

**Referendum I  
Domestic Partnerships**

1 **Referendum I proposes a change to the Colorado statutes that:**

- 2 ♦ creates a new legal relationship, called a domestic partnership, providing  
3 same-sex couples the opportunity to obtain the legal protections and  
4 responsibilities granted to married couples by Colorado law;
- 5 ♦ defines the criteria and process for entering into a domestic partnership; and
- 6 ♦ specifies that domestic partnerships are not marriage and do not change the  
7 public policy of the state, which defines marriage as only the union of one man  
8 and one woman.

9 **Summary and Analysis**

10 Under Colorado law, there is no process for same-sex couples to establish a legally  
11 binding relationship with legal protections, benefits, and responsibilities. Referendum I  
12 creates such a process, beginning February 12, 2007, and gives domestic partners the legal  
13 rights and responsibilities that spouses have. The legislature is required to pass laws to  
14 implement the provisions of Referendum I.

15 ***Domestic partnerships under Referendum I.*** Referendum I provides domestic  
16 partners legal rights, responsibilities, and benefits, including:

- 17 • jointly holding property with rights of inheritance;
- 18 • jointly incurring and being liable for debt;
- 19 • covering a partner as a dependent under policies for life insurance and health  
20 care;
- 21 • family leave benefits;
- 22 • committing a partner to a mental health facility;
- 23 • protection under the state's domestic violence laws; and
- 24 • disposing of a deceased partner's last remains.

25 Under Referendum I, Colorado laws that apply to spouses also apply to domestic  
26 partners, including laws that:

- 27 • pertain to medical care decisions, hospital visitation, and terminal care  
28 documents;
- 29 • grant workers' compensation payments to spouses and dependents;

- 1 • allow civil lawsuits based on spousal status, such as lawsuits for wrongful  
2 death;
- 3 • prohibit discrimination based on spousal status in areas such as housing and  
4 employment; and
- 5 • govern legal separation, divorce, property division, spousal maintenance, and  
6 child custody and support.

7 Currently, same-sex couples may sign legal documents for some protections and  
8 benefits, including the right to make medical decisions and to jointly hold and to inherit  
9 property. Other rights, such as filing suit for wrongful death, accessing a partner's workers'  
10 compensation benefits, or collecting child support, can only be granted by law. Therefore,  
11 they are not currently available to same-sex couples.

12 Referendum I specifically prohibits domestic partners from filing a joint state  
13 income tax return. Additionally, it permits a child placement agency to refuse to place a  
14 child with domestic partners for adoption if the agency objects on religious grounds.

15 ***Creating domestic partnerships.*** Individuals entering into a domestic partnership  
16 must be at least eighteen years of age and of the same sex. Individuals cannot enter into  
17 a domestic partnership with an ancestor, descendant, sibling, aunt, uncle, niece, or nephew,  
18 or a person who is married or in another domestic partnership.

19 Parties to a domestic partnership are required to obtain a license. The license may  
20 be certified by an individual such as a judge or member of the clergy, or the parties may  
21 certify the partnership themselves. The domestic partnership is then registered with the  
22 state.

23 ***Recognition of domestic partnerships.*** Federal law allows each state to determine  
24 whether it recognizes a legal relationship between same-sex couples established in another  
25 state. Under Referendum I, only domestic partnerships that are registered in Colorado are  
26 valid in Colorado. Other states will determine whether to recognize domestic partnerships  
27 registered in Colorado.

28 The federal government uses marital status as the qualification for a number of  
29 federally regulated rights and responsibilities. Examples include the ability to jointly file  
30 federal taxes, receive Social Security survivor and disability benefits, and obtain work and  
31 residency visas for foreign spouses. Referendum I does not extend any of these federal  
32 rights and responsibilities to domestic partners in Colorado.

1     **Arguments For**

2           (1) Committed same-sex couples deserve access to the legal protections,  
3 responsibilities, and benefits automatically granted to married couples. Many of these  
4 cannot be accessed through legal documents. Referendum I provides these legal  
5 protections while making no change to the legal status of marriage, which consists of the  
6 union of one man and one woman.

7           (2) Establishing legal standards of responsibility and a framework for resolving  
8 disputes for same-sex couples is in the state's interest. By holding same-sex couples  
9 accountable for legal commitments made in raising children, incurring debt, and owning  
10 property, domestic partnerships benefit individuals, their families, and the broader  
11 community.

12     **Arguments Against**

13           (1) Domestic partnerships diminish the significance of marriage for society by  
14 reducing marriage to a list of benefits and responsibilities. The benefits given to married  
15 couples are intended to support child rearing by one man and one woman. The state has  
16 an interest in restricting recognition and legal protection to these married couples to  
17 provide stability for the individuals, their families, and the broader community.

18           (2) Domestic partnerships extend benefits to same-sex couples that are not  
19 extended to any other two unmarried people. Many of the rights and responsibilities of  
20 married couples are already available to any two people willing to make a will, assign  
21 power of attorney, or enter into contracts. However, Referendum I gives the rights and  
22 responsibilities that are not currently available by contract only to domestic partners.

23     **Estimate of Fiscal Impact**

24           *State revenues and expenditures.* The state will charge \$17 for domestic  
25 partnership certificates resulting in new state revenues of \$59,500 per year, based on an  
26 estimated 3,500 certificates annually. Annual state expenditures of \$136,000 are expected  
27 to review and process civil rights complaints alleging discrimination on the basis of  
28 employment, housing, and public accommodation. These costs do not include spending  
29 associated with legal challenges that may result from Referendum I or from potential  
30 changes in the number and complexity of other court cases involving same-sex couples.

31           *County revenues and expenditures.* Counties are required to collect a \$7 license  
32 fee for each domestic partnership to offset their costs. Thus, \$24,500 in license fee revenue  
33 is expected to be retained by counties each year.