

**Amendment \_ and Referendum \_  
Domestic Partnerships**

1 Two ballot measures create a new legal relationship for same-sex couples called  
2 a domestic partnership. *Amendment \_* is a proposed amendment to the Colorado  
3 Constitution. *Referendum \_* is a proposed amendment to state statutes. Voters may choose  
4 to vote for one, both, or neither of the proposals. Neither proposal is dependent upon the  
5 passage of the other. Both proposals:

- 6 ◆ provide same-sex couples the opportunity to obtain the legal protections and  
7 responsibilities granted to spouses by Colorado law;
- 8 ◆ define the criteria and process for entering into a domestic partnership; and
- 9 ◆ specify that a domestic partnership is not similar to marriage.

10 **Summary and Analysis**

11 Under Colorado law, there is no process for same-sex couples to establish a legally  
12 binding relationship with legal protections, benefits, and responsibilities. Amendment \_  
13 and Referendum \_ establish domestic partnerships in Colorado that give same-sex couples  
14 the legal rights and responsibilities that are given to spouses. Both proposals require the  
15 legislature to pass laws to implement domestic partnerships.

16 ***The legal rights, responsibilities, and laws extended to domestic partnerships.***  
17 Both proposals grant domestic partners the same legal rights, responsibilities, and benefits  
18 of married couples. Referendum \_ lists those rights, responsibilities, and benefits, while  
19 Amendment \_ requires the legislature to pass laws consistent with Referendum \_.  
20 Examples of the rights and responsibilities provided to domestic partners by these two  
21 proposals include:

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

1 Under the two proposals, Colorado laws that apply to spouses also apply to  
2 domestic partners, including laws that:

- 3 • pertain to medical care decisions, hospital visitation, and terminal care  
4 documents;
- 5 • grant workers' compensation payments to spouses and dependents;
- 6 • allow civil lawsuits based on spousal status, such as lawsuits for wrongful  
7 death;
- 8 • prohibit discrimination based on spousal status in areas such as housing and  
9 employment; and
- 10 • govern legal separation, divorce, property division, spousal maintenance, and  
11 child custody and support.

12 Currently, same-sex couples may contract for some protections and benefits,  
13 including the right to make medical decisions and to hold and inherit personal property.  
14 Other rights, such as filing suit for wrongful death, accessing a partner's workers'  
15 compensation benefits, or collecting child support, can only be granted by law. Therefore,  
16 they are not currently available to same-sex couples.

17 Referendum \_ specifically prohibits domestic partners from filing a joint state  
18 income tax return. Additionally, a child placement agency is not required to place a child  
19 for adoption with domestic partners if the agency objects on religious grounds.

20 ***Creating domestic partnerships.*** Both proposals set the criteria for entering into  
21 a domestic partnership. They require that individuals entering into a domestic partnership  
22 be at least eighteen years of age and of the same sex. The individuals may not be married,  
23 partners in another domestic partnership, or related by adoption or blood.

24 Both proposals also set licensing procedures. Parties to a domestic partnership are  
25 required to obtain a license from the county clerk. The license may be delivered to an  
26 individual such as a judge or member of the clergy for certification, or the parties may  
27 certify the partnership themselves. The county clerk then registers the domestic  
28 partnership with the state. Under Referendum \_, couples would be able to register  
29 domestic partnerships beginning February 12, 2007.

30 ***Recognition of domestic partnerships.*** Federal law allows each state to determine  
31 whether to recognize a legal relationship between same-sex couples established by another  
32 state. Under Referendum \_, only domestic partnerships that are registered in Colorado are  
33 valid in Colorado. Other states will determine whether to recognize domestic partnerships  
34 registered in Colorado.

35 The federal government uses marital status as the qualification for a number of  
36 federally regulated rights and responsibilities. Examples include the ability to jointly file  
37 federal taxes, receive Social Security survivor and disability benefits, and obtain work and  
38 residency visas for foreign spouses. Neither of the proposals extend any of these federal  
39 rights and responsibilities to domestic partners in Colorado.

1            *Definition of marriage.* Amendment \_ and Referendum \_ state that domestic  
2 partnerships do not change the laws of the state that define marriage as a union between  
3 one man and one woman. Both proposals state that domestic partnerships are not similar  
4 to marriage.

5            **Arguments For**

6            (1) Placing Amendment \_ in the state constitution guarantees same-sex couples  
7 equal treatment under Colorado law. Committed same-sex couples deserve access to the  
8 legal protections, responsibilities, and benefits automatically granted to married couples.  
9 Many of these cannot be accessed through contracts or legal documents. Referendum \_  
10 and Amendment \_ provide these legal protections while making no change to the legal  
11 status of marriage, which consists of the union of one man and one woman.

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

16            **Arguments Against**

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

22            (2) Domestic partnerships extend benefits to same-sex couples that are not  
23 extended to any other two unmarried people. Many of the rights and responsibilities of  
24 married couples are already available to any couple willing to make a will, assign power  
25 of attorney, or enter into contracts. However, Referendum \_ and Amendment \_ give the  
26 rights and responsibilities that are not currently available by contract only to domestic  
27 partners.

1     **Estimate of Fiscal Impact**

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

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