

ANALYSIS

Amendment P Regulation of Games of Chance

Amendment P proposes amending the Colorado Constitution to:

- ◆ transfer the licensing of games of chance, such as bingo and raffles, from the Department of State to the Department of Revenue; and
- ◆ allow the state legislature to change the department of oversight and the requirement that an organization exist for five years with a dues-paying membership to qualify for a license.

Summary and Analysis

Colorado law allows certain nonprofit organizations to use bingo and raffles to raise money for charity. Bingo and raffles are games in which prizes are won based on randomly picked numbers. Since 1958, the Department of State has regulated these games by issuing licenses, collecting fees, conducting inspections, addressing complaints, and imposing penalties. Currently, organizations must have been in existence for five years with a dues-paying membership to qualify for a license.

Amendment P allows the state legislature to choose a state agency to regulate bingo and raffles. The legislature may also change the requirement that an organization must have operated for five years with a dues-paying membership to qualify for a license. During the 2010 session, the state legislature passed a bill selecting the Department of Revenue to regulate bingo and raffles if Amendment P is adopted.

The Department of Revenue currently regulates casino gambling, licenses casinos and casino employees, conducts compliance audits, and approves casino gambling devices. The department also operates the Colorado Lottery.

Argument For

1) The Department of Revenue currently regulates most gaming in the state and has established a framework to monitor financial resources and transactions. In a 2008 report to the state legislature, both the departments of Revenue and State found that it would be more practical and efficient to consolidate the regulation of these games in the Department of Revenue.

Argument Against

1) For over 50 years, the Department of State has regulated bingo and raffles, and there is no need to move this oversight to another state agency. A 2007 state regulatory agency report concluded that the Department of State has adequately performed bingo licensing and enforcement functions, and found no compelling reason to move bingo regulation to the Department of Revenue. During an economic downturn, the state should not spend an estimated \$116,000 to move the regulation of bingo and raffles.

Estimate of Fiscal Impact

Under Amendment P, the state will have estimated one-time costs of \$116,000 in budget year 2010-11 to move regulation of bingo and raffles to the Department of Revenue. The department requires computer software and other items to bring bingo and raffle licensing into its current gaming operations. These costs will be paid with existing revenue from bingo and raffle licenses.

Amendment Q
Temporary Location for the State Seat of Government

Amendment Q proposes amending the Colorado Constitution to:

- ◆ establish a process for moving the state seat of government to a temporary location during a declared disaster emergency.

Summary and Analysis

Since statehood, the Colorado Constitution has designated Denver as the state seat of government. The legislature is prohibited from moving the seat of government out of Denver unless it refers a constitutional amendment to the voters at a general election. The state constitution requires that an amendment to move the state seat of government be approved by at least two-thirds of those voting on the issue.

Amendment Q creates a process for temporarily moving the seat of government if a disaster emergency affects the ability of state government to operate in Denver. It defines a disaster emergency as the occurrence or imminent threat of widespread or severe damage, injury, illness, or loss of life or property resulting from an epidemic or a natural, man-made, or technological event. For the purpose of addressing such emergencies, it also defines the seat of government as the location of the legislative, executive, and judicial branches of the state of Colorado.

After declaring a disaster emergency, and after consulting with the Chief Justice of the Colorado Supreme Court, the President of the Senate, and the Speaker of the House of Representatives, the Governor may designate a temporary meeting location for the state legislature. The legislature must meet at that location and decide whether to pass a bill designating a temporary location for the seat of government outside of Denver. Such legislation must include a date when the temporary location of the seat of government expires. Amendment Q does not change the process for permanently moving the state seat of government. Currently, 36 other states have created a legal process to temporarily move the state seat of government in an emergency.

Argument For

1) The state constitution does not provide a process to temporarily relocate the state seat of government — even during a disaster emergency. Amendment Q provides the legal authority for the temporary movement of state government in the event of a declared disaster emergency. It also enables state government officials to plan for and respond to a disaster emergency and continue essential government services without requiring a statewide vote on whether to move the state seat.

Argument Against

1) The measure may be unnecessary because all three branches of state government have powers under current law and rules to independently manage their operations and address disaster emergencies. For example, legislative rules allow the legislature to meet temporarily in another location in Denver or elsewhere in the state during a Governor-declared disaster emergency. The Governor also has powers to address disasters including ordering evacuations and reassigning state employees.

Estimate of Fiscal Impact

Amendment Q is not expected to affect state or local government revenue or spending.

Amendment R
Exempt Possessory Interests in Real Property

Amendment R proposes amending the Colorado Constitution to:

- ◆ eliminate property taxes for individuals or businesses that use government-owned property for a private benefit worth \$6,000 or less in market value.

Summary and Analysis

Property taxes and possessory interests. Property taxes are primarily based on the value of land, houses, other buildings, and business equipment. Individuals and businesses pay property taxes to various local governments, such as cities, counties, school districts, and special districts, each of which imposes its own tax rate on property. Property taxes pay for a variety of local government services, including public education, police and fire services, roads and bridges, parks and recreation facilities, hospitals, and libraries.

When an individual or business uses government-owned land or equipment for private purposes, a possessory interest is created. Although government-owned property is exempt from taxes, the benefit that a business or individual obtains from using that land or equipment is not. For example, some ranchers lease land from the federal government for cattle grazing. Other businesses lease land to provide a recreational activity, such as skiing or river rafting, or are given a contract to provide a specific service on public land, such as operating a snack bar at a national park. Under current law, the value of a private benefit is considered a possessory interest and is subject to property taxes.

The market value of all possessory interests in Colorado is about \$300 million, which is less than 0.1 percent of the total market value of all property in the state. At this value, total property tax payments for possessory interests are approximately \$6 million annually. There are about 7,000 possessory interests in the state, which pay an average of \$850 in property taxes annually.

How does Amendment R change the taxation of possessory interests? Starting in 2012, Amendment R exempts a possessory interest from property taxation if the market value of the interest is \$6,000 or less, which equates to a maximum tax payment of \$120 annually, depending on local tax rates. For example, most cattle grazing leases with the federal government have a market value below \$6,000, and therefore this private benefit would not be taxed. In contrast, the value of private benefits obtained by ski areas exceed the \$6,000 threshold and will continue to be taxed at the full value. In budget year 2012-13, the measure is expected to reduce property taxes statewide by \$160,000. Every two years, the \$6,000 threshold is increased to account for inflation.

Argument For

1) Amendment R reduces the administrative burden of collecting a tax that in many cases costs more money to collect than it brings in to local governments. For example, the majority of possessory interests in the state are for agricultural leases, many of which owe less than \$10 in property taxes. The cost of administering this tax — mailing notices, maintaining tax rolls, and collecting and enforcing the tax — often exceeds this amount.

Argument Against

1) Amendment R provides an unfair tax break for businesses and individuals who use government-owned land and puts a greater tax burden on others to pay for local government services. The state constitution requires that taxes be charged uniformly for all taxpayers. A small tax bill does not justify exempting a business or individual from paying the tax on the private benefit they enjoy on government land. Simple fairness demands that all businesses and individuals pay taxes, no matter how small.

Estimate of Fiscal Impact

State expenditures. Public schools are funded from a combination of state and local revenue. Since Amendment R reduces the amount of local revenue for schools, the state's portion of school funding will increase by approximately \$46,000 beginning in budget year 2012-13.

Local government impact. Amendment R is expected to reduce property taxes for local governments by up to \$160,000 per year, beginning in budget year 2012-13. Of this amount, property taxes for school districts are expected to decrease by approximately \$46,000. In addition, minor cost savings may occur in some counties because of a reduced number of mailings and fewer properties to process and value.

Amendment 60
Property Taxes

Amendment 60 proposes amending the Colorado Constitution to:

- ◆ repeal the current voter-approved authority of local governments to keep property taxes above their constitutional limits;
- ◆ establish expiration dates for future voter-approved property tax increases;
- ◆ cut local property tax rates for public schools' operating expenses in half over ten years and replace this money with state funding each year;
- ◆ require publicly owned enterprises to pay property taxes and reduce local property tax rates to offset the new revenue; and
- ◆ provide new voting rights to certain property owners in Colorado and permit citizens to petition all local governments to reduce property taxes.

Summary and Analysis

Amendment 60 changes several aspects of Colorado's property tax system to reduce the amount of property taxes paid by individuals and businesses to school districts, counties, special districts, cities, and towns. The measure phases in a reduction in school district property taxes over ten years and requires that the reduced property taxes be replaced with state funding. Table 1 shows the projected impact of the amendment in today's dollars on an average homeowner and commercial business, school districts, and state government, in both the first year and when the measure is fully implemented. The fully implemented impacts provide the best projections of the measure's final effects.

In the first year, property taxes for school districts are expected to fall by \$337 million, which the measure requires the state to replace. This represents a property tax reduction of the same amount for individuals and businesses. An average homeowner's property tax bill is projected to fall by \$87 and the property taxes for an average commercial business are estimated to fall by \$1,181.

When the measure is fully implemented, the property tax reduction for school districts is estimated to increase the state's obligation for kindergarten through twelfth grade education (K-12) by \$1.5 billion, which represents a property tax decrease of the same amount for individuals and businesses. An average homeowner will pay \$376 less and an average commercial business will pay \$5,106 less in property taxes annually. In future years, the actual amounts will differ as inflation and growth increase the size of the economy, but the comparable budget impacts on taxpayers and governments are expected to remain consistent over time. Cities, towns, counties, and special districts will also lose property taxes, but the amount will vary by locality.

Table 1. Selected Impacts of Amendment 60

Impacted Group	Current Law	Amendment 60		Difference	
		First Year	Fully Implemented	First Year	Fully Implemented
Impacts on Average Taxpayers					
Property Tax Payment for Average Homeowner (\$295,000 home)	\$1,638	\$1,551	\$1,262	-\$87	-\$376
Property Tax Payment for Average Commercial Business Owner with a Value of \$1.1 million	\$22,254	\$21,073	\$17,148	-\$1,181	-\$5,106
K-12 Education Funding Shift					
Property Tax Collections for School Districts	\$3.3 billion	\$3.0 billion	\$1.8 billion	-\$0.3 billion	-\$1.5 billion
State Expenditures for K-12 Education	\$3.7 billion	\$4.0 billion	\$5.2 billion	\$0.3 billion	\$1.5 billion

Background and current law. Property taxes are based primarily on the value of land, houses, other buildings, and business equipment. Individuals and businesses pay property taxes to various local governments, such as cities, counties, school districts, and special districts, each of which imposes its own tax rate on property. School districts and counties receive approximately 77 percent of all property taxes collected. Publicly owned enterprises, such as city water and sewer systems, municipal airports, and most state universities, are exempt from paying property tax.

Property taxes are spent on a variety of local government services, including public education, police and fire services, roads and bridges, public water and sewer systems, parks and recreation facilities, hospitals, and libraries. The degree to which local governments rely on property taxes to pay for services varies. Some special districts, such as fire protection districts, get almost all of their revenue from property taxes, while many city governments get less than 5 percent of their funding from property taxes.

Constitutional limits on property taxes. The state constitution currently restricts both the amount of total revenue and property tax revenue that a local government can collect each year. Annual increases for each are capped at the rate of inflation plus a measure of local growth, such as student enrollment in the case of a school district. The constitution also requires voter approval for a local government to increase property tax rates or to keep and spend total revenue or property tax revenue above the government's constitutional limit.

How does Amendment 60 change how public schools are funded? Public schools in Colorado are funded from a combination of federal, state, and local sources. Voters in some school districts have approved additional property taxes to repay loans used to build schools or other buildings. In these districts, there is a property tax for operating schools and a separate property tax to repay loans. Amendment 60 requires all districts to cut their 2011 property tax rates for operating schools in half by 2020. Property tax rates for repaying loans are unchanged. The required reduction in tax rates must be done in equal yearly amounts over ten years. Amendment 60 requires the local school district funding eliminated by this rate reduction to be replaced each year with state funding.

How does Amendment 60 affect the state budget? Currently, the state spends most of its general operating budget on: preschool through higher education; health care; prisons; the courts; and programs that help low-income, elderly, and disabled people. K-12 education funding accounts for 46 percent of this budget, which is primarily funded by sales and income taxes. Because Amendment 60 requires that the reduction in local property tax revenue be replaced with state funding, the obligation for public schools will increase to an estimated 67 percent of the state's general operating budget, once the measure is fully implemented. To meet this increased obligation to schools, the state will have to decrease spending and services in other areas, increase fees for services, or some combination of both.

How does Amendment 60 affect property taxes for all local governments? Like school districts, cities, counties, and special districts are also funded from a combination of federal, state, and local sources. Under current law, taxpayers in many communities have voted to broadly exempt their local governments from the constitutional limit related to total revenue and spending. Currently, voters in 76 percent of municipalities, 81 percent of counties, and 98 percent of school districts have voted to allow government to keep and spend revenue above the constitutional limit, either temporarily or permanently. This measure would reimpose a property tax limit for those governments, leaving the broader revenue exemption unchanged.

Beginning in 2011, Amendment 60 repeals the current voter-approved authority of local governments to permanently keep property taxes above their constitutional limits. Local governments are not required to refund the property taxes that were retained in the past. However, local governments that collect property taxes above their property tax limit in the future will have to refund money. A new election must be held to allow a local government to keep future property taxes above its constitutional limit for up to four years at a time. The measure will also reduce the property tax collections of most local governments by reducing property tax rates, and limiting the duration of future property tax increases.

How does Amendment 60 affect publicly owned enterprises? Amendment 60 requires publicly owned enterprises to pay property taxes. Under current law, state enterprises, such as most public universities, do not pay property taxes on campus buildings or equipment. Similarly, local enterprises, such as Denver International Airport, pay no property taxes. The new property taxes collected from these publicly owned enterprises must be offset by lower property tax rates for homeowners, businesses, and other property taxpayers. For example, if the University of Colorado had to pay property taxes in Boulder County, its property tax bill is estimated to range from \$11 million to \$20 million per year, depending on how the property is valued. This new revenue would be offset by lower tax rates in Boulder County, providing property owners in the county with tax reductions of the same amount. The amendment prohibits publicly owned enterprises from charging either a mandatory fee or a tax on property.

How does Amendment 60 change property tax elections? Amendment 60 proposes changing several aspects of the way property tax issues are addressed in local elections. Under current law, a property owner who is a registered Colorado voter may vote on ballot questions in his or her primary place of residence and in special district elections wherever he or she owns property in Colorado. Amendment 60 allows Colorado property owners to vote on city, county, and school district property tax issues in any Colorado location where they own property, regardless of their primary place of residence in the state.

Under current law, citizens may petition cities to increase or decrease property taxes, but may not petition counties, schools, or special districts. Under this measure, all local governments must permit petitions to lower property taxes.

Typically, when a local community has voted to permanently exempt its local government from the constitutional limit on property tax collections, that voter-approved decision is not automatically repealed at a future date. Under Amendment 60, any future vote to allow a local government to retain revenue above its constitutional limit is repealed within four years after passage. Any future vote to increase property tax rates is repealed within ten years. Any extension of an expiring property tax is considered to be a tax increase under the measure, and as such, must be presented as a tax increase on the ballot.

Currently, a single ballot question may ask voters if a local government may borrow money, and if property tax rates may be increased to repay that loan. Under this measure, ballot questions that allow a government to borrow money must be separate from ballot questions that raise property taxes.

How is Amendment 60 enforced? The amendment requires the state to annually audit all cities, counties, school districts, and other types of local governments to ensure compliance with all requirements of the amendment. Citizens are also allowed to file lawsuits to enforce compliance.

How does Amendment 60 interact with two other measures on the ballot? Amendment 60 along with Amendment 61 (see page 10) and Proposition 101 (see page 21) 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 60 reduces local property taxes, while requiring state expenditures for K-12 education to increase by an amount that offsets the property tax loss for school districts. Amendment 61 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. 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 \$3.4 billion when the measures are fully implemented. However, after the state reimburses school districts, the net impact on local government budgets would be at least \$581 million in the first year and \$1.8 billion when fully implemented.

Total taxes and fees paid by households and businesses are estimated to decrease by \$1.7 billion in the first year and \$5.5 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 \$1,360 per year when fully implemented.

Arguments For

1) Amendment 60 provides property tax relief for Coloradans in a tough economic climate without reducing K-12 education funding. For example, the measure will provide seniors who recently lost a property tax exemption with additional tax relief. Allowing business owners to keep more of their income may spur investment and help the economy recover more quickly. School funding is unchanged because the state is required to replace the local property taxes phased out by the amendment with state funding.

2) Amendment 60 strengthens citizen control over local government taxes by setting tax expiration dates and requiring that an extension of an expiring tax be presented to the voters as a tax increase. The amendment also allows citizens to petition local governments to lower taxes, and it prevents unelected boards, such as the Denver Water Board, from imposing mandatory fees or taxes on property. In addition, limiting votes on property taxes to November elections, when voter turnout is typically higher, may lead to greater citizen awareness and participation.

3) Amendment 60 removes a competitive advantage that publicly owned enterprises have over private businesses. Unlike private facilities, publicly owned enterprises, such as parking lots and golf courses, do not currently pay property taxes. The additional revenue will lower the local property tax rate, providing further relief for property owners in the district.

Arguments Against

1) Amendment 60 overturns nearly two decades of voter-approved tax decisions that fund important services provided by counties, cities, school districts, and special districts. The amendment enables voters statewide, in this election, to reverse hundreds of decisions of local voters to fund services like fire and police protection, roads, parks and recreational facilities, water and sewer systems, and libraries. Local voters are best equipped to choose the level and type of services needed in their communities and the means to pay for those services.

2) Amendment 60 will require the state to cut funding for many important services, which may result in job losses throughout Colorado. Because the state constitution requires that the state have a balanced budget and limits the ability of the legislature to raise taxes, every new dollar spent on education will be taken away from other services. The \$1.5 billion increase in state K-12 education spending nearly equals the amount the state currently spends on courts, prisons, and human services. This amendment requires the state to spend so much more on public schools that these or other state functions will have to be cut or eliminated in order to keep the state budget balanced.

3) Amendment 60 may leave many citizens worse off financially, depending on where they live. People who live in areas with few publicly owned enterprises, such as the eastern plains, will receive some property tax reductions, but may pay more in fees to use the services of public enterprises located elsewhere. For example, if the University of Colorado must pay property taxes, students statewide may pay more in tuition, but property owners in Boulder County will get most of the tax savings. Similarly, if Denver International Airport must pay property taxes, airline customers statewide may pay more in fees, but only property owners in Denver will get the property tax reduction.

Estimate of Fiscal Impact

Local revenue. Amendment 60 reduces property taxes for individuals and businesses in several ways. This reduces the amount of tax revenue that cities, counties, school districts, and special districts will receive. The measure phases in a reduction in school district property taxes over ten years. In the first year, school district property taxes are projected to fall by \$337 million, reducing property taxes paid by an average homeowner and an average business owner by \$87 and \$1,181, respectively. Once the measure is fully implemented, property taxes are estimated to fall by \$1.5 billion annually in today's dollars, reducing property taxes paid by an average homeowner and an average business owner by approximately \$376 per year and \$5,106 per year, respectively. Additionally, local governments currently authorized to keep property tax revenue in excess of the constitutional limit, will have their property tax revenue reduced by an indeterminate amount.

State expenditures. By reducing the amount of local property taxes collected for school districts, statewide expenditures for public schools will increase by an estimated \$337 million in the first year of implementation and by \$1.5 billion per year in today's dollars once the measure is fully implemented. To meet this increased obligation to schools, the state will have to decrease spending and services in other areas, increase fees for services, or enact some combination of both.

The state must make a yearly audit of compliance with the property tax provisions and strictly enforce all requirements in the amendment. The Office of the State Auditor is responsible for reporting the financial and operational performance of agencies of state government; however, the office does not have a process for auditing local government compliance with property tax laws. Amendment 60 expands the obligations of the State Auditor's Office. It is estimated that this provision will require the addition of 1.5 new staff to coordinate year-round auditing of local government and to manage contracting with independent certified public accounting (CPA) firms. The cost for these new staff and CPA contracts is estimated to be \$800,000 each year.

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.		
<i>State Departments</i> Department of Transportation State highways and roads	<ul style="list-style-type: none"> • Voter approval required • No dollar limit on borrowing 	<ul style="list-style-type: none"> • Prohibited
<i>State Enterprises</i> 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	<ul style="list-style-type: none"> • 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.		
<i>State Departments and Enterprises</i> Department of Corrections Prisons Department of Higher Education Academic facilities State Treasurer Short-term borrowing and K-12 school construction and renovation	<ul style="list-style-type: none"> • No voter approval required • No dollar limit on borrowing • Legislative authorization required 	<ul style="list-style-type: none"> • 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 and 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 their 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	<ul style="list-style-type: none"> • Voter approval required • Borrowing capped at 20% of assessed property values for most districts 	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Voter approval required • Borrowing capped at 3% of actual (market) property values 	
Cities Public buildings such as jails and recreation centers	<ul style="list-style-type: none"> • Voter approval required 	
Special Districts <i>Water and sewer districts:</i> improvements to water and wastewater treatment plants <i>Fire protection districts:</i> buildings, vehicles, and equipment <i>Regional Transportation District (RTD):</i> mass transit facilities and vehicles	<ul style="list-style-type: none"> • Voter approval required in some instances 	
Enterprises <i>Denver International Airport:</i> airport facilities and runways	<ul style="list-style-type: none"> • No voter approval required • No dollar limit on borrowing 	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • No voter approval required • No dollar limit on borrowing • Subject to local board approval 	<ul style="list-style-type: none"> • 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 about \$940 million. 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 \$225 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 5) and Proposition 101 (see page 21) 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 \$3.4 billion when the measures are fully implemented. However, after the state reimburses school districts, the net impact on local government budgets would be at least \$581 million in the first year and \$1.8 billion when fully implemented.

Total taxes and fees paid by households and businesses are estimated to decrease by \$1.7 billion in the first year and \$5.5 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 \$1,360 per year when fully implemented.

Arguments For

- 1) 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 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 \$940 million 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 and 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 \$1.1 billion per year when fully implemented over the next 40 years. This estimate includes about \$940 million 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 about \$274 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	\$0.9 billion	\$225
Total	\$27.0 billion	\$1.1 billion	\$274

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

Amendment 62
Application of the Term Person

Amendment 62 proposes amending the Colorado Constitution to:

- ◆ apply the term "person," as used in the sections of the Colorado bill of rights concerning inalienable rights, equality of justice, and due process of law, to every human being from the beginning of the biological development of that human being.

Summary and Analysis

Like the U.S. Constitution, the Colorado Constitution has a bill of rights. The Colorado bill of rights contains the rights of the people of Colorado and outlines the principles of state government. Amendment 62 addresses the application of the term "person" for sections 3, 6, and 25 of the Colorado bill of rights. These sections concern inalienable rights, equality of justice, and due process of law.

Inalienable rights. Section 3 asserts that all persons have natural, essential, and inalienable rights to enjoy life and liberty, to acquire, possess, and protect property, and to seek and obtain safety and happiness. These rights include the right to survive, the right to defend against threats to safety, the freedom to make independent decisions, and the right to work and obtain economic goods. Inalienable rights are fundamental to all persons and are not created by laws and government. The constitution requires that the government protect these rights, although the government is permitted to limit the exercise of rights as necessary for the welfare and general security of the public.

The constitutional provision regarding inalienable rights has been applied by courts, for example, to guarantee the right of an individual to pursue a legitimate trade or business, to acquire property without fear of discrimination, and to travel freely around the state.

Equality of justice. Section 6 requires the courts in Colorado to be open to all persons. If a person's legal rights are violated, this section guarantees that a judicial remedy is available.

Courts have determined that this section applies to a variety of circumstances. For instance, individuals are denied equal access to justice if juries are chosen in a discriminatory manner. Additionally, all persons have the same right to use the courts regardless of their financial resources.

Due process of law. Section 25 ensures that no person is deprived of life, liberty, or property without due process of law. Due process of law requires the government to follow consistent procedures before a person's fundamental rights are taken away. The courts have determined, for example, that due process requires the government to provide notice and a fair hearing before detaining a person, taking a person's property, or sentencing a person to death.

Application of the term "person." Sections 3, 6, and 25 of the Colorado bill of rights do not currently address the application of the term "person." Amendment 62 applies the term "person" in a manner that extends inalienable rights, equal access to justice, and due process of law from the beginning of biological development. The measure does not define the phrase "the beginning of biological development."

Arguments For

1) Amendment 62 ensures that all human life is afforded equal protection under the law. Currently, this right is not recognized until birth. Amendment 62 acknowledges that a new human life is created at the beginning of biological development and gives all human life, whether born or unborn, equal rights and protections.

2) The measure may establish the legal foundation to end the practice of abortion in Colorado. The U.S. Supreme Court decision that legalized abortion in the United States found that the unborn were not included in the word "person" as used in the U.S. Constitution. If each human life, from the beginning of biological development, is recognized as a person under Colorado's bill of rights, Amendment 62 may provide support for legal challenges to prohibit abortions in Colorado.

3) Amendment 62 establishes a legal definition of the term "person" as used in sections 3, 6, and 25 of the Colorado bill of rights. Because these sections do not currently contain a definition of the term "person," interpretation of the word is subjective, which may lead to the rights granted by sections 3, 6, and 25 of the Colorado bill of rights being inconsistently applied.

Arguments Against

1) Amendment 62 may limit the ability of individuals and families to make important health care decisions. The measure could be used to prohibit or limit access to medical care, including abortions for victims of rape or incest, and even when a woman's life is in danger. Amendment 62 may also limit access to emergency contraception, commonly used forms of birth control, and treatment for miscarriages, tubal pregnancies, cancer, and infertility. The measure may restrict some stem cell research that could lead to life-saving therapies for a variety of disabilities and illnesses.

2) Amendment 62 allows government intrusion in the privacy of the doctor-patient relationship and could limit the exercise of independent medical judgment. The measure could restrict a doctor from using certain medical procedures and treatments. Further, "the beginning of biological development" cannot be easily and conclusively pinpointed. Therefore, the measure may subject doctors and nurses to legal action for providing medical care to a woman of child-bearing age if that care could affect a "person" other than the identified patient.

3) The effects of Amendment 62's change to the constitution are unclear. The measure applies certain rights from "the beginning of biological development," a term which is not defined within the measure, has no established legal meaning, and is not an accepted medical or scientific term. The legislature and the courts will have to decide how a wide variety of laws, including property rights and criminal laws, will apply from "the beginning of biological development."

Estimate of Fiscal Impact

No immediate impact to state revenue or expenditures is expected because Amendment 62 does not require that any specific actions be taken or services provided. If legislation is adopted, or the courts determine that the measure requires the state to provide new services, state spending may increase.

Amendment 63
Health Care Choice

Amendment 63 proposes amending the Colorado Constitution to:

- ◆ add health care choice as a constitutional right;
- ◆ prohibit the state from requiring or enforcing any requirement that a person participate in a public or private health coverage plan; and
- ◆ restrict the state from limiting a person's ability to make or receive direct payments for lawful health care services.

Summary and Analysis

Amendment 63 adds health care choice as a right listed in the bill of rights in the Colorado Constitution. The measure specifies that the right to health care choice limits the ability of state government to either require health insurance or any other type of health care coverage, or to restrict direct payments for health care services.

Health care coverage requirements. Colorado law does not require a person to have any type of health care coverage. A person may purchase coverage from a private insurer; participate in an employer-provided health plan; choose to enroll in a public program such as Medicaid and Medicare, if eligible; or have no coverage. If a person does not have health care coverage, or if his or her plan does not cover a specific service, services may be paid for out-of-pocket.

In March 2010, a package of federal health care laws was adopted by the United States Congress and signed by the President. Beginning in 2014, most people are required to provide proof of acceptable health care coverage to the Internal Revenue Service. Persons without coverage are subject to a federal tax penalty.

Payments for health care services. Currently, health care services can be paid for by health insurance companies, the government, patients, or some combination of these sources. When an individual has coverage, a third party, such as an insurance company or the government, negotiates with the provider to establish a price for health care services. Direct payments refer to when a person pays a provider directly, without seeking approval or reimbursement from a third party. No state or federal law prohibits a person from seeking services outside of a health care plan and paying a provider directly.

Effects of Amendment 63. Amendment 63 does not change current health care coverage requirements, but it places restrictions on what the state may require in the future. For example, the state may offer new health coverage plans but, under Amendment 63, could not require a person to join a plan. The measure prohibits the state from: requiring a person to obtain health care coverage, regulating direct payments, or penalizing a person for either participating or not participating in any particular plan. The measure does not apply to workers' compensation insurance or mandatory emergency medical care.

Amendment 63 also prohibits the state from enforcing health care coverage requirements at the direction of the federal government. However, the measure does not impact the federal government's ability to enforce the coverage requirements created by federal health care laws. Coloradans are still required to have acceptable coverage under federal law beginning in 2014.

Arguments For

1) Making decisions about health care is a basic right. Decisions about how to pay for health care, and what health care to pay for, are better left to individuals rather than to the government. Any government requirement to have health care coverage interferes with a person's ability to manage his or her own health care and spending. Amendment 63 maintains a person's right to choose the most appropriate coverage for his or her situation and prevents the state from requiring a person to join any specific health care plan.

2) Amendment 63 protects the ability of each person to determine how to pay for health care services, including making direct payments to providers. This measure prevents the state from requiring that only the government or health insurance companies control payments and approval for all services. Preserving the ability to pay for services directly allows a person to receive care at his or her choosing, even if the government or insurance companies place limits on health care services.

3) This measure is a statement in opposition to government-controlled health care. It reinforces the pending lawsuits challenging the federal government over the new health care laws and is in line with the actions of six states that have adopted measures similar to Amendment 63. The measure affirms Colorado as a state that values freedom of choice in health care services.

Arguments Against

1) Amendment 63 limits the state's options to improve access to health care coverage, which could hurt the people who need it the most and increase costs for everyone. In Colorado, over 750,000 people, or approximately 15 percent of the population, do not have health insurance. Expanding health insurance coverage prevents the insured population from having to cover the costs of the uninsured, increases access to health care, and decreases the rate of medical bankruptcy. Society benefits when more people have health care coverage.

2) Health care is a vital service and the delivery of these services may be further complicated by the effects of the measure. By establishing an undefined right in the constitution, the state will have to spend time and resources interpreting the meaning. Current and future health care laws and regulations could also be challenged if they conflict with the measure. Ultimately, the courts will interpret what the right to "health care choice" means.

3) A state constitutional amendment cannot overturn federal law. Amendment 63 may mislead voters into thinking they can opt out of federal health care coverage requirements. Regardless of whether this measure passes, federal law still requires Coloradans to have coverage beginning in 2014. This measure is primarily a statement in opposition to federal health care reform. Further, this measure is unnecessary because people can already pay doctors directly for health care services, and no law restricts this practice.

Estimate of Fiscal Impact

Amendment 63 is not expected to affect state or local government revenue or spending.

Proposition 101
Income, Vehicle, and Telecommunication Taxes and Fees

Proposition 101 proposes amending the Colorado statutes to:

- ◆ reduce the state income tax rate from 4.63 percent to 4.5 percent in 2011, and to 3.5 percent gradually over time;
- ◆ reduce or eliminate taxes and fees on vehicle purchases, registrations, leases, and rentals over the next four years;
- ◆ eliminate all state and local taxes and fees on telecommunication services, except 911 fees; and
- ◆ require voter approval to create or increase fees on vehicles and telecommunication services.

Summary and Analysis

Proposition 101 reduces or eliminates various taxes and fees on income, vehicles, and telecommunication services. Table 1 shows the annual impact of Proposition 101 on three different households, and Table 2 shows the impact on government budgets.

Some of the reductions in Proposition 101 are phased in over time. The impact will be smaller in the first year and will grow in size over the next 15 to 20 years. Estimates of the impact in the first year, as well as the impact once the reductions are fully implemented, are based on today's dollars. The fully implemented impacts provide the best estimates of the measure's final effects. Although the actual dollar amounts will differ in the future as inflation and growth increase the size of the economy, the comparable budget impacts on taxpayers and governments are expected to remain consistent over time.

In the first year, the tax and fee reductions are expected to be \$1.4 billion — \$744 million in state reductions and \$629 million in local government reductions. Once fully implemented, the impact is expected to be \$2.9 billion in today's dollars — \$1.9 billion in state reductions and \$1.0 billion in local government reductions.

Impact on households and businesses. Table 1 shows the estimated change in tax and fee bills for three different households as a result of Proposition 101, in both the first full year the measure is in effect and when the measure is fully implemented, in today's dollars. Businesses will also experience reductions in taxes and fees. Households and businesses will be impacted differently depending on annual income, vehicles owned, vehicles purchased, and the amount paid for phone and cable service. Households and businesses will experience additional reductions during years in which vehicles are rented, leased, or purchased.

**Table 1. Annual Change in Representative Households' Tax and Fee Bills
Due to Proposition 101, First-Year Impact and When Fully Implemented^a**
(In Today's Dollars)

	Income Taxes	Vehicle Fees & Taxes	Telecom Fees & Taxes	Total
Household A	<i>Household Description:</i> Annual Income: \$35,000; owns a 10-year-old car that had an original retail price of \$13,000; \$60 monthly phone bill.			
First Year	-\$20	-\$72	-\$43	-\$135
Fully Implemented	-\$185	-\$73	-\$43	-\$301
Household B	<i>Household Description:</i> Annual Income: \$55,000; owns a 5-year-old car that had an original retail price of \$17,000 and a 5-year-old car that had an original retail price of \$23,500; \$130 monthly combined phone bills.			
First Year	-\$40	-\$180	-\$93	-\$313
Fully Implemented	-\$320	-\$295	-\$93	-\$708
Household C	<i>Household Description:</i> Annual Income: \$110,000; owns a 2-year-old car that had an original retail price of \$37,500 and a 3-year-old car that had an original retail price of \$26,000; \$180 monthly combined phone bills.			
First Year	-\$90	-\$327	-\$128	-\$545
Fully Implemented	-\$780	-\$883	-\$128	-\$1,791

* Totals may not sum due to rounding.

^a This analysis assumes a 7.0 percent combined state and local sales tax rate. Telecommunication tax and fee reductions are fully implemented in 2011. Some vehicle tax and fee reductions are fully implemented in 2011 and some are phased in between 2011 and 2014. It will take an estimated 15 to 20 years for the income tax rate reductions to be fully implemented.

Impact on government budgets. Table 2 shows the estimated impact of Proposition 101 on tax and fee collections used for local government budgets, the state's general operating budget, and transportation budgets in the first year and once it is fully implemented. All of these impacts are shown in today's dollars. More information on the impact on each type of budget follows. As a result of the decrease in tax and fee collections, state and local governments will have to decrease spending and services, increase fees to pay for services, or some combination of both.

**Table 2. Annual Change in Government Tax and Fee Collections
Due to Proposition 101, First-Year Impact
and When Fully Implemented
(In Today's Dollars)**

Government Collections	Collections under Current Law	Collections under Prop 101	Change*
Vehicle Specific Ownership Taxes and Sales Taxes Collected by Local Governments	\$3.9 billion	\$3.4 billion First Year	-\$530 million First Year
		\$3.0 billion Fully Implemented	-\$900 million Fully Implemented
Sales Taxes, Income Taxes, and Telecommunication Fees Collected by the State Government	\$7.2 billion	\$6.7 billion First Year	-\$450 million First Year
		\$5.5 billion Fully Implemented	-\$1.6 billion Fully Implemented
Vehicle Registration Fees and State Rental Fees Collected for State and Local Transportation Budgets	\$440 million	\$50 million Fully Implemented During First Year	-\$390 million Fully Implemented During First Year

**Totals may not sum due to rounding.*

Impact on local government budgets. Local governments will collect less money from vehicle specific ownership taxes and sales taxes. Local governments affected by the measure include school districts, cities, counties, and special districts. Some examples of special districts include recreation, fire, water, sewer, and public transportation districts. The money collected in taxes and fees pays for different services depending on the local government. Most of the money is used for education, public safety, roads, trash service, and parks and recreation. State law requires that school districts be reimbursed by the state for most of their loss in tax collections.

Impact on the state government operating budget. The state government will collect less money from sales taxes, income taxes, and telecommunication fees. The state spends 96 percent of its general operating budget on: preschool through higher education; health care; prisons; the courts; and programs that help low-income, elderly, and disabled people. Proposition 101 will reduce the amount of money available to pay for the state's general operating budget by an estimated 6 percent in the first year and by an estimated 23 percent once fully implemented.

Current law requires the state to reimburse school districts for most of their loss of vehicle specific ownership taxes. This obligation increases the total impact on the state general operating budget during the first year from the \$450 million shown in Table 2 to \$497 million, and when fully implemented, from \$1.6 billion to \$1.8 billion.

Impact on state and local government transportation budgets. Proposition 101 reduces funding dedicated to transportation budgets. The state constitution requires that vehicle-related fees collected by the state be spent on road safety, construction, and maintenance. This money is shared between the state, cities, and counties. The state's transportation budget will decrease by an estimated 28 percent from these fee reductions. The impact on city and county government transportation budgets will vary by government. Because cuts affecting transportation budgets are immediate, the full impact shown in Table 2 will occur in 2011.

State Income Tax

Households and businesses pay taxes on their income to both the state and federal governments. The state's income tax rate is a flat 4.63 percent and is the same for all income levels and for both households and businesses. The state income tax is the largest source of money the state receives to pay for its main programs.

Proposition 101 gradually lowers the state income tax rate from 4.63 percent to 3.5 percent over time. The rate is first lowered to 4.5 percent starting in 2011. This will reduce income tax collections to the state by an estimated \$145 million, or 3 percent. The tax bill for a household with an annual income of \$55,000 will be reduced by \$40 in 2011. In the future, the rate is reduced by 0.1 percentage point each year in which state income tax collections grow by more than 6 percent. For example, if tax collections increase fast enough, the income tax rate will decrease from 4.5 percent to 4.4 percent in 2012. This will occur until the income tax rate decreases to 3.5 percent.

When the tax rate is fully reduced, income tax collections to the state will be an estimated 26 percent less, or \$1.3 billion in today's dollars lower than what they would have been without Proposition 101. The tax bill for a household with an annual income of \$55,000 will be reduced by \$320 when the cut is fully phased in. Because income tax collections historically have not grown by more than 6 percent every year, it will likely take 15 to 20 years for the tax rate to decline to 3.5 percent.

Vehicle Fees and Taxes

Proposition 101 reduces several types of vehicle fees and taxes as shown in Table 3. The amounts in the table show the impact when the reductions are fully implemented — sales tax reductions on vehicle purchases and specific ownership tax reductions are phased in over a four-year period, while all other vehicle fee and tax changes occur in 2011. The total amount of the reduction in vehicle fees and taxes, when fully implemented, is estimated at \$1.3 billion in today's dollars.

**Table 3. Vehicle Fees and Taxes Under Current Law
and Proposition 101, When Fully Implemented**
(In Today's Dollars)

	Average Payment		State & Local Govt.
	Current	Prop. 101	Change in Yearly Collections
Vehicle Owners			
Sales Tax^a <i>Four-year Phase in (2011 to 2014)</i>	\$2,100 one-time payment	\$1,400 one-time payment	-\$335 million total for state and local
Registration and Licensing Fees^b <i>Fully Implemented in 2011</i>	\$81 paid once per year	\$10 paid once per year	-\$300 million total for state and local
Specific Ownership Tax <i>Four-year Phase in (2011 to 2014)</i>	\$87 paid once per year	\$2 (new cars) or \$1 (used cars) paid once per year	-\$345 million total for all school districts ^c and local governments
Vehicle Lessees			
Sales Tax^a <i>Fully Implemented in 2011</i>	\$1,080 total (\$30 paid monthly during lease term)	\$0	-\$65 million total for state and local
Registration and Licensing Fees^b <i>Fully Implemented in 2011</i>	\$81 paid once per year	\$10 paid once per year	-\$75 million total for state and local
Specific Ownership Tax <i>Fully Implemented in 2011</i>	\$87 paid once per year	\$0 paid once per year	-\$86 million total for all school districts ^c and local governments
Vehicle Renters			
Sales Tax^a <i>Fully Implemented in 2011</i>	\$2.45 per rental day	\$0	-\$80 million total for state and local
State Car Rental Fee <i>Fully Implemented in 2011</i>	\$2 per rental day	\$0	-\$19 million total for state and local

^aThis analysis assumes a 7.0 percent sales tax rate. For vehicle owners and lessees, it assumes a \$30,000 car is purchased or leased for 36 months. For vehicle renters, the analysis assumes a vehicle is rented for \$35 a day.

^bCurrently, the average registration and license fees are lower than the average payment shown in the table, but are estimated to increase to the amounts shown over the next year. The collections numbers represent registration and license fee impacts assuming what the fees will be when they are increased.

^cCurrent law requires the state to reimburse school districts for most of their loss of specific ownership taxes.

Vehicle owners. Upon purchase, vehicle buyers are required to pay sales tax. In addition, each year vehicle owners must register their vehicle(s) with the state and pay registration fees and a specific ownership tax. Proposition 101 reduces all three taxes and fees.

Vehicle sales tax. Sales taxes are paid on the purchase of a new or used vehicle. The tax is applied to the price of the vehicle, including any manufacturer's rebate. The total tax rate is a 2.9 percent state rate plus any applicable local government sales tax rates. Because different local governments have different tax rates, the sales tax a buyer pays differs depending on where the buyer lives. The average combined sales tax rate is close to 7 percent.

Proposition 101 reduces the sales taxes due on vehicle purchases by exempting the first \$10,000 of the vehicle's price and any manufacturer's rebate from the sales tax. The \$10,000 exemption is phased in over a four-year period beginning in 2011. When fully implemented, vehicles worth \$10,000 or less will not have a sales tax bill. Vehicles with greater values will receive a \$10,000 exemption. For example, a vehicle purchased for \$18,000 will be taxed only on \$8,000 of the value. This sales tax cut will reduce local government tax collections by an estimated \$195 million, or 6 percent, and state government tax collections by an estimated \$140 million, or 7 percent.

Vehicle registration and licensing fees. Vehicle owners pay registration fees each year. Most fees vary according to vehicle weight, age, and value. While most of the money pays for roads and bridges, some pays for services like emergency medical services, vehicle emissions reduction programs, the Colorado State Patrol, and snow plowing.

Beginning in 2011, Proposition 101 combines all registration, licensing, and titling fees into a single \$10 annual fee, with the exception of vehicle inspection and new license plate fees. As shown in Table 3, the average registration and licensing fee for vehicle owners would fall from \$81 to \$10 and the amount collected by state and local governments would decrease by about \$300 million, or 88 percent.

Vehicle specific ownership tax. Vehicle owners also pay a specific ownership tax each year when registering a vehicle. The specific ownership tax is a property tax on a vehicle. The tax ranges from 0.45 percent to 2.10 percent of the vehicle's taxable value, based on the vehicle's original recommended retail price. As a vehicle ages, the tax rate is reduced. The minimum specific ownership tax is either \$3 or \$5 per vehicle, depending on the type of vehicle. Counties collect specific ownership taxes and distribute them to schools, cities, counties, and special districts within their boundaries.

Proposition 101 phases in a cut to specific ownership taxes over four years, beginning in 2011. It also requires permission from voters to create or increase future registration and licensing fees. Table 3 shows the change in vehicle owners' bills and state and local government collections.

Vehicle lessees. Like vehicle owners, persons who lease vehicles must pay sales taxes, registration fees, and specific ownership taxes each year. Proposition 101 reduces or ends all three taxes and fees for vehicle leases.

Vehicle sales tax and specific ownership tax. Proposition 101 eliminates sales taxes and annual specific ownership taxes on leased vehicles beginning in 2011. This will reduce state and local sales tax collections by an estimated \$65 million per year, or 1 percent. It will also eliminate all specific ownership taxes collected by local governments on leased vehicles.

Vehicle registration and licensing fees. Leased vehicles are also required to be registered with the state and lessees must pay annual registration fees. Beginning in 2011, Proposition 101 eliminates all registration fees and imposes a single \$10 fee per vehicle, resulting in a reduction of \$71 for vehicle lessees. The measure reduces state and local collections by approximately \$75 million per year.

Vehicle renters. The state charges a fee of \$2 per day for car rentals. The money is shared by the state, cities, and counties to build, repair, and maintain roads and bridges. Sales tax is also applied, with revenue going to the state and local governments. Proposition 101 eliminates the fee and all sales taxes

beginning in 2011. As a result, state and local transportation budgets will have an estimated \$19 million less per year in fee collections and \$80 million less in sales tax collections.

Other vehicle fees. The state also charges use and permitting fees for large and overweight vehicles that use Colorado roads. A passenger mile tax is also charged for passenger bus or shuttle businesses. Proposition 101 eliminates these fees beginning in 2011, resulting in \$56 million less in state funds, reducing charges to trucking and carrier companies by a like amount.

Telecommunication Fees and Taxes

Proposition 101 eliminates state and local sales tax and other fees on customer bills for any kind of telecommunications service, except for existing 911 fees. The measure lists the following as telecommunication services, even though some of them are not currently taxed: phone, pager, cable, television, radio, Internet, computer, and satellite services. Currently, the state and some local governments charge sales tax on a portion of the cost of phone and pager services, and some local governments charge sales tax on cable services. State fees that are eliminated include fees that help telephone companies provide access to phone service in rural areas of the state, to the blind, deaf, or speech impaired, and to low-income people. How the elimination of these telephone fees will affect these services is unclear and would likely be determined by the state legislature. However, telephone services for the deaf or speech impaired are required by federal law. Thus, it is likely that another funding source will have to be found to continue to provide these services. Local governments may have other fees, such as television franchise fees, that may be eliminated.

Proposition 101 freezes 911 fees at their 2009 level. These fees differ from county to county and ranged from 43 cents to \$1.25 per month in 2009. The 911 fees are charged by local governments to help pay for 911 emergency services.

The reduction in a household or business's telecommunications bill depends on how much it spends on taxable phone and cable. Tax and fee collections by local governments would be reduced by at least \$194 million each year. Tax and fee collections to the state government would be reduced by an estimated \$183 million each year.

New voter approval requirements. Proposition 101 redefines all telecommunication fees and most vehicle fees as taxes. Because the state constitution requires a vote to increase taxes but not to increase fees, governments will need to ask voters for permission to create new or increase existing vehicle or telecommunication charges in the future. Proposition 101 excludes vehicle-related fines, parking fees, tolls, vehicle impound fees, vehicle identification and emission inspection fees, and new license plate fees from this requirement.

How does Proposition 101 interact with two other measures on the ballot? Proposition 101 along with Amendment 60 (see page 5) and Amendment 61 (see page 10) 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.

Proposition 101 reduces state and local government taxes and fees. Amendment 60 reduces local property taxes, while requiring state expenditures for K-12 education to increase by an amount that offsets the property tax loss for school districts. Amendment 61 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.

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 \$3.4 billion when the measures are fully implemented. However, after the state reimburses school districts, the net impact on local government budgets would be at least \$581 million in the first year and \$1.8 billion when fully implemented.

Total taxes and fees paid by households and businesses are estimated to decrease by \$1.7 billion in the first year and \$5.5 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 \$1,360 per year when fully implemented.

Arguments For

1) Allowing citizens and businesses to keep more of their own money helps the economy. A family with a yearly income of \$55,000 could have their taxes and fees cut by \$313 in the first year of Proposition 101 and \$708 per year when it is fully implemented. Businesses will also benefit from the cut in taxes and fees, allowing them to invest in their companies and create new jobs. In addition, people who buy or lease cars will save even more from lower sales taxes. Reducing taxes and fees helps businesses and lower- and middle-income families who are struggling in this difficult economy. Consumer spending and business investment tend to increase when the tax burden is lower.

2) Proposition 101 will require state and local governments to eliminate unnecessary spending. Governments will look more closely at how they spend money, ensuring that taxpayer dollars are used in the best and most efficient way. State and local governments already spend about \$40 billion a year, which amounts to an average of \$20,000 per household in the state. The amount of spending by governments in the state has increased by about 14 percent since 1990, even after accounting for inflation and population growth. Even with Proposition 101's reductions in tax and fee collections, revenue to governments will continue to grow, although at a slower rate. Governments can prioritize and fund the most important services with less money by making better choices about how they spend taxpayer money.

3) Proposition 101 gives people a voice in decisions about fees on phones and vehicles. Rather than asking voters for more money for transportation projects, the state recently increased vehicle registration fees by about \$220 million, an average of approximately \$44 per car. The state did this even though registration fees exceed what it costs the government to process vehicle registrations. Proposition 101 will require governments to seek voter approval for more money rather than adding more fees. Further, some telecommunication fees raise the cost of basic services for everyone but help only a small part of the state's population. Proposition 101 simplifies and eliminates these fees — lowering all vehicle registration fees to a flat \$10 per year and ending state and local taxes and fees, except 911 fees, on phone and cable bills.

Arguments Against

1) Colorado's economic success depends on services that governments provide, such as education and a safe transportation system. Proposition 101 will force cuts to these services that people rely on for a high quality of life and that businesses need to succeed. Services that have already been reduced because of the economic downturn, such as schools, colleges, prisons, firefighters and police, and water and sewer systems, will be cut further. These cuts could further weaken the already slow economy, reduce jobs, and, over time, hurt the quality of the state's workforce. Rural economies may also be affected

because fees that help provide phone and Internet service for rural areas will be eliminated. The state's operating budget is estimated to be cut by \$1.6 billion, or about 23 percent, when the measure is fully implemented, an amount greater than what the state currently spends on prisons, courts, and the Colorado State Patrol combined. Further, local governments will have about \$1 billion less. State government spending as a percentage of the economy is already third lowest among all states and combined state and local government spending is eighth lowest.

2) Proposition 101 will hurt the ability of the state and local communities to maintain already inadequate roads and bridges and provide public transportation. Studies show that Colorado needs more than twice as much money each year than it currently spends just to maintain existing roads and bridges. Proposition 101 would cut state transportation funding by an estimated 28 percent. In 2009 alone, the state and local governments maintained more than 193,000 lane miles of roadway and 8,000 bridges. The state also snow-plowed and sanded 5.6 million miles of highway, repaired 77,000 street signs, and monitored 278 avalanche paths. Public health and safety may also be affected due to fewer resources for emergency medical services, vehicle emission programs, and road maintenance.

3) Cuts to government services may result in hardship for families who have to pay for services that governments will no longer be able to afford. For example, tuition will likely increase, putting college out of reach for many households. Higher-income people, who are better able to absorb these cost increases, will benefit the most from the reduced taxes and fees in Proposition 101. Low- and middle-income people will be less able to absorb the costs. Proposition 101 also eliminates fees that pay for services to help those with lower incomes and people who are deaf, speech impaired, or blind communicate within society.

Estimate of Fiscal Impact

State revenue. Proposition 101 contains several provisions that decrease revenue to the state government. Because some of the reductions are phased in over time, the reduction in revenue will be lower at first. The first-year reduction is estimated to be \$744 million, which includes \$295 million less in vehicle fees that are constitutionally required to be used for transportation-related spending. When fully implemented, state tax and fee collections would decrease by an estimated \$1.9 billion in today's dollars.

State spending. The state will have less money available for spending on its operating programs and transportation budget. Though the reductions to the transportation budget will be immediate, the reductions to operating programs will occur over time as the cuts to the income and sales tax are phased in. The state will have \$450 million, or 6 percent, less in the first year to spend on operating programs. Further, the state will have about \$295 million, or 28 percent, less to spend on transportation. When fully implemented, the state would have \$1.6 billion, or 23 percent, less in today's dollars to spend on operating programs. The impact on the state's operating programs depends on the future budgeting decisions of the state legislature.

Proposition 101 will also create some additional costs for the state. Current law requires the state to replace most of the loss of vehicle specific ownership taxes for school districts. This will cause the state to spend an additional \$48 million in the first year and \$121 million annually when the measure is fully implemented.

Also, Proposition 101 increases state administrative costs by up to about \$460,000 in budget year 2010-11, \$165,000 in budget year 2011-12, and \$34,000 in the following two budget years to implement the reductions in taxes, fees, and charges, and to audit compliance with the measure's provisions. The state's administrative costs will decrease in subsequent years as the tax and fee reductions are fully implemented. It is estimated that the measure will require the addition of up to 3.7 new staff in budget year 2010-11, 1.9 new staff in budget year 2011-12, and 0.3 new staff in the following two budget years to administer the measure's provisions. The state administrative costs and new staff needed could be less in the first two budget years depending on how the state legislature decides to implement the measure.

Local revenue and spending. Because reductions in the local sales tax on vehicles are phased in over four years, revenue decreases in the first few years will be lower than when the measure is fully implemented. Local government revenue is estimated to be reduced by \$629 million in the first year, with \$99 million of this amount for transportation projects. When fully implemented, local government revenue would decrease by an estimated \$1.0 billion in today's dollars. However, since current law requires the state to replace most of the loss of vehicle specific ownership taxes for school districts, the net impact on local government budgets would be \$580 million in the first year and \$880 million when fully implemented.

The extent to which each local government program will be affected will vary depending on what services the government provides and its budget decisions. Local governments may also have increased administrative costs to comply with the auditing requirements of Proposition 101.

Impact on taxpayers. Proposition 101 will reduce households' and businesses' tax and fee bills by different amounts depending on their income, the number and type of vehicles they have, the costs of their phone and cable bills, and whether they purchase, rent, or lease vehicles in a given year. In the first year, before all the tax and fee reductions are fully implemented, an average household with an annual income of \$55,000 would experience a reduction in their tax and fee bill of about \$313. When fully implemented, the total tax and fee bill for this household would be reduced by about \$708 annually in today's dollars. There would be additional reductions if the household purchases, rents, or leases a vehicle. Businesses will also experience reductions in taxes and fees.

Proposition 102
Criteria for Release to Pretrial Services Programs

Proposition 102 proposes amending the Colorado statutes to:

- ◆ prohibit the release of a defendant on an unsecured bond to supervision by a pretrial services program unless that defendant is arrested for his or her first offense that is also a nonviolent misdemeanor.

Summary and Analysis

In the United States, an individual accused of a crime is innocent until proven guilty. Most defendants have the right to be released on bail that is not excessive rather than remaining in jail pending the outcome of a trial. However, some serious crimes are not bailable offenses under Colorado law, including murder, kidnapping, and treason. In addition, persons arrested for a violent crime who have been previously convicted of a violent crime, or who are out on bail for a violent offense, are also not eligible for bail.

Definition of bail and bond. After an individual is arrested, the court sets the amount of bail, the type of bond, and any other conditions of release. The primary purpose of bail is to ensure that the defendant appears for trial. A bond is an agreement between the defendant and the court under which the defendant agrees to comply with all of the conditions of release and to pay the bail amount if he or she does not appear in court.

The court may order one of two types of bonds, unsecured or secured. With an unsecured bond, the defendant is released on his or her promise to appear, but is required to pay the bail amount if he or she does not appear in court. With a secured bond, the defendant either pays, or promises to pay through a commercial bail bondsman, an amount of money or interest in property before he or she may be released from jail pending trial. Although there are judicial district guidelines for setting bail, the court has the discretion to set the amount of bail and type of bond on a case-by-case basis after considering criteria set forth in law.

If the defendant cannot afford to pay the bail amount, he or she can pay a fee to get a bond through a commercial bail bondsman, secure a bond using real estate, or remain in jail. In addition to financial conditions, the court may order any number of other conditions of release, which could include supervision by a pretrial services program.

Pretrial services programs. Under current Colorado law, most defendants qualify for release to supervision by a pretrial services program on either a secured or unsecured bond. There are ten pretrial services programs that are publicly funded and serve over 70 percent of the state's population. The programs are located primarily along the Front Range, with the exceptions of Weld, Pueblo, and Mesa counties. Pretrial services programs provide two primary functions. First, they assess defendants and provide information and recommendations to the court regarding the defendant's risk to public safety and the likelihood that he or she will appear in court. The court uses this information in setting the defendant's amount of bail and type of bond.

Second, pretrial services programs provide community-based supervision to monitor defendants prior to trial through various methods, such as periodic visits with the defendant, drug testing, and substance abuse treatment. Failure to comply with the pretrial services conditions may result in the defendant being returned to jail while awaiting trial.

Proposition 102. Currently, the court may release the defendant to supervision by a pretrial services program on an unsecured or secured bond. Under Proposition 102, the defendant may only be released to a pretrial services program on an unsecured bond if the offense for which he or she has been charged is his or her first offense and is also a nonviolent misdemeanor. A misdemeanor is a crime, less serious than a felony, punishable by a fine and a term of imprisonment in a city or county jail as opposed to a state prison. In all other cases where the defendant receives pretrial services, the court must order a secured bond. This measure does not prohibit the court from releasing the defendant on an unsecured bond without pretrial services.

Argument For

1) Guaranteeing that all criminal defendants are tried in a court of law is a fundamental part of our justice system. Requiring a secured bond from individuals accused of crimes provides an added incentive for them to appear in court, where victims have the opportunity to confront the accused. Taxpayer money is invested in pretrial services programs to ensure that defendants face trial. Therefore, it is appropriate to expect the defendant's own money to be invested in his or her promise to appear, especially when he or she is charged with a violent or sexual crime.

Argument Against

1) Proposition 102 is unnecessary because pretrial services programs have proven to be an effective method of supervising defendants and ensuring that they appear for trial. The measure also unfairly burdens the poor because it will likely result in poorer defendants being jailed while awaiting trial and wealthier defendants being released, even if the defendants have been charged with the same type of crime. Currently, pretrial services programs address this inequity by providing conditions of release that may be met regardless of the financial circumstances of the defendants. Under Proposition 102, defendants who would be released to pretrial services programs but who cannot afford a secured bond will remain in jail awaiting trial at a greater cost to taxpayers.

Estimate of Fiscal Impact

The measure will increase the time spent in jail for defendants who need to obtain financing for a secured bond or for those defendants who cannot obtain financing and must remain in jail until trial. Based on the state reimbursement rate for local jails of \$50.44 per person per day, it is estimated that the measure will increase the annual statewide cost for local jails by about \$2.8 million beginning in budget year 2010-11. There are two driving forces for this increase. National data indicates that it takes about eight days for defendants with a secured bond to obtain financing for release as opposed to those who are released immediately on an unsecured bond. Additionally, about 30 percent of defendants with a secured bond never obtain the financing to secure release. This increase in demand for local jails could result in a need for building additional jail beds in the future. The measure may decrease the need for or the use of pretrial services programs, and the money that was previously used to fund those programs could be used to offset a portion of the additional jail operating costs.