



Colorado  
Legislative  
Council  
Staff

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**MEMORANDUM**

April 5, 2010

**THIS IS NOT A LEGAL OPINION**

**TO:** Interested Persons

**FROM:** Natalie Mullis, Chief Economist, (303) 866-4778

**SUBJECT:** Tax- and Debt-Related Ballot Initiatives — Amendment 60,  
Amendment 61, and Proposition 101

This memorandum summarizes the provisions of Amendment 60, Amendment 61, and Proposition 101. Copies of each measure and ballot title are attached. Some provisions are unclear and will require clarification from the state legislature and/or the judicial system. This memorandum is not a legal opinion and does not presume to accurately represent the intention of the proponents or any future interpretation by the state legislature or judicial system.

- Amendment 60 seeks to amend Section 20, Article X, Colorado Constitution (TABOR), to limit property taxes to local governments and require increases in state funding for K-12 education.
- Amendment 61 seeks to amend Article XI, and Section 20, Article X (TABOR), Colorado Constitution, to limit debt. Beginning in 2011, the amendment prohibits the state from borrowing in any form. Amendment 61 allows limited voter-approved borrowing by local governments and requires that a local government's tax rates decrease when the debt is fully repaid.
- Proposition 101 seeks to amend Article 25, Title 39, Colorado Revised Statutes, to limit state and local government revenue from income taxes and automobile- and telecommunications-related fees and taxes.

## **Amendment 60: Limit Property Taxes**

This measure seeks to amend Section 20, Article X, of the Colorado Constitution (TABOR). Some of the amendment's provisions are unclear and will require clarification from the state legislature and/or the judicial system. The amendment limits property taxes by:

- ✓ requiring school districts to reduce their non-debt mill levies by 50 percent between 2011 and 2020 and requiring the state to increase state spending on K-12 education by backfilling the loss in property taxes;
- ✓ repealing any property tax increase, extension, or abatement rate increase that occurred after 1992 without voter approval;
- ✓ requiring "authorities and enterprises" to pay property taxes and requiring local governments to lower tax rates to offset the additional revenue;
- ✓ repealing, presumably on Amendment 60's effective date, the results of local elections allowing governments to retain property tax revenue above their TABOR limit;
- ✓ placing limits on future ballot questions by:
  - requiring ballot questions that raise property taxes to be separate from debt-related questions;
  - requiring a ten-year sunset on voter-approved property tax rate increases; and
  - requiring a four-year sunset on voter-approved retention of revenue above a government's TABOR limit;
- ✓ legally defining certain actions as tax increases, including voter-approved revenue changes above a government's TABOR limit and the extension of an expiring tax;
- ✓ requiring property tax bills to list only property taxes and late charges. The measure does not specify how fees or special assessments currently levied on property tax bills should be assessed and does not address whether the intent is to eliminate such fees and special assessments;
- ✓ prohibiting enterprises and unelected boards from levying a mandatory fee or tax on property; and
- ✓ providing for the enforcement of the amendment, including, but not limited to:
  - requiring the state to enforce the amendment and conduct annual audits of property taxing districts; and
  - stating that the amendment supercedes conflicting laws, opinions, and constitutional provisions and shall always be strictly interpreted to favor taxpayers.

## **Amendment 61: Prohibition on Debt**

This measure seeks to amend Article XI and Section 20, Article X (TABOR), Colorado Constitution, to limit debt. Some of the amendment's provisions are unclear and will require clarification from the state legislature and/or the judicial system.

The amendments to article XI:

- ✓ prohibit any political subdivision of the state from contracting any debt by loan in any form without voter approval;
- ✓ require the ballot title for any question seeking voter approval to specify how the moneys to be borrowed are to be used and prohibits any subsequent change in the use of the borrowed moneys; and
- ✓ prohibit any voter-approved debt incurred from being repealed until it is fully repaid.

The amendment to Article X, Section 20, imposes specific limits on borrowing beginning in 2011. Specifically:

- ✓ The **state is prohibited** from borrowing money in any form.
- ✓ **Local governments** can borrow with voter approval only if:
  - the debt is bonded and repaid within ten years; and
  - for non-enterprises, the total principle does not exceed ten percent of the government's assessed taxable value of real property;
- ✓ no borrowing may continue past its original term and all current borrowing must be repaid; and
- ✓ whether or not the debt was not secured with taxes, a government's **tax rates are required to decrease** when the debt is fully repaid. The reduction in tax rates is equal to the amount that would generate the average annual debt payment. The measures defines this as "a voter-approved revenue change."

## Proposition 101: Limit State and Local Government Revenue

This measure seeks to amend Article 25, Title 39, Colorado Revised Statutes, to limit government revenue. Some of the amendment's provisions are unclear and will require clarification from the state legislature and/or the judicial system. Effective January 1, 2011, the amendment would limit state and local government revenue by:

- ✓ Reducing the **state income tax** rate over time from 4.63 percent to 3.5 percent. After initially falling to 4.5 percent in 2011, the rate is required to be reduced by one tenth of a percentage point each year for ten years, but only during years in which income tax revenue increases by more than 6.0 percent.
- ✓ Reducing **automobile-related** revenue by:
  - reducing annual **specific ownership taxes** over a four-year period to \$2 per new vehicle and \$1 for older vehicles;
  - eliminating **taxes on vehicle rentals or leases** over a four-year period;
  - prohibiting **taxes on vehicle sales rebates**;
  - reducing annual **registration and title fees** to \$10 per vehicle;
  - prohibiting tax, fine, parking, seizure, inspection, and new plate fees on vehicles or vehicle uses by state and local governments;
  - and defining "added charges" as tax increases.
- ✓ Reducing **telecommunication-related** revenue by:
  - prohibiting state and local governments from charging any fee or tax on, or aiding any program related to, telephone, pager, cable, television, radio, Internet, computer, satellite, or other telecommunication service customer accounts; and
  - defines "added charges" as tax increases.

The amendment exempts **telecommunications services** from state and local sales tax. The state has three fees related to telecommunications: the universal service charge, the uniform charge, and the relay service charge.

The state universal service charge is charged on telephone bills and funds the high cost support mechanism in the Public Utilities Commission (PUC). The mechanism subsidizes the cost of providing telecommunications services in rural areas.

The uniform charge is assessed on telephone bills and funds the Low-Income Telephone Assistance Program in the PUC. The program provides a discount for certain low-income subscribers. This fee also provides some funding to the Department of Human Services.

The telecommunications relay service charge is imposed on telephone bills and funds the disabled telephone users program, which provides access to telecommunications for disabled telephone users. This fee also funds reading services for the blind in the Department of Education and the Deaf and Hard of Hearing and Blind and Visually Impaired Commissions in the Department of Human Services.

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ORIGINAL  
NO CHANGES MADE

Be it Enacted by the People of the State of Colorado:  
Article X, section 20, The Taxpayer's Bill of Rights, is amended to add:

**(10) Property taxes.**

Starting in 2011:

(a) The state yearly shall audit and enforce, and any person may file suit to enforce, strictest compliance with all property tax requirements of this section. Successful plaintiffs shall always be awarded costs and attorney fees; districts shall receive neither. This voter-approved revenue change supersedes conflicting laws, opinions, and constitutional provisions, and shall always be strictly interpreted to favor taxpayers.

(b) Electors may vote on property taxes where they own real property. Adapting state law, all districts shall allow petitions to lower property taxes as voter-approved revenue changes. Property tax issues shall have November election notices and be separate from debt issues. Property tax bills shall list only property taxes and late charges. Enterprises and authorities shall pay property taxes; lower rates shall offset that revenue. Enterprises and unelected boards shall levy no mandatory fee or tax on property. Future property tax rate increases shall expire within ten years. Extending expiring property taxes is a tax increase. Prior actions to keep excess property tax revenue are expired; future actions are tax increases expiring within four years. Non-college school districts shall phase out equally by 2020 half their 2011 rate not paying debt; state aid shall replace that revenue yearly. Nothing here shall limit payment of bonded debt issued before 2011.

(c) These property tax increase, extension, and abatement rates after 1992 shall expire:

(i) Taxes exceeding state laws, tax policies, or limits violated, changed, or weakened without state voter approval. Those laws, policies, and limits, including debt limits, are restored.

(ii) Taxes exceeding the one annual fixed, final, numerical dollar amount first listed in their tax increase ballot title as stated in (3)(c).

(iii) Those rates without voter approval after 1992 of a ballot title as stated in (3)(c).

Petition proponents are:

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## **Ballot Title Setting Board**

### **Proposed Initiative 2009-2010 #12<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning government charges on property, and, in connection therewith, allowing petitions in all districts for elections to lower property taxes; specifying requirements for property tax elections; requiring enterprises and authorities to pay property taxes but offsetting the revenues with lower tax rates; prohibiting enterprises and unelected boards from levying fees or taxes on property; setting expiration dates for certain tax rate and revenue increases; requiring school districts to reduce property tax rates and replacing the revenue with state aid; and eliminating property taxes that exceed the dollar amount included in an approved ballot question, that exceed state property tax laws, policies, and limits existing in 1992 that have been violated, changed, or weakened without state voter approval, or that were not approved by voters without certain ballot language.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning government charges on property, and, in connection therewith, allowing petitions in all districts for elections to lower property taxes; specifying requirements for property tax elections; requiring enterprises and authorities to pay property taxes but offsetting the revenues with lower tax rates; prohibiting enterprises and unelected boards from levying fees or taxes on property; setting expiration dates for certain tax rate and revenue increases; requiring school districts to reduce property tax rates and replacing the revenue with state aid; and eliminating property taxes that exceed the dollar amount included in an approved ballot question, that exceed state property tax laws, policies, and limits existing in 1992 that have been violated, changed, or weakened without state voter approval, or that were not approved by voters without certain ballot language?

*Hearing May 6, 2009:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 10:27 a.m.*

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<sup>1</sup> Unofficially captioned “**Property Taxes**” by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Be it Enacted by the People of the State of Colorado:

Title 39, article 25 of the Colorado Revised Statutes

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SECRETARY OF STATE

**Reducing government charges**

**(1) Enforcement.** This voter-approved revenue change shall be strictly enforced to reduce government revenue. It is self-executing, severable, and a matter of statewide concern that overrides conflicting statutes and local laws. Prevailing plaintiffs only shall have their legal fees and court costs repaid. The state shall audit yearly compliance with this reform to reduce unfair, complex charges on common basic needs.

**(2) Vehicle.** Starting January 1, 2011: (a) All annual specific ownership taxes shall decrease in four equal yearly steps to: New vehicles, \$2; and other vehicles, \$1. All state and local taxes shall cease on vehicle rentals and leases, and on \$10,000, reached in four equal yearly steps, of sale prices per vehicle. Sale rebates are not taxable.

(b) All registration, license, and title charges combined shall total \$10 yearly per vehicle. Except those charges, and tax, fine, toll, parking, seizure, inspection, and new plate charges, all state and local government charges on vehicles and vehicle uses shall cease. Except the last six specific charges, added charges shall be tax increases.

**(3) Income.** The 2011 income tax rate shall be 4.5%. Later rates shall decrease 0.1% yearly, until reaching 3.5%, in each of the first ten years that yearly income tax revenue net growth exceeds 6%.

**(4) Telecommunication.** Starting January 1, 2011, except 911 fees at 2009 rates, no charge by, or aiding programs of, the state or local governments shall apply to telephone, pager, cable, television, radio, Internet, computer, satellite, or other telecommunication service customer accounts. Added charges shall be tax increases.

Proponents:

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## **Ballot Title Setting Board**

### **Proposed Initiative 2009-2010 #10<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado Revised Statutes concerning limits on government charges, and, in connection therewith, reducing vehicle ownership taxes over four years to nominal amounts; ending taxes on vehicle rentals and leases; phasing in over four years a \$10,000 vehicle sale price tax exemption; setting total yearly registration, license, and title charges at \$10 per vehicle; repealing other specific vehicle charges; lowering the state income tax rate to 4.5% and phasing in a further reduction in the rate to 3.5%; ending state and local taxes and charges, except 911 charges, on telecommunication service customer accounts; and stating that, with certain specified exceptions, any added charges on vehicles and telecommunication service customer accounts shall be tax increases.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado Revised Statutes concerning limits on government charges, and, in connection therewith, reducing vehicle ownership taxes over four years to nominal amounts; ending taxes on vehicle rentals and leases; phasing in over four years a \$10,000 vehicle sale price tax exemption; setting total yearly registration, license, and title charges at \$10 per vehicle; repealing other specific vehicle charges; lowering the state income tax rate to 4.5% and phasing in a further reduction in the rate to 3.5%; ending state and local taxes and charges, except 911 charges, on telecommunication service customer accounts; and stating that, with certain specified exceptions, any added charges on vehicles and telecommunication service customer accounts shall be tax increases?

*Hearing May 6, 2009:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 9:46 a.m.*

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<sup>1</sup> Unofficially captioned “**Motor Vehicle, Income, and Telecommunications Taxes and Fees**” by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

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 its 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.

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## **Ballot Title Setting Board**

### **Proposed Initiative 2009-2010 #21<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

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.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be 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?

*Hearing May 20, 2009:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 2:52 p.m.*

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<sup>1</sup> Unofficially captioned “**State and Local Debt Limitations**” by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.