

**Initiative #92
Employer Responsibility for Health Insurance**

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

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

10 **Summary and Analysis**

11 Currently, employers in Colorado are not required by state or federal law to
12 provide health insurance for their employees. No information is available concerning
13 how many employers with 20 or more employees offer health insurance; however,
14 federal data show that most employers in Colorado with more than 25 employees offer
15 some type of health insurance to their employees. Federal data also show that small
16 employers are less likely to offer health insurance than larger employers. For those
17 employers who offer health insurance, there is no state or federal law that requires the
18 employer to contribute to the cost of the insurance.

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

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

30 Alternatively, employers may choose to pay premiums to a newly established state
31 authority. The authority must contract for health insurance for employees whose
32 employers do not directly provide coverage. The state legislature is responsible for
33 determining how the authority operates, except that Amendment _ prohibits the use
34 of general state tax dollars for its operation or for insurance costs. Amendment _

1 also requires the legislature to enact laws to implement its provisions, including
2 determining the types of health plans that must be offered by employers.

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

16 **Arguments For**

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

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

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

36 **Arguments Against**

37 1) Amendment __ places a new financial burden on companies which may result in
38 higher costs to do business, lost jobs, and an increase in the price for goods and
39 services. Additionally, companies may be discouraged from locating in Colorado. All

1 these factors could slow growth and damage the state's economy. The measure
2 removes the flexibility employers currently have to offer benefits that are within a
3 company's budget while meeting the needs of their employees.

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

9 3) Amendment _ does not solve the problems associated with the high cost of
10 health insurance. Often the reason that employers do not offer health insurance is
11 because they cannot afford the premiums. Employees may remain uninsured
12 because they cannot afford their share of the premiums or choose not to purchase
13 health insurance. The measure does nothing to make health insurance more
14 affordable and available for people who work for small businesses. A constitutional
15 change, like Amendment __, is an inflexible approach to dealing with the complex
16 issue of health insurance.

17 **Estimate of Fiscal Impact**

18 While local and state governments are excluded from the health insurance
19 requirements of Amendment _, both state revenue and spending are expected to
20 increase for the new state authority, beginning in budget year 2010. Total revenue
21 from premiums depends upon the number of employers and employees selecting
22 health coverage through the authority. Total spending depends on the specific
23 administrative responsibilities of the authority.

24 It is assumed that the legislature will establish the authority in such a way that it
25 will be exempt from the constitutional spending limit. The amount of state revenue
26 and spending increases cannot be estimated until the legislature implements the
27 measure. An estimate of employer costs to provide health insurance is not included.