Box 6578
Snowmass Village, CO 81615
gail.schwartz.senate@gmail.com

Geffrey Hier
Colorado Rural Electric Association
5400 N. Washington St.
Denver, CO 80216
ghier@coloradorea.org

Geoff Wilson
Colorado Municipal League
1144 Sherman
Denver, CO 80203
gwilson@cml.org

George Dibble
Englewood, CO 80111
georgedibble@mindspring.com

Gerry Cummins
League of Women Voters
1410 Grant St., Suite B-204
Denver, CO 80203
gerry.cummins@prodigy.net

Gini Pingenot
Colorado Counties Inc.
800 Grant St., Suite 500
Denver, CO 80203
gpingenot@ccionline.org

Amendment 60 - Property Taxes
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Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Ginny Brown
Dept. of Health Care Policy & Financing
1570 Grant St.
Denver, CO 80203
ginny.brown@state.co.us

Representative Glenn Vaad
P.O. Box 411
Mead, CO 80542
repglennvaad@gmail.com

Senator Greg Brophy
P.O. Box 332
Wray, CO 80758
greg@gregbrophy.net

Greg Fulton
Colorado Motor Carriers Association
4060 Elati St.
Denver, CO 80216
greg@cmca.com

Gully Stanford
College in Colorado
1560 Broadway, Suite 1700
Denver, CO 80202
gully.stanford@cic.state.co.us

Heather Atkinson
Siegel Public Affairs
1280 Sherman St., Suite 202
Denver, CO 80203
heather@siegelpa.com

Heather Kline
Denver, CO 80203
heather.kline@cu.edu

Glenn Gustafson
Colorado Springs School District 11
1115 N. El Paso Street
Colorado Springs, CO 80903
gustage@d11.org

Greg Abboud
Power Sports Dealers Association
13670 Cherry Way
Thornton, CO 80602
g.abboud@comcast.net

Greg Dorman
DMVA
6848 W. Revere Parkway
Centennial, CO 80112
greg.dorman@dmva.state.co.us

Greg Smith
Colo. Public Employees Retirement Assn.
1301 Pennsylvania St.
Denver, CO 80203
gsmith@copera.org

Guy G. Bellville
Cherry Creek Schools
4850 S. Yosemite St.
Greenwood Village, CO 80111
gbellville@cherrycreekschools.org

Heather Copp
Department of Transportation
4201 E. Arkansas Ave.
Denver, CO 80222
heather.copp@dot.state.co.us

Heidi Wagner
Tri-State Generation & Transmission Assoc.
P.O. Box 33695
Denver, CO 80233-0695
hwagner@tristategt.org

Amendment 60 - Property Taxes
Amendment 61 - Limits on State and Local Government Borrowing
Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Henry Sobanet
Colorado Strategies
info@coloradostrategies.com

Henry "Corky" Kyle
The Kyle Group
14450 W. 56th Place
Arvada, CO 80002
ckyle@thekylegroup.com

Herb Homan
Denver, CO 80210-6122
hhoman1@yahoo.com

Herman Stockinger
Department of Transportation
4201 E. Arkansas Ave.
Denver, CO 80222
herman.stockinger@dot.state.co.us

Representative Jack Pommer
605 Pine St.
Boulder, CO 80302
jack.pommer.house@state.co.us

Jamee Allen
jamee_allen@fmi.com

Representative James Kerr
6359 S. Chase Court
Lakewood, CO 80226
james.kerr.house@state.co.us

Jan Tanner
Board of Education School District 11
1115 N. El Paso St.
Colorado Springs, CO 80903
tannerjj@gmail.com

Jane Urschel
Colorado Association of School Boards
1200 Grant Street
Denver, CO 80203-2306
jurschel@casb.org

Jason Gelender
Office of Legislative Legal Services
Room 091 State Capitol
Denver, CO 80203
jason.gelender@state.co.us

Jay Hicks
Hicks & Associates
jay@rjhicksinc.com

Representative Jeanne Labuda
3975 S. Pinehurst Circle
Denver, CO 80235-3124
replabuda@yahoo.com

Jeffrey Zax
Department of Economics
University of Colorado - Boulder
256 UCB
Boulder, CO 80309
jeffrey.zax@colorado.edu

Jen Walmer
Colorado House Democrats
200 E. Colfax, Room 246
Denver, CO 80203
jen.walmer@state.co.us

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AMENDMENT 61 - LIMITS ON STATE AND LOCAL GOVERNMENT BORROWING
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CONTACT LIST

Jennifer Okes
Colorado Department of Personnel
1313 Sherman St.
Denver, CO 80203
jennifer.okes@state.co.us

Representative Jerry Frangas
3867 Meade Street
Denver, CO 80211
kjerryfrangas@earthlink.net

Jerry McElroy
Kaiser Permanente
10350 E. Dakota Ave.
Denver, CO 80231
jerel.mcelroy@kp.org

Representative Jerry Sonnenberg
4465 Road 63
Sterling, CO 80751
jerry@repsonnenberg.com

Jesi Dobosz
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246
jesi.dobosz@state.co.us

Jessica L. Erickson
Broomfield Economic Development Corp.
2655 W. Midway Blvd., Suite 370
Broomfield, CO 80020
jessica@broomfieldbusiness.com

Jim Barclay
Lutheran Family Services of Colorado
363 S. Harlan
Denver, CO 80226
jim.barclay@lfsco.org

Jim Cole
Denver, CO 80203
jim@lobby4co.com

Jim Driscoll
Governor's Office
200 E. Colfax, Room 136
Denver, CO 80203
jim.driscoll@state.co.us

Jim Griffith
Colorado League of Charter Schools
725 S. Broadway, Suite 7
Denver, CO 80209
jgriffin@coloradoleague.org

Jim McCuskey
E-470 Authority
22470 E. Sixth Parkway
Aurora, CO 80018
jmccuskey@e-470.com

Representative Jim Riesberg
P.O. Box 1523
Greeley, CO 80632
jim.riesberg.house@state.co.us

JoAnn Groff
Department of Local Affairs
1313 Sherman, Room 419
Denver, CO 80203
joann.groff@state.co.us

Representative Joe Rice
6165 S Coventry Lane West
Littleton, CO 80123
joe.rice.house@state.co.us

Amendment 60 - Property Taxes
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Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Joe Watt
The Bell Policy Center
1801 Broadway, Suite 280
Denver, CO 80202
watt@bellpolicy.org

John Andrews
8547 E. Arapahoe Rd. PMB J122
Englewood, CO 80112
andrewsjk@aol.com

Senator John Morse
1213 E. Columbia St., #5
Colorado Springs, CO 80909
john.morse.senate@state.co.us

John Ziegler
Joint Budget Committee
200 E. 14th Ave., Third Floor
Denver, CO 80203
john.ziegler@state.co.us

Jonathan Coors
CoorsTek
16000 Table Mountain Parkway
Golden, CO 80403
jdcoors@coorstek.com

Senator Joyce Foster
8239 E. Fifth Ave.
Denver, CO 80230
joyce.foster.senate@state.co.us

Julie George
Colorado Association of School Boards
1200 Grant Street
Denver, CO 80203-2306
jgeorge@casb.org

Julie Whitacre
Colorado Education Association
1500 Grant Street
Denver, CO 80203
jwhitacre@nea.org

Representative Joel Judd
2904 W. 24th Ave.
Denver, CO 80211
repjoeljudd@joeljudd.com

Representative John Kefalas
604 Sycamore St.
Fort Collins, CO 80521
john.kefalas.house@state.co.us

Representative John Soper
235 Starlight Road
Thornton, CO 80260
john.soper.house@state.co.us

Jon Caldara
Independence Institute
13952 Denver West Pkwy., Suite 400
Golden, CO 80401
jon@i2i.org

Senator Josh Penry
P.O. Box 1604
Grand Junction, CO 81502
joshpenry@gmail.com

Juanita Chacon
Remax
1873 S. Bellaire St., #700
Denver, CO 80222
juanitachacon@remax.net

Julie McKenna
Northern Colorado Water Conservancy Dist.
1410 Grant C-309
Denver, CO 80203
julie@bbmk.com

J. Frickey
jfrickey@mac.com

Amendment 60 - Property Taxes
Amendment 61 - Limits on State and Local Government Borrowing
Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Karen Beye
Colorado Department of Human Services
1575 Sherman
Denver, CO 80203
karen.beye@state.co.us

Karen Strakbein
Summit School District
P.O. Box 7
Frisco, CO 80443
kstrakbein@summit.k12.co.us

Representative Kathleen Curry
54542 E. Highway 50
Gunnison, CO 81230
repcurry@gmail.com

Katie Genereux
Hope On Line
367 Inverness Parkway #225
Englewood, CO 80112
katie.genereux@hopeonline.org

Senator Keith King
4715 Bywood Court
Colorado Springs, CO 80906
keith@keithking.org

Ken Delay
Colorado Association of School Boards
1200 Grant St.
Denver, CO 80203
kdelay@casb.org

Representative Kent Lambert
990 Point of the Pines Drive
Colorado Springs, CO 80919
rep.kent.lambert@comcast.net

Representative Karen Middleton
481 Nome St.
Aurora, CO 80010
karen@karenmiddleton.com

Karl Spiecker
Colorado Department of Corrections
2862 S. Circle Drive
Colorado Springs, CO 80906
karl.spiecker@doc.state.co.us

Kathryn Knox
Colorado Virtual Academy
11990 Grant St., Suite 402
Northglenn, CO 80233
kknox@covcs.org

Katy Atkinson
Atkinson & Associates
110 16th St.
Denver, CO 80202
katyatkinson@aol.com

Kelly Fox
University of Colorado
Box 035UCA
Boulder, CO 80309
kelly.fox@cusys.edu

Representative Ken Summers
P.O. Box 27301
Lakewood, CO 80227
ken.summers.house@state.co.us

Representative Kevin Priola
12255 Ursula St.
Henderson, CO 80640
kpriola@gmail.com

AMENDMENT 60 - PROPERTY TAXES
AMENDMENT 61 - LIMITS ON STATE AND LOCAL GOVERNMENT BORROWING
PROPOSITION 101 - INCOME, VEHICLE, AND TELECOMMUNICATIONS TAXES AND FEES
CONTACT LIST

Kim Fear
Dept. of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246
kfear@cdphe.state.co.us

Dr. Kirvin Knox
Mountain Plains ACA
4505 29th St.
Greeley, CO 80634
kknox@lamar.colostate.edu

Lance Nozot
Lewis-Palmer School District #38
146 Jefferson St.
Monument, CO 80132
LNozot@lewispalmer.org

Larry Friedberg
Department of Personnel
1313 Sherman St., Suite 319
Denver, CO 80203
larry.friedberg@state.co.us

Larry Hoyt
P.O. Box 471
Boulder, CO 80306
lhoyt@co.boulder.co.us

Representative Larry Liston
P.O. Box 8205
Colorado Springs, CO 80933
Larry.Liston.house@state.co.us

Larry G. Hudson
Hudson Government Affairs
2308 Bellaire St.
Denver, CO 80207
larryghudson@yahoo.com

Representative Laura Bradford
P.O. Box 565
Collbran, CO 81624
laurabradford55@gmail.com

Lawrence Norman
The Center 4 Excellence
hilltopia23@yahoo.com

Leanne Arrant
Capstone Group
1410 Grant St., Suite B-303
Denver, CO 80203
larrant@capstonegroupllc.com

Lee White
George K. Baum & Company
1400 Wewatta St., Suite 800
Denver, CO 80202
WhiteML@gkbaum.com

Leo J. Boyle
1223 Race St., #801
Denver, CO 80206
leojboyle@aol.com

Leslie Stafford
Boulder Valley School District
6500 Arapahoe
Boulder, CO 80303
leslie.stafford@bvsd.org

Lise Aangeenbrug
Great Outdoors Colorado
1600 Broadway, Suite 1650
Denver, CO 80202
liseaa@goco.org

Representative Lois Court
780 Elizabeth St.
Denver, CO 80206
lois.court.house@state.co.us

Senator Lois Tochtrop
9984 Appletree Place
Thornton, CO 80260
lotochtrop@aol.com

Amendment 60 - Property Taxes
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Contact List

Loren Furman
Colorado Association of Commerce & Industry
1600 Broadway, Suite 1000
Denver, CO 80202-4935
lfurman@cochamber.com

Lorie Gillis
Jefferson County Public Schools
1829 Denver West Drive, Bldg. 27
Golden, CO 80401
lgillis@jeffco.k12.co.us

Lynn Johnson
l15johnson@aol.com

Lynn Notarianni
Department of Regulatory Agencies
1600 Broadway, Suite 1650
Denver, CO 80202
lynn.notarianni@dora.state.co.us

L. Martinez
Adams State College
208 Edgemont Blvd.
Alamosa, CO 81102
lamartin@adams.edu

Mac Zimmerman
maczimmerman@yahoo.com

Marge Rinaldi
Adams County District 50 School Board
6933 Raleigh St.
Westminster, CO 80030
margerinaldi@msn.com

Marjorie Fisch
League of Women Voters
1410 Grant St., Suite B-204
Denver, CO 80203
ralphmarj@msn.com

Mark Couch
Department of Revenue
1375 Sherman St., Room 504
Denver, CO 80261
mcouch@spike.dor.state.co.us

Representative Mark Ferrandino
200 E. Colfax, Room 071
Denver, CO 80203
mferrandino@yahoo.com

Mark Radtke
Colorado Municipal League
1144 Sherman
Denver, CO 80203
mradtke@cml.org

Senator Mark Scheffel
9791 Summit Ridge Place
Parker, CO 80138
mark.scheffel.senate@state.co.us

Representative Marsha Looper
23935 Sweet Road
Calhan, CO 80808
marshalooper@gmail.com

Marty Neilson
Colorado Union of Taxpayers
363 Riverside Drive
Lyons, CO 80540
marty5539@gmail.com

Amendment 60 - Property Taxes
Amendment 61 - Limits on State and Local Government Borrowing
Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Mary Buckley
Denver International Airport
8500 Pena Blvd.
Denver, CO 80249
mary.buckley@flydenver.com

Senator Mary Hodge
447 Poplar Circle
Brighton, CO 80601
mary.hodge.senate@state.co.us

Mary Wickersham
State Treasurer's Office
200 E. Colfax #140
Denver, CO 80203
mary.wickersham@state.co.us

Mary Zuchegno
Special District Association
225 E. Sixteenth Avenue
Denver, CO 80203
mary@sdaco.org

Mary E. Deganhart
Ouray County Attorney
P.O. Box 28
Ridgway, CO 81432
mdeganhart@ouraycountyco.gov

Mary Frances Nevans
State Board of Education
201 E. Colfax
Denver, CO 80203
nevans_m@cde.state.co.us

Senator Maryanne Keller
4325 Iris Street
Wheat Ridge, CO 80033
moe.keller.senate@state.co.us

Matt Cheroutes
Governor's Office of Economic Development
1625 Broadway, Suite 2700
Denver, CO 80202
matt.cheroutes@state.co.us

Matthew Gray
Sherman & Howard
633 17th St., Suite 3000
Denver, CO 80202
mgray@shermanhoward.com

Representative Max Tyler
200 E. Colfax, Room 271
Denver, CO 80203
max@maxtyler.us

Melissa Baumgart
House Minority Office
200 E. Colfax, Room 212
Denver, CO 80203
melissa.baumgart@state.co.us

Melissa Kuipers
Colorado Automobile Dealers Association
290 E. Speer Blvd.
Denver, CO 80203
melissa.kuipers@coloradodealers.org

Melissa Nelson
Department of Transportation
4201 E. Arkansas Ave.
Denver, CO 80222
melissa.nelson@dot.state.co.us

Michael Corn
mchlcorn@aol.com

Michael Johnson
1801 California St
Denver, CO 80202
michael.johnson@KutakRock.com

Senator Michael Johnston
PO Box 40700
Denver, CO 80204
mike.johnston.senate@state.co.us

AMENDMENT 60 - PROPERTY TAXES
AMENDMENT 61 - LIMITS ON STATE AND LOCAL GOVERNMENT BORROWING
PROPOSITION 101 - INCOME, VEHICLE, AND TELECOMMUNICATIONS TAXES AND FEES
CONTACT LIST

Representative Michael Merrifield
907 N. Sheridan Ave.
Colorado Springs, CO 80909
mmerrifield2003@yahoo.com

Mike Beasley
303 Broadway, #200
Denver, CO 80203
mike@5280strategies.com

Senator Mike Kopp
10589 W. Raspberry Mountain
Littleton, CO 80127
mkoppsd22@gmail.com

Mike Mauer
Colorado Legislative Council
200 E. Colfax, #029
Denver, CO 80203
mike.mauer@state.co.us

Representative Mike May
18978 E. Creekside Dr.
Parker, CO 80134
mike.may.house@state.co.us

Morey Wolfson
Colorado Energy Management & Conservation
1580 Logan St., Suite 100
Denver, CO 80203
morey.wolfson@state.co.us

Ms. Patti Mason
US Green Building Council
1821 Blake St., Suite 3-D
Denver, CO 80202
patti@usgbccolorado.org

Senator Nancy Spence
6330 S. Olathe Street
Centennial, CO 80016
nancyjspence@gmail.com

Natalie Menten
info@COtaxreforms.com

Neil Langland
Department of Regulatory Agencies
1600 Broadway, Suite 1650
Denver, CO 80202
neil.langland@dora.state.co.us

Nichole Goodman
Alliance for Sustainable Colorado
1536 Wynkoop St., Suite 4-A
Denver, CO 80202
ngoodman@sustainablecolorado.org

Nicole Myers
Office of Legislative Legal Services
Room 091 State Capitol
Denver, CO 80203
nicole.myers@state.co.us

Pam Kiely
Environment Colorado
1530 Blake St., Suite 2002
Denver, CO 80202
pkiely@environmentcolorado.org

Pamela Benigno
Independence Institute
13952 Denver West Pkwy. Bldg. 53, Suite 400
Golden, CO 80401
pam@i2i.org

Amendment 60 - Property Taxes
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Contact List

Pat Flanagan
Division of Motor Vehicles
1881 Pierce St., Room 114
Lakewood, CO 80214
pflanagan@spike.dor.state.co.us

Senator Pat Steadman
1257 Corona Street
Denver, CO 80218
pat.steadman.senate@state.co.us

Patrick Byrne
Department of Transportation
4201 E. Arkansas Ave.
Denver, CO 80222
patrick.byrne@dot.state.co.us

Patty Schoedler
League of Women Voters
1410 Grant St., Suite B-204
Denver, CO 80203
pshades@earthlink.net

Representative Paul Weissmann
P.O. Box 673
Louisville, CO 80027
reppaul@aol.com

Paula Stephenson
1180 Redwoods Drive
Steamboat Springs, CO 80487
ruralcaucus@comcast.net

Paula Larsen
Metro Denver
1445 Market St.
Denver, CO 80202
paula.larsen@metrodenver.org

Paula Noonan
7140 S. Depew St.
Littleton, CO 80128
penoonan@comcast.net

Senator Paula Sandoval
4077 W 26th Avenue
Denver, CO 80212
nwden34@yahoo.com

Phil Hayes
Colorado AFL/CIO
140 Sheridan Blvd., #201
Denver, CO 80226
phayes@coaflcio.org

Phil Onofrio
Eagle County Schools
948 Chambers Ave.
Eagle, CO 81631
philip.onofrio@eagleschools.net

Phyllis Horney
phyllisjhorn@comcast.net

Rachel Erbert
Political Works
1580 Lincoln St., #1125
Denver, CO 80203
rlee@politicalworks.net

Representative Randy Baumgardner
P.O. Box 108
Hot Sulphur Springs, CO 80451
randy.baumgardner.house@state.co.us

Amendment 60 - Property Taxes
Amendment 61 - Limits on State and Local Government Borrowing
Proposition 101 - Income, Vehicle, and Telecommunications Taxes and Fees
Contact List

Randy Black
Colorado Association of School Boards
1200 Grant Street
Denver, CO 80203-2306
rblack@casb.org

Representative Randy Fischer
3007 Moore Lane
Fort Collins, CO 80526
randyfischer@frii.com

Renee Howell
Littleton Public Schools
5776 S. Crocker St.
Littleton, CO 80120
reneehowell5280@aol.com

Renny Fagan
Colorado Nonprofit Association
455 Sherman St., #207
Denver, CO 80203
rfagan@coloradononprofits.org

Rich Wobbekind
Leeds School of Business
University of Colorado
995 Regent Drive
Boulder, CO 80309
richard.wobbekind@colorado.edu

Rich Jones
The Bell Policy Center
1801 Broadway, Suite 280
Denver, CO 80202
jones@bellpolicy.org

Rich Mauro
DRCOG
1290 Broadway, Suite 700
Denver, CO 80246
rmauro@drcog.org

Richard Valenty
rvalenty@msn.com

Richard G. Evans
Coloradans for Responsible Reform
1717 Downing St.
Denver, CO 80218
richard@reiter5280.com

Rick Randall
Denver, CO 80219
rrandall@richardrandall.com

Rob Juchem
Department of Public Safety
700 Kipling St., #1000
Denver, CO 80215
rob.juchem@cdps.state.co.us

Robert McCarty
Scientific Learning
300 Frank H. Ogawa Plaza
Oakland, CA
bmccarty@scilearn.com

Roberta Robinette
DeFilippo Rees Robinette
1675 Broadway, Suite 2440
Denver, CO 80202
rmkrobinette@aol.com

Roberto Venegas
Policy Advisor
City and County of Denver
1437 Bannock St., #350
Denver, CO 80202
roberto.venegas@denvergov.org

Amendment 60 - Property Taxes
Amendment 61 - Limits on State and Local Government Borrowing
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Contact List

Robin Baker
Colorado Children's Campaign
1580 Lincoln St., Suite 420
Denver, CO 80203
robin@coloradokids.org

Ron Teck
627 Broken Spoke Road
Grand Junction, CO 81504
ronteck@gmail.com

Representative Sal Pace
124 Lincoln St.
Pueblo, CO 81004
sal.pace.house@state.co.us

Representative Sara Gagliardi
11854 W. 56th Drive
Arvada, CO 80002
sara.gagliardi.house@state.co.us

Scott Moore
Political Science Department
Colorado State University
Fort Collins, CO 805216
scott.moore@colostate.edu

Scott Spendlove
Inter Mountain Corp. Affairs
1675 Broadway, #1850
Denver, CO 80203
sspendlove@intermountainca.com

Sean Conway
County Commissioner
Weld County
915 Tenth St.
Greeley, CO 80632
sconway@co.weld.co.us

Senator Rollie Heath
2455 Vassar Drive
Boulder, CO 80305
rollie.heath.senate@state.co.us

R.J. Hicks
rj@rjhicksinc.com

Sam Mamet
Colorado Municipal League
1144 Sherman
Denver, CO 80203
smamet@cml.org

Sara Rosene
Grand County
308 Byers Ave.
Hot Sulpur Springs, CO 80451
srosene@co.grand.co.us

Senator Scott Renfroe
3201 Grandview Dr
Greeley, CO 80631
scott.renfroe.senate@state.co.us

Scott Wasserman
Colorado Wins
2525 W. Alameda Ave.
Denver, CO 80219
scott.wasserman@cowins.org

Senator Shawn Mitchell
12530 Newton St.
Broomfield, CO 80020
shawnmitch@aol.com

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CONTACT LIST

Shelley Becker
Douglas County School District
620 Wilcox St.
Castle Rock, CO 80104
shelley.becker@dcsdk12.org

Sherry Ellebracht
Regional Transportation District
1600 Blake St.
Denver, CO 80202
sherry.ellebracht@rtd-denver.com

Sol Malick
American Planning Association
P.O. Box 265
Golden, CO 80402
solomonmalick@gmail.com

Representative Spencer Swalm
7250 S. Ivy Court
Centennial, CO 80112
spencer.swalm.house@state.co.us

Steph Chichester
North Slope Capital
1400 16th St.
Denver, CO 80202
steph@northslopecapital.com

Stephannie Finley
Colorado Springs Chamber of Commerce
6 S. Tejon St., #700
Colorado Springs, CO 80903
stephannie@cscc.org

Stephen Bohrer
San Luis Valley BOCES
2261Enterprise Drive
Alamosa, CO 81101
sbohrer@slvboces.org

Steve Balcerovich
Denver, CO 80205
stevebalcerovich@aol.com

Steve Holdren
319 Belford Drive
Northglenn, CO 80260
s.holdren@ctos.com

Representative Steve King
P.O. Box 896
Grand Junction, CO 81502
steve.king.house@state.co.us

Steve Palmer
Dutko Worldwide
2265 Pebble Beach Court
Evergreen, CO
steve.palmer@dutkoworldwide.com

Susan Cox
Susan.M.Cox@kp.org

Senator Suzanne Williams
2647 S. Troy Court
Aurora, CO 80014
suzanne.williams.senate@state.co.us

Tammi McCoy
Colorado Automobile Dealers Association
290 E. Speer Blvd.
Denver, CO 80203
tammi.mccoy@coloradodealers.org

Amendment 60 - Property Taxes
Amendment 61 - Limits on State and Local Government Borrowing
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Contact List

Tamra Ward
Denver Metro Chamber of Commerce
1445 Market St.
Denver, CO 80202
tamra.ward@denverchamber.org

Tanya Kelly
TKB Consulting
11630 Zenobia Court
Westminster, CO 80031
tanya@tanyakellybowry.com

Senator Ted Harvey
P.O. Box 630438
Highlands Ranch, CO 80126
ted.harvey.senate@state.co.us

Teresa Osborne
CU System
1800 Grant St., Suite 800
Denver, CO 80203
teresa.osborne@cu.edu

Representative Terrance Carroll
200 E. Colfax, #246
Denver, CO 80203
terrance.carroll.house@state.co.us

Terry Casey
RBC Dain
1200 17th St., Suite 2200
Denver, CO 80202
terry.casey@rbcdain.com

Terry Howerter
Regional Transportation District
1600 Blake St.
Denver, CO 80202
terry.howerter@RTD-Denver.com

Terry Phillips
Colorado Dept. of Labor and Employment
633 17th St., Suite 201
Denver, CO 80202
terry.phillips@state.co.us

Tim Hoover
The Denver Post
101 W. Colfax Ave., Suite 600
Denver, CO 80202
thoover@denverpost.com

Todd Engdahl
Education News Colorado
1244 Grant St.
Denver, CO 80203
tengdahl@ednewscolorado.org

Todd Saliman
OSPB
State Capitol Building, Room 111
Denver, CO 80203
todd.saliman@state.co.us

Tom Clark
CU-Denver Planning Department
1445 Market Street, Suite 350
Denver, Colorado 80202
tom.clark@metrodenver.org

Tonette Salazar
Salazar & Associates
2516 Yosemite St.
Denver, CO 80238
tonette@t2salazar.com

Tony Gagliardi
National Federation of Independent Businesses
1410 Grant St., Suite C-107
Denver, CO 80203
tony.gagliardi@nfib.org

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AMENDMENT 61 - LIMITS ON STATE AND LOCAL GOVERNMENT BORROWING
PROPOSITION 101 - INCOME, VEHICLE, AND TELECOMMUNICATIONS TAXES AND FEES
CONTACT LIST

Tony Salazar
Colorado Education Association
1500 Grant Street
Denver, CO 80203
pnoscroy@nea.org

Totsy Rees
Denver, CO 80203
Totsyr@aol.com

Tracie Rainey
Colorado School Finance Project
1200 Grant
Denver, CO 80203
tracie.rainey@earthlink.net

Troy Bratton
Office of Legislative Legal Services
Room 091 State Capitol
Denver, CO 80203
troy.bratton@state.co.us

Vanessa Hannemann
Colorado Health Foundation
501 S. Cherry St., Suite 1100
Denver, CO 80246
vhannemann@ColoradoHealth.org

Vicki Newell
Colorado Parent Teacher Association
PO Box 4280
Parker, CO 80134
vickilnewell@aol.com

Vincent Badolato
Colorado League of Charter Schools
1601 Vine Street
Denver, CO 80206
vbadolato@coloradoleague.org

Virginia Morrison Love
Morrison, Love & Company
1301 Pennsylvania St., Suite 900
Denver, CO 80203
VAMLOVE@AOL.COM

Vody Herrmann
Colorado Department of Education
201 East Colfax Room 502
Denver, CO 80203
herrmann_v@cde.state.co.us

Wade Buchanan
Bell Policy Center
1801 Broadway, Suite 280
Denver, CO 80202
buchanan@bellpolicy.org

Wes Skiles
House Minority Office
200 E. Colfax Ave., Room 212
Denver, CO 80203
wes.skiles@state.co.us

Will Kugel
Dept. of Health Care Policy & Financing
1570 Grant St.
Denver, CO 80203
will.kugel@state.co.us

Zach Zaslow
Senate Majority Office
200 E. Colfax Ave., Room 266
Denver, CO 80203
zach.zaslow@state.co.us

Amendment 61
Limits on State and Local Government Borrowing

Ballot Title: An amendment to the Colorado constitution concerning limitations on government borrowing, and, in connection therewith, prohibiting future borrowing in any form by state government; requiring voter approval of future borrowing by local governmental entities; limiting the form, term, and amount of total borrowing by each local governmental entity; directing all current borrowing to be paid; and reducing tax rates after certain borrowing is fully repaid.

Text of Proposal:

Be it Enacted by the People of the State of Colorado:

Section 1.
Article XI, section 3 is repealed and re-enacted to read, as stated in the original constitution: "The state shall not contract any debt by loan in any form."

Sections 4, 5, 6 (2), and 6 (3) are repealed as obsolete and superseded.

Section 6 (1) is repealed and re-enacted as section 6 to read: "Without voter approval, no political subdivision of the state shall contract any debt by loan in any form. The loan shall not be repealed until such indebtedness is fully paid or discharged. The ballot title shall specify the use of the funds, which shall not be changed."

Section 2.
Article X, section 20 is amended to add:

(4) (c) After 2010, the following limits on borrowing shall exist:

(i) The state and all its enterprises, authorities, and other state political entities shall not borrow, directly or indirectly, money or other items of value for any reason or period of time. This ban covers any loan, whether or not it lasts more than one year; may default; is subject to annual appropriation or discretion; is called a certificate of participation, lease-purchase, lease-back, emergency, contingency, property lien, special fund, dedicated revenue bond, or any other name; or offers any other excuse, exception, or form.

(ii) Local districts, enterprises, authorities, and other political entities may borrow money or other items of value only after November voter approval. Loan coverage in (i) applies to loans in (ii). Future borrowing may be prepaid without penalty and shall be bonded debt repaid within ten years. A non-enterprise shall not borrow if the total principal of its direct and indirect current and proposed borrowing would exceed ten percent of assessed taxable value of real property in its jurisdiction.

(iii) No borrowing may continue past it original term. All current borrowing shall be paid. Except enterprise borrowing, after each borrowing is fully repaid, current tax rates shall decline as voter-approved revenue changes equal to its planned average annual repayment, even if not repaid by taxes. Such declines do not replace others required. Future borrowing is void if it violates this paragraph (c), which shall be strictly enforced. Conflicting laws, rulings, and practices are repealed, overturned, and superseded.