

Amendment 54 Campaign Contributions from Certain Government Contractors

1 **Amendment 54 proposes amending the Colorado Constitution to:**

- 2 ♦ prohibit certain government contractors from contributing to a political
3 party or candidate for the contract's duration and two years thereafter;
- 4 ♦ prohibit contributors to ballot issue campaigns from entering into certain
5 government contracts relating to the ballot issue;
- 6 ♦ apply the prohibitions on campaign contributions and ballot issue
7 contracts to any contractor with a government contract or contracts that
8 does not use a public and competitive bidding process soliciting at least
9 three bids and with a total value greater than \$100,000 in a single year;
10 and
- 11 ♦ apply the prohibitions on campaign contributions and ballot issue
12 contracts to a labor organization holding a collective bargaining
13 agreement with a state or local government.

14 **Summary and Analysis**

15 Government entities purchase goods and services from private-sector vendors for
16 the operation of government. The awarding of state contracts for these goods and
17 services is regulated by state law. Local governments largely determine their own
18 practices.

19 ***How are state government contracts awarded?*** State law requires, with few
20 exceptions, that vendors for state contracts be selected through a competitive bidding
21 process. Separate rules govern small and emergency purchases. In some cases, a
22 state agency may determine that only one good or service can reasonably meet the
23 agency's need, and only one vendor can provide the particular good or service.
24 Examples of circumstances when competitive bidding is not used include cases:

- 25 ♦ where equipment, accessories, or replacement parts must be
26 compatible;
- 27 ♦ where a sole supplier's item is needed for trial use or testing; and
- 28 ♦ where public utility services are to be purchased.

1 **How does the measure affect government contractors and labor**
2 **organizations?** Amendment 54 prohibits campaign contributions by certain
3 government contractors. The prohibition applies to contractors with a total contract
4 value of greater than \$100,000 in a single year where fewer than three bids are
5 solicited. It also covers labor organizations that represent public employees in a
6 collective bargaining agreement.

7 Contracts covered by Amendment 54 are referred to in the measure as "sole
8 source contracts" and include those awarded by the state, cities, counties, school
9 districts, and other special districts. The measure requires the state to publish and
10 maintain a database of every covered government contract issued at every level of
11 government.

12 **How are Amendment 54's prohibitions applied?** Under the measure, covered
13 government contractors are prohibited from making a campaign contribution
14 themselves, or on behalf of a family member, to any political party or any state or local
15 candidate for the duration of the contract plus two additional years. A contractor
16 includes:

- 17 ◆ the contracting entity's officers, directors, or trustees;
- 18 ◆ any individual who controls at least 10 percent of the shares of or
19 interest in the entity; and
- 20 ◆ in the case of a collective bargaining agreement, a labor organization
21 and any political committees it creates to make campaign contributions.

22 The measure also prohibits a person who contributes to a ballot issue campaign from
23 entering into a covered government contract relating to the ballot issue.

24 **What penalties exist under Amendment 54?** Under Amendment 54, individuals
25 who accept contributions from covered government contractors for the benefit of a
26 political party or candidate must pay restitution to the contracting government. Elected
27 or appointed officials may be removed or disqualified from office for knowingly
28 violating Amendment 54. Further, a covered government contractor who intentionally
29 makes a contribution in violation of the measure is barred from holding a covered
30 government contract or public employment for three years. The governor may
31 suspend these penalties during a declared state of emergency.

32 **What is the scope of state contracts affected by Amendment 54?** Information
33 is not available on the number of state contracts that meet the criteria in
34 Amendment 54. However, a sample of state contracts indicates that last year about
35 6 percent of state contracts had a value greater than \$100,000 and were not put out
36 for bid. These contracts represented about 5 percent of the total value of state
37 contracts over \$100,000.

38 **What is the scope of local government contracts affected by Amendment**
39 **54?** Information is not available on the number and value of local contracts that meet

1 the criteria in Amendment 54. Some local governments, including the cities of Boulder
2 and Fort Collins, have enacted laws restricting campaign contributions by individuals
3 holding any type of contract with the local government and would integrate
4 Amendment 54's provisions into existing practice. Local governments also enter into
5 collective bargaining agreements. For example, 45 school districts, representing
6 80 percent of teachers in the state, and four city police departments, representing
7 33 percent of the state's police officers, are covered under collective bargaining
8 agreements.

9 **Arguments For**

10 1) Amendment 54 promotes civic trust and government transparency. By
11 prohibiting campaign contributions, Amendment 54 ensures that business interests,
12 labor, and other covered government contractors do not influence policy decisions
13 through campaign contributions. In addition, by requiring state officials to publish
14 information on covered government contracts, the measure makes information on
15 vendors that receive such contracts easier to obtain by ordinary citizens. Registered
16 voters can hold both public officials and contractors to a high ethical standard and
17 seek remedies when violations occur.

18 2) Amendment 54 furthers the efficient use of taxpayer dollars by promoting
19 competitive bidding for government contracts. It makes contracts where fewer than
20 three bids are solicited less attractive by prohibiting political contributions from entities
21 that receive such contracts. Amendment 54 thus encourages taxpayer value in
22 contracting, and discourages instances where it may be easy to rely on entities with
23 existing contracts.

24 **Arguments Against**

25 1) The broad scope of the measure could have far-reaching consequences for
26 contractors, political candidates, and elected officials. For example, an individual
27 holding a covered contract with one local government could be penalized for making a
28 contribution to a candidate in a separate jurisdiction. To avoid violations and
29 penalties, candidates and political parties will have to monitor each contribution to
30 ensure that it is not made by a sole-source government contractor, or by the
31 contractor on behalf of a relative. Furthermore, Amendment 54 establishes penalties
32 that are severe relative to the offenses, including loss or disqualification from office for
33 elected or appointed officials.

34 2) Amendment 54 proposes an inflexible approach to government contracting.
35 Different regions and levels of government throughout the state have varying
36 contracting needs and access to providers of goods and services. Because rural
37 cities and counties typically have fewer contracting options than urban communities or
38 state government, the measure presents unique challenges for small communities and
39 their service providers. For example, if one organization in a small community is the
40 only available contractor for community services, the organization would have to

Final Draft

1 choose between accepting a contract and participating financially in the political
2 process.

3 **Estimate of Fiscal Impact**

4 Amendment 54 requires the state to publish and maintain a summary of each
5 covered government contract issued by the state and all local government entities,
6 beginning December 31, 2008. The cost of hiring a contractor to develop the
7 database is \$234,000. In addition, annual state expenditures of \$85,000 for
8 one employee are required to manage the database of contracts of approximately
9 4,000 governmental entities. Thus, the total cost to the state will be \$277,000 and a
10 half-time employee in budget year 2009 and \$85,000 and one employee in budget
11 year 2010 and thereafter.

**Amendment 54
Campaign Contributions from Certain Government Contractors**

1 **Amendment 54 proposes amending the Colorado Constitution to:**

- 2 ♦ prohibit certain government contractors from contributing to a political
3 party or candidate for the contract's duration and two years thereafter;
- 4 ♦ prohibit contributors to ballot issue campaigns from entering into certain
5 government contracts relating to the ballot issue;
- 6 ♦ apply the prohibitions on campaign contributions and ballot issue
7 contracts to any contractor with a government contract or contracts that
8 does not use a public and competitive bidding process soliciting at least
9 three bids and with a total value greater than \$100,000 in a single year;
10 and
- 11 ♦ apply the prohibitions on campaign contributions and ballot issue
12 contracts to a labor organization holding a collective bargaining
13 agreement with a state or local government.

14 **Summary and Analysis**

15 Government entities purchase goods and services from private-sector vendors for
16 the operation of government. The awarding of state contracts for these goods and
17 services is regulated by state law. Local governments largely determine their own
18 practices.

19 ***How are state government contracts awarded?*** State law requires, with few
20 exceptions, that vendors for state contracts be selected through a competitive bidding
21 process. Separate rules govern small and emergency purchases. In some cases, a
22 state agency may determine that only one good or service can reasonably meet the
23 agency's need, and only one vendor can provide the particular good or service.
24 Examples of circumstances when competitive bidding is not used include cases:

- 25 ♦ where equipment, accessories, or replacement parts must be
26 compatible;
- 27 ♦ where a sole supplier's item is needed for trial use or testing; and
- 28 ♦ where public utility services are to be purchased.

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2 **organizations?** Amendment 54 prohibits campaign contributions by certain
3 government contractors. The prohibition applies to contractors with a total contract
4 value of greater than \$100,000 in a single year where fewer than three bids are
5 solicited. It also covers labor organizations that represent public employees in a
6 collective bargaining agreement.

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8 source contracts" and include those awarded by the state, cities, counties, school
9 districts, and other special districts. The measure requires the state to publish and
10 maintain a database of every covered government contract issued at every level of
11 government.

12 **How are Amendment 54's prohibitions applied?** Under the measure, covered
13 government contractors are prohibited from making a campaign contribution
14 themselves, or on behalf of a family member, to any political party or any state or local
15 candidate for the duration of the contract plus two additional years. A contractor
16 includes:

- 17 ◆ the contracting entity's officers, directors, or trustees;
- 18 ◆ any individual who controls at least 10 percent of the shares of or
19 interest in the entity; and
- 20 ◆ in the case of a collective bargaining agreement, a labor organization
21 and any political committees it creates to make campaign contributions.

22 The measure also prohibits a person who contributes to a ballot issue campaign from
23 entering into a covered government contract relating to the ballot issue.

24 THE TERM "IMMEDIATE FAMILY MEMBER" IS DEFINED FOR THE PURPOSES OF THE
25 PROVISIONS OF LAW RELATING TO CAMPAIGN FINANCE AND DISCLOSURE AND DOES NOT
26 EXPAND THE DEFINITION OF FAMILY FOR OTHER PURPOSES OR CREATE ANY RIGHTS TO
27 OTHERWISE UNLAWFUL CONDUCT.

28 **What penalties exist under Amendment 54?** Under Amendment 54, individuals
29 who accept contributions from covered government contractors for the benefit of a
30 political party or candidate must pay restitution to the contracting government. Elected
31 or appointed officials may be removed or disqualified from office for knowingly
32 violating Amendment 54. Further, a covered government contractor who intentionally
33 makes a contribution in violation of the measure is barred from holding a covered
34 government contract or public employment for three years. The governor may
35 suspend these penalties during a declared state of emergency.

36 **What is the scope of state contracts affected by Amendment 54?** Information
37 is not available on the number of state contracts that meet the criteria in
38 Amendment 54. However, a sample of state contracts indicates that last year about 6
39 percent of state contracts had a value greater than \$100,000 and were not put out for

1 bid. These contracts represented about 5 percent of the total value of state contracts
2 over \$100,000.

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4 ***54?*** Information is not available on the number and value of local contracts that meet
5 the criteria in Amendment 54. Some local governments, including the cities of Boulder
6 and Fort Collins, have enacted laws restricting campaign contributions by individuals
7 holding any type of contract with the local government and would integrate
8 Amendment 54's provisions into existing practice. Local governments also enter into
9 collective bargaining agreements. For example, 45 school districts, representing 80
10 percent of teachers in the state, and four city police departments, representing 33
11 percent of the state's police officers, are covered under collective bargaining
12 agreements.

13 **Arguments For**

14 1) Amendment 54 promotes civic trust and government transparency. By
15 prohibiting campaign contributions, Amendment 54 ensures that business interests,
16 labor, and other covered government contractors do not influence policy decisions
17 through campaign contributions. In addition, by requiring state officials to publish
18 information on covered government contracts, the measure makes information on
19 vendors that receive such contracts easier to obtain by ordinary citizens. Registered
20 voters can hold both public officials and contractors to a high ethical standard and
21 seek remedies when violations occur.

22 2) Amendment 54 furthers the efficient use of taxpayer dollars by promoting
23 competitive bidding for government contracts. It makes contracts where fewer than
24 three bids are solicited less attractive by prohibiting political contributions from entities
25 that receive such contracts. Amendment 54 thus encourages taxpayer value in
26 contracting, and discourages instances where it may be easy to rely on entities with
27 existing contracts.

28 **Arguments Against**

29 ~~1) The broad scope of the measure could have far-reaching consequences for~~
30 ~~contractors, political candidates, and elected officials. For example, an individual~~
31 ~~holding a covered contract with one local government could be penalized for making a~~
32 ~~contribution to a candidate in a separate jurisdiction. To avoid violations and~~
33 ~~penalties, candidates and political parties will have to monitor each contribution to~~
34 ~~ensure that it is not made by a sole-source government contractor, or by the~~
35 ~~contractor on behalf of a relative. Furthermore, Amendment 54 establishes penalties~~
36 ~~that are severe relative to the offenses, including loss or disqualification from office for~~
37 ~~elected or appointed officials.~~

38 1) Amendment 54 proposes an inflexible approach to government contracting.
39 Different regions and levels of government throughout the state have varying

1 contracting needs and access to providers of goods and services. Because rural
2 cities and counties typically have fewer contracting options than urban communities or
3 state government, the measure presents unique challenges for small communities and
4 their service providers. For example, if one organization in a small community is the
5 only available contractor for community services, the organization would have to
6 choose between accepting a contract and participating financially in the political
7 process.

8 **Estimate of Fiscal Impact**

9 Amendment 54 requires the state to publish and maintain a summary of each
10 covered government contract issued by the state and all local government entities,
11 beginning December 31, 2008. The cost of hiring a contractor to develop the
12 database is \$234,000. In addition, annual state expenditures of \$85,000 for
13 one employee are required to manage the database of contracts of approximately
14 4,000 governmental entities. Thus, the total cost to the state will be \$277,000 and a
15 half-time employee in budget year 2009 and \$85,000 and one employee in budget
16 year 2010 and thereafter.

August 12, 2008

Deborah Godshall, Assistant Director
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Denver, CO 80203-1784

Via e-mail: lcs.ga@state.co.us

RE: Initiative #59, Response to Third Draft

Dear Ms. Godshall:

This office represents the proponents of Initiative #59. Enclosed are the comments and proposed language changes for the third draft of the ballot analysis "Blue Book".

The section on page 4 entitled "Arguments Against". Paragraph 1 should be completely rewritten. The first sentence (page 4, line 2) says, "The broad scope of the measure could have far-reaching consequences for contractors, political candidates and elected officials." The use of the adjective "far-reaching" is inappropriate. Furthermore, since the proposed measure is directed at sole-source government contractors, political candidates, and elected officials, it is not an argument against the measure that the measure effects these persons. The statement in the second ballot analysis should be deleted.

The next sentence contained on page 4, lines 3 through 5 states:

"For example, an individual holding a covered contract with one local government could be penalized for making a contribution to a candidate in a separate jurisdiction."

This is the purpose of proposed Initiative #59, to prohibit political contributions to a candidate or political party by a holder of a sole-source government contract. The above statement is not an argument against, it is the substance of the matter and should not be included in this section.

The last sentence of this section entitled "Arguments Against" is incorrect. The statement at page 4, lines 8 and 9 reads:

"Furthermore, Amendment ____'s penalties put elected officials at risk of losing office for even a small technical oversight."

Ms. Godshall
August 12, 2008
Page 2

This statement is incorrect as the measure applies an intentional or knowingly standard before penalties may be imposed. Therefore, this sentence is incorrect and should be changed. The entire section "Arguments Against" paragraph 1 should be deleted. It is incorrect and improper and does not amount to an argument against proposed Initiative #59.

I would also propose an additional sentence or paragraph that the term "immediate family member" is for purposes of this proposal only, i.e., that it does not expand the definition of family for any purposes other than family acting as a conduit for political contributions, and does not create any rights to otherwise unlawful conduct.

Thank you for this opportunity to make comments to the third draft of the ballot analysis. I look forward to receiving the final draft.

Respectfully submitted,

Mark Bender

MARK GRUESKIN'S COMMENTS ON LAST DRAFT OF AMENDMENT 54

August 1, 2008

All-

I've reviewed the latest draft. Obviously, a lot of thought's gone into it.

I appreciate the fact that you've removed the no-bid/sole-source references from most of this section. I do wonder why the paragraph and chart on the top of page 3 are relevant. Contracts that were not even put out for bid will be a small percentage of what is affected by a measure that applies to contracts for which 3 bids or less are solicited. Proverbially speaking, Apples, meet Oranges. The material on p. 3 misleads voters to think that this is not an extensive measure. I'd suggest either making it truly comparative or leaving it out.

Speaking of "sole source" blather, I have no problem with the second "Argument For" because it at least explains that "sole source" is the misnomer of the new century. (Okay, maybe it's a close second to Rupert Murdoch running "news" organizations.) But this misdirection is stated and restated in the first "Argument For." It's truly misleading and should be changed.

Finally, you've done such a good job of encapsulating the "arguments for" in topical sentences in each paragraph. Please do the same for "arguments against" or revise the "arguments for" so it's a fair contrast. Right now, it's the difference between reading a text message and a phone book. You're certainly entitled to ignore my previous recommendations, but there has to be a way to make them both incendiary or both slightly boring. As long as they're the same in that regard.

Thanks.

Mark

Last Draft as Mailed to Interested Parties

Initiative #59 Campaign Contributions from Certain Government Contractors

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

- 2 ♦ prohibit certain government contractors from contributing to a political
3 party or candidate for the contract's duration and two years thereafter;
- 4 ♦ prohibit contributors to ballot issue campaigns from entering into certain
5 government contracts relating to the ballot issue;
- 6 ♦ apply the prohibitions on campaign contributions and ballot issue
7 contracts to any contractor with a government contract or contracts,
8 including a collective bargaining agreement, that does not use a public
9 and competitive bidding process soliciting at least three bids and with a
10 total value greater than \$100,000 in a single year; and
- 11 ♦ set penalties for violations of the measure and allow a registered voter
12 to seek enforcement of its provisions through district court.

13 **Summary and Analysis**

14 Government entities purchase goods and services from private-sector vendors for
15 the operation of government. The awarding of contracts for these goods and services
16 by the state is a regulated process governed by state law. Local governments largely
17 determine their own practices.

18 ***How are state government contracts awarded?*** State law requires, with few
19 exceptions, that vendors for state contracts be selected through a competitive bidding
20 process. Separate rules govern small and emergency purchases. In some cases, the
21 head of a state agency may determine that only one good or service can reasonably
22 meet the agency's need, and only one vendor can provide the particular good or
23 service. Examples of circumstances when competitive bidding is not used include
24 cases:

- 25 ♦ where equipment, accessories, or replacement parts must be
26 compatible;
- 27 ♦ where a sole supplier's item is needed for trial use or testing; and
- 28 ♦ where public utility services are to be purchased.

29 Under current law, collective bargaining agreements are not considered state
30 contracts, and thus are not subject to competitive bidding requirements.

Last Draft as Mailed to Interested Parties

1 **How does the measure affect government contracts?** Amendment ____
2 establishes a constitutional definition for a specific type of government contract which,
3 once met, triggers a prohibition on campaign contributions. Under this measure, the
4 prohibition applies to contractors with a total contract value of greater than \$100,000 in
5 a single year where fewer than three bids are solicited. The definition also includes
6 collective bargaining agreements with labor organizations. Amendment ____ refers to
7 these contracts as "sole-source contracts."

8 Amendment ____ applies to contracts awarded by the state, cities, counties, school
9 districts, and other special districts. The measure requires the state to publish and
10 maintain a database of every sole-source government contract issued at every level of
11 government.

12 **How does the measure affect campaign contributions?** Under the measure,
13 covered government contractors are prohibited from making a campaign contribution
14 themselves, or on behalf of a family member, to any political party or any state or local
15 candidate for the duration of the contract plus two additional years. A contract holder
16 includes:

- 17 ♦ the contracting entity's officers, directors, or trustees;
- 18 ♦ any individual who controls at least 10 percent of the shares of or
19 interest in the entity; and
- 20 ♦ in the case of a collective bargaining agreement, a labor organization
21 and any political committees it creates to make campaign contributions.

22 The measure also prohibits a person who contributes to a ballot issue campaign from
23 entering into a sole-source government contract relating to the ballot issue.

24 Passage of the measure would not affect current contribution limits on the amount
25 of money that can be contributed to candidates for state office in an election cycle, or
26 the amount of money a candidate or political party can receive from a single source.
27 Candidates for a local government elective office are not subject to state limits on
28 campaign contributions. Some local governments have enacted their own laws
29 governing campaign finance. For example, the cities of Boulder and Fort Collins have
30 enacted laws placing restrictions on campaign contributions by individuals holding any
31 type of contract with the local government.

32 **What penalties exist under Amendment ____?** Under Amendment ____,
33 individuals who accept contributions from covered government contractors for the
34 benefit of a political party or candidate must pay restitution to the contracting
35 government. Elected or appointed officials may be removed or disqualified from office
36 for knowingly violating Amendment _____. Further, a covered government contractor
37 who intentionally makes a contribution in violation of the measure is barred from
38 holding a sole-source government contract or public employment for three years. The
39 governor may suspend these penalties during a declared state of emergency.

Last Draft as Mailed to Interested Parties

1 **Arguments Against**

2 1) The broad scope of the measure could have far-reaching consequences for
3 contractors, political candidates, and elected officials. For example, an individual
4 holding a covered contract with one local government could be penalized for making a
5 contribution to a candidate in a separate jurisdiction. To avoid violations and
6 penalties, candidates and political parties will have to monitor each contribution to
7 ensure that it is not made by a sole-source government contractor, or by the
8 contractor on behalf of a relative. Furthermore, Amendment ___'s penalties put
9 elected officials at risk of losing office for even a small technical oversight.

10 2) Amendment ___ proposes an inflexible approach for government contracting.
11 Different regions and levels of government throughout the state have varying
12 contracting needs and access to providers of goods and services. Because rural
13 cities and counties typically have fewer contracting options than urban communities or
14 state government, the measure presents unique challenges for small communities and
15 their service providers. For example, if one organization in a small community is the
16 only available contractor for community services, the organization would have to
17 choose between accepting a contract and participating financially in the political
18 process.

19 **Estimate of Fiscal Impact**

20 Amendment ___ requires the state to publish and maintain a summary of each
21 sole-source government contract issued by the state and all local government entities,
22 beginning December 31, 2008. The cost of hiring a contractor to develop the
23 database is \$234,000. In addition, annual state expenditures of \$85,000 for
24 one employee are required to manage the database of contracts of approximately
25 4,000 governmental entities. Thus, the total cost to the state will be \$277,000 and a
26 half-time employee in budget year 2009 and \$85,000 and one employee in budget
27 year 2010.

AMENDMENT 54
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AMENDMENT 54
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Amendment 54
Campaign Contributions from Certain Government Contractors

1 **Ballot Title:** An amendment to the Colorado constitution concerning restrictions on
2 campaign contributions, and, in connection therewith, prohibiting the holder of contracts
3 totaling \$100,000 or more, as indexed for inflation, awarded by state or local
4 governments without competitive bidding ("sole source government contracts"),
5 including certain collective bargaining agreements, from making a contribution for the
6 benefit of a political party or candidate for elective office during the term of the
7 contracts and for 2 years thereafter; disqualifying a person who makes a contribution in
8 a ballot issue election from entering into a sole source government contract related to
9 the ballot issue; and imposing liability and penalties on contract holders, certain of their
10 owners, officers and directors, and government officials for violations of the
11 amendment.

12 **Text of Proposal:**

13 Be it enacted by the people of the state of Colorado an amendment to the Colorado
14 constitution article XXVIII by the addition of the following new sections:

15 **Section 15:** Because of a presumption of impropriety between contributions to any
16 campaign and sole source government contracts, contract holders shall contractually
17 agree, for the duration of the contract and for two years thereafter, to cease making,
18 causing to be made, or inducing by any means, a contribution, directly or indirectly, on
19 behalf of the contract holder or on behalf of his or her immediate family member and
20 for the benefit of any political party or for the benefit of any candidate for any elected
21 office of the state or any of its political subdivisions.

22 **Section 16:** To aid in enforcement of this measure concerning sole source contracts, the
23 executive director of the department of personnel shall promptly publish and maintain
24 a summary of each sole source government contract issued. Any contract holder of a
25 sole source government contract shall promptly prepare and deliver to the executive
26 director of the department of personnel a true and correct "Government Contract
27 Summary," in digital format as prescribed by that office, which shall identify the names
28 and addresses of the contract holders and all other parties to the government contract,
29 briefly describe the nature of the contract and goods or services performed, disclose the
30 start and end date of the contract, disclose the contract's estimated amount or rate of
31 payment, disclose the sources of payment, and disclose other information as determined
32 by the executive director of the department of personnel which is not in violation of
33 federal law, trade secrets or intellectual property rights. The executive director of the
34 department of personnel is hereby given authority to promulgate rules to facilitate this
35 section.

1 **Section 17:** (1) Every sole source government contract by the state or any of its political
2 subdivisions shall incorporate article XXVIII, section 15, into the contract. Any person
3 who intentionally accepts contributions on behalf of a candidate committee, political
4 committee, small donor committee, political party, or other entity, in violation of section
5 15 has engaged in corrupt misconduct and shall pay restitution to the general treasury
6 of the contracting governmental entity to compensate the governmental entity for all
7 costs and expenses associated with the breach, including costs and losses involved in
8 securing a new contract if that becomes necessary. If a person responsible for the
9 bookkeeping of an entity that has a sole source contract with a governmental entity, or
10 if a person acting on behalf of the governmental entity, obtains knowledge of a
11 contribution made or accepted in violation of section 15, and that person intentionally
12 fails to notify the secretary of state or appropriate government officer about the violation
13 in writing within ten business days of learning of such contribution, then that person
14 may be contractually liable in an amount up to the above restitution.

15 (2) Any person who makes or causes to be made any contribution intended to promote
16 or influence the result of an election on a ballot issue shall not be qualified to enter into
17 a sole source government contract relating to that particular ballot issue.

18 (3) The parties shall agree that if a contract holder intentionally violates section 15 or
19 section 17 (2), as contractual damages that contract holder shall be ineligible to hold any
20 sole source government contract, or public employment with the state or any of its
21 political subdivisions, for three years. The governor may temporarily suspend any
22 remedy under this section during a declared state of emergency.

23 (4) Knowing violation of section 15 or section 17 (2) by an elected or appointed official
24 is grounds for removal from office and disqualification to hold any office of honor, trust
25 or profit in the state, and shall constitute misconduct or malfeasance.

26 (5) A registered voter of the state may enforce section 15 or section 17 (2) by filing a
27 complaint for injunctive or declaratory relief or for civil damages and remedies, if
28 appropriate, in the district court.

29 **[The following to replace article XXVIII, section 13]**

30 **Section 13: APPLICABILITY AND EFFECTIVE DATE.** The provisions of this
31 article shall take effect on December 6, 2002, and be applicable for all elections
32 thereafter, EXCEPT THAT THE PROVISIONS OF THIS ARTICLE CONCERNING
33 SOLE SOURCE GOVERNMENT CONTRACTS SHALL TAKE EFFECT ON
34 DECEMBER 31, 2008. Legislation may be enacted to facilitate its operation, but in no
35 way limiting or restricting the provisions of this article or the powers herein granted.

1 **Section 2 of article XXVIII of the constitution of the state of Colorado is amended**
2 **BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:**

3 (4.5) "Contract holder" means any non-governmental party to a sole source government
4 contract, including persons that control ten percent or more shares or interest in that
5 party; or that party's officers, directors or trustees; or, in the case of collective bargaining
6 agreements, the labor organization and any political committees created or controlled
7 by the labor organization;

8 (8.5) "Immediate family member" means any spouse, child, spouse's child, son-in-law,
9 daughter-in-law, parent, sibling, grandparent, grandchild, stepbrother, stepsister,
10 stepparent, parent-in-law, brother-in-law, sister-in-law, aunt, niece, nephew, guardian,
11 or domestic partner;

12 (14.4) "Sole source government contract" means any government contract that does not
13 use a public and competitive bidding process soliciting at least three bids prior to
14 awarding the contract. This provision applies only to government contracts awarded by
15 the state or any of its political subdivisions for amounts greater than one hundred
16 thousand dollars indexed for inflation per the United States bureau of labor statistics
17 consumer price index for Denver-Boulder-Greeley after the year 2012, adjusted every
18 four years, beginning January 1, 2012, to the nearest lowest twenty five dollars. This
19 amount is cumulative and includes all sole source government contracts with any and
20 all governmental entities involving the contract holder during a calendar year. A sole
21 source government contract includes collective bargaining agreements with a labor
22 organization representing employees, but not employment contracts with individual
23 employees. Collective bargaining agreements qualify as sole source government
24 contracts if the contract confers an exclusive representative status to bind all employees
25 to accept the terms and conditions of the contract;

26 (14.6) "State or any of its political subdivisions" means the state of Colorado and its
27 agencies or departments, as well as the political subdivisions within this state including
28 counties, municipalities, school districts, special districts, and any public or quasi-public
29 body that receives a majority of its funding from the taxpayers of the state of Colorado.