

Summary and Analysis

**PROPOSITION 101:
FORCED TAX RATE
REDUCTIONS**

Disclaimer

The information contained in this summary and analysis is objective and factual. This information is designed and intended to assist the public in an understanding of the provisions of this ballot issue. This information does not make value judgments concerning the merits or deficiencies of this proposal. This information does not advocate either support for or opposition to the proposal.

A Cautionary Note

- Even though the proponents have noted that it is their intent to reduce governmental revenues through Proposition 101, it should be kept in mind that reducing or repealing a particular form of revenue generation is not the same as reducing revenues to the governmental entity
- In some cases, limitation or repeal will simply result in the foregone revenues being generated by a different revenue mechanism
- For example, eliminating the motor vehicle license fee that is dedicated to the support of the emergency medical system may simply result in the General Assembly placing a surcharge on auto and health insurance policies to accomplish the same end

Initiated Law

- Unlike proposed amendments 60 and 61 which would amend the Colorado Constitution, Proposition 101 is an initiated law
- Would amend Article 25 of Title 39 to force specific reductions in government fees and taxes
- Specific to three revenue sources: motor vehicles, income tax and telecommunications fees

Status of Measure

- The Secretary of State has certified the measure for the November, 2010 election
- A legal challenge to the process that was used to collect signatures has been filed and is pending before an administrative law judge

Proposition 101

Effect on Motor Vehicle Taxes and Fees

Proposition 101 – “Vehicle” Not Defined

- The measure does not define “vehicle”
- Since the measure is an initiated law, presumably other statutory definitions of vehicles would apply
- Measure does not distinguish among passenger vehicles, pickup trucks, commercial trucks and other forms of vehicles – presumably all types of vehicles are treated the same

Three Categories of Taxes and Fees

- The measure would force reductions in the following taxes and fees related to vehicles:
 - Specific Ownership Taxes
 - Sales taxes on vehicle rents, leases and sales
 - Vehicle registration, license and title fees and charges

Specific Ownership Taxes

- Colorado law governs the structure for all vehicle registrations.
- Fees are uniform statewide and are administered by the Colorado Department of Revenue through the county clerks and recorders
- Specific ownership taxes are separate and distinct from license fees

Specific Ownership Taxes

- These taxes are based on the year of manufacture of the vehicle and the original taxable value (sticker price) which is determined when the vehicle is new and does not change throughout the life of the vehicle . The tax is assessed throughout the life of the vehicle.
- Ownership tax is in lieu of personal property tax. Vehicles do not need to be operated in order to be assessed this tax.
- The ownership tax rate is assessed on the original taxable value and year of service. Ownership tax is assessed for the time period during which an individual owns the vehicle
- Original taxable value is 85% of manufacturer's suggested retail price (MSRP) for passenger vehicles and 75% for light trucks. .

Structure of Specific Ownership Taxes

Year of Vehicle Service	Percentage of Taxable Value
1 st Year	2.1 % of Taxable Value
2 nd Year	1.5%
3 rd Year	1.2%
4 th Year	.9%
5 th , 6 th , 7 th , 8 th & 9 th Year	.45%
10 th Year and Greater	Minimum tax of \$3.00 per year

Examples of Revenue Recipients

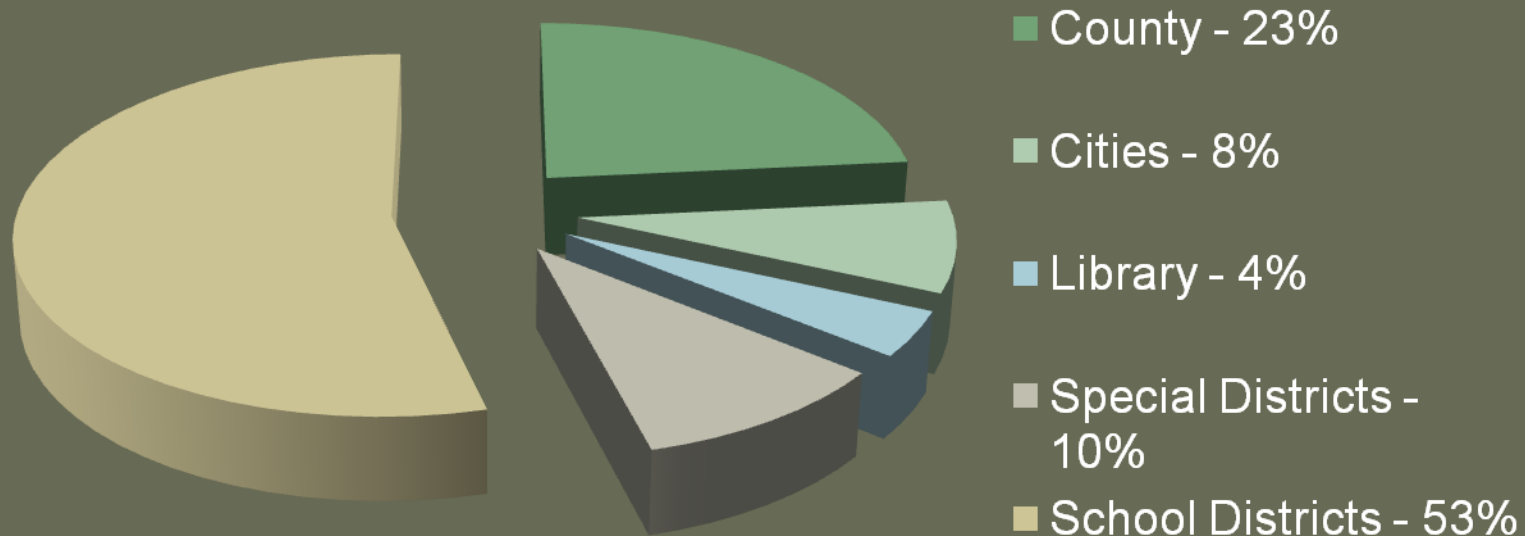
County	Recipients
Mesa	Mesa County, Libraries, Cities, Special Districts, School Districts
Douglas	School District, Law Enforcement, County Road & Bridges, County Debt Service, County Capital Expenditures, County General Fund, Social Services, Variety of Cities and Special Districts
El Paso	School Districts, Cities, Library, El Paso County, Special Districts

Distribution of Specific Ownership Taxes

- ① Allocated among the governmental entities within the county of the owner's residence
- ① Allocation formula is the application of levied property taxes by each taxing entity

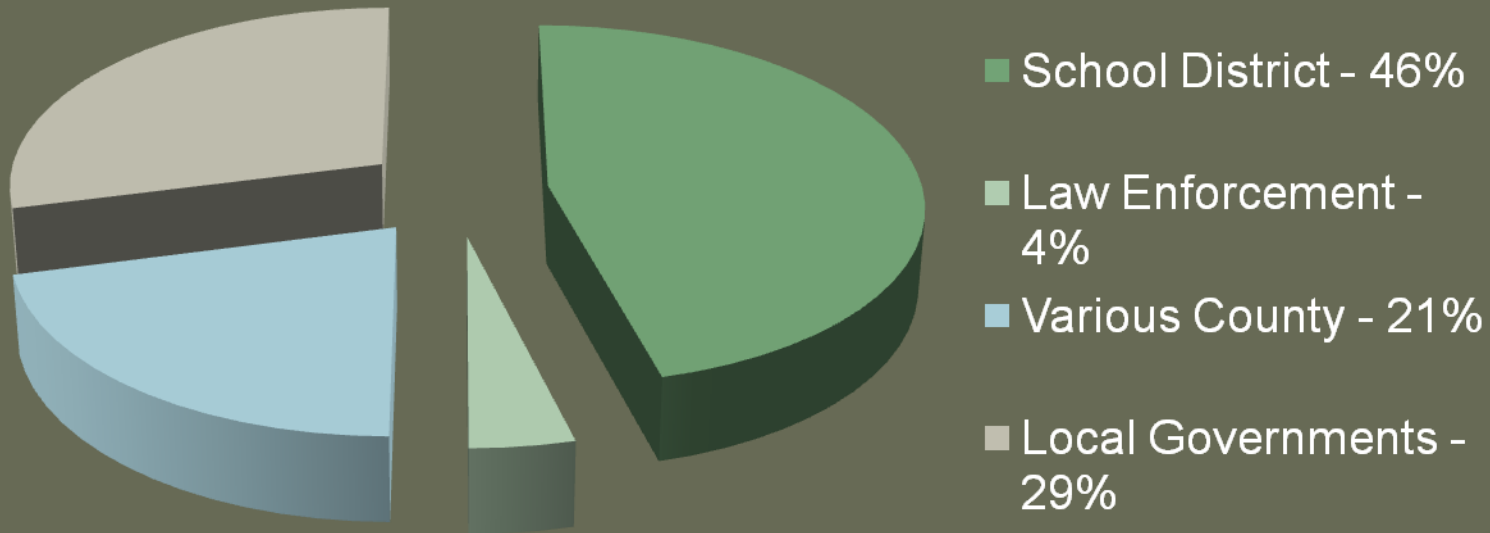
Mesa County Distributions

Distribution



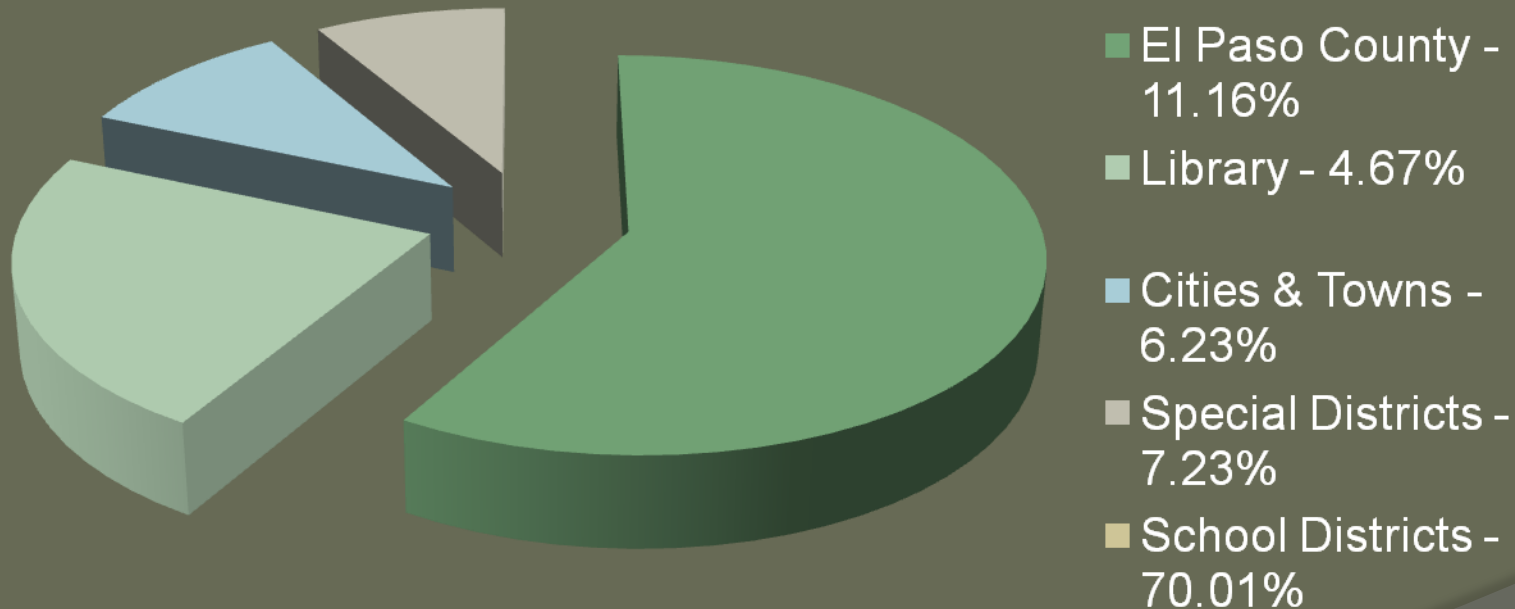
Douglas County Distributions

Distributions



El Paso County Distributions

Distributions



Specific Ownership Taxes – Forced Reductions

- ⦿ Reductions become effective January 1, 2011
- ⦿ Mandates that reductions occur in 4 equal annual steps in order to have a maximum specific ownership tax of \$2 for new vehicles and \$1 for all other vehicles

Sales Taxes – Forced Reductions

- Effective January 1, 2011
- Repeals all state and local taxes on vehicle rentals and leases
- Specifies that sales rebates are not taxable
- Ties state or local sales taxes to the first \$10,000 of value of vehicle sales price – to be achieved in 4 equal annual steps

Sales Taxation - Ambiguity

Language is not clear whether a sales tax would apply to only the first \$10,000 of sales price or whether the first \$10,000 in sales price is analogous to a “homestead” type exemption and the sales tax is applicable to the purchase price balance after deducting the first \$10,000 in sales price

Sales Tax Ambiguity – A Hypothetical Comparison

Tax Rate = 1%	Scenario One	Scenario Two
Purchase Price	\$30,000	\$30,000
If only on first \$10,000, sales tax would be	$\$10,000 \times 1\% = \100	
If the tax is on the balance of the sales price after deducting the first \$10,000, sales tax would be		$\$30,000 - \$10,000 = \$20,000$ $\$20,000 \times 1\% = \200
Total sales tax	\$100	\$200

Registration, License and Title Fees

- Effective January 1, 2011
- Sets an aggregate amount of \$10 per year for all registration, license and title fees per vehicle
- Current license fees include special road fees, emergency medical fees and other statutorily imposed fees and are set based on vehicle weight and age – license fees will vary by vehicle

License Fees - Douglas County Example

Type of Fee	Amount
Emergency Medical Fund	\$2.00
Insurance Data Base	.50
E-470	\$10
Emission Fund	\$2.20
POST Law Enforcement Training	.60

License Fees – El Paso County Example

Type of Fee	Amount
Street fund of a city, or to the county street fund if the tax[payer lives in a rural area	\$4.00
County General Fund to pay for clerical processing in the Motor Vehicle Department	\$4.00
County Emission Control Account (Diesel only)	.70
Peace officers Standards and Training	.60
State Department of Health for emission control (Diesel only)	\$1.50
State Department of Health for emission control (Diesel only)	\$2.00
State Highway User Fund	Balance of license fee

Six Exceptions to Mandated Reductions

- Other than the specifically authorized fees and taxes and fines, tolls, parking, seizure, inspection and new plate charges, the measure would repeal any other state or local charges on vehicles and vehicle uses
- Except for the 6 specifically cited fees and charges, any other added charge is to be considered a tax increase – presumably for TABOR purposes

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Effect on Income Taxes

Income Taxes

- Effective January 1, 2011, the state income tax rate is set at a baseline of 4.5% (current rate is 4.63%)
- Does not distinguish between individual and corporate income taxes
- In each of the next 10 years when the yearly income tax net growth exceeds 6%, the rate is to decrease by .1% until the aggregate rate has declined to 3.5%

Income Tax Would Be a Flat Proportional Tax

- ① The measure would set the income tax rate at 3.5% per year
- ① Does not seem to provide for tax brackets to adjust for lower incomes
- ① Does not define “taxable” income nor address deductions and credits

Tax Year Ambiguity

- Measure makes the 2011 income tax rate 4.5%
- Presumably that means its application would begin in 2012 for the calendar year 2011 annual income calculation
- Would mean that the tax rate applied in 2011 for the 2010 tax year would remain at 4.63%

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Effect on Telecommunications Taxes

Mandated Reductions

- Effective January, 2011
- Repeals all charges by or aiding programs of the state or any local government imposed on telephone, pager, cable, television, radio, Internet, computer, satellite or other telecommunications customer service accounts

Telecommunications (cont)

- ◉ Exempts 911 Emergency Fees – But Caps Them at 2009 Levels
- ◉ Specifies that any added charges are tax increases – presumably for TABOR purposes
- ◉ Repeals certain charges and fees, is silent with respect to sales taxes, franchise fees, occupation taxes or other non-service related charges

Proposition 101

Enforcement

Strict Enforcement

- ◉ Measure is self-executing, severable and would be a matter of statewide interest and concern thereby preempting municipal home rule Constitutional authority
- ◉ Specifically preempts conflicting state and local laws and ordinances
- ◉ Measure specifies that it is to be strictly enforced to reduce government revenue

Private Right of Action?

- Measure is silent with respect to a private right of action but includes a provision that mandates that prevailing plaintiffs are to have their legal fees and court costs repaid.
- A plaintiff is not necessarily only an aggrieved taxpayer, it could be a city that takes legal action against a wayward taxpayer

Annual State Audit

- Measure mandates the state to perform an annual audit to determine compliance with the measure for the purposes of reducing unfair, complex charges on common basic needs
- The measure does not provide any guidance on how such an audit is to be constructed or implemented, or what the remedy is for noncompliance

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Effect on Highway Users' Tax Fund

HUTF

- Colorado has a very sophisticated highway and transportation funding structure that shares revenues among the state, counties and municipalities through a complex cobweb of formulas
- Like a cobweb in nature, an impact on one of the threads results in ripple effects through the entire web
- It appears that the measure would have negative effects on the revenue distributions to counties and cities
- According to information from the Colorado Municipal League, the current municipal share of HUTF is projected to be \$120 million

HUTF

- It is difficult to analyze the full effect of the measure on HUTF from generalized information and assumptions
- Each thread of revenue that provides funding for the HUTF must be analyzed separately to determine the direct impact of the measure on that revenue source
- Each thread of revenue must then be analyzed for potential displaced impacts that would occur due to the measure – some revenue sources may be increased to compensate for decreased revenue from the measure

Proposition 101

Effect on “FASTER”

FASTER

- ① “FASTER” is the acronym used for SB09-108 which was enacted by the General Assembly in 2009
- ① The new law restructured much of the funding mechanism for transportation needs of the state and local governments
- ① New law is based on surcharges, fees and fines and the measure would repeal or reduce several of these charges resulting in the loss of tens of millions of dollars for the state’s transportation needs