

**Referendum I
Domestic Partnerships**

1 **Referendum I is a proposed amendment 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 same
13 legal rights and responsibilities that spouses have. The legislature is required to pass laws
14 to 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 contract for some protections and benefits,
8 including the right to make medical decisions and to jointly hold and to inherit property.
9 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
13 Referendum I specifically prohibits domestic partners from filing a joint state
14 income tax return. Additionally, it permits a child placement agency to refuse to place a
15 child with domestic partners for adoption if the agency objects on religious grounds.

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

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

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

29 The federal government uses marital status as the qualification for a number of
30 federally regulated rights and responsibilities. Examples include the ability to jointly file
31 federal taxes, receive Social Security survivor and disability benefits, and obtain work and
32 residency visas for foreign spouses. Referendum I does not extend any of these federal
33 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 contracts or legal documents. Referendum I provides these
5 legal protections while making no change to the legal status of marriage, which consists
6 of the 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 couples accountable for
9 legal commitments made in raising children, incurring debt, and owning property,
10 domestic partnerships benefit individuals, their families, and the broader community.

11 **Arguments Against**

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

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

22 **Estimate of Fiscal Impact**

23 *State revenues and expenditures:* The state will charge \$15 for domestic
24 partnership certificates resulting in new state revenues of \$52,500 per year, based on an
25 estimated 3,500 certificates annually. Annual state expenditures of \$136,000 are expected
26 to review and process civil rights complaints alleging discrimination on the basis of
27 employment, housing, and public accommodation. These costs do not include spending
28 associated with legal challenges that may result from the proposal or from potential
29 changes in the number and complexity of other court cases involving same-sex couples.

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