

Amendment 56 Employer Responsibility for Health Insurance

1 **Amendment 56 proposes amending the Colorado Constitution to:**

- 2 ♦ require private employers with 20 or more employees to either provide
3 health insurance for both employees and their dependents or pay for
4 insurance through a new state authority;
- 5 ♦ limit the amount the employee must pay to 20 percent for employee-only
6 coverage and to 30 percent for dependent coverage; and
- 7 ♦ require the state legislature to implement the measure, including establishing
8 the new state authority and minimum standards for health insurance plans.

9 **Summary and Analysis**

10 Currently, employers in Colorado are not required by state or federal law to
11 provide health insurance for their employees. No information is available on how
12 many employers with 20 or more employees offer health insurance; however, federal
13 data show that most employers in Colorado with more than 25 employees offer some
14 type of health insurance to their employees. Federal data also show that small
15 employers are less likely to offer health insurance than larger employers.

16 For those employers who offer health insurance, plans and premiums may vary
17 significantly. For example, an employer may offer employees a basic plan, and pay
18 90 percent of the premium. Another employer may offer a comprehensive plan, and
19 pay 50 percent of the premium. There is no state or federal law that requires an
20 employer to contribute to the cost of insurance for employees or their dependents.

21 ***Health care coverage in Colorado.*** According to a state study, about 58 percent
22 of Coloradans obtain health insurance through their employer or through a family
23 member's employer. Other sources of coverage include government programs such
24 as Medicare and Medicaid (21 percent) and individually purchased health insurance
25 (4 percent). The remaining 17 percent of Coloradans are uninsured.

26 ***Requirements of Amendment 56.*** Amendment 56 requires every private
27 employer in Colorado with 20 or more employees to provide health insurance to
28 employees and dependents. Those that currently provide insurance may need to
29 change their plans to meet the requirements of Amendment 56 to: (1) offer dependent
30 insurance, (2) pay 80 percent of the cost of the health insurance for the employee,
31 and (3) pay 70 percent of the cost of insurance for the employee's dependents.

32 Alternatively, employers may choose to pay premiums to a newly established state
33 authority. The authority must contract for health insurance for employees whose
34 employers do not directly provide coverage. The state legislature is responsible for
35 determining how the authority operates. Amendment 56 prohibits the legislature from

1 using general state tax dollars for the operation of the authority or to pay insurance
2 costs, but other sources of revenue may be used. Amendment 56 also requires the
3 legislature to enact laws to implement its provisions, including determining the types of
4 health plans that must be offered by employers.

5 ***Other employer mandates for health insurance in the U.S.*** Federal law
6 generally prohibits states from requiring employers to provide health insurance. Thus,
7 few states have such laws. Congress granted an exception for a Hawaii law that
8 requires employers to choose one of three ways to provide health insurance to
9 employees. Recently, an ordinance was adopted in the City of San Francisco
10 requiring employers to spend a certain amount on health care for employees; it has
11 been implemented, but is being challenged in federal court. A court struck down a
12 Maryland law that would have required private employers with at least
13 10,000 employees to spend at least 8 percent of their payroll on health insurance
14 benefits because it effectively required employers to change their employee health
15 insurance plans. Massachusetts and Vermont require employers who do not provide
16 health insurance benefits to pay a fee to the state; neither of those laws has been
17 challenged in court.

18 **Arguments For**

19 1) Businesses are likely to benefit from higher productivity and fewer days lost to
20 illness when more employees are insured. Individuals with health insurance tend to
21 be healthier because they have access to preventative care and are more likely to
22 seek medical attention for minor illnesses and injuries before they become serious.
23 As a result of Amendment 56, affected businesses may have more insured
24 employees, allowing them to be more productive and contribute to the growth and
25 strength of Colorado's economy.

26 2) Amendment 56 increases access to affordable health insurance for working
27 people and their families. When individuals and families have health insurance, they
28 are better protected from the financial burden of catastrophic medical events. By
29 establishing cost-sharing requirements between employers and employees, the
30 measure provides more workers with a viable option to obtain health insurance.

31 3) Employers in the state share in the responsibility for solving the problem of
32 access to health care. While a majority of Colorado employers offer health insurance
33 to employees, employers that do not provide this benefit have an unfair competitive
34 advantage and create a financial burden on those that do. The costs of treating
35 people with little or no health insurance are passed on in the form of increased
36 charges for health care services and increased insurance premiums, which in turn
37 raise the cost of health care for everyone.

1 **Arguments Against**

2 1) Amendment 56 places a new financial burden on businesses that may result in
3 higher costs, lost jobs, and an increase in the price for goods and services.
4 Additionally, companies may be discouraged from locating in Colorado. All these
5 factors could slow growth and damage the state's economy. The measure removes
6 the flexibility employers currently have to offer benefits that are within a company's
7 budget while meeting the needs of their employees.

8 2) Amendment 56 may ultimately hurt employees. Businesses are likely to
9 decrease employees' wages, bonuses, or other benefits in order to offset increased
10 health care costs. Due to the requirement that employers pay 70 percent of the costs
11 for family-health coverage, the measure could result in discrimination against hiring
12 individuals with families.

13 3) Amendment 56 does not solve the problems associated with the high cost of
14 health insurance. Often the reason that employers do not offer health insurance is
15 because they cannot afford the premiums. Employees may remain uninsured
16 because they cannot afford their share of the premiums or choose not to purchase
17 health insurance. The plans established by the legislature may not provide better or
18 more affordable health insurance for employees covered by the measure.
19 Additionally, the measure does nothing for employees of small businesses. A
20 constitutional change, like Amendment 56, is an inflexible approach to dealing with the
21 complex issue of health insurance.

22 **Estimate of Fiscal Impact**

23 State and local governments are excluded from the health insurance requirements
24 of Amendment 56, so government spending is not affected by these components of
25 the measure. Both state revenue and spending are expected to increase for the new
26 state authority, beginning in budget year 2010. Total revenue from premiums
27 depends upon the number of employers and employees selecting health coverage
28 through the authority. Total spending depends on the specific responsibilities of the
29 authority. The increase in state revenue and spending cannot be estimated until the
30 legislature implements the measure. Employer costs to provide health insurance, as
31 specified by Amendment 56, are not estimated.