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MEMORANDUM

SUBJECT TO REVISION

July 8, 2010

TO: Members of the General Assembly
FROM: Legislative Council Staff (303-866-3521)
SUBJECT: Amendments 60 and 61, and Proposition 101

The following memorandum responds to requests for information regarding the fiscal impacts of Amendments 60 and 61, and Proposition 101. The memo briefly describes each ballot measure and its fiscal impact, assuming each measure is fully implemented in FY 2010-11. Although the estimated fiscal impacts will differ in the future once inflation and growth increase the overall size of the economy, the comparable budget impacts on taxpayers and governments are expected to remain relatively the same. This approach was taken to provide the best information available concerning the projected final impacts of the measures, recognizing that the full effects of some of the provisions will take several years to occur. Please note that these estimates are preliminary and will be revised as new information is received. The last section of the memo discusses the combined impacts of all three measures if each receives voter approval.

Summary

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

If all of these measures were fully implemented in FY 2010-11, the state would lose \$2.1 billion in revenue and would have to increase K-12 education funding by \$1.6 billion. The combined impacts mean that K-12 education funding would require about

Summary (continued)

99 percent of the General Fund budget. A homeowner earning \$55,000 per year with a \$295,000 home would save approximately \$1,800 annually in taxes.

Amendment 60 reduces school district property taxes by an estimated \$1.5 billion each year, which the state is required to backfill. Property taxpayers will see savings of about 23 percent, which amounts to a decrease in property taxes of \$376 per year for a \$295,000 home. Cities and towns, counties, and special districts will also lose an indeterminate amount of property tax revenue.

Proposition 101 is expected to reduce state revenue by \$1.6 billion annually. This results from decreases in income and sales taxes, vehicle registration fees, and telecommunications fees. Local governments will lose \$936 million in revenue from specific ownership taxes and local sales taxes. Of the local government decrease, school districts will lose about \$150 million, which the state is required to backfill. A household earning \$55,000 per year is estimated to save \$604 annually.

Amendment 61 prohibits the state from incurring new debt, imposes new limits on the amount of local government debt, and requires tax rates to be reduced when debt is repaid. If the repayment of existing debt requires a reduction in tax rates, the amendment will require the state to cut its tax revenue by \$500 million and local governments to cut \$2.8 billion. These tax rate cuts are expected to reduce property taxes by \$678 for a \$295,000 home and save the average household earning \$55,000 about \$130 per year in income taxes. In addition, an estimated 36 school districts will exceed or equal the new debt limits and be unable to borrow money to build public school facilities. These school districts represent almost half of the students in the state.

Amendment 60: Limit Property Taxes

Description of Amendment 60. This measure amends Section 20, Article X, of the Colorado Constitution, commonly known as TABOR. Some of the amendment's provisions are unclear and may require clarification from the state legislature or the judicial system. Effective January 1, 2011, the amendment limits property taxes by:

- ✓ requiring school districts to reduce their non-debt mill levies by 50 percent between 2011 and 2020 and requiring the state to increase state spending on K-12 education by backfilling the loss in property taxes;
- ✓ repealing any property tax increase, extension, or abatement rate increase that occurred after 1992 without voter approval. This is subject to legal interpretation, but based on information provided by the proponents at the review and comment hearing for an earlier

version of this measure, this could be interpreted to include, but is not necessarily limited to, the mill levy freeze resulting from Senate Bill 07-199;

- ✓ requiring government authorities and enterprises to pay property taxes and requiring local governments to lower tax rates to offset the additional revenue;
- ✓ repealing, presumably on Amendment 60's effective date, the results of local elections allowing governments to retain property tax revenue above their TABOR limit;
- ✓ allowing property owners to vote in any election involving property tax issues where they own property;
- ✓ placing limits on future ballot questions by:
 - requiring ballot questions that raise property taxes to be separate from debt-related questions;
 - requiring a ten-year sunset on voter-approved property tax rate increases; and
 - requiring a four-year sunset on voter-approved retention of revenue above a government's TABOR limit.
- ✓ legally defining certain actions as tax increases, including voter-approved revenue changes above a government's TABOR limit and the extension of an expiring tax;
- ✓ requiring property tax bills to list only property taxes and late charges. The measure does not specify how fees or special assessments currently levied on property tax bills should be assessed and does not address whether the intent is to eliminate such fees and special assessments;
- ✓ prohibiting enterprises and unelected boards from levying a mandatory fee or tax on property; and
- ✓ providing for the enforcement of the amendment, including, but not limited to:
 - requiring the state to enforce the amendment and conduct annual audits of property taxing districts; and
 - stating that the amendment supercedes conflicting laws, opinions, and constitutional provisions and shall always be strictly interpreted to favor taxpayers.

Fiscal impact of Amendment 60. The measure contains several provisions that decrease local property taxes for individuals and businesses, which reduces the amount of tax revenue received by cities, counties, school districts, and special districts. In addition, the measure requires the state to replace the property tax losses of school districts, so that they continue to receive the same levels of funding. For the provisions that have been quantified to date, the measure is expected to lower school district property tax collections by an estimated \$1.5 billion annually, assuming the measure is fully implemented today. The average homeowner will save \$376 per year and the average commercial business owner will save \$5,574 per year in property taxes. The \$1.5 billion property tax loss for school districts will increase state expenditures under the school finance act by \$1.5 billion each year as a result.

Counties, cities and towns, and special districts that had previously received voter approval to keep property tax revenue above their limit will lose an indeterminate amount of tax revenue. This loss for local governments will add to the tax savings of individuals and businesses described above. Table 1 illustrates the projected impacts that have been estimated to date.

Property taxes will also fall further for individuals and businesses if their property is located in districts with government enterprises and authorities. These entities are required to pay property taxes under the measure, which are offset by lower mill levies in the districts where that property is located. For example, homeowners and businesses in Boulder County will see an additional reduction in property taxes because of the property taxes paid by the University of Colorado. However, the property taxes paid by the University of Colorado will have to be recovered through some other means, such as tuition increases, reductions in services, or increases in other fees.

Table 1
Selected Annual Impacts of Amendment 60, Fully Implemented
(In Today's Dollars)

Impacted Group	Current Law	Amendment 60	Difference	% Change
Property Tax Payment for Average Homeowner (\$295,000 home)	\$1,638	\$1,262	-\$376	-23.0%
Property Tax Payment for Average Commercial Property Valued at \$1.2 million*	\$24,277	\$18,703	-\$5,574	-23.0%
Property Tax Collections for School Districts	\$3.3 billion	\$1.8 billion	-\$1.5 billion	-44.8%
State Expenditures for K-12 Education	\$3.7 billion	\$5.2 billion	\$1.5 billion	39.2%
K-12 as % of State Operating Budget (General Fund)	49%	67%	NA	NA

* Assumes average for commercial merchandising establishment.

Amendment 61: Prohibition on Debt

Description of Amendment 61. This measure amends Article XI (concerning public debt) and Section 20, Article X (TABOR), of the Colorado Constitution, to limit debt. Some of the amendment's provisions are unclear and may require clarification from the state legislature or the judicial system. The amendments to Article XI:

- require the ballot title for any question seeking voter approval to specify how the moneys to be borrowed are to be used and prohibits any subsequent change in the use of the borrowed moneys.

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

- ✓ The **state and all of its political subdivisions are prohibited** from borrowing money in any form;
- ✓ no borrowing may continue past its original term, and all current borrowing must be repaid;
- ✓ whether or not the debt is secured with taxes, a government's **tax rates are required to decrease** as the debt is repaid by the amount of the average annual repayment. The measure defines this as "a voter-approved revenue change;" and
- ✓ **local governments** could borrow with voter approval only if:
 - the debt is bonded and repaid within ten years; and
 - for non-enterprises, the total principle does not exceed 10 percent of the assessed taxable value of real property in the government's jurisdiction.

Fiscal impact of Amendment 61. The measure contains several provisions that create fiscal impacts for the state and local governments. Key to many of these impacts is the assumption that at least one provision—requiring a reduction in tax rates when borrowed money is repaid—will apply to current outstanding debt and other borrowed money.

If this assumption holds, state and local government tax revenue will fall because of the requirement to reduce tax rates when debt is retired. In 2008, the state and all of its enterprises had about \$16 billion in outstanding debt, which will be retired over the next 40 years. About two-thirds of the state's debt is owed by state enterprises, and is therefore not subject to the tax rate reduction requirement. The average annual principal and interest payment for the remaining state debt is estimated at approximately \$514 million, based on a repayment term of 15 years and an annual interest rate of 5 percent. When the state's debt is retired, tax rates must be cut by an amount equal to the average annual payment, or \$514 million per year. Although this will occur over several years, the fiscal analysis assumes that this provision is fully phased in today. The revenue reduction for the state is equivalent to cutting the income tax rate from 4.63 percent to 4.18 percent, or by 0.45 percentage points in today's dollars. The rate cut will save a household earning \$55,000 per year about \$130 in income taxes annually.

Similarly, local governments in Colorado have about \$29 billion in outstanding debt, excluding enterprises, with an estimated average annual principal and interest payment of \$2.8 billion in total. As local government debt is retired, local tax rates are assumed to fall by an amount that reduces local tax revenue by \$2.8 billion, which will occur over several years. If this were fully implemented today, the revenue reduction for local governments is equivalent to decreasing the statewide average property tax rate from about 70 mills to 41 mills. For a homeowner with a house worth \$295,000, the property tax cut will reduce their property taxes by \$678 per year. Table 2 illustrates these impacts.

In both cases, permanently reducing tax rates will produce increasingly larger fiscal impacts in the future because of growth in the applicable tax base. For example, a one percentage point decrease in the income tax rate will reduce income taxes by a specific amount initially, but the impact in subsequent years will grow because of increases in taxable income over time. The same applies to cuts in the property tax rate. As assessed values grow, the loss for local governments becomes greater than the initially targeted reduction.

Table 2
Annual Impacts of Amendment 61 on State and Local Government Revenue,
Fully Implemented
(In Millions of Today's Dollars)

	Current Outstanding Debt (excluding enterprises)	Current Average Annual Debt Payment	Annual Tax Revenue Reduction Under 61	Change in Income and Property Tax Rates to Implement Revenue Reduction
State Government	\$5,338	\$514	(\$514)	4.63% to 4.18%
Local Governments	\$29,259	\$2,819	(\$2,819)	70 mills to 41 mills

Second, the measure prohibits the state from borrowing any money in the future and restricts the ability of local governments to borrow, both of which will reduce the overall size of government. The debt restriction provisions in the amendment will prevent or constrain the state and local governments from borrowing money to build highways, bridges, low-income housing, sewer and water systems, and schools. For instance, local governments cannot borrow money for a term longer than 10 years, which increases the average annual payments needed to pay for those projects. The measure also imposes lower debt limitations for school districts, which will further impede their ability to borrow money. Table 3 illustrates the 36 school districts that, based on existing debt levels, are expected to exceed or equal the new debt limit imposed by Amendment 61. These districts, representing almost half of the students enrolled in public schools in the state, will be unable to borrow any money in the future until their existing debt is repaid or assessed values increase. For example, the outstanding debt of the Adams 12 Five Star School District is \$392 million and the new debt limit imposed by Amendment 61 is estimated at \$158 million. As a result, the district's debt is \$234 million above the limit imposed by Amendment 61, or 148 percent above the new limit.

Third, the measure prohibits the state from short-term borrowing for cash flow purposes. In FY 2009-10, the state had two types of short-term borrowing: General Fund tax and revenue anticipation notes (GTRAN) and education tax and revenue anticipation notes (ETRAN). In that year, the state issued \$650 million of outstanding GTRAN debt, which was used to bridge the costs of state government to when tax collections were received, primarily at the end of the fiscal year. The state issued \$515 million of outstanding ETRAN debt, which was used to finance local school district spending. In FY 2009-10, 27 school districts borrowed money short-term from the state's education loan program, which was repaid in the spring when property taxes were collected. Amendment 61 would prevent this type of borrowing by the state in the future, which could constrain the ability of both state government and school districts to manage their short term cash flows.

Table 3
School Districts Estimated to Equal or Exceed the Amendment 61 Debt Limit*

County	School District	Debt as % of Amendment 61 Limitation	County	School District	Debt as % of Amendment 61 Limitation
Adams	Adams 12 Five Star	248%	El Paso	Miami-Yoder	193%
Adams	Bennett	124%	El Paso	Peyton	109%
Adams	Brighton	242%	Elbert	Elizabeth	102%
Adams	Commerce City	177%	Fremont	Canon city	108%
Adams	Strasburg	224%	Fremont	Florence	125%
Adams	Westminster	220%	Gunnison	Gunnison	100%
Arapahoe	Aurora	211%	Larimer	Thompson	101%
Arapahoe	Cherry Creek	106%	Logan	Buffalo	140%
Arapahoe	Sheridan	144%	Logan	Valley	153%
Boulder	St. Vrain	183%	Morgan	Wiggins	100%
Costilla	Centennial	112%	Otero	East Otero	141%
Douglas	Douglas	138%	Otero	Fowler	105%
El Paso	Academy	153%	Otero	Swink	187%
El Paso	Edison	164%	Pueblo	Pueblo City	116%
El Paso	Ellicott	111%	Pueblo	Pueblo Rural	113%
El Paso	Hanover	180%	Weld	Briggsdale	216%
El Paso	Harrison	135%	Weld	Greeley	100%
El Paso	Lewis-Palmer	201%	Weld	Windsor	140%

* Assumes 10 percent of each district's assessed value is personal property.

Proposition 101: Limit State and Local Government Revenue

Description of Proposition 101. This measure seeks to amend Article 25, Title 39, Colorado Revised Statutes, to limit government revenue. Some of the provisions of the measure are unclear and may require clarification from the state legislature or the judicial system. Effective January 1, 2011, the amendment would limit state and local government revenue by:

- ✓ Reducing the **state income tax** rate over time from 4.63 percent to 3.5 percent. After initially falling to 4.5 percent in 2011, the rate is required to be reduced by one tenth of a percentage point each year for ten years, but only during years in which income tax revenue increases by more than 6.0 percent. As a result, this is likely to occur over a period of time greater than 10 years.

- ✓ Reducing **automobile-related** revenue by:
 - reducing annual **specific ownership taxes** over a four-year period to \$2 per new vehicle and \$1 for older vehicles;
 - exempting the first \$10,000 of a vehicle's price from sales tax over a four-year period;
 - eliminating **taxes on vehicle rentals or leases**;
 - prohibiting **taxes on vehicle sales rebates**;
 - reducing annual **registration and title fees** to \$10 per vehicle;
 - prohibiting tax, fine, parking, seizure, inspection, and new plate fees on vehicles or vehicle uses by state and local governments; and
 - defining "added charges" as tax increases.

- ✓ Reducing **telecommunication-related** revenue by:
 - prohibiting state and local governments from charging any fee or tax on, or aiding any program related to, telephone, pager, cable, television, radio, Internet, computer, satellite, or other telecommunication service customer accounts; and
 - defining "added charges" as tax increases.

Fiscal impact of Proposition 101. Proposition 101 will reduce **income taxes** by 26.0 percent from levels expected under current law assuming the income tax rate cut is fully implemented today. That amount is equivalent to about \$1.3 billion this year. The measure exempts telecommunications services, vehicle leases, and vehicle rentals from **state and local sales tax** beginning in 2011. It also phases in a sales and use tax exemption on the first \$10,000 of a purchased vehicle's sales price over a four-year period. Proposition 101 phases in a near-elimination of **specific ownership taxes** over a four-year period and collapses all fees collected on motor **vehicle registrations** into a single \$10 fee beginning in 2011. It also eliminates local and state **telecommunications fees** beginning in 2011. Three state telecommunication fees are eliminated: the universal charge which subsidizes service to rural areas of the state; the uniform charge which subsidizes service to low-income people; and the relay charge which subsidizes telephone service for the deaf and hearing impaired.

Table 4 shows the annual impact of Proposition 101 on three households with different incomes. Table 5 shows the annual impact of Proposition 101 on government. The figures in both tables show the impact of Proposition 101 if it were fully implemented in 2011. Because some of the reductions are phased in over time, the full impact shown in these tables will not occur immediately. Specific information about each of these reductions follows.

Table 4
Annual Change in Representative Households' Tax and Fee Bills
As a Result of Proposition 101, Fully Implemented /a
(In Today's Dollars)

	Income Taxes	Vehicle Fees & Taxes	Telecommunication Fees & Taxes	Total	% of Household Income
Household A	<i>Household Description:</i> Yearly Income: \$35,000; owns a 10-year-old car worth \$3,500; \$60 monthly combined phone bills.				
	(\$185)	(\$61)	(\$43)	(\$289)	-0.8%
Household B	<i>Household Description:</i> Yearly Income: \$55,000; owns a 5-year-old car worth \$7,000 and an 5-year-old car worth \$10,000; \$130 monthly combined phone bills.				
	(\$320)	(\$191)	(\$93)	(\$604)	-1.1%
Household C	<i>Household Description:</i> Yearly Income: \$110,000; bought a new car worth \$20,000 and owns a 3-year-old car worth \$15,000; \$180 monthly combined phone bills.				
	(\$780)	(\$1,335)	(\$128)	(\$2,243)	-2.0%

/a This analysis assumes an 7.0 percent combined state and local sales tax rate. Assumes no sales tax on cable television, although some home-rule cities levy a sales tax on cable.

Impact on households. Table 4 shows savings for three different households resulting from Proposition 101 assuming the measure is fully implemented today. Proposition 101 will impact each household differently depending on that household's yearly income, vehicles owned, whether they buy a vehicle that year, and how much they pay for phone and cable service. For example, a household with \$35,000 in income and a ten-year-old vehicle worth \$3,500 will save \$289 under the measure, which is a savings of 0.8 percent of their income. Another household with \$110,000 in income, which purchases a new car worth \$20,000 and owns a three-year-old vehicle worth \$15,000 will save \$2,243 each year. This represents a savings of 2.0 percent of the household's income.

Impact on local governments. Table 5 shows the estimated reduction in vehicle specific ownership taxes and sales taxes for local governments. The types of local governments affected by this include school districts, cities, counties, and special districts such as 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 public safety, road construction and maintenance, trash service, parks and recreation, and education. As required by state law, school districts will be reimbursed by the state for their loss of specific ownership taxes. The impact on local governments will be phased in over a four-year period.

Table 5
Annual Change in Government Tax and Fee Collections
As a Result of Proposition 101, Fully Implemented
(In Millions of Today's Dollars)

Government	Current Law	Prop 101	Change	Percent Change
Local Governments Vehicle Specific Ownership Taxes and Local Sales Taxes	\$3,866	\$2,930	(\$936)	-24.2%
State Government General Operating Budget Sales and Income Taxes and Telecommunication Fees	\$7,169	\$5,547	(\$1,622)	-22.6%
Transportation Budgets - City, County, and State Governments Vehicle Registration Fees and State Rental Fee	\$392	\$50	(\$342)	-87.2%

Impact on the state government. Table 5 shows that the state government will collect \$1.6 billion less from sales taxes, income taxes, and telecommunication fees, assuming the measure is fully implemented. The state spends 96 percent of the General Fund budget on: preschool through higher education; health care; prisons; the courts; and programs that help low-income, elderly, and disabled people. Once Proposition 101 is fully phased in, the amount of money available to pay for General Fund appropriations will be reduced by about 23 percent.

The state will also be required to reimburse school districts for their loss of vehicle specific ownership taxes. This increases the total impact on the state budget from the \$1.6 billion figure shown in Table 5 to close to \$1.8 billion.

Impact on state and local government transportation budgets. Table 5 shows that there will be a decrease of \$342 million in revenue to the Highway Users Tax Fund (HUTF). This money is shared between the state, cities, and counties. The state constitution requires that vehicle-related fees collected by the state be spent on road safety, construction, and maintenance.

Vehicle registration fees, which are deposited into the Highway Users Tax Fund (HUTF) and distributed to the Colorado Department of Transportation (CDOT), cities, and counties, will decrease by 87.2 percent. The vehicle rental fee will be eliminated. Both of these impacts will occur immediately in 2011. The state's transportation budget, which includes CDOT's share of the HUTF, federal funding, and other sources of money, will decrease by an estimated 27 percent. The impact on city and county government transportation budgets will vary by jurisdiction.

Combined Fiscal Impacts of Amendments 60, 61, and Proposition 101

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

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

The estimated savings to taxpayers and the financial impacts to governments assume that all three measures are approved by voters and fully implemented in FY 2010-11. An average household making \$55,000 per year that owns a \$295,000 house would save an estimated \$1,800 per year in taxes. State government would lose an estimated \$2.1 billion annually, while state spending for K-12 education would increase by \$1.6 billion per year to offset local funding losses for school districts. This would leave the state's general operating budget almost entirely committed to paying for the constitutional requirements of K-12 education, with no money left to pay for other government functions. Local government would lose an estimated \$3.8 billion per year if these measures were fully implemented today.

Figure 1 shows how the state's General Fund budget was appropriated in FY 2010-11, and how it would look if all of these measures passed and were fully implemented that year. In the current budget year, K-12 education accounts for about 46 percent of General Fund appropriations. If these ballot measures were fully implemented that year, the entire General Fund budget, except for an estimated \$38 million, would be allocated to K-12 education.

Figure 1
General Fund Appropriations Under Current Law and With Passage of All Three Measures, FY 2010-11

