

## **Amendment 49 Allowable Government Paycheck Deductions**

1 **Amendment 49 proposes amending the Colorado Constitution to:**

2     ◆ prohibit any public employee paycheck deduction, except for:

- 3         • deductions required by federal law;
- 4         • tax withholdings;
- 5         • court-ordered liens and garnishments;
- 6         • health benefit and other insurance deductions;
- 7         • deductions for savings, investment, and retirement plans; and
- 8         • deductions for charitable, religious, educational, and other
- 9         tax-exempt organizations.

### 10 **Summary and Analysis**

11         A paycheck deduction is a specific amount of money withheld from an employee's  
12 pay. Paycheck deductions can be mandatory (federal and state taxes); offered as an  
13 employee benefit (health care and pension deductions); requested by the employee  
14 (gifts to charities); or established through agreements with labor or other organizations  
15 (automatic payment of dues or fees).

16         State law regulates paycheck deductions for state employees, but not for  
17 employees of local governments. Instead, each local government sets its own rules  
18 and, in fact, some local governments have adopted limits on paycheck deductions  
19 similar to those in Amendment 49. For the state and other local governments,  
20 however, Amendment 49 prohibits certain paycheck deductions that are currently in  
21 place, like dues or fees for labor or other organizations. Amendment 49 applies to all  
22 public employers in Colorado, including the state, counties, municipalities, school  
23 districts, and special districts.

### 24 **Arguments For**

25         1) Amendment 49 reduces the potential for conflicts of interest that can occur  
26 when elected officials permit the use of government payroll systems to collect money  
27 for politically active groups, such as labor or professional organizations. These groups  
28 contribute to campaigns and lobby elected officials. Prohibiting governments from  
29 collecting money for these groups eliminates an unnecessary government function.

30         2) Amendment 49 protects employees from unwanted paycheck deductions.  
31 Some public employers automatically deduct dues and fees for labor or professional  
32 organizations. Employees who do not want these deductions must take extra steps  
33 within limited time frames to prevent them. Amendment 49 stops this practice. A  
34 public employee can contribute to any organization he or she chooses using automatic  
35 withdrawals from his or her private bank.

## 1 **Arguments Against**

2 1) Amendment 49 intrudes on the ability of public employees to make individual  
3 choices about paycheck deductions. Currently, all public employees have the option  
4 to cancel an automatic deduction, and many do so. Amendment 49 goes beyond  
5 addressing unwanted deductions; it precludes every employee from making decisions  
6 about organizations to support through a paycheck deduction. Further,  
7 Amendment 49 takes an inconsistent approach to paycheck deductions for private  
8 organizations: it allows employees to contribute to some private groups while  
9 prohibiting contributions to others.

10 2) Amendment 49 interferes with the authority of local governments to decide  
11 which paycheck deductions are available to their employees. These decisions are  
12 best made by individual local governments based on the needs of each community,  
13 not by a statewide vote. Payroll deductions are a benefit that public employers can  
14 offer to employees; eliminating this benefit does not save any taxpayer money.

## 15 **Estimate of Fiscal Impact**

16 Amendment 49 does not affect state or local government revenues or  
17 expenditures.

## Amendment 49 STATEWIDE STANDARDS FOR PUBLIC PAYROLL DEDUCTIONS ~~Allowable Government Paycheck Deductions~~

1 **Amendment 49 proposes amending the Colorado Constitution to:**

- 2     ◆ prohibit any public employee paycheck deduction, except for:
- 3         • deductions required by federal law;
  - 4         • tax withholdings;
  - 5         • court-ordered liens and garnishments;
  - 6         • health benefit and other insurance deductions;
  - 7         • deductions for savings, investment, and retirement plans; and
  - 8         • deductions for charitable, religious, educational, and other tax-
  - 9         exempt organizations.

### 10 **Summary and Analysis**

11         A paycheck deduction is a specific amount of money withheld from an employee's  
12 pay. Paycheck deductions can be mandatory (federal and state taxes); offered as an  
13 employee benefit (health care and pension deductions); requested by the employee  
14 (gifts to charities); or established through agreements with labor or other organizations  
15 (automatic payment of dues or fees).

16         State law regulates paycheck deductions for state employees, but not for  
17 employees of local governments. Instead, each local government sets its own rules  
18 and, in fact, some local governments have adopted limits on paycheck deductions  
19 similar to those in Amendment 49. For the state and other local governments,  
20 however, Amendment 49 prohibits certain paycheck deductions that are currently in  
21 place, like dues or fees for labor or other organizations. Amendment 49 applies to all  
22 public employers in Colorado, including the state, counties, municipalities, school  
23 districts, and special districts.

### 24 **Arguments For**

25         1) Amendment 49 reduces the potential for conflicts of interest that can occur  
26 when elected officials permit the use of government payroll systems to collect money  
27 THAT IS USED FOR POLITICAL PURPOSES. STATE AND LOCAL GOVERNMENTS SHOULD FOCUS  
28 ON PERFORMING ESSENTIAL TAXPAYER SERVICES RATHER THAN COLLECTING AND  
29 TRANSFERRING MONEY TO ~~for politically active groups, such as labor or professional~~  
30 ~~organizations, THAT~~ ~~These groups~~ contribute to campaigns and lobby elected  
31 officials. ~~Prohibiting governments from collecting money for these groups eliminates~~  
32 ~~an unnecessary government function.~~

33         2) Amendment 49 protects employees from unwanted paycheck deductions.  
34 Some public employers automatically deduct dues and fees for labor or professional

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1 organizations. Employees who do not want these deductions must take extra steps  
2 within limited time frames to prevent them. Amendment 49 stops this practice. A  
3 public employee can contribute to any organization he or she chooses using automatic  
4 withdrawals from his or her private bank.

## 5 **Arguments Against**

6 1) Amendment 49 intrudes on the ability of public employees to make individual  
7 choices about paycheck deductions. Currently, all public employees have AT LEAST A  
8 LIMITED the option to cancel an automatic deduction, and many do so. Amendment 49  
9 goes beyond addressing unwanted deductions; it precludes every employee from  
10 making decisions about organizations to support through a paycheck deduction.  
11 Further, Amendment 49 takes an inconsistent approach to paycheck deductions for  
12 private organizations: it allows employees to contribute to some private CHARITIES  
13 groups while prohibiting contributions to OTHER PRIVATE GROUPS. ~~others.~~

14 2) Amendment 49 interferes with the authority of local governments to decide  
15 which paycheck deductions are available to their employees. These decisions are  
16 best made by individual local governments based on the needs of each community,  
17 not by a statewide vote. Payroll deductions are a benefit that public employers can  
18 offer to employees; eliminating this benefit does not save any taxpayer money.

## 19 **Estimate of Fiscal Impact**

20 Amendment 49 does not affect state or local government revenues or  
21 expenditures.

## MARK GRUESKIN'S COMMENTS ON LAST DRAFT OF AMENDMENT 49

"Mark Grueskin" <MGrueskin@ir-law.com>

08/19/2008 07:30 PM

All -

In connection with this most recent draft, I believe that the last line in the 2nd Argument Against should be slightly edited. Since the fiscal impact statement unconditionally states there will be no effect on state or local revenues, that last line should read:"eliminating this benefit will not save any taxpayer money." There's no reason to use "may" when you've already found factually that there is no fiscal impact whatsoever.

Thanks. You're in the homestretch!

Mark

## INDEPENDENCE INSTITUTE COMMENTS ON LAST DRAFT OF AMENDMENT49

### Amendment 49

Statewide **Standards** Rules for Public-Employee Paycheck **Payroll** Deductions

### Arguments For

1) Amendment 49 reduces the potential for conflicts of interest that can occur when elected officials permit the use of government payroll systems to collect money that could be used for political purposes. ~~The measure avoids this potential by prohibiting state~~ **State and local governments should focus on performing essential taxpayer** services rather than collecting and transferring money to ~~from collecting moneys from employees and transferring the money to~~ politically active groups, such as labor or professional organizations, that contribute to campaigns or work to influence public policy.

# Last Draft as Mailed to Interested Persons

## Amendment 49 Statewide Rules for Public Employee Paycheck Deductions

1 **Amendment 49 proposes amending the Colorado Constitution to:**

- 2     ◆ prohibit any public employee paycheck deduction, except for:
- 3         • deductions required by federal law;
  - 4         • tax withholdings;
  - 5         • court-ordered liens and garnishments;
  - 6         • health benefit and other insurance deductions;
  - 7         • deductions for savings, investment, and retirement plans; and
  - 8         • charitable deductions.

### 9 **Summary and Analysis**

10         A paycheck deduction is a specific amount of money withheld from an employee's  
11 pay. Paycheck deductions can be mandatory (federal and state taxes); offered as an  
12 employee benefit (health care and pension deductions); requested by the employee  
13 (gifts to charities); or established through agreements with labor or other organizations  
14 (automatic payment of dues or fees).

15         State law regulates paycheck deductions for state employees, but not for  
16 employees of local governments. Instead, each local government sets its own rules  
17 and, in fact, some local governments have adopted limits on paycheck deductions  
18 similar to those in this measure. For the state and other local governments, however,  
19 the measure prohibits certain paycheck deductions that are currently in place. The  
20 limits established by this measure apply to all public employers in Colorado, including  
21 the state, counties, municipalities, school districts, and special districts.

### 22 **Arguments For**

23         1) Amendment 49 reduces the potential for conflicts of interest that can occur  
24 when elected officials permit the use of government payroll systems to collect money  
25 that could be used for political purposes. The measure avoids this potential by  
26 prohibiting state and local governments from collecting moneys from employees and  
27 transferring the money to politically active groups, such as labor or professional  
28 organizations, that contribute to campaigns or work to influence public policy.

29         2) Amendment 49 protects employees from unwanted paycheck deductions.  
30 Some public employers automatically deduct dues and fees for labor or professional  
31 organizations. Employees who do not want these deductions must take extra steps to  
32 prevent them. Amendment 49 stops this practice, while eliminating an unnecessary  
33 government function. A public employee can contribute to any organization of his or  
34 her choosing using automatic withdrawals from a private bank.

# Last Draft as Mailed to Interested Persons

## 1     **Arguments Against**

2           1) Amendment 49 intrudes on the ability of public employees to make individual  
3 choices about paycheck deductions. Currently, all public employees have the option  
4 to cancel an automatic deduction, and many do so. Amendment 49 goes beyond  
5 addressing this issue; it precludes every employee from making decisions about  
6 organizations to support through a paycheck deduction. Further, Amendment 49  
7 takes an inconsistent approach to paycheck deductions for private organizations: it  
8 allows employees to contribute to some private groups while prohibiting contributions  
9 to others.

10          2) Amendment 49 interferes with the authority of local governments to decide  
11 which paycheck deductions are available to their employees. These decisions are  
12 best made by individual local governments based on the needs of each community,  
13 not by a statewide vote. Payroll deductions are a benefit that public employers can  
14 offer to employees; eliminating this benefit is not likely to save any taxpayer money.

## 15     **Estimate of Fiscal Impact**

16           Amendment 49 does not affect state or local government revenues or  
17 expenditures.

AMENDMENT 49  
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**Amendment 49**  
**Allowable Government Paycheck Deductions**

1 **Ballot Title:** An amendment to the Colorado constitution concerning deductions from  
2 governmental payroll systems, and, in connection therewith, prohibiting a governmental  
3 payroll system from taking a payroll deduction from any government employee except  
4 deductions required by federal law, tax withholdings, judicial liens and garnishments,  
5 deductions for individual or group health benefits or other insurance, deductions for  
6 pension or retirement plans or systems, or other savings or investment programs, and  
7 charitable deductions.

8 **Text of Proposal:**

9 **ARTICLE XXX**  
10 **Ethical Standards for Public Payroll Systems**

11 *Be it Enacted by the People of the State of Colorado:*

12 THE CONSTITUTION OF THE STATE OF COLORADO IS AMENDED BY THE  
13 ADDITION OF A NEW ARTICLE TO READ:

14 **SECTION 1. PURPOSE AND FINDINGS.** IN THE INTEREST OF ADVANCING SIMPLE,  
15 ETHICAL, AND EFFICIENT GOVERNMENT, THE PEOPLE OF THE STATE OF COLORADO  
16 HEREBY FIND AND DECLARE THAT PUBLIC PAYROLL SYSTEMS SHOULD NOT BE UTILIZED  
17 TO BENEFIT PRIVATE ORGANIZATIONS AND SPECIAL INTERESTS EXCEPT IN ACCORDANCE  
18 WITH THIS ARTICLE. THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND  
19 DECLARE THAT THE REQUIREMENTS OF THIS ARTICLE MUST APPLY TO ALL PUBLIC  
20 EMPLOYERS, INCLUDING ALL LOCAL GOVERNMENTS AND POLITICAL SUBDIVISIONS OF THE  
21 STATE.

22 **SECTION 2. DEFINITIONS.** (1) "CHARITABLE DEDUCTION" MEANS A PAYROLL  
23 DEDUCTION FOR CONTRIBUTION TO A CHARITY OR OTHER ORGANIZATION EXEMPT FROM  
24 FEDERAL INCOME TAX UNDER SECTION 501 (C)(3) OF THE "INTERNAL REVENUE CODE OF  
25 1986", AS AMENDED.

26 (2) "PUBLIC EMPLOYEE" MEANS ANY PERSON WHO IS AN EMPLOYEE OF A PUBLIC  
27 EMPLOYER AS DEFINED IN THIS ARTICLE.

28 (3) "PUBLIC EMPLOYER" MEANS THE STATE OF COLORADO, INCLUDING ANY  
29 INSTITUTIONS OF HIGHER EDUCATION; ANY COLORADO LOCAL GOVERNMENTAL ENTITY,  
30 INCLUDING CITIES, TOWNS, CITIES AND COUNTIES, AND COUNTIES; AND ANY AND ALL  
31 OTHER GOVERNMENTAL ENTITIES, INCLUDING SCHOOL DISTRICTS AND POLITICAL

1 SUBDIVISIONS OF THE STATE OF COLORADO. PUBLIC EMPLOYER SHALL NOT INCLUDE  
2 ANY FOREIGN COUNTRY, THE FEDERAL GOVERNMENT, THE GOVERNMENT OF ANY OTHER  
3 STATE, OR ANY ENTITIES AND SUBDIVISIONS ORGANIZED UNDER FEDERAL LAW OR UNDER  
4 THE LAWS OF SUCH OTHER STATES OR FOREIGN COUNTRIES. PUBLIC EMPLOYER SHALL  
5 NOT INCLUDE ANY PRIVATE ENTITY PROVIDING SERVICES TO A PUBLIC EMPLOYER  
6 THROUGH SUCH PRIVATE ENTITIES' OWN EMPLOYEES AND CONTRACTORS.

7 (4) "PUBLIC PAYROLL SYSTEM" MEANS THE PAYROLL SYSTEM USED BY ANY  
8 PUBLIC EMPLOYER FOR PAYMENT OF WAGES, EARNINGS, OR OTHER COMPENSATION TO  
9 PUBLIC EMPLOYEES, REGARDLESS OF WHETHER SUCH SYSTEM IS ADMINISTERED  
10 DIRECTLY BY SUCH PUBLIC EMPLOYER OR BY A THIRD PARTY PURSUANT TO A CONTRACT  
11 OR OTHER ARRANGEMENT WITH SUCH PUBLIC EMPLOYER.

12 **SECTION 3. ALLOWABLE PUBLIC PAYROLL DEDUCTIONS.** NOTWITHSTANDING ANY  
13 OTHER PROVISION OF LAW, NO PUBLIC PAYROLL SYSTEM SHALL TAKE ANY PAYROLL  
14 DEDUCTION FROM THE PAYROLL COMPENSATION OF ANY PUBLIC EMPLOYEE EXCEPT FOR  
15 THE FOLLOWING:

- 16 (A) DEDUCTIONS REQUIRED BY FEDERAL LAW, INCLUDING BY WAY OF  
17 EXAMPLE BUT NOT LIMITATION, FOR SOCIAL SECURITY AND MEDICARE;
- 18 (B) TAX WITHHOLDINGS;
- 19 (C) JUDICIAL LIENS AND GARNISHMENTS, INCLUDING COURT-ORDERED CHILD  
20 SUPPORT, DOMESTIC SUPPORT, AND MAINTENANCE OBLIGATIONS AND  
21 PAYMENTS;
- 22 (D) DEDUCTIONS FOR INDIVIDUAL OR GROUP HEALTH BENEFITS OR OTHER  
23 INSURANCE;
- 24 (E) DEDUCTIONS FOR PENSION OR RETIREMENT PLANS OR SYSTEMS, OR OTHER  
25 SAVINGS OR INVESTMENT PROGRAMS; AND
- 26 (F) CHARITABLE DEDUCTIONS.

27 **SECTION 4. SELF-EXECUTING, SEVERABILITY, CONFLICTING PROVISIONS.** ALL  
28 PROVISIONS OF THIS ARTICLE ARE SELF-EXECUTING AND SEVERABLE, AND SHALL  
29 SUPERSEDE CONFLICTING STATE CONSTITUTIONAL, STATE STATUTORY, LOCAL CHARTER,  
30 ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

31 **SECTION 5. EFFECTIVE DATE.** THE PROVISIONS OF THIS ARTICLE SHALL TAKE EFFECT  
32 UPON THE PROCLAMATION OF THE GOVERNOR.