

**Referendum H
Domestic Partnerships**

1 **Referendum H is a proposed amendment to the Colorado statutes that:**

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

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 and benefits. Referendum H creates such a
12 process, beginning February 12, 2007, and gives domestic partners the legal rights and
13 responsibilities that are given to spouses. The legislature is required to pass laws to
14 implement the provisions of Referendum H.

15 ***Domestic partnerships under Referendum H.*** Under Referendum H, Colorado
16 laws that apply to married spouses apply to domestic partners, including laws that:

- 17 • allow civil lawsuits based on spousal status, such as lawsuits for wrongful
18 death;
- 19 • prohibit discrimination based on spousal status in areas such as housing and
20 employment;
- 21 • grant workers' compensation payments to spouses and dependents;
- 22 • pertain to medical care decisions, hospital visitation, and terminal care
23 documents; and
- 24 • govern legal separation, divorce, child custody and support, property division,
25 and spousal maintenance.

26 Referendum H provides domestic partners the rights, responsibilities, and benefits
27 of married couples, including:

- 28 • jointly holding property with rights of inheritance;
- 29 • jointly incurring and being liable for debt;

- 1 • covering a partner as a dependent under policies for life insurance and health
- 2 care;
- 3 • family leave benefits;
- 4 • committing a partner to a mental health facility;
- 5 • protection under the state's domestic violence laws; and
- 6 • disposing of a deceased partner's last remains.

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

12 Referendum H specifically prohibits domestic partners from filing a joint state
13 income tax return. Additionally, a child placement agency is not required to place a child
14 for adoption with domestic partners 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 from the county
20 clerk. The license may be delivered to an individual such as a judge or member of the
21 clergy for certification, or the parties may certify the partnership themselves. The county
22 clerk then registers the domestic partnership with the state.

23 ***Recognition of domestic partnerships.*** Federal law allows each state to determine
24 whether to recognize a marriage-like relationship between same-sex couples established
25 by another state. Under Referendum H, only domestic partnerships that are registered in
26 Colorado are valid in Colorado.

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

32 **Arguments For**

33 (1) Committed same-sex couples deserve access to the legal protections and
34 benefits that are automatically granted to married couples. Two same-sex adults who are
35 willing to undertake the responsibilities of a legal relationship should be given the same
36 opportunity as a man and a woman. Referendum H provides that opportunity while

1 preserving the commonly held view of marriage and the rights and responsibilities that go
2 along with marriage.

3 (2) Just as the government has created a legal framework for married couples to
4 establish relationships and resolve disputes, the state has an interest in providing legal
5 standards of responsibility for same-sex couples. Domestic partnerships benefit
6 individuals, their families, and society by holding partners accountable for commitments
7 made in raising children, incurring debt, and owning property.

8 **Arguments Against**

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

14 (2) Domestic partnerships confer special privileges for same-sex couples that are
15 not extended to any other two people, including unmarried family members. Many of the
16 rights and responsibilities of married couples are already available to any couple willing
17 to file the necessary paperwork. However, under Referendum H, only domestic partners
18 are given the rights and responsibilities that are not currently available by contract.

19 **Estimate of Fiscal Impact**

20 *State revenues and expenditures:* The state will charge \$15 for domestic
21 partnership certificates resulting in new state revenues of \$52,500 per year, based on an
22 estimated 3,500 certificates annually. State expenditures of \$136,000 are expected to
23 review and process civil rights complaints alleging discrimination on the basis of
24 employment, housing, and public accommodation. In addition, Referendum H is expected
25 to lead to new court cases regarding rights and responsibilities of domestic partners, which
26 may result in the need for increased state expenditures for courts.

27 *County revenues and expenditures:* County clerks are required to collect a \$7
28 license fee for each domestic partnership to offset their costs. Thus, \$24,500 in license fees
29 revenue is expected to be retained by local governments each year.