

**Amendment ?  
Ethics in Government**

1 **Amendment ? is an amendment to the Colorado Constitution that:**

- 2           ◆ prohibits public officials from accepting any amount of money or any gift  
3           worth more than \$50;
- 4           ◆ bans lobbyists from giving gifts or meals to public officials or employees or the  
5           immediate family members of the public officials or employees;
- 6           ◆ prohibits statewide elected officeholders and state legislators from lobbying for  
7           two years after leaving office; and
- 8           ◆ creates an ethics commission to hear complaints, assess penalties, and issue  
9           advisory opinions.

10 **Summary and Analysis**

11           *Acceptance of gifts by public officials.* Current law prohibits state elected officials  
12 from accepting the following gifts, when the gift is related to the person’s official duties:

- 13           ✓ any money; or
- 14           ✓ any gift worth more than \$50 such as a fax machine, an office  
15           computer, a newspaper subscription, or donated office space.

16           The prohibitions apply to the following state elected officials, as well as candidates  
17 for these offices: governor, lieutenant governor, secretary of state, attorney general,  
18 treasurer, state legislators, district attorneys, members of the State Board of Education, and  
19 regents of the University of Colorado.

20           Amendment ? expands the current gift ban to cover money or gifts given for any  
21 reason. The ban includes favors or services, travel, meals, entertainment, and honoraria,  
22 as well as promises of future employment. Amendment ? also extends the restrictions to  
23 apply to heads of departments of state government, salaried members of state boards and  
24 commissions, county and municipal officials, and most government employees, including  
25 independent contractors.

26           *Gifts from lobbyists and lobbying by former government officials.* Amendment ?  
27 prohibits professional lobbyists from giving gifts of any kind, including meals, to public  
28 officials and government employees or their family members. It also prohibits statewide

1 elected officeholders and state legislators from lobbying professionally for two years after  
2 leaving office. Professional lobbying is when a person is paid to advocate an interest or  
3 position to policymakers.

4 ***Ethics commission.*** Amendment ? creates an ethics commission to hear  
5 complaints, issue findings, assess penalties, and issue advisory opinions. Any person can  
6 file a complaint with the commission alleging a violation of the money and gift ban,  
7 lobbying restrictions, or any other standard of conduct or reporting requirement specified  
8 in law. The commission must investigate the complaint, hold a public hearing, and issue  
9 findings, unless the complaint is found to be frivolous. The commission has the power to  
10 subpoena documents or witnesses. It can also assess penalties if it finds an ethics violation  
11 has occurred. In addition to investigating complaints, the commission can issue advisory  
12 opinions in response to a written request from a public official or government employee.

13 The commission consists of five people. The state Senate, the state House of  
14 Representatives, the Governor, and the Chief Justice of the Colorado Supreme Court each  
15 appoint one person to the commission. The fifth person is a local government official or  
16 local government employee selected by the other members. No more than two members  
17 may be members of the same political party, and members must have been continuously  
18 registered with the same political party, or continuously unaffiliated, for at least two years  
19 prior to their appointment.

## 20 **Arguments For**

21 1) Public officials accepting gifts from lobbyists hurts the credibility and integrity of  
22 the political process. Amendment ? strengthens public confidence by reducing the  
23 appearance of conflicts of interest. When lobbyists give gifts to public officials, the  
24 perception is that they gain access and influence that other citizens in the state do not have.  
25 Public officials should be open and available to everyone, no matter who they are.

26 2) Amendment ? eliminates the temptation for elected officials to make decisions  
27 based on the potential of future employment. Requiring lawmakers to wait two years  
28 before they can lobby ensures that policy decisions are based upon what is best for  
29 constituents.

30 3) Elected officials may not always objectively judge the ethics of their peers. Instead,  
31 an independent forum is needed where citizens can file legitimate concerns about possible  
32 ethical violations by their elected representatives. The ethics commission created by  
33 Amendment ? is charged with enforcing standards of conduct for both state and local  
34 public officials and provides a central venue for filing ethics complaints from across the  
35 state.

1     **Arguments Against**

2     1)     Amendment ? is unnecessary because elected officials are already held accountable  
3     to voters. They can already be investigated for ethics violations, recalled, or removed from  
4     office when they run for reelection. Standards currently exist at the state level to prohibit  
5     lobbyists, corporations, and labor organizations from giving money or anything of value  
6     to state elected officials.

7     2)     Amendment ? unfairly restricts what a public official can do to make a living after  
8     leaving public service. Former lawmakers often have expertise in specific policy areas that  
9     can benefit the public, and private companies should be allowed to hire the person they  
10    believe will best represent their interests. The responsibility for making policy decisions  
11    in the public interest lies with current public officials, not former public officials.

12   3)     The ethics commission is not truly independent. It may not be able to objectively  
13   judge the ethics of other government officials because its members are appointed by, and  
14   it may actually include, government officials. Procedures already exist to address ethics  
15   complaints at every level of government in Colorado. Establishing a new commission adds  
16   unneded bureaucracy that may duplicate the work of existing ethics oversight entities.

17   **Estimate of Fiscal Impact**