

Colorado General Assembly, Legislative Council

The Legislative Council takes no position with respect to the merits of the proposals. In listing the "arguments for" and "arguments against," the Council is merely describing the arguments relating to the proposals. The quantity or quality of the "for" or "against" paragraphs listed for the proposals should not be interpreted as an indication of the Legislative Council position.

County Clerks and Elections Office

STATEWIDE ELECTION DAY IS TUESDAY, NOVEMBER 3, 1998

Polling places open from 7 a.m. to 7 p.m.

Early voting begins October 19, 1998

TABLE OF CONTENTS

Amendment 11

Partial Birth Abortion

Title and Text of Proposal

Amendment 12

Parental Notification for Abortion

Title and Text of Proposal

Amendment 13

Uniform Regulation of Livestock Operations

Title and Text of Proposal

Amendment 14

Regulation of Commercial Hog Facilities

Title and Text of Proposal

Amendment 15

Water Meters in the San Luis Valley

Title and Text of Proposal

Amendment 16

Payments for Water by the Rio Grande Water Conservation District

Title and Text of Proposal

Amendment 17

Income Tax Credit for Education

Title and Text of Proposal

Amendment 18

Voluntary Congressional Term Limits

Title and Text of Proposal

Amendment 19

Medical Use of Marijuana

Title and Text of Proposal

Referendum A

Private/Public Ownership of Local Health Care Services

Text of Proposal

Referendum B

State Retention of Excess State Revenues

Text of Proposal

Referendum C

Creation of City and County of Broomfield

Text of Proposal

NOTE

The lettering and numbering system used to designate this year's statewide ballot issues is based on the following organizational structure:

Issues initiated by the People Amendments 11 through 19

Issues referred by the General Assembly Referenda A, B, and C

Amendment 11

PARTIAL-BIRTH ABORTION

The proposed amendment to the Colorado Revised Statutes:

prohibits partial-birth abortions;

defines "partial-birth abortion" as an abortion during which the person performing the abortion deliberately and intentionally causes to be delivered into the vagina a living human fetus, or any substantive portion thereof, for the purpose of performing any procedure the person knows will kill the fetus, and kills the fetus before completing the delivery;

allows the performance of a medical procedure necessary to prevent the death of a pregnant woman whose life is in immediate danger due to a physical disorder, injury, or illness. Every reasonable effort must be made to preserve the lives of both the woman and the fetus;

makes the performance of a partial-birth abortion a felony punishable by one to three years imprisonment, \$1,000 to \$100,000 in fines, or both;

allows the person who performs a partial-birth abortion to be sued by the woman who has a partial-birth abortion, the father of the fetus, the grandparents of the fetus, or the legal guardians of either parent if the parent is a minor. Civil suits are not allowed if the pregnancy was the result of criminal conduct by the plaintiff or the plaintiff consented to the partial-birth abortion;

allows the plaintiff to collect monetary damages for all psychological and physical injuries resulting from the partial-birth abortion and statutory damages equal to three times the cost of the partial-birth abortion;

prohibits a woman on whom a partial-birth abortion is performed from being prosecuted; and

requires that any change to the partial-birth abortion statute be made only by a vote of the people.

Background

Incidence by the type of abortion. There are approximately seven different types of abortion procedures. The determination of which method to use is based primarily on the number of weeks since the woman's last menstrual period (gestation) and the method the doctor believes is safest for a woman's particular circumstances. Vacuum aspiration, the most common abortion method, is most often performed up until 12 weeks gestation. In Colorado, 70 percent of all abortions reported in 1996 were performed using this method. Dilation and evacuation (D & E), the second most common abortion procedure, is usually performed after 12 weeks gestation, and was used in 26 percent of all 1996 Colorado abortions.

Unlike vacuum aspiration and D & E, partial-birth abortion is not a medically recognized procedure. Although there is a medically recognized procedure (intact D & X) similar to partial-birth abortion, agencies do not collect data on this abortion method because it is performed relatively infrequently. Medical testimony indicates that intact D & Xs are performed after 20 weeks gestation, but most often performed between the 20th and 24th week. Childbirth generally occurs at 40 weeks gestation.

U.S. Supreme Court decisions. U. S. Supreme Court rulings provide guidelines on the ability of states to regulate abortion. The Court established a woman's right to have an abortion, but allowed states to prohibit abortions when the fetus can survive outside of the womb (post-viability or after 24 weeks gestation). States are allowed to place requirements on a woman before she receives a pre-viability abortion. Any requirement, however, cannot place a substantial obstacle to obtaining the abortion. States that have bans on abortions performed late in pregnancy are required to make exceptions to these bans in cases where an abortion is necessary to preserve the woman's life or health. The court has also ruled that states are prohibited from punishing individuals for violating a statute that does not give a reasonable opportunity to know what conduct is prohibited.

Other states. Currently, 28 states have passed bans on partial-birth abortions. Bans in eight states have not been challenged in the courts and are in force. In the remaining 20 states, the laws have been challenged, and cannot be enforced or are enforced on a limited basis. In some cases, courts have found the partial-birth abortion laws unconstitutional because the ban's restriction on physician discretion puts women at greater risk of injury or death, and the ban could be interpreted to include more than one type of abortion. The courts have found that a substantial obstacle to obtaining an abortion is therefore created. The description also prevents physicians from knowing which abortion procedure is outlawed. To date, the U.S. Supreme Court has not ruled on a partial-birth abortion law.

Arguments For

1) Partial-birth abortion is unethical because it kills a live human fetus just before it is completely removed from the womb. Some doctors acknowledge that not all of their late term abortions are performed in cases of fetal abnormality or to save the health or life of the woman. In instances when the fetus is capable of living outside the womb, it should be fully delivered and allowed to live.

2) Some doctors believe partial-birth abortion is never medically necessary to save the life or health of a woman because there are other medical procedures available. A ban on partial-birth abortion would eliminate just one abortion option.

3) Partial-birth abortion performed late in pregnancy is a dangerous procedure. Data which includes a variety of abortion procedures indicate one woman dies for every 6,000 abortion procedures performed at 21 weeks gestation or beyond. In comparison, the risk for abortion procedures performed at eight or fewer weeks gestation is one death for every 600,000 abortions.

Arguments Against

1) A ban on partial-birth abortions could reduce the availability of all abortion procedures because the procedure's definition is vague and unclear. Some doctors may be unwilling to perform any abortions because they will be uncertain which medical procedure is outlawed, and will not risk prosecution for performing an illegal abortion. Courts and district attorneys will have discretion in enforcing the ban.

2) The proposed amendment to ban partial-birth abortion could be ruled unconstitutional because it conflicts with U.S. Supreme Court decisions. The proposal outlaws a procedure performed before a fetus can survive outside the womb (pre-viability), and contains an exception for a woman's life, but not her health. The description of partial-birth abortion is broad enough to ban most abortions and vague enough to prevent doctors from knowing exactly which medical procedure is outlawed.

3) This proposal endangers women's health because it reduces the options available to a woman seeking an abortion. Health concerns often arise later in pregnancy because a condition may not be diagnosed or become serious until after the first 20 weeks gestation. A doctor, in consultation with the patient, should determine the best or most appropriate procedure to save the life or preserve the health of a woman. Further, government intervention into medical decision-making is dangerous because the potential exists to outlaw other techniques that are critical to women's lives and health.

4) This proposal endangers the family structure because personal and private medical decisions made by a family should be respected and should not become the basis of lawsuits brought by other family members against the person who performs the abortion.

Amendment 11

Partial-Birth Abortion

Title

An amendment to the Colorado Revised Statutes concerning a prohibition against partial-birth abortions, and, in connection therewith, specifying that no one shall knowingly or intentionally perform a partial-birth abortion; allowing a medical procedure to prevent the death of the pregnant woman, if every reasonable effort is made to preserve the lives of the woman and the infant; defining partial-birth abortion as an abortion during which the person performing the abortion deliberately and intentionally causes to be delivered into the vagina a living human fetus or any substantive portion thereof for the purpose of performing any procedure the person knows will kill the fetus and kills the fetus before completing delivery; specifying that "fetus" and "infant" mean the biological offspring of human parents and may be used interchangeably throughout the measure; establishing specified civil remedies for certain persons; establishing criminal penalties for violations after February 14, 1999; and stating that the amendment cannot be amended except by a vote of the people.

Text

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

Article 36 of Title 12, Colorado Revised Statutes, IS AMENDED BY THE ADDITION OF THE FOLLOWING NEW SECTION to read:

12-36-140. Partial-birth abortions prohibited. (1) This section shall be known and may be cited as the "Colorado Partial-birth Abortion Ban." All provisions in this section shall be severable and self-executing. It is the intent of the people of Colorado that this section shall not be amended, superseded, or repealed except by voter approval.

(2) For purposes of this section, the following definitions shall apply:

(a) "Fetus" and "infant" mean the biological offspring of human parents and may be used interchangeably throughout this section.

(b) "Partial-birth abortion" means an abortion during which the person performing the abortion deliberately and intentionally causes to be delivered into the vagina a living human fetus, or any substantive portion thereof, for the purpose of performing any

procedure the person knows will kill the fetus, and kills the fetus before completing the delivery.

(3) No person shall knowingly or intentionally perform a partial-birth abortion thereby killing a human fetus.

(4) Nothing in this section shall prohibit the performance of a medical procedure necessary to prevent the death of a pregnant woman whose life is in immediate danger of termination due to a physical disorder, physical injury, or physical illness, provided that every reasonable effort shall be made to preserve the lives of both the woman and the infant.

(5) Civil remedies for violation of subsection (3) shall be available as follows:

(a) The woman upon whom a partial-birth abortion has been performed; the father of the infant; or the biological grandparents of the infant, or the legal guardian or guardians of either biological parent of the infant, on behalf of either biological parent, if said parent has not attained the age of eighteen (18) years at the time of the abortion, may obtain appropriate relief in a civil action, unless the pregnancy was the result of criminal conduct on the part of the plaintiff or unless the plaintiff consented to the partial-birth abortion.

(b) Such relief shall include:

(I) Money damages for all injuries, psychological and physical, resulting from the violation of subsection (3); and

(II) Statutory damages equal to three times the cost of the partial-birth abortion.

(c) If judgment is rendered in favor of the plaintiff in such action as is described in this subsection, the court shall also render judgment for reasonable attorney fees in favor of the plaintiff against the defendant.

(d) If judgment is rendered in favor of the defendant in such action as is described in this subsection, and the court determines that the plaintiff's suit be frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney fees in favor of the defendant against the plaintiff.

(6) The following criminal penalties shall apply:

(a) Performance of a partial-birth abortion in violation of subsection (3) shall be a class 5 felony.

(b) A woman upon whom a partial-birth abortion is performed shall not be prosecuted under this section for participating in the partial-birth abortion.

(c) This subsection (6) shall take effect on February 14, 1999.

(7) No part of this section 12-36-140, C.R.S., as enacted by the people of the state of Colorado, may be amended in any manner other than by ballot measure submitted to the people for adoption or rejection at the polls at a general election pursuant to section I of article V of the state constitution.

Amendment 12

PARENTAL NOTIFICATION FOR ABORTION

The proposed amendment to the Colorado Revised Statutes:

- requires a doctor to notify both parents of a minor's requested abortion. These include biological or adoptive parents, as well as court-appointed guardians or foster parents. A minor is defined as a person under 18 years of age;
- defines "abortion," for purposes of this proposal, as any means to terminate the pregnancy of a minor at any time after fertilization;
- makes a doctor wait 48 hours after notification takes place before performing the abortion;
- requires no notice when the person or persons entitled to notice certify in writing that he or she has already been notified, or when the minor declares that she is a victim of child abuse or neglect by the person entitled to be notified and the attending doctor reports the child abuse or neglect;
- punishes doctors who violate the new requirements with up to 18 months in prison and up to \$5,000 in fines;
- punishes anyone who counsels a minor to provide false information in order to obtain an abortion with up to three years in prison and up to \$100,000 in fines; and
- creates a process whereby a minor may petition a court to dispense with the notification requirements under certain circumstances (called a "judicial bypass"). The proposed judicial bypass process will only go into effect if the law is challenged and a court determines that it cannot be implemented without such a process.

Background

U.S. Supreme Court decisions. The U.S. Supreme Court has decided that a woman has a right to terminate her pregnancy by abortion. However, the Court also found that government may regulate abortions to safeguard the health of the woman, maintain adequate medical standards, and protect potential life. Thus, states are able to place requirements on a woman before she receives an abortion, as long as these requirements do not place a substantial obstacle to obtaining an abortion. The Court has also ruled that parents do not have an absolute right to prohibit pregnant minors from having an abortion. In decisions involving minors, the Court has identified a state's interests in the minor's welfare and a parent's interest in the minor's upbringing as legitimate state concerns.

Other states - judicial bypass. Currently, 17 states have parental notification laws. In two of those states, the law requires notice to a minor's parents, if possible, while 15 states allow judges to waive the notification provisions under certain conditions. This waiver allows a minor to petition a court to request that a judge dispense with the parental notification requirements. In order for the minor to receive a waiver, the judge must decide that the minor is sufficiently mature to decide to have an abortion, or that the notice requirement itself is not in her best interest. In Colorado, the proposed judicial bypass process will go into effect only if the law is challenged and a court determines that it cannot be implemented without such a process. The U.S. Supreme Court has not explicitly ruled that parental notification laws must contain such an alternative.

Medical treatment of minors. Under Colorado law, minors may obtain treatment for alcohol and drug abuse, sexually transmitted diseases and HIV testing, birth control, pregnancy or family planning services, mental health services, routine physical exams, and abortion without parental

notification or consent. These medical procedures are considered private and confidential for both adults and minors, and parents are not held financially responsible for these treatments unless they so agree. In 1996, the state health department reported 955 abortions performed on minors aged 15 to 17, and 78 abortions performed on minors under 15 years of age. Certain medical procedures may not be obtained by minors without parental notification and consent. These include organ transplants or donation of blood, permanent sterilization, execution of a living will for termination of life support, and electroconvulsive treatment.

Arguments For

1) This proposal protects the health of pregnant minors and the parents' right to be informed about matters that affect the well-being of their children. If a minor is getting an abortion, her parents should know about it in advance. Parents may have important information on family medical history that should be reviewed by a doctor prior to performing any medical procedure on their minor child. A minor may not be aware of such essential information or may be reluctant to tell her doctor. Parental notification is already required for certain kinds of medical procedures performed on minors, and abortion should not be treated differently.

2) This proposal may give minors the benefit of parental guidance when faced with pregnancy. The decision whether to have an abortion has physical, psychological, and economic implications. A minor is unlikely to consider all options of her situation with the care and thoughtfulness that some parents may provide. Some parents are better able to ensure that proper medical treatment is provided and to care for the emotional and physical needs of their daughter.

3) This proposal may encourage minors to recognize the consequences and responsibilities of their sexual behavior. Knowledge of this law may persuade minors to take necessary steps to avoid an unwanted pregnancy. As a result, it will help to decrease the pregnancy rate, birth rate, and the number of abortions among minors.

4) This proposal does not require parental consent, only parental notification of the pregnant minor's decision to obtain an abortion. The minor would still be able to make the final decision on whether or not to have an abortion. Notification is not the equivalent of consent, because it is a much less intrusive form of parental involvement and involves no refusal.

Arguments Against

1) This proposal may be detrimental to a minor's health. A minor may risk her life by having an illegal abortion, trying to self-abort, attempting suicide, or bearing a child against her will. The notification and waiting period process may cause a minor to delay an abortion, either by creating a longer decision-making process, by creating parental conflict, or by forcing her to go through a lengthy judicial process. This delay increases the health risk to the pregnant minor, since later abortions involve greater risks.

2) This proposal singles out a medical treatment that requires a heightened need for confidentiality. Abortions should be treated like other sensitive medical services that minors can obtain without parental notification or consent. Minors may already obtain medical treatment for

other sensitive services, such as sexually transmitted diseases, HIV testing, mental health care, contraception, and pregnancy-related care without parental notification or consent. Because the definition of abortion applies at any time after fertilization, this proposal could be interpreted to restrict a minor's access to common methods of contraception such as oral contraceptives ("the pill") or an interuterine device (IUD).

3) This proposal is punitive. Pregnant minors who can confide in their parents often tell their parents, but some pregnant teenagers come from dysfunctional family situations and mandated notification will not improve communications or family relationships. Those who cannot tell their parents may risk being verbally, physically, emotionally or sexually abused. The ability to bypass the parental notification requirements through the courts becomes available only if the law is first challenged and a court determines that such a bypass is required. Otherwise no bypass procedure exists.

4) This proposal interferes with the doctor and patient relationship. Doctors should not be prosecuted for providing care to their patients nor should they be required to give notification for abortions when other kinds of sensitive medical treatment for minors do not need parental notification.

Amendment 12

Parental Notification for Abortion

Title

An amendment to the Colorado Revised Statutes concerning parental notification when an unemancipated minor seeks an abortion, and, in connection therewith, specifying that no abortion shall be performed upon an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered to the parent of the minor; identifying exceptions to the notice requirement; defining abortion as the use of any means to terminate the pregnancy of a minor with knowledge that the termination by those means will, with reasonable likelihood, cause the death of that person's unborn offspring at any time after fertilization; establishing criminal penalties for performing an abortion in violation of the requirement to provide notice to the parent and for counseling a minor to furnish a physician with false information to induce the physician to perform an abortion without providing the notice; and establishing a judicial bypass provision, which shall be effective under certain circumstances, pursuant to which a court may determine that giving the notice will not be in the best interests of the minor or that the minor is sufficiently mature to decide whether to have the abortion.

Text

Be it enacted by the people of the state of Colorado:

Title 12. Colorado Revised Statutes is amended by the addition of Article 37.5, to read:

12-37.5-101. SHORT TITLE. This article shall be known and may be cited as the "Colorado Parental Notification Act."

12-37.5-102. LEGISLATIVE DECLARATION. The people of the state of Colorado, pursuant to the powers reserved to them in Article V of the Constitution of the state of Colorado, declare that family life and the preservation of the traditional family unit are of vital importance to the continuation of an orderly society; that the rights of parents to rear and nurture their children during their formative years and to be involved in all decisions of importance affecting such minor children should be protected and encouraged, especially as such parental involvement relates to the pregnancy of an unemancipated minor, recognizing that the decision by any such minor to submit to an abortion may have adverse long-term consequences for her.

The people of the state of Colorado, being mindful of the limitations imposed upon them at the present time by the federal judiciary in the preservation of the parent-child relationship, hereby enact into law the following provisions.

12-37.5-103. DEFINITIONS. As used in this article, unless the context otherwise requires:

(1) "Minor" means a person under eighteen years of age.

(2) "Parent" means the natural or adoptive mother and father of the minor who is pregnant, if they are both living; one parent of the minor if only one is living, or if the other parent cannot be served with notice, as hereinafter provided: or the court-appointed guardian of such minor if she has one or any foster parent to whom the care and custody of such minor shall have been assigned by any agency of the state or county making such placement.

(3) "Abortion" for purposes of this article means the use of any means to terminate the pregnancy of a minor with knowledge that the termination by those means will, with reasonable likelihood, cause the death of that person's unborn offspring at any time after fertilization.

12-37.5-104. NOTIFICATION CONCERNING ABORTION. (1) No abortion shall be performed upon an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered in the following manner:

(a) The notice shall be addressed to the parent at the dwelling house or usual place of abode of the parent. Such notice shall be delivered to the parent by:

(I) The attending physician or member of the physician's immediate staff who is over the age of eighteen, or

(II) By the sheriff of the county where the service of notice is made, or by his deputy, or

(III) By any other person over the age of eighteen years who is not related to the minor.

(b) Notice delivered by any person other than the attending physician shall be furnished to and delivered by such person in a sealed envelope marked "Personal and Confidential" and its content shall not in any manner be revealed to the person making such delivery.

(c) Whenever the parent of the minor includes two persons to be notified as provided in this article and such persons reside at the same dwelling house or place of abode, delivery to one such person shall constitute delivery to both, and the 48-hour period shall

commence when delivery is made. Should such persons not reside together and delivery of notice can be made to each of them, notice shall be delivered to both parents, unless the minor shall request that only one parent be notified, which request shall be honored and shall be noted by the physician in the minor's medical record. Whenever the parties are separately served with notice, the 48-hour period shall commence upon delivery of the first notice.

(d) The person delivering such notice, if other than the physician, shall provide to the physician a written return of service at the earliest practical time, as follows:

(I) If served by the sheriff or his deputy, by his certificate with a statement as to date, place and manner of service and the time such delivery was made.

(II) If by any other person, by his affidavit thereof with the same statement.

(III) Return of service shall be maintained by the physician.

(e) (I) In lieu of personal delivery of the notice, the same may be sent by postpaid certified mail, addressed to the parent at the usual place of abode of the parent, with return receipt requested and delivery restricted to the addressee. Delivery shall be conclusively presumed to occur and the 48-hour time period as provided in this article shall commence to run at 12:00 o'clock noon on the next day on which regular mail delivery takes place.

(II) Whenever the parent of the minor includes two persons to be notified as provided in this article and such persons reside at the same dwelling house or place of abode, notice addressed to one parent and mailed as provided in the foregoing subparagraph shall be deemed to be delivery of notice to both such persons. Should such persons not reside together and notice can be mailed to each of them, such notice shall be separately mailed to both parents unless the minor shall request that only one parent shall be notified, which request shall be honored and shall be noted by the physician in the minor's medical record.

(III) Proof of mailing and the delivery or attempted delivery shall be maintained by the physician.

12-37.5-105. NO NOTICE REQUIRED - WHEN. No notice shall be required pursuant to this article if:

(1) The person or persons who are entitled to notice certify in writing that they have been notified.

(2) The pregnant minor declares that she is a victim of child abuse or neglect by the acts or omissions of the person who would be entitled to notice, as such acts or omissions are defined in "The Child Protection Act of 1987", as set forth in title 19, article 3, of the Colorado Revised Statutes, and any amendments thereto, and the attending physician has reported such child abuse or neglect as required by the said act.

12-37.5-106. PENALTIES - DAMAGES - DEFENSES. (1) Any person who performs or attempts to perform an abortion in willful violation of this article

(a) Commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106 C.R.S.; and

(b) Shall be liable for damages proximately caused thereby.

(2) It shall be an affirmative defense to any criminal or civil proceedings if the person establishes that:

(a) The person relied upon facts or information sufficient to convince a reasonable, careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this article were bona fide and true, or

(b) The abortion was performed to prevent the imminent death of the minor child and there was insufficient time to provide the required notice.

(3) Any person who counsels, advises, encourages or conspires to induce or persuade any pregnant minor to furnish any physician with false information, whether oral or written, concerning the minor's age, marital status, or any other fact or circumstance to induce or attempt to induce the physician to perform an abortion upon such minor without providing written notice as required by this article commits a class 5 felony and shall be punished as provided in section 18-1-105, C. R.S.

12-37.5-107. JUDICIAL BYPASS - WHEN OPERATIVE. (1) If section 12-37.5-104 of this article is ever temporarily, preliminarily or permanently restrained or enjoined due to the absence of a judicial bypass provision, the said section shall be enforced as though the following provisions were incorporated as subsection (2) of section 104, provided however that if any such restraining order or injunction is stayed, dissolved or otherwise ceases to have effect, section 104 shall have full force and effect without the addition of the following subsection (2):

(2) (a) If any pregnant minor elects not to allow the notification of any parent, any judge of a court of competent jurisdiction may, upon petition filed by or on behalf of such minor enter an order dispensing with the notice requirements of this article if the judge determines that the giving of such notice will not be in the best interest of the minor, or if the court finds, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to have an abortion. Any such order shall include specific factual findings and legal conclusions in support thereof and a certified copy of such order shall be provided to the attending physician of said minor and the provisions of section 12-37.5-104 (1) and section 1237.5-106 of this article shall not apply to the physician with respect to such minor.

(b) The court, in its discretion, may appoint a guardian ad litem for the minor and also an attorney if said minor is not represented by counsel.

(c) All court proceedings herein shall be confidential and shall be given preference over other pending matters, so that the court may reach a decision without undue delay.

(d) An expedited confidential appeal shall be available to any such minor for whom the court denies an order dispensing with notification as required by this article. Upon the minor's representation as contained in her petition, or otherwise, that no funds are available to her for payment of filing fees, no filing fees shall be required in either the trial court or appellate court.

12-37.5-108. LIMITATIONS. (1) This article shall in no way be construed so as to:

(a) Require any minor to submit to an abortion, or

(b) Prevent any minor from withdrawing her consent previously given to have an abortion, or

(c) Permit anything less than fully informed consent before submitting to an abortion.

(2) This article shall in no way be construed as either ratifying, granting or otherwise establishing an abortion right for minors independently of any other regulation, statute or court decision which may now or hereafter limit or abridge access to abortion by minors.

Amendment 13

UNIFORM REGULATION OF LIVESTOCK OPERATIONS

The proposed amendment to the Colorado Constitution:

- requires uniform laws for regulating all livestock operations that have similar potential impacts on air and water quality;
- defines "livestock" as any animals raised or kept for profit;
- allows the legislature to make certain exceptions to the uniform laws based on the size and type of feeding operation; and
- makes unconstitutional any law or regulation that does not treat livestock operations uniformly.

Background

The commercial livestock industry contributes roughly \$2.8 billion to Colorado's economy. Livestock is defined as cattle, sheep, goats, swine, mules, horses, and all other animals raised or kept for profit. Recent growth in the industry, and especially confined feeding facilities for swine, has created concern that the state should establish regulations on animal waste disposal. If the waste from these operations is not properly disposed of, it can pollute the air and water. Currently, the state regulates livestock operators who feed their animals in confined facilities, but does not regulate air emissions and odor from these facilities. This proposal amends the Colorado Constitution to require that state laws and regulations concerning livestock operations be uniform among operations that have a similar potential impact on the environment. The measure could apply to approximately 14,000 animal operations within the state.

Arguments For

1) This proposal ensures that all livestock operations are regulated the same if the impacts to the environment are similar. Regulation of livestock operations should be based on the environmental impacts of those operations rather than the type of animal. Consistent regulations that apply to all livestock operations are a better way to reduce the negative impacts to air and water quality.

2) This proposal provides the legislature with basic guidelines to regulate both large and small livestock facilities while allowing for exceptions. The legislature is allowed to distinguish between confined animal feeding and range feeding operations. Proven scientific information can be used to develop different regulations for the different types of operations.

Arguments Against

1) This measure does not provide any environmental protection. There is a difference in the environmental impacts produced by various types of livestock operations, and therefore, the state and local governments should be permitted to regulate different types of livestock independently. This measure could conflict with another 1998 ballot proposal that would regulate large, commercial hog facilities and the disposal of manure and wastewater from these facilities. Laws that apply to large and small livestock operators alike will impose additional regulatory burdens and could put several smaller livestock operations out of business. Furthermore, the broad requirements of the proposal make it difficult to determine how it will be applied and if it could undermine existing livestock operations.

2) Regulation of livestock operations should be addressed by changing the law or government rules, which can be revised as needed, rather than amending the state constitution, which can only be changed through another vote of the people. This proposal is unnecessary because laws regarding equal protection already ensure that those operations with similar impacts are treated similarly. Furthermore, a constitutional amendment could conflict with any future federal rules regarding confined animal feeding operations. It would be inefficient to have both the state and federal government enforcing laws regarding the same issue.

Amendment 13

Uniform Regulation of Livestock Operations

Title

An amendment to the Colorado Constitution requiring the uniform application of laws to livestock operations, and, in connection therewith, mandating that laws and regulations concerning livestock operations be uniform and based upon the similarity in the potential impact on the environment of the livestock operation; making unconstitutional any state law or regulation that does not treat livestock operations uniformly based upon the similarity in the potential impact on the environment of the livestock operation; allowing the general assembly to make a distinction between livestock feeding on the range and livestock feeding in a concentrated animal feeding operation; permitting the general assembly to make a distinction between concentrated animal feeding operations that are smaller than one thousand animal units and those that are larger than one thousand animal units; specifying that one animal unit be considered to be a cow and all other livestock to be fractions of a cow as determined by the general assembly; and defining livestock as cattle, sheep, goats, swine, mules, poultry, horses, and all other animals raised or kept for profit.

Text

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

Article XVIII of the Colorado Constitution, is amended BY THE ADDITION OF A NEW SECTION to read:

Section 14. Environmental protection - protection of human health and the environment - uniform livestock operations - declaration. (1) We the People of Colorado do hereby find, determine, and declare that animals raised in this state for commercial purposes are vital to the state's economy and our quality of life. However, because of the increased demand for animals used for commercial purposes, the water quality of Colorado's groundwater, rivers, streams, and lakes and the air we breath may be impacted. Therefore, it is the intent of the People of Colorado that this section be interpreted broadly and liberally for furthering the goals of protecting the environment and human health and for the strict and uniform application of laws concerning livestock operations.

(2) Laws and regulations concerning all livestock operations shall be uniform and based upon the similarity in the potential impact on the environment of all such livestock operations. Any state law or regulation which does not treat livestock operations which bear similar potential impacts on the environment in a uniform manner shall be unconstitutional.

(3) For purposes of this section "livestock" means cattle, sheep, goats, swine, mules, poultry, horses, and all other animals raised or kept for profit.

(4) The general assembly may make a distinction between livestock feeding on the range and livestock feeding in a concentrated animal feeding operation. The general assembly may also make a distinction between concentrated animal feeding operations which are smaller than one thousand animal units and those which are larger. One animal unit shall be considered to be a cow and all other livestock shall be considered fractions thereof as determined by the general assembly.

Amendment 14

REGULATION OF COMMERCIAL HOG FACILITIES

The proposed amendment to the Colorado Revised Statutes:

- further regulates the construction and operation of large, commercial hog facilities and the disposal of manure and wastewater from these facilities to minimize odor and water pollution;
- further restricts how manure and wastewater are applied to crops or land;
- requires commercial hog facilities to obtain state permits for discharge of wastewater and
- provides funding for enforcement of permit conditions;
- requires the state to regulate odor from hog facilities;
- prevents new waste application sites and waste storage tanks from being less than one mile from
- neighboring towns, homes, and schools, unless consent is given by nearby property owners and
- local governments; and

- allows local governments to impose regulations for hog facilities that are tougher than those contained in this proposal.

Background

There has been a steady increase in hog production in Colorado since 1990 due, in part, to an influx of large, commercial hog facilities. Although Colorado does not keep records on the number of hog facilities in the state, a majority are located in eastern Colorado. Hog farms with a minimum of 800,000 pounds of swine (approximately 2,000 to 5,000 hogs, depending on the type of facility) would be affected by this proposal. This proposal deals primarily with potential water contamination and odor issues resulting from manure and wastewater produced by large numbers of hogs.

Manure and wastewater produced by hogs are flushed from the area where the hogs are housed into pits called "lagoons" or storage tanks that are required to limit seepage. Manure and wastewater may then be recycled and used by farmers to fertilize crops. However, if too much waste is applied to land, it may seep through the soil and contaminate the ground water. Contaminated water can be dangerous to humans and animals under certain circumstances. Odor from hog waste is emitted from lagoons and sometimes when waste is being sprayed onto land as fertilizer.

Regulation of large hog farms. The federal government has general water quality regulations, but no specific requirements for constructing large hog facilities or for managing the animal waste produced at these facilities. Few federal regulations protecting ground water exist and those that do are not applicable to the ground water in eastern Colorado. The state has regulations for ground water quality, the construction of waste storage lagoons at large hog facilities and the application of waste from these facilities to land in Colorado. However, there is no permit required for these facilities, so the state's ability to enforce water quality regulations is limited. In Colorado, some local governments have adopted zoning regulations pertaining to all livestock feeding operations. There are no federal or state laws regarding odor from any livestock facility. The primary differences between existing state regulations and this proposal are that large hog farms would have to pay a fee to support a state program to ensure compliance with clean water laws; conduct independent water quality monitoring and file quarterly reports with the state and county; and install covers on most existing waste storage lagoons to minimize odor.

The United States Congress is considering legislation that sets standards for using animal waste to fertilize land. In addition, the United States Environmental Protection Agency is developing regulations to minimize water pollution from large confined animal feeding facilities. If the federal regulations take effect, Colorado's existing regulations may need to be adjusted.

Other states' regulation of large hog farms. The laws regulating large hog feeding facilities vary widely among states. Wyoming, Oklahoma, and other states have adopted laws and regulations specific to hog facilities. In South Dakota, counties may adopt zoning regulations, including the requirement that all new hog facilities be located at least four miles from homes or cities. North Carolina and Mississippi put a temporary hold on the construction of most new hog

facilities until applicable statutes or regulations can be implemented. Some states require hog farms to control odor using various methods. No state requires specifically that hog farms cover lagoons.

Arguments For

1) Manure and wastewater produced by hog facilities have the potential to contaminate drinking water. This proposal would minimize that potential by requiring the affected hog facilities to monitor water quality and pay a permit fee to help defray the costs of enforcing water quality laws. In addition, these facilities would have to provide financial assurance such as a bond to ensure the clean-up of any pollution caused during the course of their operations. The costs of compliance with the measure are commensurate with the costs of regulations in other states and part of the normal costs of operating a responsible business.

2) The odor from large hog facilities can be unbearable for nearby residents. Odor problems may arise from waste storage lagoons and the spraying of waste onto crops. To minimize odor, this proposal requires that hog facilities cover storage lagoons and that new hog facilities be at least one mile from a house, school, or city, unless they get consent from the affected parties.

3) Colorado's current resources and regulations regarding hog facilities are inadequate to protect public health and environmental quality. The state must hold hog facilities accountable for the odor and potential ground water contamination they may cause. This proposal gives Colorado the regulatory structure and funding to protect its water resources and the quality of life for its residents.

Arguments Against

1) This proposal may drive some existing hog producers out of business because of the expense of complying with its requirements, such as paying permit fees and installing covers for lagoons. These facilities promote the economic prosperity of the state, particularly in rural areas where jobs with benefits are scarce and where schools and other local government services are funded from a limited tax base. Finally, these hog farms provide an important source of income to other industries such as corn and grain growers who produce food for hogs.

2) This proposal is unnecessary because hog facilities are already required to comply with federal and state water quality regulations. For example, hog facilities must line their lagoons to minimize seepage. By requiring the use of specific odor control measures such as covering lagoons, the proposal limits the use of other methods and new technologies that may be more effective.

3) Hog farms are targeted unfairly by this proposal. No other livestock producer is made to comply with such strict standards. For example, only the affected hog farms would have to contain odors by covering some lagoons and provide quarterly water quality reports to the state and county. This requirement gives an unfair advantage to other livestock industries that do not have to comply with such expensive requirements.

Amendment 14

Regulation of Commercial Hog Facilities

Title

An amendment to the Colorado Revised Statutes concerning regulation of housed commercial swine feeding operations which can house 800,000 or more pounds of swine or which are deemed commercial under local law, and, in connection therewith, conditioning operation, construction, or expansion of a housed commercial swine feeding operation on receipt of an individual discharge permit from the department of public health and environment; directing the water quality control commission to adopt rules regarding the construction, operation, and management of and waste disposal by such operations; providing that such rules shall require that land application of waste from such operations shall not exceed the nutritional requirements of the plants on that land and shall minimize runoff and seepage of such waste; providing that such rules shall require that such operations not be permitted to degrade the physical attributes or value of state trust lands, make immediate reports of spills or contamination to state and county health departments, and monitor land-applied waste from such operations and report thereon to the state health department; authorizing fees on such operations to offset direct and indirect costs of the program; authorizing local governments to impose more restrictive requirements; requiring that such operations employ technology to minimize odor emissions; requiring operations to cover waste impoundments that do not use air or oxygen in their waste treatment method, and to recover, incinerate, or manage odorous gases therefrom; establishing minimum distances between new land waste application sites or impoundments and occupied dwellings, schools, and municipal boundaries; and providing for enforcement of these provisions by the state or any person who may be adversely affected.

Text

BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:

SECTION 1. Part 5 of article 8 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-8-501.1. Permit required for point source water pollution control - definitions - housed commercial swine feeding operations - legislative declaration. (1) THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND, DETERMINE, AND DECLARE THAT THE ADVENT OF LARGE HOUSED COMMERCIAL SWINE FEEDING OPERATIONS IN COLORADO HAS PRESENTED NEW CHALLENGES TO ENSURING THAT THE QUALITY OF THE STATE'S ENVIRONMENT IS PRESERVED AND PROTECTED. AS DISTINGUISHED FROM MORE TRADITIONAL OPERATIONS THAT HISTORICALLY HAVE CHARACTERIZED COLORADO'S LIVESTOCK INDUSTRY, LARGE HOUSED SWINE FEEDING

OPERATIONS USE SIGNIFICANT AMOUNTS OF PROCESS WATER FOR FLUSHING AND DISPOSING OF SWINE WASTE, COMMONLY STORE THIS WASTE IN LARGE IMPOUNDMENTS, AND DISPOSE OF IT THROUGH LAND APPLICATION. THE WASTE STORAGE, HANDLING AND DISPOSAL BY SUCH OPERATIONS ARE PARTICULARLY ODOROUS AND OFFENSIVE. THE PEOPLE FURTHER FIND THAT IT IS NECESSARY TO ENSURE THAT THE STORAGE AND LAND APPLICATION OF WASTE BY HOUSED COMMERCIAL SWINE FEEDING OPERATIONS IS DONE IN A RESPONSIBLE MANNER, SO AS NOT TO ADVERSELY IMPACT COLORADO'S VALUABLE AIR, LAND AND WATER RESOURCES.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AGRONOMIC RATE OF APPLICATION" MEANS THE RATE OF APPLICATION OF NUTRIENTS TO PLANTS THAT IS NECESSARY TO SATISFY THE PLANTS' NUTRITIONAL REQUIREMENTS WHILE STRICTLY MINIMIZING THE AMOUNT OF NUTRIENTS THAT RUN OFF TO SURFACE WATERS OR WHICH PASS BELOW THE ROOT ZONE OF THE PLANTS, AS SPECIFIED BY THE MOST CURRENT PUBLISHED FERTILIZER SUGGESTIONS OF THE COLORADO STATE UNIVERSITY COOPERATIVE EXTENSION SERVICE FOR THE PLANTS, OR MOST CLOSELY RELATED PLANT TYPE, TO WHICH THE NUTRIENTS ARE APPLIED.

(b) "HOUSED COMMERCIAL SWINE FEEDING OPERATION" MEANS A HOUSED SWINE FEEDING OPERATION THAT IS CAPABLE OF HOUSING EIGHT HUNDRED THOUSAND POUNDS OR MORE OF LIVE ANIMAL WEIGHT OF SWINE AT ANY ONE TIME OR IS DEEMED A COMMERCIAL OPERATION UNDER LOCAL ZONING OR LAND USE REGULATIONS. TWO OR MORE HOUSED SWINE CONFINED FEEDING OPERATIONS SHALL BE CONSIDERED TO COMPRISE A SINGLE HOUSED COMMERCIAL SWINE FEEDING OPERATION IF THEY ARE UNDER COMMON OR AFFILIATED OWNERSHIP OR MANAGEMENT, AND ARE ADJACENT TO OR UTILIZE A COMMON AREA OR SYSTEM FOR MANURE DISPOSAL, ARE INTEGRATED IN ANY WAY, ARE LOCATED OR DISCHARGE WITHIN THE SAME WATERSHED OR INTO WATERSHEDS THAT ARE HYDROLOGICALLY CONNECTED, OR ARE LOCATED ON OR DISCHARGE ONTO LAND OVERLYING THE SAME GROUNDWATER AQUIFER.

(c) "HOUSED SWINE FEEDING OPERATION" MEANS THE PRACTICE OF RAISING SWINE IN BUILDINGS, OR OTHER ENCLOSED STRUCTURES WHEREIN SWINE OF ANY SIZE ARE FED FOR FORTY-FIVE DAYS OR LONGER IN ANY TWELVE-MONTH PERIOD, AND CROP OR FORAGE GROWTH OR PRODUCTION IS NOT SUSTAINED IN THE AREA OF CONFINEMENT.

(d) "PROCESS WASTEWATER" MEANS ANY PROCESS-GENERATED WASTEWATER USED IN A HOUSED COMMERCIAL SWINE FEEDING OPERATION, INCLUDING WATER USED FOR FEEDING, FLUSHING, OR WASHING, AND ANY WATER OR PRECIPITATION THAT COMES INTO CONTACT WITH ANY MANURE, URINE, OR ANY PRODUCT USED IN OR RESULTING FROM THE PRODUCTION OF SWINE.

(3) NO PERSON SHALL OPERATE, CONSTRUCT, OR EXPAND A HOUSED COMMERCIAL SWINE FEEDING OPERATION WITHOUT FIRST HAVING OBTAINED AN INDIVIDUAL DISCHARGE PERMIT FROM THE DIVISION.

(4) ON OR BEFORE MARCH 31, 1999, THE COMMISSION SHALL PROMULGATE RULES NECESSARY TO ENSURE THE ISSUANCE AND EFFECTIVE ADMINISTRATION AND ENFORCEMENT OF PERMITS UNDER THIS SECTION BY JULY 1, 1999. SUCH RULES SHALL INCORPORATE THE PRECEDING SUBSECTION (3) AND SHALL, AT A MINIMUM, REQUIRE:

(a) THAT THE OWNER OR OPERATOR OF A HOUSED COMMERCIAL SWINE FEEDING OPERATION MUST OBTAIN DIVISION APPROVAL OF CONSTRUCTION, OPERATIONS AND SWINE WASTE MANAGEMENT PLANS THAT, FOR ANY LAND WASTE APPLICATION, INCLUDES A DETAILED AGRONOMIC ANALYSIS. SAID PLANS SHALL EMPLOY THE BEST AVAILABLE WASTE MANAGEMENT PRACTICES, PROVIDE FOR REMEDIATION OF RESIDUAL SOIL AND GROUNDWATER CONTAMINATION, AND ENSURE THAT DISPOSAL OF SOLID OR LIQUID WASTE TO THE SOIL NOT EXCEED AGRONOMIC RATES OF APPLICATION;

(b) THAT APPROPRIATE SETBACKS FOR MAINTAINING WATER QUALITY BE ESTABLISHED FOR LAND WASTE APPLICATION AREAS AND WASTE IMPOUNDMENTS;

(c) THAT WASTE IMPOUNDMENTS OR MANURE STOCK PILES SHALL NOT BE LOCATED WITHIN A ONE-HUNDRED-YEAR FLOODPLAIN UNLESS PROPER FLOOD PROOFING MEASURES ARE DESIGNED AND CONSTRUCTED;

(d) THAT THE OWNER OR OPERATOR OF THE HOUSED COMMERCIAL SWINE FEEDING OPERATION SHALL PROVIDE FINANCIAL ASSURANCES FOR THE FINAL CLOSURE OF THE HOUSED COMMERCIAL SWINE FEEDING OPERATION, THE CONDUCT OF ANY NECESSARY POSTCLOSURE ACTIVITIES, THE UNDERTAKING OF ANY CORRECTIVE ACTION MADE NECESSARY BY MIGRATION OF CONTAMINANTS FROM THE HOUSED COMMERCIAL SWINE FEEDING OPERATION INTO THE SOIL AND GROUNDWATER, OR CLEANUP OF ANY SPILL OR BREACH;

(e) THAT THE OWNER OR OPERATOR OF A HOUSED COMMERCIAL SWINE FEEDING OPERATION SHALL ENSURE THAT NO SOLID OR LIQUID WASTE GENERATED BY IT SHALL BE APPLIED TO LAND BY ANY PERSON AT A RATE THAT EXCEEDS, IN AMOUNT OR DURATION, THE AGRONOMIC RATE OF APPLICATION; AND

(f) THAT, BECAUSE WASTE STORAGE AND DISPOSAL BY HOUSED COMMERCIAL SWINE FEEDING OPERATIONS POSE PARTICULAR JEOPARDY FOR STATE TRUST LANDS, IN LIGHT OF THE MANDATE IN THE COLORADO CONSTITUTION, ARTICLE IX, SECTION 10, THAT STATE LAND BOARD TRUST LANDS BE HELD IN TRUST AND BE PROTECTED AND ENHANCED TO PROMOTE LONG-TERM PRODUCTIVITY AND SOUND STEWARDSHIP, THE CONSTRUCTION, OPERATIONS AND WASTE MANAGEMENT PLANS APPROVED FOR HOUSED COMMERCIAL SWINE FEEDING OPERATIONS ON SUCH LANDS, SHALL NOT PERMIT THE DEGRADATION OF THE PHYSICAL ATTRIBUTES OR VALUE OF ANY STATE TRUST LANDS.

(5) ANY SPILL OR CONTAMINATION BY A HOUSED COMMERCIAL SWINE FEEDING OPERATION SHALL BE REPORTED IMMEDIATELY TO THE DIVISION AND THE COUNTY HEALTH DEPARTMENT FOR THE COUNTY IN WHICH THE HOUSED COMMERCIAL SWINE FEEDING OPERATION IS CONDUCTED AND, WITHIN TWENTY-FOUR HOURS AFTER THE SPILL OR CONTAMINATION, A WRITTEN REPORT SHALL BE FILED WITH THE DIVISION AND THE COUNTY HEALTH DEPARTMENT FOR THE COUNTY IN WHICH THE HOUSED COMMERCIAL SWINE FEEDING OPERATION IS CONDUCTED.

(6) HOUSED COMMERCIAL SWINE FEEDING OPERATIONS SHALL SUBMIT TO THE DIVISION AND COUNTY HEALTH DEPARTMENT QUARTERLY, COMPREHENSIVE MONITORING REPORTS AND AGRONOMIC ANALYSES THAT DEMONSTRATE THAT THE OPERATION HAS LAND-APPLIED SOLID AND LIQUID WASTE AT NO GREATER THAN AGRONOMIC RATES. THE DIVISION SHALL REQUIRE THE SAMPLING AND MONITORING OF CHEMICAL AND APPROPRIATE BIOLOGICAL PARAMETERS TO PROTECT THE QUALITY AND EXISTING AND FUTURE BENEFICIAL USES OF GROUNDWATER INCLUDING, AT A MINIMUM, NITROGEN, PHOSPHORUS, HEAVY METALS, AND SALTS. AT A MINIMUM, THE MONITORING PROGRAM SHALL INCLUDE QUARTERLY SAMPLES, ANALYSIS AND REPORTING OF THE GROUNDWATER, SOILS WITHIN THE ROOT ZONE AND SOILS BENEATH THE ROOT ZONE WITHIN EACH WASTE APPLICATION SITE, AND SHALL ALSO INCLUDE MONITORING TO ENSURE THAT NO EXCESSIVE SEEPAGE OCCURS FROM ANY WASTE IMPOUNDMENTS.

(7) THE DIVISION SHALL ASSESS A HOUSED COMMERCIAL SWINE FEEDING OPERATION AN ANNUAL PERMIT FEE, NOT TO EXCEED 20 CENTS PER ANIMAL, BASED ON THE OPERATIONS WORKING CAPACITY TO OFFSET DIRECT AND INDIRECT COSTS OF THE PROGRAM. AS USED IN THIS PARAGRAPH (A), "WORKING CAPACITY" MEANS THE NUMBER OF SWINE THAT THE HOUSED COMMERCIAL SWINE FEEDING OPERATION IS CAPABLE OF HOUSING AT ONE TIME.

(8) THE DIVISION SHALL ENFORCE THE PROVISIONS OF THIS SECTION AND SHALL TAKE IMMEDIATE ENFORCEMENT ACTION AGAINST ANY HOUSED COMMERCIAL SWINE FEEDING OPERATION THAT HAS EXCEEDED THE AGRONOMIC RATE LIMIT OF THIS SECTION. IN ADDITION, ANY PERSON WHO MAY BE ADVERSELY AFFECTED BY A HOUSED COMMERCIAL SWINE FEEDING OPERATION MAY ENFORCE THESE PROVISIONS DIRECTLY AGAINST THE OPERATION BY FILING A CIVIL ACTION IN THE DISTRICT COURT IN THE COUNTY IN WHICH THE PERSON RESIDES.

(9) THESE PROVISIONS SHALL NOT PRECLUDE ANY LOCAL GOVERNMENT FROM IMPOSING REQUIREMENTS MORE RESTRICTIVE THAN THOSE CONTAINED IN THIS SECTION.

SECTION 2. 25-8-504, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-8-504. Agricultural wastes. (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT THE REQUIREMENT OF PERMITS FOR HOUSED

COMMERCIAL SWINE FEEDING OPERATIONS PURSUANT TO SECTION 25-8-501.1.

SECTION 3. Part 1 of article 7 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-7-138. Housed commercial swine feeding operations - waste impoundments - odor emissions. (1) ALL NEW OR EXPANDED ANAEROBIC PROCESS WASTEWATER VESSELS AND IMPOUNDMENTS, INCLUDING, BUT NOT LIMITED TO, TREATMENT OR STORAGE LAGOONS, CONSTRUCTED OR UNDER CONSTRUCTION FOR USE IN CONNECTION WITH A HOUSED COMMERCIAL SWINE FEEDING OPERATION AS DEFINED IN SECTION 28-8-501.1(2)(b) SHALL BE COVERED SO AS TO CAPTURE, RECOVER, INCINERATE, OR OTHERWISE MANAGE ODOROUS GASES TO MINIMIZE, TO THE GREATEST EXTENT PRACTICABLE, THE EMISSION OF SUCH GASES INTO THE ATMOSPHERE. AS USED IN SECTION 25-7-138, "ANAEROBIC" MEANS A WASTE TREATMENT METHOD THAT, IN WHOLE OR IN PART, DOES NOT UTILIZE AIR OR OXYGEN. ALL NEW AEROBIC IMPOUNDMENTS SHALL EMPLOY TECHNOLOGIES TO ENSURE MAINTENANCE OF AEROBIC CONDITIONS OR OTHERWISE TO MINIMIZE THE EMISSION OF ODOROUS GASES TO THE GREATEST EXTENT PRACTICABLE. AS USED IN SECTION 25-7-138, "AEROBIC" MEANS A WASTE TREATMENT METHOD THAT UTILIZES AIR OR OXYGEN.

(2) ON OR BEFORE JULY 1, 1999, ALL EXISTING ANAEROBIC PROCESS WASTEWATER VESSELS AND IMPOUNDMENTS, INCLUDING, BUT NOT LIMITED TO, AERATION TANKS AND TREATMENT OR STORAGE LAGOONS, OWNED OR OPERATED FOR USE IN CONNECTION WITH A HOUSED COMMERCIAL SWINE FEEDING OPERATION AS DEFINED IN SECTION 25-8-501.1(2)(b) SHALL BE COVERED SO AS TO CAPTURE, RECOVER, INCINERATE, OR OTHERWISE MANAGE ODOROUS GASES TO MINIMIZE, TO THE GREATEST EXTENT PRACTICABLE, THE EMISSION OF SUCH GASES INTO THE ATMOSPHERE. BY JULY 1, 1999, ALL EXISTING AEROBIC IMPOUNDMENTS SHALL EMPLOY TECHNOLOGIES TO ENSURE MAINTENANCE OF AEROBIC CONDITIONS OR OTHERWISE TO MINIMIZE THE EMISSION OF ODOROUS GASES TO THE GREATEST EXTENT PRACTICABLE.

(3) THE COMMISSION SHALL BY RULES PROMULGATED ON OR BEFORE MARCH 1, 1999, REQUIRE THAT ALL HOUSED COMMERCIAL SWINE FEEDING OPERATIONS, BY JULY 1, 1999, EMPLOY TECHNOLOGY TO MINIMIZE TO THE GREATEST EXTENT PRACTICABLE OFF-SITE ODOR EMISSIONS FROM ALL ASPECTS OF ITS OPERATIONS, INCLUDING ODOR FROM ITS SWINE CONFINEMENT STRUCTURES, MANURE AND COMPOSTING STORAGE SITES, AND ODOR AND AEROSOL DRIFT FROM LAND APPLICATION EQUIPMENT AND SITES.

(4) NO NEW LAND WASTE APPLICATION SITE OR NEW WASTE IMPOUNDMENT USED IN CONNECTION WITH A HOUSED COMMERCIAL SWINE FEEDING OPERATION, SHALL BE LOCATED LESS THAN:

- (a) ONE MILE FROM AN OCCUPIED DWELLING WITHOUT THE WRITTEN CONSENT OF THE OWNER OF THE DWELLING;
- (b) ONE MILE FROM A PUBLIC OR PRIVATE SCHOOL WITHOUT THE WRITTEN CONSENT OF THE SCHOOL'S BOARD OF TRUSTEES OR BOARD OF DIRECTORS; AND
- (c) ONE MILE FROM THE BOUNDARIES OF ANY INCORPORATED MUNICIPALITY WITHOUT THE CONSENT OF THE GOVERNING BODY OF THE MUNICIPALITY BY RESOLUTION.

AS USED IN THIS SUBSECTION (4), A NEW LAND WASTE APPLICATION SITE AND NEW WASTE IMPOUNDMENT ARE THOSE THAT WERE NOT IN USE AS OF JUNE 1, 1998.

(5) THE DIVISION SHALL ENFORCE THE PROVISIONS OF THIS SECTION. IN ADDITION, ANY PERSON WHO MAY BE ADVERSELY AFFECTED BY A HOUSED COMMERCIAL SWINE FEEDING OPERATION MAY ENFORCE THESE PROVISIONS DIRECTLY AGAINST THE OPERATION BY FILING A CIVIL ACTION IN THE DISTRICT COURT IN THE COUNTY IN WHICH THE PERSON RESIDES.

SECTION 4. 25-7-109(2)(d) and (8), Colorado Revised Statutes, are amended to read:
25-7-109. Commission to promulgate emission control regulations. (2) Such emission control regulations may include, but shall not be limited to, regulations pertaining to:
(d) Odors, except for livestock feeding operations THAT ARE NOT HOUSED COMMERCIAL SWINE FEEDING OPERATIONS AS DEFINED IN SECTION 25-8-501.1(2)(b);

(8) Notwithstanding any other provision of this section, the commission shall not regulate emissions from agricultural production such as farming, seasonal crop drying, animal FEEDING OPERATIONS THAT ARE NOT HOUSED COMMERCIAL SWINE FEEDING OPERATIONS AS DEFINED IN SECTION 25-8-501.1(2)(b), and pesticide application; except that the commission shall regulate such emissions if they are "major stationary sources", as that term is defined in 42 U.S.C. sec. 7602 (j), or are required by Part C (prevention of significant deterioration), Part D (nonattainment), or Title V (minimum elements of a permit program), or are participating in the early reduction program of section 112 of the federal act, or is not required by section 111 of the federal act, or is not required for sources to be excluded as a major source under this article.

Amendment 15

WATER METERS IN THE SAN LUIS VALLEY

The proposed amendment to the Colorado Revised Statutes:

- requires the installation of a water meter on certain wells used for irrigation, mining, industrial, or municipal purposes in the San Luis Valley by April 1, 1999;

- requires the water meters to be installed at the well owner's expense and certified and read by a state employee; and
- prohibits the operation of any affected well that does not have a functioning water meter.

Background

Affected wells in the San Luis Valley. This proposal affects wells that pump water from a specific aquifer in the San Luis Valley of south central Colorado. An aquifer is a body of underground water that, in this case, is connected to the Rio Grande River and its tributaries in the San Luis Valley. Water meters would be required to be installed on wells that use water from this aquifer for irrigation, municipal, commercial, industrial, and mining purposes. This proposal does not apply to wells used for residential or fire fighting purposes, or small commercial and stock wells. Approximately 3,500 wells in the San Luis Valley would be affected by this proposal, and approximately 90 percent of these wells are used for irrigation. Many farmers own between 13 to 18 irrigation wells.

Regulation of water in the San Luis Valley. Colorado law regulates the use of its water based on a priority system. Water users with the most seniority receive their full share of water before water users with less seniority (a junior water right) receive any water. Pumping by some wells in the San Luis Valley can prevent water users on the river system from receiving their full share of water. Water rights on the river system are senior water rights. Most well users in the San Luis Valley have rights that are junior to water users on the river system.

Purpose of a water meter. Water meters on irrigation wells serve a different purpose from water meters on urban water taps. Meters on irrigation wells indicate how much water is pumped in order to protect water rights. Meters on urban taps are used to assess a fee on the water used by the customer.

The state water engineer and regulation of wells. A water user in Colorado must receive a permit from the state water engineer before constructing a well. The state water engineer also enforces the allocation of water to senior and junior water rights and collects and studies data on the state's water supplies. The state water engineer has stopped issuing new well permits for water in this aquifer because there may not be enough water in the aquifer to satisfy well permits that have already been granted. New wells are permitted only to replace existing wells or if a new well does not change the water available to other users.

Arguments For

1) This proposal aids in the administration to protect water rights. Water meters clearly indicate if a well pumps more water than is allowed. Wells that pump more water than allowed can prevent senior water users from obtaining their full share of water or can consume water that could be used by other water users.

2) The readings from water meters will enable the state water engineer to better administer water rights in the San Luis Valley. The state water engineer will use the readings from water meters to understand the impact of pumping from this aquifer on users of the Rio Grande River and its

tributaries. During water shortages, this information will enable the state water engineer to identify wells that prevent senior water rights from receiving their full share and to order those wells to cease pumping.

Arguments Against

1) This proposal is unnecessary because current law and agricultural practices protect water rights in the San Luis Valley. The state water engineer has the authority to monitor wells, irrigation systems, and irrigated lands to ensure that existing wells do not pump more than allowed. He may also shut down or restrict wells that are pumping more water than allowed or do not have a permit. Individuals may bring suit against well owners for excessive pumping and the court may award money to compensate for damages. In addition, more efficient irrigation practices, better management, and cooperation among water users have made water conflicts less likely. Due to these changes, water remains in the aquifer and stream systems for other water users.

2) This proposal imposes a significant financial burden on well owners through meter purchase and reading costs and the potential for crop loss. Each water meter costs between \$700 and \$1,200 to install. High levels of sand in the San Luis Valley's aquifer damage meters and require frequent meter replacement. Watering schedules are critical and if a water meter fails, crops may die before a replacement can be installed and inspected. This proposal could be bad for the economic well-being of agriculture and the San Luis Valley as a whole. The San Luis Valley is already one of the most economically depressed areas of the state.

3) This proposal is unfair because it imposes unnecessary costs and unreasonable deadlines, and does not apply to all wells that impact rivers. Well owners are not allowed to use other less costly, court-approved methods for measuring well production. Also, this proposal requires well owners to install water meters within five months. This leaves little time for inspection and certification of the approximately 3,500 wells in the area. Because farmers are not allowed to operate a well until the meter is inspected, they may miss the San Luis Valley's short growing season. Furthermore, this proposal does not apply to the 750 large wells in the San Luis Valley's other major aquifer that can also impact other water users and prevent Colorado from delivering enough water to downstream states.

Amendment 15

Water Meters in the San Luis Valley

Title

An amendment to the Colorado Revised Statutes concerning a requirement for the installation of water flow meters on any nonexempt well in the unconfined aquifer in Water Division 3 (which is located in whole or in part in Conejos, Alamosa, Rio Grande, Mineral, Saguache, and Costilla counties) on or before April 1, 1999, and, in connection therewith, requiring that the water flow meters be certified by the state engineer;

requiring the state engineer to read the water flow meters monthly at the well owner's expense; and directing the state engineer to prevent the operation of any well that does not have a functioning water flow meter.

Text

Be It Enacted by the People of the State of Colorado:

37-92-502 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

37-92-502. Orders as to waste, diversions, distribution of water. (5) (c) ON OR BEFORE APRIL 1, 1999, ANY WELL NOT EXEMPT PURSUANT TO SECTIONS 37-92-601 AND 37-92-602 IN THE UNCONFINED AQUIFER IN WATER DIVISION 3 SHALL BE EQUIPPED WITH A FUNCTIONAL WATER FLOW METER, CERTIFIED BY THE STATE ENGINEER. SUCH WATER FLOW METERS SHALL BE READ MONTHLY BY THE STATE ENGINEER AT THE WELL OWNER'S EXPENSE. THE STATE ENGINEER SHALL PREVENT THE OPERATION OF ANY WELL THAT IS FOUND NOT TO HAVE A FUNCTIONING WATER FLOW METER UNTIL SUCH TIME THAT A FUNCTIONING WATER FLOW METER IS INSTALLED AND CERTIFIED BY THE STATE ENGINEER AT THE WELL OWNER'S EXPENSE. THIS PARAGRAPH (c) WAS ADOPTED BY A VOTE OF THE PEOPLE AT THE GENERAL ELECTION IN 1998.

Amendment 16

PAYMENTS FOR WATER BY THE RIO GRANDE WATER CONSERVATION DISTRICT

The proposed amendment to the Colorado Constitution:

- requires the Rio Grande Water Conservation District to pay \$40 per acre-foot for water pumped from beneath state trust land in the San Luis Valley;
- requires that the \$40 be divided as follows: \$30 to the state's Public School Fund and \$10 to school districts in the San Luis Valley;
- requires payment for water that has been pumped from beneath state trust lands since 1987;
- requires only irrigators that use water from the Rio Grande River to pay for the water pumped from beneath state trust lands;
- requires that delinquent payments be assessed an 18 percent annual interest rate; and
- prohibits the Colorado General Assembly from considering these payments when determining the state's aid to public schools in the San Luis Valley.

Background

State trust lands and money for public schools. State trust lands are public lands that primarily generate revenue for public schools. This proposal requires that \$30 of the payment for water pumped from beneath state trust lands in the San Luis Valley of south central Colorado be deposited in the Public School Fund, a state fund that earns interest for distribution to public schools statewide. Under current law, the state trust cannot collect money for use of the water beneath its lands in the San Luis Valley because the trust does not own the water. The trust does not own the water because it never developed the water for irrigation, mining, municipal, or other purposes as required by law.

Rio Grande Water Conservation District and water in the San Luis Valley. This proposal requires the Rio Grande Water Conservation District to pay for water that is pumped from beneath state trust lands in the San Luis Valley. The district is a local government entity that oversees the use of the Rio Grande River by funding water conservation efforts and improvements of drainage and irrigation projects, protecting water rights in court, and conducting water resources studies. The district obtained a right to use water from beneath state trust lands when it developed the water with the assistance of the federal government. The water beneath state trust lands is being pumped by the federal government to help Colorado meet its legal obligations to deliver water to New Mexico and Texas, and to supply water to two national wildlife areas. The water pumped by the federal government also benefits some irrigators in the San Luis Valley.

Argument For

1) The state's public schools would benefit from the proposal. Interest from the money paid by the district is projected to generate approximately \$400,000 in the first year for public schools statewide. The amount generated would increase by approximately \$60,000 annually. These moneys may be used for school operating expenses, such as teacher salaries, text books, and utilities. School districts in the San Luis Valley are anticipated to receive \$297,000 annually with a one-time payment of approximately \$1.4 million.

Arguments Against

1) The proposal imposes a significant financial burden on water users in the San Luis Valley. The irrigators affected by this proposal will be required to pay approximately \$1.2 million annually, with a one-time payment of \$5.6 million for water pumped prior to 1998. Irrigators who are unable to pay these costs may be forced out of business. The payment required by the proposal is four times the market rate for irrigation water in the San Luis Valley. Water from state trust lands may become too expensive to use, and the project may stop its pumping. Without these waters, the state may be forced to shut off some irrigators to ensure that enough water remains in the Rio Grande River to meet Colorado's obligation to downstream states. This proposal is bad for the economic well-being of agriculture and the San Luis Valley as a whole. The San Luis Valley is already one of the most economically depressed areas of the state.

2) The proposal is unfair for several reasons. No other water users in Colorado are required to pay to use water that they own. In addition, irrigators must pay the Public School Fund to use water that is not owned by the trust. All other assets that the trust collects revenue from are

owned by the trust. This proposal also requires that only 60 percent of the irrigators who benefit from the water pay for all of the water pumped from beneath state trust lands. The remaining 40 percent of irrigators who benefit from these waters would pay nothing. Also, this measure disproportionately benefits school districts in the San Luis Valley. This is contrary to current state policy that distributes most revenue from state trust lands equally among all school districts in the state.

Amendment 16

Payments for Water by the Rio Grande Water Conservation District

Title

An amendment to the Colorado Constitution requiring the Rio Grande Water Conservation District, which is located in whole or in part in Conejos, Alamosa, Rio Grande, Mineral, and Saguache counties, to pay fees for all water that has been, is being, or will in the future be pumped from aquifers underlying state trust lands pursuant to Water Decree W-3038 in Water Division 3 (including all or part of Conejos, Alamosa, Rio Grande, Mineral, Saguache, and Costilla counties) for purposes of the "Closed Basin Project", and, in connection therewith, setting such fees at thirty dollars per acre-foot, payable to the state's public school fund, and ten dollars per acre-foot, payable to the school districts in Water Division 3, based upon the State Department of Education's student count for such districts; directing the State Auditor to determine the amounts of such fees payable each year and requiring payment of such amounts within thirty days after such determination, subject to interest at eighteen percent on late payments; requiring the Rio Grande Water Conservation District to assess those irrigators with water rights in the Rio Grande River, in proportion to their water right, an amount equal to the amount of water used and attributable to the water pumped from beneath such state trust lands; and providing that monies paid to the school districts in Water Division 3 shall be in addition to monies made available for public school children and shall not be considered by the general assembly when determining such amount.

Text

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

Amend article XVI of the Colorado Constitution BY THE ADDITION OF A NEW SECTION to read:

Section 9. Closed Basin Project - reimbursement to state school trust people's declaration. (1) THE RIO GRANDE WATER CONSERVATION DISTRICT SHALL PAY TO THE PUBLIC SCHOOL FUND CREATED IN ARTICLE IX OF THIS CONSTITUTION FOR THE WATER USED IN THE CLOSED BASIN PROJECT

WHICH HAS BEEN PUMPED, IS BEING PUMPED, OR WILL BE PUMPED IN THE FUTURE FROM BENEATH STATE TRUST LANDS PURSUANT TO WATER DECREE W-3038 IN WATER DIVISION 3. THE AMOUNT THE DISTRICT SHALL PAY SHALL BE THIRTY DOLLARS PER ACRE-FOOT OF WATER WHICH WATER IS REQUIRED TO MEET THE YEARLY REQUIREMENTS FOUND IN PL 92-514.

(2) IN ADDITION TO THE PAYMENT TO THE PUBLIC SCHOOL FUND, THE DISTRICT SHALL PAY TO THE SCHOOL DISTRICTS IN WATER DIVISION 3 TEN DOLLARS PER ACRE-FOOT OF WATER WHICH WATER IS REQUIRED TO MEET THE YEARLY REQUIREMENTS FOUND IN PL 92-514.

(3) ON JULY 1, 1999, AND ANNUALLY THEREAFTER, THE STATE AUDITOR SHALL DETERMINE THE AMOUNT OF MONIES OWED BY THE DISTRICT TO THE PUBLIC SCHOOL FUND AND SCHOOL DISTRICTS IN WATER DIVISION 3 FOR THE PREVIOUS YEAR. THE DISTRICT SHALL ASSESS THOSE IRRIGATORS WITH WATER RIGHTS IN THE RIO GRANDE RIVER, IN PROPORTION TO THEIR WATER RIGHT, AN AMOUNT EQUAL TO THE AMOUNT OF WATER USED AND ATTRIBUTABLE TO THE WATER WHICH HAS BEEN PUMPED FROM BENEATH SUCH STATE TRUST LANDS. THE AMOUNT OF MONIES OWED BY THE DISTRICT FOR YEARS PRIOR TO 1998, SHALL BE DETERMINED BY THE STATE AUDITOR ON JULY 1, 1999. MONIES OWED SHALL BE DEPOSITED WITH THE STATE TREASURER WITHIN THIRTY DAYS OF THE DETERMINATION OF SUCH AMOUNT BY THE STATE AUDITOR. THE AMOUNT OF MONIES TRANSFERRED TO EACH SCHOOL DISTRICT SHALL BE BASED UPON THE STATE DEPARTMENT OF EDUCATION'S STUDENT COUNT. MONIES NOT DEPOSITED WITHIN THIRTY DAYS SHALL BEAR INTEREST AT THE RATE OF EIGHTEEN PERCENT PER ANNUM.

(4) MONIES PAID TO THE SCHOOL DISTRICTS IN WATER DIVISION 3 SHALL BE IN ADDITION TO AND NOT BE CONSIDERED BY THE GENERAL ASSEMBLY WHEN DETERMINING THE AMOUNT OF MONIES IT MAKES AVAILABLE ANNUALLY FOR PUBLIC SCHOOL CHILDREN.

Amendment 17

INCOME TAX CREDIT FOR EDUCATION

The proposed amendment to the Colorado Constitution:

- creates a state income tax credit for parents of students in private and public schools, and students educated at home;
- directs the legislature to set the amount of the credit within certain guidelines, and allows the credit to vary for different groups;
- sets priorities for who gets the credit;

- pays for the credit with tax money saved when a student leaves the public school system; and
- prohibits the state from using the measure to increase regulations on private schools.

Background

A tax credit. This proposal creates a tax credit which could reduce the amount of state income taxes owed by parents of school-age children. Parents who owe no taxes, or parents who owe less than the amount of the credit, would get a check from the state for the difference; other parents will simply pay less. For parents of students enrolled in private schools, the credit equals at least 80 percent of the cost of educating their child or 50 percent of the average expenditure for a public school student, whichever is less. For parents of other students, the credit is to be set by the legislature.

Priorities for receiving the credit. Money for the credits will come from savings which result when students leave the public school system. The measure defines the order in which parents would get the credit, in case there is not enough money for all parents to receive the credit. The measure prioritizes eligibility for the credits as follows:

- First, parents of students who transfer to a private school from a public school district that scores below average on state tests and special needs students;
- Second, parents of students who transfer from other public schools to private school;
- Third, low-income parents of students presently in private school;
- Fourth, all other parents of students in private school; and
- Fifth, parents of students in public school and parents of children who are taught at home.

All parents in the first categories must be paid before any of the parents in the later categories.

Funding for the credit. This measure requires the state to set aside the savings for each student who leaves the public school system to fund the income tax credit. The legislature will determine the amount of any savings based on the number of students who leave public schools. The state cannot reduce per student funding levels for public schools to pay for the tax credit.

Arguments For

1) This measure targets tax relief where it's needed most. Raising children is expensive, and many parents need financial help to give their children the best education possible. This measure gives priority to families that live in poor-performing school districts and to low-income parents. In addition, the credit is refundable so even the poorest families will benefit. This measure could lower taxes for all parents of school-age children, letting them keep more of their own money to spend as they see fit.

2) This measure is intended to be self-funded, so it won't cost the state more money. The government saves money when a student leaves public school for a private school and that

money should be returned to parents. Parents of students in private schools already pay taxes to support the public schools, but they receive no direct benefit. Also, the measure guarantees that per student funding in public schools will not decline from the current level.

3) This measure may cause public schools to improve because they will need to compete to attract and retain students. Parents will have more financial resources to choose from a variety of options for educating their children. Children deserve the best education possible, regardless of their family's income or the neighborhood in which they live. This measure gives working families many of the same choices and opportunities for their children that higher-income families enjoy. All Coloradans will benefit when all children are well-educated.

Arguments Against

1) This measure lowers taxes for those parents who can already afford to pay for private school, and because the credit covers only a part of tuition costs, it limits the ability of low-income parents to take advantage of the credit. Without knowing how much the credit is worth from one year to the next, parents may have to pay the private school tuition costs in advance and wait for reimbursement (via the credit) later. Some parents might take their children out of public school one year and have to move them back to public school the next year if the credit is too small to offset the cost of a private education. In addition, a parent's eligibility for the credit may change over time, and public school families will not benefit until all private school families get a credit. Parents with students in public school might not get any credit at all if sufficient funds are not available.

2) The measure doesn't guarantee better schools. Public schools may have to hire the same number of teachers with fewer dollars. This measure benefits parents of students at private schools and private schools at the expense of public schools, but most students in Colorado attend public schools. The measure also prohibits any additional regulation or oversight of private schools, even though they will now be indirectly supported by taxpayer dollars. This measure will create an administrative bureaucracy estimated to cost \$639,653 in the first year and almost \$500,000 every year thereafter.

3) The measure is vague on many important details: how much the credit might be worth and how many parents, if any, will receive a credit; how revenues will be generated and allocated under the proposal; and how the legislature will define "savings" to know the amount of money available for the program. If there are no savings, no credits would be available. Also, this measure could result in the state keeping track of every child in Colorado, but the government already collects too much personal information on families and individuals. To determine eligibility for the tax credit, the state will need to know where each student goes when they leave public school, whether the public school a student leaves is in a below-average public school district, the cost of tuition where the student enrolled after leaving public school, and whether parents with children in private school qualify for the low-income credit.

Amendment 17

Income Tax Credit for Education

Title

An amendment to the constitution of the state of Colorado concerning the establishment of an income tax credit for parents or legal guardians of children enrolled in public, non-public schools and non-public home-based educational programs, and, in connection therewith, requiring the general assembly to establish an income tax credit for income tax years beginning in 1999; specifying the methods for determining the amount of such credit; establishing priorities for eligibility for such credit; establishing an educational opportunity fund to be used to offset the entire costs of such credit; prohibiting reductions in current per-student public school expenditures as a result of the measure or as a result of the transfer of students to non-public schools; prohibiting the state or any political subdivision thereof from using this section to increase their regulatory role over the education of children in non-public schools beyond that exercised and existent on January 1, 1998; and eliminating eligibility for the income tax credit of parents or legal guardians who send children to certain non-public schools, including those that illegally discriminate on the basis of race, ethnicity, color or national origin or teach hatred.

Text

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

Article IX of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 17. Educational Opportunity Tax Credit. (1) The people of the State of Colorado, desiring to improve the quality of education available to all children, adopt this section to enable the greatest number of parents and legal guardians to choose among the widest array of quality educational opportunities for their children. (2) Notwithstanding any provisions of section 7 of this article, section 34 of article V, section 4 of article II, or section 2 of article XI, the General Assembly shall (a) create a refundable state income tax credit for education expenses incurred by parents or legal guardians of children enrolled in public and non-public schools and (b) create an Educational Opportunity Fund from which the amounts required to offset the entire cost of the tax credit shall be drawn, including the reimbursement to the state for the resulting decrease in tax revenues and the payment to parents or legal guardians of the amount of their refund if the amount of their refund exceeds the amount of their tax liability. This refundable tax credit shall be available with respect to education expenses incurred beginning in the 1999 tax year. (3) The amount of the tax credit will be: (a) for tuition costs of each child in non-public schools, amounts established by law that are not less than either 50% of the yearly state average public school expenditure per student for all purposes by the state and by local school boards in the prior complete

school year or 80% of the cost of the tuition paid in the applicable tax year plus such other education expenses allowed by law, whichever is less.

(b) for tuition costs for each special needs student as defined by law who is enrolled in non-public schools, an amount to be determined by the General Assembly that recognizes the higher cost of education for said children.

(c) for parents and legal guardians of public school students, the maximum amount available as may be determined by law.

(4) The tax credit shall be made available to eligible persons in a time and manner determined by law. Eligibility for the tax credit shall be prioritized as follows:

(a) The first priority for distribution shall be parents or legal guardians of any student who hereafter transfers to a non-public school from a public school district that is below the state average in student performance, as measured by assessments approved by the state board of education, and parents or legal guardians of any special needs student as defined by law.

(b) The remaining funds in the Educational Opportunity Fund shall then be applied to the next priority, parents or legal guardians of any student who hereafter transfers to a non-public school from any other public school district.

(c) The remaining funds in the Educational Opportunity Fund shall then be applied to the next priority, low income parents or legal guardians of students in non-public schools.

(d) The remaining funds in the Educational Opportunity Fund shall then be applied to the next priority, all other parents or legal guardians of students in non-public schools.

(e) The remaining funds in the Educational Opportunity Fund shall then be applied to the next priority, parents or legal guardians of public school students and parents or legal guardians of any student who is participating in a non-public home-based educational program.

(5) All savings created by a reduction in public school enrollments attributable to transfers of students to non-public schools on and after the effective date of this section shall be transferred to the Educational Opportunity Fund, which shall be used to offset the entire cost of the tax credit provided for in subsections (3) and (4).

(6) Current per-student public school expenditures shall not be reduced nor shall total state or district expenditures, as adjusted for inflation, be increased as a result of this section or as a result of the transfer of students to non-public schools in the State of Colorado after the effective date of this section.

(7) Parents or legal guardians of children who participate in a non-public home-based educational program shall be eligible for the tax credit only for curricular materials and educational supplies as provided by law.

(8) Parents or legal guardians who send children to a non-public school that discriminates on the basis of race, ethnicity, color or national origin; advocates unlawful behavior, or teaches hatred of any person or group on the basis of race, ethnicity, color, national origin, religion, or gender; knowingly employs a person convicted of a crime involving lewd or lascivious conduct, or any offense involving molestation or other abuses of a child, shall not be eligible for this tax credit.

(9) Except as herein provided, neither the state nor any subdivision thereof shall use this section to increase its regulatory role over the education of children in non-public schools beyond that exercised and existent on January 1, 1998.

Amendment 18

VOLUNTARY CONGRESSIONAL TERM LIMITS

The proposed amendment to the Colorado Constitution:

- allows a congressional candidate to voluntarily pledge to serve no more than three terms (six years) in the U.S. House of Representatives or no more than two terms (twelve years) in the U.S. Senate;
- allows a candidate to choose not to pledge to limit his or her service in Congress; and
- requires the Secretary of State, at the request of the candidate, to designate on election ballots and in voter education materials the choice of the candidate regarding a voluntary pledge to limit terms.

Background

In 1990 and in 1994 Colorado voters limited the terms of office for individuals elected to the U.S. Congress. These term limits, which were placed in the Colorado Constitution, were struck down by the U.S. Supreme Court in 1995. In its decision, the Supreme Court ruled that congressional term limits can only be established in the U.S. Constitution, not by the action of individual states. In 1996, Colorado voters approved an amendment to the Colorado Constitution which would have initiated the process in Colorado to call a convention to amend the U.S. Constitution to limit congressional terms. The amendment required that election ballots identify each member of Congress from Colorado who failed to support an amendment to the U.S. Constitution to limit congressional terms. The amendment also required that election ballots identify non-incumbents running for Congress who had not signed a pledge to vote for a term limits amendment. The Colorado Supreme Court ruled that the 1996 amendment attempted to coerce elected officials into amending the federal constitution, and therefore violated the U.S. Constitution.

Members of U.S. Congress. Twenty-one people from Colorado have served in the U.S. House of Representatives since 1970. Of these 21 members, the number of terms served range from three members serving 13, 12 and 8 terms down to a single term served by four House members. Of the total membership of the 1997-98 U.S. House of Representatives, approximately 47 percent have served more than three terms. The average number of terms served by current members of the U.S. House of Representatives is about five terms or ten years.

Nine people from Colorado have served in the U.S. Senate since 1970. Of these nine members, the number of terms have ranged from a high of one member serving three terms to five U.S. Senate members from Colorado serving a single term. Of the 100 members of the 1997-98 U.S. Senate, 36 have served more than two terms. The average tenure of the current membership of the U.S. Senate is approximately ten years, less than two terms.

Arguments For

1) Coloradans have approved term limitation of elected officials at general elections in 1990, 1994, and 1996. Since the support of Colorado voters for term limits is established, only implementation of their wishes remains. This proposal will allow candidates to tell their positions on term limits to the voters. It also provides an opportunity for members of Congress from Colorado to choose to limit the number of terms they will serve.

2) This measure will result in better informed voters. The initiative would allow the people of Colorado to have an accurate record of candidates' pledges regarding the length of their service in office. Candidates who desire to do so can easily communicate their decision to the voters on whether or not to limit their service in Congress.

3) Voluntary congressional term limits will allow new people, particularly those with established professions or occupations outside of public office, to enter the political scene and bring fresh ideas into the legislative branch. As more representatives and senators accept the voluntary limits, they will be more productive, will devote more time to their duties as elected officials, and will be bold in political decision-making.

4) The courts have struck down attempts by the states to impose term limits on their representatives in Congress. Additionally, it is highly unlikely that Congress will enact self-imposed term limits. Therefore, the only means remaining to emphasize the importance of term limitation is to provide candidates with an opportunity to publicly pledge to limit their terms. Unlike the earlier term limit initiatives in Colorado, this measure is entirely voluntary and is therefore more likely to be upheld by the courts.

Arguments Against

1) There is nothing wrong with having long-time experience in public office. To believe otherwise is to believe that elective office is the one vocation where experience is an obstacle to good performance. It takes a great deal of time to gain the experience necessary to tackle complex policy issues. The price of this measure will be to encourage seasoned office-holders to leave office just as they acquire valuable experience, and to increase the influence of bureaucrats, congressional staff, and lobbyists, none of whom are elected by, or accountable to, the public.

2) This measure fails to address problems with the current political system. Non-competitive elections and advantages of incumbency can be reduced by means other than asking members of Congress to limit their terms of office. For more competitive races, campaign spending could be limited, mailing and traveling privileges could be reduced or withdrawn, and congressional district lines could be redrawn.

3) Voluntary term limits would reduce the seniority of our members of Congress, and prevent them from holding key committee posts which are important to the Colorado economy. We have a small congressional delegation and limited influence to fend off congressional acts that are against our interests. In addition, we need experienced representatives in Congress to ensure that a fair share of the tax dollars we send to Washington are returned to Colorado. Our state will suffer this loss of influence due to voluntary term limits and be placed at a competitive disadvantage with other states.

4) Placing political messages next to the names of candidates will confuse voters and clutter election ballots. This could lead many voters to cast negative votes automatically. Ballots should be simple. There are existing means for communicating the policy positions of candidates, rather than listing them on a ballot.

Amendment 18

Voluntary Congressional Term Limits

Title

An amendment to the Colorado Constitution concerning term limits declarations that may be voluntarily submitted by candidates for the U.S. Congress, and, in connection therewith, specifying when such declarations must be submitted to the secretary of state; providing that a candidate shall not be refused placement on the ballot if the candidate does not submit a declaration; providing that candidates may voluntarily declare that the candidate will not serve more than three terms as a U.S. Representative or more than two terms as a U.S. Senator or may voluntarily declare that the candidate has chosen not to accept term limits; allowing candidates who have made such a declaration to voluntarily authorize placement of an applicable ballot designation next to the candidate's name on congressional election ballots and government-sponsored voter education material; specifying how terms are calculated; allowing candidates to change a declaration; requiring that ballots and voter education material contain the applicable ballot designation following the name of a candidate; specifying that service in office for more than one-half of a term is deemed service for a full term; prohibiting a candidate from having more than one declaration and ballot designation in effect at the same time; specifying that a candidate may authorize the applicable ballot designation only if the candidate has made the voluntary declaration; and authorizing the secretary of state to provide declarations and implement this amendment by rule.

Text

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

Article XVIII of the Colorado Constitution is amended by the addition of a new Section 12a to read:

Section 12a. Congressional Term Limits Declaration. (1) Information for voters about candidates' decisions to term limit themselves is more important than party labeling, therefore, any candidate seeking to be elected to the United States Congress shall be allowed, but not required, to submit to the secretary of state an executed copy of the Term Limits Declaration set forth in subsection (2) of this section not later than 15 days prior to the certification of every congressional election ballot to each county clerk and recorder

by the secretary of state. The secretary of state shall not refuse to place a candidate on any ballot due to the candidate's decision not to submit such declaration.

(2) The language of the Term Limits Declaration shall be as set forth herein and the secretary of state shall incorporate the applicable language in square brackets "[]" for the office the candidate seeks:

Congressional Term Limits Declaration

Term Limits Declaration One

Part A: I, _____, voluntarily declare that, if elected, I will not serve in the United States [House of Representatives more than 3 terms] [Senate more than 2 terms] after the effective date of the Congressional Term Limits Declaration Act of 1998.

Signature by candidate executes Part A

Date

Part B: I, _____, authorize and request that the secretary of state place the applicable ballot designation, "Signed declaration to limit service to no more than [3 terms] [2 terms]" next to my name on every election ballot and in all government-sponsored voter education material in which my name appears as a candidate for the office to which Term Limit Declaration One refers.

Signature by candidate executes Part

B

Date

If the candidate chooses not to execute any or all parts of Term Limits Declaration One, then he or she may execute and submit to the secretary of state any or all parts of Term Limits Declaration Two.

Term Limits Declaration Two

Part A: I, _____, have voluntarily chosen not to sign Term Limits Declaration One. If I had signed that declaration, I would have voluntarily agreed to limit my service in the United States [House of Representatives to no more than 3 terms] [Senate to no more than 2 terms] after the passage of the congressional Term Limits Declaration Amendment of 1998.

Signature by candidate executes Part A

Date

After executing Part A, a candidate may execute and submit the voluntary statement in Part B.

Part B: I, _____, authorize and request that the secretary of state place the ballot designation, "Chose not to sign declaration to limit service to [3 terms] [2 terms]" next to my name on every official election ballot and in all government-

sponsored voter education material in which my name appears as a candidate for the office to which Term Limits Declaration Two refers.

Signature by candidate executes Part B

Date

(3) In the ballot designations in this section, the secretary of state shall incorporate the applicable language in brackets for the office the candidate seeks. Terms shall be calculated without regard to whether the terms were served consecutively.

(4) The secretary of state shall allow any candidate who at any time has submitted an executed copy of Term Limits Declaration One or Two, to timely submit an executed copy of Term Limits Declaration One or Two at which time all provisions affecting that Term Limits Declaration shall apply.

(5) The secretary of state shall place on that part of the official election ballot and in all government-sponsored voter education material, immediately following the name of each candidate who has executed and submitted Parts A and B of Term Limits Declaration One, the words, "Signed declaration to limit service to [3 terms] [2 terms]" unless the candidate has qualified as a candidate for a term that would exceed the number of terms set forth in Term Limits Declaration One. The secretary of state shall place on that part of the official election ballot and in all government-sponsored voter education material, immediately following the name of each candidate who has executed and submitted Parts A and B of Term Limits Declaration Two the words, "Chose not to sign declaration to limit service to [3 terms] [2 terms]".

(6) For the purpose of this section, service in office for more than one-half of a term shall be deemed as service for a full term.

(7) No candidate shall have more than one declaration and ballot designation in effect for any office at the same time and a candidate may only execute and submit Part B of a declaration if Part A of that declaration is or has been executed and submitted.

(8) The secretary of state shall provide candidates with all the declarations in this section and promulgate regulations as provided by law to facilitate implementation of this section as long as the regulations do not alter the intent of this section.

(9) If any portion of this section be adjudicated invalid, the remaining portion shall be severed from the invalid portion to the greatest possible extent and be given the fullest force and application.

Amendment 19

MEDICAL USE OF MARIJUANA

The proposed amendment to the Colorado Constitution:

- allows patients diagnosed with a serious illness and their care-givers to legally possess marijuana for medical purposes. Care-givers could determine dosage strength and frequency of use;

- allows individuals charged with possession or use of marijuana to defend themselves on the grounds that they are in legal possession for medical purposes;
- establishes an exception to the state's criminal laws for physicians to provide written recommendations, other than a prescription, for patients to use marijuana for medical purposes;
- requires the Governor to identify a state agency to establish a confidential state registry of patients and their care-givers who are permitted to possess marijuana for medical purposes;
- allows possession of two ounces of usable marijuana and six marijuana plants, and provides an exception to those limits if medically necessary;
- prohibits the medical use of marijuana by patients less than 18 years of age except under certain conditions;
- provides that distribution of marijuana by anyone would still be illegal;
- provides that health insurance companies do not have to reimburse patients for the medical use of marijuana; and
- allows employers to prohibit the medical use of marijuana in the workplace.

Background

Federal law lists marijuana as a controlled substance that has no accepted medical use in the United States. Marijuana is classified as a Schedule I controlled substance by the Drug Enforcement Administration, a federal law enforcement agency. Other Schedule I drugs include heroin, LSD, some chemically altered forms of amphetamines, and several other forms of hallucinogens. In 1976, federal law approved limited research to investigate use of marijuana for medical purposes. Under the research program the federal Drug Enforcement Administration approved distribution of marijuana to program participants. Fifteen patients with a variety of illnesses, and under the care of different physicians, originally participated in the program, which was suspended in 1992. Eight of the original patients are still receiving marijuana for medical use. There are no known study results published by the physicians who participated in this program. Since 1976, many drugs have been developed to treat the conditions originally assumed to be treatable with smoked marijuana. In addition, the hallucinogenic content of street marijuana has increased 400 to 500 percent since the experiments in the 1970s.

Similar to the federal law, in 1981, Colorado law provided for a program that would have allowed life-threatening cancer and glaucoma patients who did not respond to conventional drugs to use marijuana for medical purposes. The program, which was never implemented, was repealed from state law in 1995.

Current Colorado law prohibits the possession, distribution, and use of marijuana. Passage of this measure would legalize registered patient possession and use of marijuana for medical purposes in Colorado; however, it would still be illegal to distribute marijuana. The proposed measure does not provide enforcement mechanisms, and would require the General Assembly to adopt legislation to establish controls and the identification registry.

Arguments For

1) Independent studies have shown that marijuana relieves the pain and suffering of patients with serious illnesses such as cancer, AIDS, HIV, and glaucoma. Components of the marijuana plant reduce patient suffering by relieving nausea and enhancing appetite. Since marijuana has medical benefits, physicians should be able to legally recommend, and patients should be able to legally use, marijuana for medical purposes.

2) The measure provides sufficient state oversight of the medical use of marijuana to prevent use for recreational purposes. The oversight is provided through a confidential patient registry which will be maintained by a designated state health agency. The state health agency is permitted to share information contained in the registry with law enforcement officials only to verify that individuals arrested for the possession or use of marijuana are listed on the registry.

Arguments Against

1) There is no requirement for a prescription, or any quality control or testing standards for marijuana, and no control over strength, dosage, or frequency of use, such as those required for other medicinal drugs. The amount of THC, the active ingredient in marijuana, varies in every marijuana plant. Care-givers are not medically trained. Marijuana is an addictive drug that causes negative health effects and should be subject to testing by the federal Food and Drug Administration to be legalized for prescription use. Legalization of marijuana is unnecessary because of the availability of the synthetic drug Marinol, which has been found to relieve nausea and increase appetite. Marinol has been approved, and is regulated by, the Food and Drug Administration for prescription.

2) The amendment is worded to allow anyone, not just the seriously ill, to smoke marijuana. Because the measure does not provide a precise description of what qualifies as a serious illness, anyone with chronic or severe pain may be immune from prosecution for marijuana possession and use. The workload of state law enforcement officials will increase because they will be required to check the state registry every time an individual is arrested for marijuana possession or use.

Amendment 19

Medical Use of Marijuana

Title

An amendment to the Colorado Constitution authorizing the medical use of marijuana for persons suffering from debilitating medical conditions, and, in connection therewith, establishing an affirmative defense to Colorado criminal laws for patients and their primary care-givers relating to the medical use of marijuana; establishing exceptions to Colorado criminal laws for patients and primary care-givers in lawful possession of a registry identification card for medical marijuana use and for physicians who advise patients or provide them with written documentation as to such medical marijuana use; defining "Debilitating Medical Condition" and authorizing the state health agency to

approve other medical conditions or treatments as debilitating medical conditions; requiring preservation of seized property interests that had been possessed, owned, or used in connection with a claimed medical use of marijuana and limiting forfeiture of such interests; establishing and maintaining a confidential state registry of patients receiving an identification card for the medical use of marijuana and defining eligibility for receipt of such a card and placement on the registry; restricting access to information in the registry; establishing procedures for issuance of an identification card; authorizing fees to cover administrative costs associated with the registry; specifying the form and amount of marijuana a patient may possess and restrictions on its use; setting forth additional requirements for the medical use of marijuana by patients less than eighteen years old; directing enactment of implementing legislation and criminal penalties for certain offenses; requiring the state health agency designated by the governor to make application forms available to residents of Colorado for inclusion on the registry; limiting a health insurer's liability on claims relating to the medical use of marijuana; and providing that no employer must accommodate medical use of marijuana in the workplace.

Text

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

AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF COLORADO,
AMENDING ARTICLE XVIII, ADDING A NEW SECTION TO READ:

Section 14. Medical use of marijuana for persons suffering from debilitating medical conditions.

(1) As used in this section, these terms are defined as follows.

(a) "Debilitating medical condition" means:

(I) Cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome, or treatment for such conditions;

(II) A chronic or debilitating disease or medical condition, or treatment for such conditions, which produces, for a specific patient, one or more of the following, and for which, in the professional opinion of the patient's physician, such condition or conditions reasonably may be alleviated by the medical use of marijuana: cachexia; severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis; or

(III) Any other medical condition, or treatment for such condition, approved by the state health agency, pursuant to its rule making authority or its approval of any petition submitted by a patient or physician as provided in this section.

(b) "Medical use" means the acquisition, possession, production, use, or transportation of marijuana or paraphernalia related to the administration of such marijuana to address the symptoms or effects of a patient's debilitating medical condition, which may be authorized only after a diagnosis of the patient's debilitating medical condition by a physician or physicians, as provided by this section.

- (c) "Parent" means a custodial mother or father of a patient under the age of eighteen years, any person having custody of a patient under the age of eighteen years, or any person serving as a legal guardian for a patient under the age of eighteen years.
- (d) "Patient" means a person who has a debilitating medical condition.
- (e) "Physician" means a doctor of medicine who maintains, in good standing, a license to practice medicine issued by the state of Colorado.
- (f) "Primary care-giver" means a person, other than the patient and the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.
- (g) "Registry identification card" means that document, issued by the state health agency, which identifies a patient authorized to engage in the medical use of marijuana and such patient's primary care-giver, if any has been designated.
- (h) "State health agency" means that public health related entity of state government designated by the governor to establish and maintain a confidential registry of patients authorized to engage in the medical use of marijuana and enact rules to administer this program.
- (i) "Usable form of marijuana" means the seeds, leaves, buds, and flowers of the plant (genus) cannabis, and any mixture or preparation thereof, which are appropriate for medical use as provided in this section, but excludes the plant's stalks, stems, and roots.
- (j) "Written documentation" means a statement signed by a patient's physician or copies of the patient's pertinent medical records.
- (2) (a) Except as otherwise provided in subsections (5), (6), and (8) of this section, a patient or primary care-giver charged with a violation of the state's criminal laws related to the patient's medical use of marijuana will be deemed to have established an affirmative defense to such allegation where:
- (I) The patient was previously diagnosed by a physician as having a debilitating medical condition;
- (II) The patient was advised by his or her physician, in the context of a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with a debilitating medical condition; and
- (III) The patient and his or her primary care-giver were collectively in possession of amounts of marijuana only as permitted under this section.
- This affirmative defense shall not exclude the assertion of any other defense where a patient or primary care-giver is charged with a violation of state law related to the patient's medical use of marijuana.
- (b) Effective June 1, 1999, it shall be an exception from the state's criminal laws for any patient or primary care-giver in lawful possession of a registry identification card to engage or assist in the medical use of marijuana, except as otherwise provided in subsections (5) and (8) of this section.
- (c) It shall be an exception from the state's criminal laws for any physician to:
- (I) Advise a patient whom the physician has diagnosed as having a debilitating medical condition, about the risks and benefits of medical use of marijuana or that he or she might benefit from the medical use of marijuana, provided that such advice is based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship; or

(II) Provide a patient with written documentation, based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship, stating that the patient has a debilitating medical condition and might benefit from the medical use of marijuana. No physician shall be denied any rights or privileges for the acts authorized by this subsection.

(d) Notwithstanding the foregoing provisions, no person, including a patient or primary care-giver, shall be entitled to the protection of this section for his or her acquisition, possession, manufacture, production, use, sale, distribution, dispensing, or transportation of marijuana for any use other than medical use.

(e) Any property interest that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to such use, shall not be harmed, neglected, injured, or destroyed while in the possession of state or local law enforcement officials where such property has been seized in connection with the claimed medical use of marijuana. Any such property interest shall not be forfeited under any provision of state law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense or entry of a plea of guilty to such offense. Marijuana and paraphernalia seized by state or local law enforcement officials from a patient or primary care-giver in connection with the claimed medical use of marijuana shall be returned immediately upon the determination of the district attorney or his or her designee that the patient or primary care-giver is entitled to the protection contained in this section as may be evidenced, for example, by a decision not to prosecute, the dismissal of charges, or acquittal.

(3) The state health agency shall create and maintain a confidential registry of patients who have applied for and are entitled to receive a registry identification card according to the criteria set forth in this subsection, effective June 1, 1999.

(a) No person shall be permitted to gain access to any information about patients in the state health agency's confidential registry, or any information otherwise maintained by the state health agency about physicians and primary care-givers, except for authorized employees of the state health agency in the course of their official duties and authorized employees of state or local law enforcement agencies which have stopped or arrested a person who claims to be engaged in the medical use of marijuana and in possession of a registry identification card or its functional equivalent, pursuant to paragraph (e) of this subsection (3). Authorized employees of state or local law enforcement agencies shall be granted access to the information contained within the state health agency's confidential registry only for the purpose of verifying that an individual who has presented a registry identification card to a state or local law enforcement official is lawfully in possession of such card.

(b) In order to be placed on the state's confidential registry for the medical use of marijuana, a patient must reside in Colorado and submit the completed application form adopted by the state health agency, including the following information, to the state health agency:

(I) The original or a copy of written documentation stating that the patient has been diagnosed with a debilitating medical condition and the physician's conclusion that the patient might benefit from the medical use of marijuana;

(II) The name, address, date of birth, and social security number of the patient;

(III) The name, address, and telephone number of the patient's physician; and

(IV) The name and address of the patient's primary care-giver, if one is designated at the time of application.

(c) Within thirty days of receiving the information referred to in subparagraphs (3)(b)(I)-(IV), the state health agency shall verify medical information contained in the patient's written documentation. The agency shall notify the applicant that his or her application for a registry identification card has been denied if the agency's review of such documentation discloses that: the information required pursuant to paragraph (3)(b) of this section has not been provided or has been falsified; the documentation fails to state that the patient has a debilitating medical condition specified in this section or by state health agency rule; or the physician does not have a license to practice medicine issued by the state of Colorado. Otherwise, not more than five days after verifying such information, the state health agency shall issue one serially numbered registry identification card to the patient, stating:

(I) The patient's name, address, date of birth, and social security number;

(II) That the patient's name has been certified to the state health agency as a person who has a debilitating medical condition, whereby the patient may address such condition with the medical use of marijuana;

(III) The date of issuance of the registry identification card and the date of expiration of such card, which shall be one year from the date of issuance; and

(IV) The name and address of the patient's primary care-giver, if any is designated at the time of application.

(d) Except for patients applying pursuant to subsection (6) of this section, where the state health agency, within thirty-five days of receipt of an application, fails to issue a registry identification card or fails to issue verbal or written notice of denial of such application, the patient's application for such card will be deemed to have been approved. Receipt shall be deemed to have occurred upon delivery to the state health agency, or deposit in the United States mails. Notwithstanding the foregoing, no application shall be deemed received prior to June 1, 1999. A patient who is questioned by any state or local law enforcement official about his or her medical use of marijuana shall provide a copy of the application submitted to the state health agency, including the written documentation and proof of the date of mailing or other transmission of the written documentation for delivery to the state health agency, which shall be accorded the same legal effect as a registry identification card, until such time as the patient receives notice that the application has been denied.

(e) A patient whose application has been denied by the state health agency may not reapply during the six months following the date of the denial and may not use an application for a registry identification card as provided in paragraph (3)(d) of this section. The denial of a registry identification card shall be considered a final agency action. Only the patient whose application has been denied shall have standing to contest the agency action.

(f) When there has been a change in the name, address, physician, or primary care-giver of a patient who has qualified for a registry identification card, that patient must notify the state health agency of any such change within ten days. A patient who has not designated a primary care-giver at the time of application to the state health agency may do so in writing at any time during the effective period of the registry identification card, and the primary care-giver may act in this capacity after such designation. To maintain an

effective registry identification card, a patient must annually resubmit, at least thirty days prior to the expiration date stated on the registry identification card, updated written documentation to the state health agency, as well as the name and address of the patient's primary care-giver, if any is designated at such time.

(g) Authorized employees of state or local law enforcement agencies shall immediately notify the state health agency when any person in possession of a registry identification card has been determined by a court of law to have willfully violated the provisions of this section or its implementing legislation, or has pled guilty to such offense.

(h) A patient who no longer has a debilitating medical condition shall return his or her registry identification card to the state health agency within twenty-four hours of receiving such diagnosis by his or her physician.

(i) The state health agency may determine and levy reasonable fees to pay for any direct or indirect administrative costs associated with its role in this program.

(4) (a) A patient may engage in the medical use of marijuana, with no more marijuana than is medically necessary to address a debilitating medical condition. A patient's medical use of marijuana, within the following limits, is lawful:

(I) No more than two ounces of a usable form of marijuana; and

(II) No more than six marijuana plants, with three or fewer being mature, flowering plants that are producing a usable form of marijuana.

(b) For quantities of marijuana in excess of these amounts, a patient or his or her primary care-giver may raise as an affirmative defense to charges of violation of state law that such greater amounts were medically necessary to address the patient's debilitating medical condition.

(5) (a) No patient shall:

(I) Engage in the medical use of marijuana in a way that endangers the health or well-being of any person; or

(II) Engage in the medical use of marijuana in plain view of, or in a place open to, the general public.

(b) In addition to any other penalties provided by law, the state health agency shall revoke for a period of one year the registry identification card of any patient found to have willfully violated the provisions of this section or the implementing legislation adopted by the general assembly.

(6) Notwithstanding paragraphs (2)(a) and (3)(d) of this section, no patient under eighteen years of age shall engage in the medical use of marijuana unless:

(a) Two physicians have diagnosed the patient as having a debilitating medical condition;

(b) One of the physicians referred to in paragraph (6)(a) has explained the possible risks and benefits of medical use of marijuana to the patient and each of the patient's parents residing in Colorado;

(c) The physicians referred to in paragraph (6)(b) has provided the patient with the written documentation, specified in subparagraph (3)(b)(I);

(d) Each of the patient's parents residing in Colorado consent in writing to the state health agency to permit the patient to engage in the medical use of marijuana;

(e) A parent residing in Colorado consents in writing to serve as a patient's primary care-giver;

- (f) A parent serving as a primary care-giver completes and submits an application for a registry identification card as provided in subparagraph (3)(b) of this section and the written consents referred to in paragraph (6)(d) to the state health agency;
 - (g) The state health agency approves the patient's application and transmits the patient's registry identification card to the parent designated as a primary care-giver;
 - (h) The patient and primary care-giver collectively possess amounts of marijuana no greater than those specified in subparagraph (4)(a)(I) and (II); and
 - (i) The primary care-giver controls the acquisition of such marijuana and the dosage and frequency of its use by the patient.
- (7) Not later than March 1, 1999, the governor shall designate, by executive order, the state health agency as defined in paragraph (1)(g) of this section.
- (8) Not later than April 30, 1999, the General Assembly shall define such terms and enact such legislation as may be necessary for implementation of this section, as well as determine and enact criminal penalties for:
- (a) Fraudulent representation of a medical condition by a patient to a physician, state health agency, or state or local law enforcement official for the purpose of falsely obtaining a registry identification card or avoiding arrest and prosecution;
 - (b) Fraudulent use or theft of any person's registry identification card to acquire, possess, produce, use, sell, distribute, or transport marijuana, including but not limited to cards that are required to be returned where patients are no longer diagnosed as having a debilitating medical condition;
 - (c) Fraudulent production or counterfeiting of, or tampering with, one or more registry identification cards; or
 - (d) Breach of confidentiality of information provided to or by the state health agency.
- (9) Not later than June 1, 1999, the state health agency shall develop and make available to residents of Colorado an application form for persons seeking to be listed on the confidential registry of patients. By such date, the state health agency shall also enact rules of administration, including but not limited to rules governing the establishment and confidentiality of the registry, the verification of medical information, the issuance and form of registry identification cards, communications with law enforcement officials about registry identification cards that have been suspended where a patient is no longer diagnosed as having a debilitating medical condition, and the manner in which the agency may consider adding debilitating medical conditions to the list provided in this section. Beginning June 1, 1999, the state health agency shall accept physician or patient initiated petitions to add debilitating medical conditions to the list provided in this section and, after such hearing as the state health agency deems appropriate, shall approve or deny such petitions within one hundred eighty days of submission. The decision to approve or deny a petition shall be considered a final agency action.
- (10)(a) No governmental, private, or any other health insurance provider shall be required to be liable for any claim for reimbursement for the medical use of marijuana.
- (b) Nothing in this section shall require any employer to accommodate the medical use of marijuana in any work place.
- (11) Unless otherwise provided by this section, all provisions of this section shall become effective upon official declaration of the vote hereon by proclamation of the governor, pursuant to article V, section (1)(4), and shall apply to acts or offenses committed on or after that date.

Referendum A

PRIVATE/PUBLIC OWNERSHIP OF LOCAL HEALTH CARE SERVICES

The proposed amendment to the Colorado Constitution:

- allows local governments to jointly own and provide health care services or facilities with private companies or individuals;
- provides that the share of ownership in joint partnerships be based on the investment by the participants;
- prevents local governments from going into debt or pledging credit to create and operate health care partnerships; and
- prevents a partnership created to provide a health care service from being considered a local government or public body.

Background

Currently, local governments cannot invest in private companies to provide health care services, nor can they own health care services in partnership with private nonprofit or for-profit companies or individuals. The existing constitution contains an exception to this restriction: cities and towns may invest in or jointly own companies to provide utility services. Local governments can currently contract with each other or private companies or individuals to provide equipment or medical services for their local communities. Local governments can also jointly own health care services or facilities with other public or governmental bodies. This measure would change the constitution to allow local governments to jointly own health care services or facilities with private companies or individuals. Local governments may also become shareholders in private companies to provide health care services. The City and County of Denver already has authorization to engage in similar activities.

Currently, local government health care services are provided primarily through county and special district hospitals as well as local health departments. Among other statutory powers and duties, local health departments initiate and carry out health programs necessary or desirable for the protection of public health and the control of disease. Health care services provided by county and special district hospitals are determined by the hospital boards, which are either appointed by county commissioners or elected by the voters.

Arguments For

1) This measure may help rural communities keep local ownership and control of county and special district hospitals (public hospitals), which is important in the rural areas these hospitals serve. County hospitals and local health departments are created by county commissioners;

special district hospitals are created by approval of voters within the boundaries of the district and are run by elected boards. These elected local officials who oversee health care operations will determine what health care partnerships to create, allowing local governments to maintain decision-making authority regarding the health care services provided.

2) Public partnerships with private companies or individuals may help avoid the closure or sale of public hospitals because they could provide new sources of revenue from health care services for public hospitals. Additional revenue could help public hospitals remain independent and allow them to deliver high quality and cost-effective care that is locally available and convenient.

3) This measure allows local governments to maintain and expand the range of health care services they provide. Hospitals and health care services require considerable equipment and human resources. New and creative partnerships between local governments and private companies could provide financial means for better health care equipment and services and increased doctor recruitment. The expansion of health care services may include services not currently offered in most rural communities, such as hospice care, kidney dialysis, emergency clinics, mobile mammography units, physical therapy, and surgery centers.

Arguments Against

1) The free market should decide if certain health care services are needed in all areas of the state. If the demand is present, private companies or individuals can provide the health care services without the help of public moneys. Private companies should not be given the chance to benefit from the investment of public moneys. The expenditure of public moneys is subject to public review and is not meant to be risked in the same way as moneys from private companies. In addition, local governments can currently contract with private companies to provide medical services without entering into joint partnerships. Contracting offers the efficiency of the private sector without risk to public moneys.

2) The interests of private companies may not always be to the public's benefit. As a result of this measure, private companies could influence the types of health care services or the delivery of services provided by partnerships. This measure may result in local governments changing some health care services in order to maximize the opportunity for profits for the parties involved. Higher profits do not guarantee better health care services for local communities served by the health facilities.

3) The measure is overly broad as it allows local governments to invest in or to enter into partnerships with any company or individuals, even those with no relationship to health care. Since the measure relates to health care services, local governments should at least be limited to creating joint partnerships with established health care businesses.

HOUSE CONCURRENT RESOLUTION 98-1008 - Referendum A

Be It Resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 2 of article XI of the constitution of the state of Colorado, is amended to read:

Section 2. No aid to corporations - no joint ownership by state, county, city, town, or school district. (1) Neither the state, nor any county, city, town, township, or school district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in any corporation or company or a joint owner with any person, company, or corporation, public or private, in or out of the state, except as to such ownership as may accrue to the state by escheat, or by forfeiture, by operation or provision of law; and except as to such ownership as may accrue to the state, or to any county, city, town, township, or school district, or to either or any of them, jointly with any person, company, or corporation, by forfeiture or sale of real estate for nonpayment of taxes, or by donation or devise for public use, or by purchase by or on behalf of any or either of them, jointly with any or either of them, under execution in cases of fines, penalties, or forfeiture of recognizance, breach of condition of official bond, or of bond to secure public moneys, or the performance of any contract in which they or any of them may be jointly or severally interested.

(2) Nothing in this section shall be construed to prohibit any city or town from becoming a subscriber or shareholder in any corporation or company, public or private, or a joint owner with any person, company, or corporation, public or private, in order to effect the development of energy resources after discovery, or production, transportation, or transmission of energy in whole or in part for the benefit of the inhabitants of such city or town.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY COUNTY, CITY, TOWN, TOWNSHIP, OR SPECIAL DISTRICT LAWFULLY AUTHORIZED TO PROVIDE ANY HEALTH CARE FUNCTION, SERVICE, OR FACILITY FROM BECOMING A SUBSCRIBER, MEMBER, OR SHAREHOLDER IN ANY CORPORATION, COMPANY, OR OTHER ENTITY, PUBLIC OR PRIVATE, OR A JOINT OWNER WITH ANY PERSON, COMPANY, CORPORATION, OR OTHER ENTITY, PUBLIC OR PRIVATE, IN OR OUT OF THE STATE, IN ORDER TO EFFECT THE PROVISION OF SUCH FUNCTION, SERVICE, OR FACILITY IN WHOLE OR IN PART. IN ANY SUCH CASE, THE PRIVATE PERSON, COMPANY, CORPORATION, OR ENTITY OR RELATIONSHIP ESTABLISHED, SHALL NOT BE DEEMED A POLITICAL SUBDIVISION, LOCAL GOVERNMENT, OR LOCAL PUBLIC BODY FOR ANY PURPOSE. ANY SUCH COUNTY, CITY, TOWN, TOWNSHIP, OR SPECIAL DISTRICT THAT ENTERS INTO AN ARRANGEMENT UNDER THIS SECTION SHALL NOT INCUR ANY DEBT NOR PLEDGE ITS CREDIT OR FAITH UNDER SUCH ARRANGEMENT. ANY COUNTY, CITY, TOWN, TOWNSHIP, OR SPECIAL DISTRICT ENTERING INTO SUCH JOINT OWNERSHIP OR RELATIONSHIP AS SUBSCRIBER, MEMBER, OR SHAREHOLDER OR OTHERWISE SHALL OWN ITS JUST PROPORTION TO THE WHOLE AMOUNT SO INVESTED. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE POWERS, DUTIES, OR AUTHORITY OF ANY POLITICAL SUBDIVISION AS OTHERWISE PROVIDED OR AUTHORIZED BY LAW. NOTHING IN

THIS SUBSECTION (3) SHALL BE CONSTRUED TO LIMIT THE POWERS OF THE GENERAL ASSEMBLY OVER THE PROVISION OF ANY HEALTH CARE FUNCTION, SERVICE, OR FACILITY BY ANY COUNTY, CITY, TOWN, TOWNSHIP, OR SPECIAL DISTRICT.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AN AMENDMENT TO ARTICLE XI OF THE CONSTITUTION OF THE STATE OF COLORADO, AUTHORIZING A COUNTY, CITY, TOWN, TOWNSHIP, OR SPECIAL DISTRICT TO PROVIDE ANY LAWFULLY AUTHORIZED HEALTH CARE FUNCTION, SERVICE, OR FACILITY IN JOINT OWNERSHIP OR OTHER ARRANGEMENT WITH ANY PERSON OR COMPANY, PUBLIC OR PRIVATE, WITHOUT INCURRING DEBT AND WITHOUT PLEDGING ITS CREDIT OR FAITH; REQUIRING ANY COUNTY, CITY, TOWN, TOWNSHIP, OR SPECIAL DISTRICT ENTERING INTO SUCH JOINT OWNERSHIP OR OTHER ARRANGEMENT TO OWN ITS JUST PROPORTION; AND PROVIDING THAT ANY SUCH ENTITY OR RELATIONSHIP ESTABLISHED FOR SUCH PURPOSE SHALL NOT BE DEEMED A POLITICAL SUBDIVISION, LOCAL GOVERNMENT, OR LOCAL PUBLIC BODY FOR ANY PURPOSE."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

Referendum B

STATE RETENTION OF EXCESS STATE REVENUES

The proposed amendment to the Colorado Revised Statutes:

- allows the state to use the first \$200 million of moneys in excess of the state constitution's revenue limit for each of the next five years (up to \$1 billion in total);
- requires that the money be used for capital construction projects as follows: 50 percent for transportation, 30 percent for K-12 school construction, and 20 percent for higher education construction;
- requires that the transportation money be shared by the state, counties, and cities, and that the state portion be spent toward completion of 28 specific statewide projects; and
- excludes the money in this proposal from state and local revenue and spending limits.

Background

Excess state revenues. In 1992, Colorado voters approved a constitutional amendment that limits the increase in most state government revenue from year to year. Revenue growth is limited to

the rate of inflation plus the percentage change in population. Over the next five years, the state is expected to collect \$2.5 billion over the limit, including \$562 million above the limit in budget year 1997-98. These excess revenues must be refunded to taxpayers in the following year unless voters agree to let the state use the excess.

A voter decision. This proposal allows the state to use the first \$200 million of any excess revenues in each of the next five years. If excess state revenues are less than \$200 million in any year, the state would use it all. Any excess over \$200 million per year would be refunded to taxpayers. If this measure fails, the money over the limit would provide taxpayers with an average refund of about \$215 for the 1997-98 budget year. If this measure passes, the average refund would be about \$138. Based on projections of state revenues under the current tax structure, the average refund would be \$554 during the full, five-year period if this measure is approved, compared with \$922 if the measure is defeated. The average refund in the next four years depends on whether the state collects money in excess of the limit. Using projections of state revenue under the current tax structure, this proposal would let the state use not more than \$1 billion over the next five years or about 40 percent of the estimated excess revenues, while the remainder would be refunded to citizens.

Transportation funding. Money for road construction comes from federal, state, and local taxes and vehicle-related fees. Newly-increased levels of federal, state, and local funding will enable Colorado to spend about \$1.2 billion on transportation for each of the next five years. The funding gap without this proposal is roughly \$4.5 billion for state roads and \$5 billion for county and municipal roads over the next 20 years. This proposal adds up to \$100 million each year or \$500 million over five years to supplement existing funding for state and local transportation needs. The majority of the transportation money (60 percent) will be used for 28 state projects, which include highways and mass transit. The remaining transportation money will be spent on county roads (22 percent) and municipal transportation projects (18 percent).

K-12 school building construction and renovation. Funding for public school buildings is provided locally, generally through the property tax or school district savings. Currently, the state provides no direct funding for buildings. However, a pending lawsuit claims that the state should help pay for facilities as part of its responsibility to ensure that all children receive the same quality education. This measure provides up to \$60 million each year for five years, or up to \$300 million in total for public school buildings. Funding in this measure is limited to instructional facilities such as classrooms and libraries and cannot be used for athletic or recreational purposes. The State Board of Education will prioritize funding based on safety and health concerns, lower relative property values, enrollment growth, the amount of operating money that districts set aside for building construction and renovation, and projects that incorporate technology in schools. To qualify for matching funds, each local district will be required to provide some financial effort.

Funding for college buildings. State college and university buildings are funded with federal, state, and other moneys. Colorado's portion for budget year 1998-99 is \$184 million. For the next five years, higher education officials estimate that \$1.3 billion in state funds are needed to construct new buildings and to renovate and maintain existing facilities. This measure would provide up to \$40 million each year for five years, or up to \$200 million in total, for college and

university needs. The money will be distributed by the General Assembly using a system that is already in place.

Arguments For

1) Now is the time to invest in Colorado's future. Our roads and schools have deteriorated over the years and require a focused investment. Growth has caused our economy to generate a surplus of state revenues and it would be wise, over the next five years, to invest a portion of these moneys in our inadequate transportation systems and educational facilities. This measure uses growth-related revenues to solve growth-related problems. Just as homeowners can decide to use extra moneys to repair their homes, citizens can vote to use these revenues to repair our roads and unsafe school buildings. Colorado's economic future depends on a good transportation system and adequate schools. Money in this proposal will be invested in the most critical transportation and school building projects throughout the state.

2) Colorado's spending limit is not satisfying the state's needs given the dynamic population growth of the 1990s and the backlog of road and school construction projects that existed before voters adopted the spending limit. A spending limit based on the rate of inflation and population growth alone does not capture the increased usage of our roads and makes it difficult for the state to improve worn-out, overcrowded roadways. Moreover, school operating budgets do not provide enough money to build and maintain schools. In addition, the state spending limit does not account for the 70,000 new children that have entered our public school buildings over the past five years and will certainly not accommodate the large increase in the 18-24 year old population which will stress the limits of our higher education facilities. Without permanently changing the limit, this measure gives voters the opportunity to invest money that they've already paid and still receive a tax refund from the remainder of the excess state revenues. This measure uses less than half the estimated excess over the next five years; more than half is refunded to the citizens.

3) All children deserve safe school buildings, and this measure spends money where it is needed most: on immediate safety hazards and health concerns; projects for the poorest districts; and improvements that address enrollment growth. School districts estimate that over \$190 million is needed to correct the most critical building-safety problems. This measure addresses a pending lawsuit that claims that the constitution requires the state to help pay for facilities in order to provide all children with the same educational opportunities. School buildings are paid for with property taxes, but some districts do not receive much money from this source. The state should help poor districts with buildings. This measure will help school districts build and renovate facilities to keep up with the rapid growth in students and eliminate safety hazards.

Arguments Against

1) Rather than spend another \$1 billion over the next five years, the state should place a higher priority on roads and schools with the money it has and reduce spending in other areas. The constitution already lets state revenues increase by roughly \$1.8 billion over this period, which should adequately provide for growth and infrastructure needs. The state has collected more

revenue than the constitution allows, and Coloradans deserve to get their money back. If voters reject this proposal, they will receive nearly twice as much money from state refunds.

2) This measure does not specify which local roads, schools, or colleges will receive money and which will remain in disrepair. It also does not require any completion dates for the projects funded with money in this proposal. The decision of where to spend the money may be political rather than need-based, and future legislatures could change the allocation of the money. This proposal does not give voters the option to spend money differently. This measure is also inappropriate because public school buildings should not be paid for with state tax money. School buildings should be paid for and maintained by the local taxpayers who will benefit from the building. In addition, this proposal may set up a permanent expectation that the state will pay for K-12 school buildings, but the proposal only makes money available for five years. The money in this proposal rewards voters in some school districts who are unable or unwilling to spend more of their local property tax money on school buildings.

3) Funding for state roadways has just increased by 20 percent and will provide the state with about \$1.2 billion in each of the next five years. Voters should require proof of performance before spending more money on the problem. Many people are not sure there are enough workers or materials to handle the moneys already allocated for highway construction; if the \$1 billion in the proposal is spent over the next five years, highway construction costs could increase. In addition to higher costs, the large number of highway projects will increase congestion as movement along major corridors becomes a maze of cone zones. It is time to allocate Colorado's transportation money more responsibly.

HOUSE BILL 98-1256 - Referendum B

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

- (a) SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, WHICH WAS APPROVED BY THE REGISTERED ELECTORS OF THIS STATE IN 1992, LIMITS THE ANNUAL GROWTH OF STATE FISCAL YEAR SPENDING;
- (b) WHEN REVENUES EXCEED THE STATE FISCAL YEAR SPENDING LIMITATION FOR ANY GIVEN FISCAL YEAR, SECTION 20 (7) (D) OF ARTICLE X OF THE STATE CONSTITUTION REQUIRES THAT THE EXCESS REVENUES BE REFUNDED IN THE NEXT FISCAL YEAR UNLESS VOTERS APPROVE A REVENUE CHANGE ALLOWING THE STATE TO KEEP THE REVENUES;
- (c) REVENUES ARE CURRENTLY ESTIMATED TO EXCEED THE STATE FISCAL YEAR SPENDING LIMITATION FOR THE 1997-98 STATE FISCAL YEAR AND AT LEAST THE FOUR SUCCEEDING STATE FISCAL YEARS;
- (d) ESTIMATES ALSO INDICATE THAT THE INFRASTRUCTURE NEEDS OF THE STATE, ESPECIALLY IN THE AREAS OF STATE AND LOCAL TRANSPORTATION AND PUBLIC ELEMENTARY, SECONDARY, AND POSTSECONDARY SCHOOL CAPITAL CONSTRUCTION, SIGNIFICANTLY

EXCEED THE AMOUNT OF REVENUES AVAILABLE FOR EXPENDITURE UNDER THE STATE FISCAL YEAR SPENDING LIMITATION FOR THESE PURPOSES IN THE CURRENT AND IN FUTURE FISCAL YEARS;

(e) WITHOUT AN IMMEDIATE INFUSION OF ADDITIONAL REVENUES TO HELP MEET THESE PRESSING INFRASTRUCTURE NEEDS OF THE STATE, FUNDING FOR THESE INFRASTRUCTURE NEEDS WILL CONTINUE TO BE INSUFFICIENT AND THE CITIZENS OF THE STATE WILL BE FORCED TO CONTINUE TO USE AND RELY UPON INADEQUATE AND DETERIORATING INFRASTRUCTURE THAT ADVERSELY AFFECTS THEIR QUALITY OF LIFE;

(f) IT IS WITHIN THE LEGISLATIVE PREROGATIVE OF THE GENERAL ASSEMBLY TO DETERMINE THAT IT IS NECESSARY FOR A PORTION OF THE REVENUES ALREADY BEING COLLECTED BY THE STATE UNDER EXISTING LAW BUT WHICH EXCEED THE LIMITATION ON STATE FISCAL YEAR SPENDING TO BE EXPENDED TO HELP ADDRESS THE GROWING INFRASTRUCTURE NEEDS OF THE STATE; AND

(g) IT IS ALSO WITHIN THE LEGISLATIVE PREROGATIVE OF THE GENERAL ASSEMBLY TO ENACT LEGISLATION SEEKING VOTER APPROVAL TO RETAIN FOR A LIMITED NUMBER OF YEARS A PORTION OF REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING TO BE EXPENDED FOR STATE AND LOCAL TRANSPORTATION NEEDS AND FOR PUBLIC ELEMENTARY, SECONDARY, AND POSTSECONDARY SCHOOL CAPITAL CONSTRUCTION NEEDS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) SECTION 21 OF ARTICLE V OF THE STATE CONSTITUTION REQUIRES THAT A BILL MUST CONTAIN ONE SUBJECT, WHICH IS CLEARLY EXPRESSED IN ITS TITLE;

(b) ONE OF THE PURPOSES OF THIS CONSTITUTIONAL MANDATE IS TO MAKE EACH LEGISLATIVE PROPOSAL DEPEND UPON ITS OWN MERITS FOR PASSAGE;

(c) ANOTHER PURPOSE OF THE SINGLE SUBJECT REQUIREMENT FOR A BILL THAT IS REFERRED TO THE VOTERS FOR APPROVAL IS TO PROTECT THE VOTERS FROM FRAUD AND SURPRISE;

(d) IN INTERPRETING THE SINGLE SUBJECT REQUIREMENT FOR INITIATED AND REFERRED MEASURES, THE COLORADO SUPREME COURT HAS HELD THAT A MEASURE CONTAINS MORE THAN ONE SUBJECT IF ITS TEXT RELATES TO MORE THAN ONE SUBJECT AND IF THE MEASURE HAS AT LEAST TWO DISTINCT AND SEPARATE PURPOSES WHICH ARE NOT DEPENDENT UPON OR CONNECTED WITH EACH OTHER;

(e) IT IS THE CONSIDERED JUDGMENT OF THE GENERAL ASSEMBLY THAT HOUSE BILL 98-1256, AS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY, COMPLIES WITH THE SINGLE SUBJECT REQUIREMENT OF SECTION 21 OF ARTICLE V OF THE STATE CONSTITUTION BECAUSE:

(1) ALL OF THE PROVISIONS OF THE BILL ARE GERMANE TO THE SINGLE SUBJECT OF THE BILL AS EXPRESSED IN ITS TITLE, WHICH IS THE RETENTION OF A PORTION OF STATE REVENUES IN EXCESS OF THE FISCAL

YEAR SPENDING LIMITATION IMPOSED ON THE STATE BY SECTION 20 (7) (A) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE PURPOSE OF FINANCING THE INFRASTRUCTURE NEEDS OF THE STATE;

(II) THE USE OF EXCESS REVENUES TO FINANCE STATE AND LOCAL TRANSPORTATION NEEDS AND PUBLIC ELEMENTARY, SECONDARY, AND POSTSECONDARY SCHOOL CAPITAL CONSTRUCTION PROJECTS, AS PROVIDED FOR IN THE BILL, CONSTITUTES ONE DISTINCT PURPOSE, WHICH IS THE INVESTMENT OF A PORTION OF THE EXCESS REVENUES IN THE INFRASTRUCTURE NEEDS OF THE STATE;

(III) THE USE OF EXCESS REVENUES TO FINANCE EACH TYPE OF INFRASTRUCTURE IS CONNECTED TO THE FINANCING OF THE OTHER TYPES OF INFRASTRUCTURE AS IT IS NECESSARY FOR THE GENERAL ASSEMBLY TO PRIORITIZE THE INFRASTRUCTURE NEEDS OF THE STATE, TO BALANCE THE NEED FOR EACH TYPE OF INFRASTRUCTURE AGAINST THE OTHER, AND TO ENSURE THAT THE FINANCING OF THE INFRASTRUCTURE NEEDS OF THE STATE APPROPRIATELY REFLECTS SAID PRIORITY AND BALANCE AS DETERMINED BY THE GENERAL ASSEMBLY;

(IV) THE REFERRAL OF THE BILL TO VOTERS STATEWIDE FOR APPROVAL DOES NOT PRESENT THE OPPORTUNITY FOR FRAUD OR SURPRISE AS THE BILL AND THE BALLOT QUESTION TO BE SUBMITTED TO THE VOTERS CLEARLY IDENTIFIES THE MAXIMUM AMOUNT OF EXCESS REVENUES TO BE RETAINED FOR A SPECIFIED NUMBER OF YEARS AND THE SPECIFIC INFRASTRUCTURE NEEDS THAT WOULD BE FINANCED BY SUCH EXCESS REVENUES.

SECTION 2. Article 75 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 11

STATE EXCESS REVENUE TRUST FUND

24-75-1101. State excess revenue trust fund - created. (1) THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY THE STATE EXCESS REVENUE TRUST FUND, WHICH SHALL CONSIST OF GENERAL FUND REVENUES TRANSFERRED THERETO PURSUANT TO SUBSECTION (2) OF THIS SECTION. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(2) (a) NO LATER THAN FEBRUARY 1, 1999, THE STATE TREASURER SHALL TRANSFER AN AMOUNT OF REVENUES FROM THE GENERAL FUND TO THE STATE EXCESS REVENUE TRUST FUND CREATED IN SUBSECTION (1) OF THIS SECTION EQUAL TO THE LESSER OF:

(I) TWO HUNDRED MILLION DOLLARS; OR

(II) THE AMOUNT OF STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING THAT IS IN EXCESS OF THE FISCAL YEAR SPENDING LIMITATION IMPOSED UPON THE STATE BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE 1997-98 STATE FISCAL YEAR.

(b) (I) UPON CERTIFICATION THAT STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING EXCEED THE LIMITATION ON FISCAL YEAR SPENDING IMPOSED UPON THE STATE BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR ANY FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 1998, BUT PRIOR TO JULY 1, 2002, THE STATE TREASURER SHALL TRANSFER AN AMOUNT OF REVENUES FROM THE GENERAL FUND TO THE STATE EXCESS REVENUE TRUST FUND CREATED IN SUBSECTION (1) OF THIS SECTION EQUAL TO THE LESSER OF:

(A) TWO HUNDRED MILLION DOLLARS; OR

(B) THE AMOUNT OF STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING THAT IS IN EXCESS OF THE FISCAL YEAR SPENDING LIMITATION IMPOSED UPON THE STATE BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR SUCH STATE FISCAL YEAR AS CERTIFIED AND AUDITED PURSUANT TO SECTION 24-77-106.5.

(II) THE STATE TREASURER SHALL TRANSFER SAID AMOUNT OF REVENUES TO THE STATE EXCESS REVENUE TRUST FUND NO LATER THAN NOVEMBER 1 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR FOR WHICH SUCH EXCESS STATE REVENUES ARE CERTIFIED ENDS.

(c) ANY TRANSFER OF REVENUES FROM THE GENERAL FUND TO THE STATE EXCESS REVENUE TRUST FUND PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL NOT BE DEEMED TO BE AN APPROPRIATION SUBJECT TO THE LIMITATION OF SECTION 24-75-201.1.

(d) REVENUES TRANSFERRED TO THE STATE EXCESS REVENUE TRUST FUND PURSUANT TO THIS SECTION SHALL CONSTITUTE A VOTER-APPROVED REVENUE CHANGE, AND SUCH REVENUES SHALL NOT BE INCLUDED IN EITHER STATE OR LOCAL GOVERNMENT FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND SECTION 24-77-102 (17).

24-75-1102. Purposes. (1) FOR THE FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 1999, BUT PRIOR TO JULY 1, 2004, THE GENERAL ASSEMBLY SHALL, BY BILL, TRANSFER REVENUES FROM THE STATE EXCESS REVENUE TRUST FUND AS FOLLOWS:

(a) TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND CREATED IN SECTION 22-43.7-103, C.R.S., AS ENACTED BY HOUSE BILL 98-1231, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY;

(b) TO THE HIGHER EDUCATION ACCOUNT OF THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302; AND

(c) TO THE HIGHWAY USERS TAX FUND CREATED IN SECTION 43-4-201 (1) (a), C.R.S.

(2) THE AMOUNTS TRANSFERRED FOR EACH OF THE PURPOSES SPECIFIED IN SUBSECTION (1) OF THIS SECTION DURING THE PERIOD COMMENCING JULY 1, 1999, AND ENDING PRIOR TO JULY 1, 2004, SHALL BE ALLOCATED IN THE FOLLOWING PERCENTAGES:

(a) FIFTY PERCENT OF THE REVENUES FROM THE STATE EXCESS REVENUE TRUST FUND TO THE HIGHWAY USERS TAX FUND CREATED IN SECTION 43-4-201 (1) (a), C.R.S.;

(b) THIRTY PERCENT OF THE REVENUES FROM THE STATE EXCESS REVENUE TRUST FUND TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND CREATED IN SECTION 22-43.7-103, C.R.S., AS ENACTED BY HOUSE BILL 98-1231, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY;

(c) TWENTY PERCENT OF THE REVENUES FROM THE STATE EXCESS REVENUE TRUST FUND TO THE HIGHER EDUCATION ACCOUNT OF THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302.

SECTION 3. 24-75-302, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-302. Capital construction fund - capital assessment fees - calculation. (3.5) (a) THERE IS HEREBY CREATED A SPECIAL ACCOUNT WITHIN THE CAPITAL CONSTRUCTION FUND ESTABLISHED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO BE KNOWN AS THE HIGHER EDUCATION CAPITAL CONSTRUCTION ACCOUNT. THE ACCOUNT SHALL CONSIST OF SUCH MONEYS AS ARE TRANSFERRED THERETO IN ACCORDANCE WITH SECTION 24-75-1102 (1) (b). ALL MONEYS UNEXPENDED OR UNENCUMBERED IN ANY FISCAL YEAR SHALL REMAIN IN THE ACCOUNT. ALL INTEREST EARNED FROM THE INVESTMENT OF MONEYS IN SAID ACCOUNT SHALL REMAIN THEREIN AND SHALL NOT REVERT TO THE GENERAL FUND.

(b) MONEYS TRANSFERRED TO THE HIGHER EDUCATION CAPITAL CONSTRUCTION ACCOUNT ARE IN ADDITION TO ANY MONEYS TRANSFERRED TO THE CAPITAL CONSTRUCTION FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION. MONEYS TRANSFERRED TO THE HIGHER EDUCATION CAPITAL CONSTRUCTION ACCOUNT SHALL BE APPROPRIATED ONLY FOR CAPITAL CONSTRUCTION PROJECTS OF STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION.

SECTION 4. 43-4-205, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

43-4-205. Allocation of fund. (6.7) ANY REVENUES TRANSFERRED TO THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION 24-75-1102 (1), C.R.S., SHALL BE ALLOCATED AS FOLLOWS:

(a) SIXTY PERCENT OF SUCH REVENUE SHALL BE PAID TO THE STATE HIGHWAY FUND AND SHALL BE EXPENDED AS PROVIDED IN SECTION 43-4-206.

(b) TWENTY-TWO PERCENT OF SUCH REVENUE SHALL BE PAID TO THE COUNTY TREASURERS OF THE RESPECTIVE COUNTIES, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AND SHALL BE ALLOCATED AND EXPENDED AS PROVIDED IN SECTION 43-4-207. OF THE

REVENUES PAID TO COUNTY TREASURERS OF THE RESPECTIVE COUNTIES PURSUANT TO THIS PARAGRAPH (b), NO MORE THAN FIVE PERCENT SHALL BE EXPENDED FOR ADMINISTRATIVE COSTS.

(c) EIGHTEEN PERCENT OF SUCH REVENUE SHALL BE PAID TO THE CITIES AND INCORPORATED TOWNS, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AND SHALL BE ALLOCATED AND EXPENDED AS PROVIDED IN SECTION 43-4-208 (2) (b) AND (6) (a). OF THE REVENUES PAID TO THE CITIES AND INCORPORATED TOWNS PURSUANT TO THIS PARAGRAPH (c), NO MORE THAN FIVE PERCENT SHALL BE EXPENDED FOR ADMINISTRATIVE COSTS.

SECTION 5. The introductory portions to 43-4-206 (1) and (1) (b), Colorado Revised Statutes, are amended, and the said 43-4-206 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

43-4-206. State allocation. (1) Except as otherwise provided in ~~subsection~~ SUBSECTIONS (2) AND (3) of this section, after the payments to the highway crossing protection fund required by law have been made and after paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, sixty-five percent of the balance of the highway users tax fund shall be paid to the state highway fund and shall be expended for the following purposes: (b) Except as otherwise provided in ~~subsection~~ SUBSECTIONS (2) AND (3) of this section, all moneys in the state highway fund not required for the creation, maintenance, and application of such highway anticipation or sinking fund and all moneys in the state highway supplementary fund shall be available to pay for:

(3) REVENUES CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION 43-4-205 (6.7) (a) SHALL BE EXPENDED FOR THE PURPOSES SET FORTH IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION. SUCH EXPENDITURES SHALL BE SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (2) OF THIS SECTION AND SHALL BE INCLUDED IN ALL REPORTS REQUIRED UNDER SUBSECTION (2) OF THIS SECTION. OF THE REVENUES CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION 43-4-205 (6.7) (a), NO MORE THAN FIVE PERCENT SHALL BE EXPENDED FOR ADMINISTRATIVE COSTS.

SECTION 6. 24-77-106.5, Colorado Revised Statutes, is amended to read:

24-77-106.5. Annual financial report - certification of state excess revenues. (1) (a) For each fiscal year, the controller shall prepare a financial report for the state for purposes of ascertaining compliance with the provisions of this article. Any financial report prepared pursuant to this section shall include, but shall not be limited to, state fiscal year spending, reserves, revenues, and debt.

(b) BASED UPON THE FINANCIAL STATEMENT PREPARED IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1) FOR ANY FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 1998, THE CONTROLLER SHALL CERTIFY TO THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE NO LATER THAN SEPTEMBER 1 FOLLOWING THE END OF A FISCAL YEAR THE AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE

FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION, IF ANY, FOR SUCH FISCAL YEAR.

(2) ~~Such~~ ANY financial report PREPARED AND CERTIFICATION OF STATE EXCESS REVENUES MADE PURSUANT TO SUBSECTION (1) OF THIS SECTION shall be audited by the state auditor. NO LATER THAN SEPTEMBER 15 FOLLOWING THE CERTIFICATION MADE BY THE STATE CONTROLLER FOR ANY GIVEN FISCAL YEAR, THE STATE AUDITOR SHALL REPORT AND TRANSMIT TO THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE THE RESULTS OF ANY AUDIT CONDUCTED IN ACCORDANCE WITH THIS SUBSECTION (2).

SECTION 7. Refer to people under referendum. This act shall be submitted to a vote of the registered electors of the state of Colorado at the next biennial regular general election, for their approval or rejection, under the provisions of the referendum as provided for in section 1 of article V and section 20 of article X of the state constitution, and in article 40 of title 1, Colorado Revised Statutes. Each elector voting at said election and desirous of voting for or against said act shall cast a vote as provided by law either "Yes" or "No" on the proposition: "SHALL THE STATE OF COLORADO BE PERMITTED TO ANNUALLY RETAIN UP TO TWO HUNDRED MILLION DOLLARS OF THE STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE 1997-98 FISCAL YEAR AND FOR FOUR SUCCEEDING FISCAL YEARS FOR THE PURPOSE OF FUNDING SCHOOL DISTRICT CAPITAL CONSTRUCTION PROJECTS, STATE AND LOCAL TRANSPORTATION NEEDS, AND CAPITAL CONSTRUCTION PROJECTS OF STATE COLLEGES AND UNIVERSITIES, NOTWITHSTANDING ANY RESTRICTION ON SPENDING, REVENUES, OR APPROPRIATIONS, INCLUDING WITHOUT LIMITATION THE RESTRICTIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND THE STATUTORY LIMITATION ON STATE GENERAL FUND APPROPRIATIONS, AND, IN CONNECTION THEREWITH, REQUIRING ANNUAL TRANSFERS OF SUCH EXCESS REVENUES FOR THESE PURPOSES, SPECIFYING THE ALLOCATION OF SUCH EXCESS REVENUES FOR THESE PURPOSES, SPECIFYING THE FUND TO WHICH A PORTION OF THE EXCESS REVENUES IS TO BE TRANSFERRED FOR SCHOOL DISTRICT CAPITAL CONSTRUCTION, ESTABLISHING A SPECIAL ACCOUNT IN THE CAPITAL CONSTRUCTION FUND TO WHICH A PORTION OF THE EXCESS REVENUES IS TO BE TRANSFERRED FOR HIGHER EDUCATION CAPITAL CONSTRUCTION, AND SPECIFYING THE ALLOCATION OF THE PORTION OF THE EXCESS REVENUES TRANSFERRED TO THE HIGHWAY USERS TAX FUND FOR STATE AND LOCAL TRANSPORTATION NEEDS?" The votes cast for the adoption or rejection of said act shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress.

Referendum C

CREATION OF THE CITY AND COUNTY OF BROOMFIELD

The proposed amendment to the Colorado Constitution:

- effective November 15, 2001, creates the City and County of Broomfield from portions of the city currently located in Adams, Boulder, Jefferson, and Weld counties;
- allows the City of Broomfield to continue with its current annexation plan adopted in the spring of 1998, and establishes a Boundary Control Commission to consider and approve any property annexations on and after November 15, 2001;
- transfers current city services and responsibilities (for example, government officers and utility services) to the new city and county, and requires the new city and county to deliver county services to Broomfield residents who currently reside in Adams, Boulder, Jefferson, and Weld counties; and
- authorizes the City and County of Broomfield to collect the same sales, use, and property taxes that are currently collected within the portions of the four counties until the registered electors of the City and County of Broomfield vote to change such taxes.

Background

The City of Broomfield is located just north of Denver and has about 36,000 residents. It is currently divided among four counties: Adams, Boulder, Jefferson, and Weld. There are approximately 13,000 Broomfield residents in Adams County, 21,000 in Boulder County, 1,700 in Jefferson County, and a handful of Broomfield residents in Weld County. The proposal would detach the land within the city boundaries from each of the four counties and create a new City and County of Broomfield. The proposal does not change current school district or district court boundaries.

The creation of a city and county last occurred in Colorado in 1902 when the City and County of Denver was formed by an amendment to the state constitution. Since this initiative is proposed as a constitutional amendment, it must be approved by a majority of voters statewide.

Services to be provided by the City and County of Broomfield if this measure passes. Counties must provide certain services to residents. These include law enforcement, judicial, elections, public health and welfare, tax collection, and property valuation. In the City of Broomfield, these services are currently provided by Adams, Boulder, Jefferson, and Weld counties. The City and County of Broomfield will need to provide these services. The city charter, which will become the charter for the new city and county, and ordinances will define how these responsibilities will be allocated.

Process for future annexations. Once the City and County of Broomfield is created, any future boundary changes of the city will affect the boundaries of the surrounding counties. Elected

officials from these counties are included on a Boundary Control Commission. The Boundary Control Commission, consisting of a county commissioner from Adams, Boulder, Jefferson, and Weld counties, and three elected officials of the City and County of Broomfield, will approve all requests for annexations or consolidations that occur after November 15, 2001. The Commission then must submit the question to the registered electors of the affected county.

Arguments For

- 1) A consolidated city and county has the potential to provide the current level of services more cost effectively and to improve service delivery to the residents and businesses of Broomfield. Now, four counties and one city provide programs in public safety, human services, tax collection, public health, and judicial services, which can be confusing. Under this proposal, Broomfield will be able to provide convenient local access for all city and county services, reducing travel time and expenses and expediting access to county records.
- 2) The tax dollars of Broomfield residents will stay in Broomfield to provide services to Broomfield residents. The county taxes paid by Broomfield residents will no longer be distributed among the four counties. Broomfield residents pay taxes to the four affected counties; however, none of the four counties provide a branch office in Broomfield where residents and businesses may conduct county transactions.
- 3) Consolidation will improve the process of representative government. Broomfield residents and businesses will have a single focal point for participating in public forums and policy-making. Residents will be allowed to address policies of both city and county concern in a single forum. Further, the majority of Broomfield's registered electors were in favor of the city studying the feasibility of placing an initiative on the statewide ballot, as indicated in a 1996 advisory question.
- 4) The proposal gives Broomfield residents the opportunity to even out their tax rates. Because Broomfield is in four counties, residents currently pay varying levels of property and sales taxes. The measure authorizes the City and County of Broomfield to create a uniform property and sales tax, which must be approved by the residents of the City and County of Broomfield.

Arguments Against

- 1) Creating a new city and county will add an unnecessary layer of government. It will not promote efficient and cost-effective services, but rather will increase intergovernmental competition in matters regarding land use, tax base, transportation, and economic development. Broomfield will be required to build its own jail, expand and renovate existing facilities, including county judicial facilities, and provide other required county and judicial services. Additional county services for a new jail and human services will require new employees at a significant cost. The construction, renovation, and on-going operational costs of the facilities may result in increased taxes to Broomfield residents.

2) The four affected counties will lose almost \$8 million dollars in revenue currently collected from the area within the City of Broomfield. The loss in revenue results from the loss of property, sales, and use taxes, specific ownership taxes, and county fees. Adams County will lose approximately \$1.8 million; Boulder County, \$5.4 million; Jefferson County, \$700,000; and Weld County, \$7,000.

3) Broomfield has other options besides forming a new city and county to provide more efficient services. For example, Broomfield could consolidate with one of the existing counties rather than form its own city and county and it could increase the frequency and scope of intergovernmental agreements in order to avoid duplication of services among the counties.

4) Broomfield residents have not voted to approve the formation of a city and county prior to this statewide vote. This issue is a local matter and should be decided by the electors in the affected counties. Under this proposal, voters statewide will decide the issue of whether Broomfield will be consolidated into a city and county, not the voters in Broomfield and the surrounding counties. If the measure passes in other areas of the state, Broomfield residents and the residents of the four affected counties will have to live with the results.

SENATE CONCURRENT RESOLUTION 98-013 - Referendum C

Be It Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado, the House of Representatives concurring herein:

SECTION 1. At the next election at which such question may be submitted, there shall be submitted to the registered electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Article XX of the constitution of the state of Colorado is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

Section 10. CITY AND COUNTY OF BROOMFIELD - CREATED. THE CITY OF BROOMFIELD IS A PREEXISTING MUNICIPAL CORPORATION AND HOME RULE CITY OF THE STATE OF COLORADO, PHYSICALLY SITUATED IN PARTS OF ADAMS, BOULDER, JEFFERSON, AND WELD COUNTIES. ON AND AFTER NOVEMBER 15, 2001, ALL TERRITORY IN THE MUNICIPAL BOUNDARIES OF THE CITY OF BROOMFIELD SHALL BE DETACHED FROM THE COUNTIES OF ADAMS, BOULDER, JEFFERSON, AND WELD AND SHALL BE CONSOLIDATED INTO A SINGLE COUNTY AND MUNICIPAL CORPORATION WITH THE NAME "THE CITY AND COUNTY OF BROOMFIELD". PRIOR TO NOVEMBER 15, 2001, THE CITY OF BROOMFIELD SHALL NOT EXTEND ITS BOUNDARIES BEYOND THE ANNEXATION BOUNDARY MAP APPROVED BY THE BROOMFIELD CITY COUNCIL ON APRIL 28, 1998, AS AN AMENDMENT TO THE CITY OF BROOMFIELD 1995 MASTER PLAN. THE EXISTING CHARTER OF THE SAID CITY OF

BROOMFIELD SHALL BECOME THE CHARTER OF THE CITY AND COUNTY OF BROOMFIELD.

THE CITY AND COUNTY OF BROOMFIELD SHALL HAVE PERPETUAL SUCCESSION; SHALL OWN, POSSESS, AND HOLD ALL REAL AND PERSONAL PROPERTY, INCLUDING WATER RIGHTS, THE RIGHT TO USE WATER, AND CONTRACTS FOR WATER, CURRENTLY OWNED, POSSESSED, OR HELD BY THE SAID CITY OF BROOMFIELD; SHALL ASSUME, MANAGE, AND DISPOSE OF ALL TRUSTS IN ANY WAY CONNECTED THEREWITH; SHALL SUCCEED TO ALL THE RIGHTS AND LIABILITIES OF, SHALL ACQUIRE ALL BENEFITS OF, AND SHALL ASSUME AND PAY ALL BONDS, OBLIGATIONS, AND INDEBTEDNESS OF SAID CITY OF BROOMFIELD AND ITS PROPORTIONATE SHARE OF THE GENERAL OBLIGATION INDEBTEDNESS AND, AS PROVIDED BY INTERGOVERNMENTAL AGREEMENT, ITS PROPORTIONATE SHARE OF REVENUE BOND OBLIGATIONS OF THE COUNTIES OF ADAMS, BOULDER, JEFFERSON, AND WELD ON AND AFTER NOVEMBER 15, 2001.

THE CITY AND COUNTY OF BROOMFIELD MAY SUE AND DEFEND, PLEAD, AND BE IMPEADED IN ALL COURTS AND IN ALL MATTERS AND PROCEEDINGS; MAY HAVE AND USE A COMMON SEAL AND ALTER THE SAME AT PLEASURE; MAY GRANT FRANCHISES; MAY PURCHASE, RECEIVE, HOLD, AND ENJOY, OR SELL AND DISPOSE OF REAL AND PERSONAL PROPERTY; MAY RECEIVE BEQUESTS, GIFTS, AND DONATIONS OF REAL AND PERSONAL PROPERTY, OR REAL AND PERSONAL PROPERTY IN TRUST FOR PUBLIC, CHARITABLE, OR OTHER PURPOSES, AND DO ALL THINGS AND ACTS NECESSARY TO CARRY OUT THE PURPOSES OF SUCH GIFTS, BEQUESTS, DONATIONS, AND TRUSTS WITH POWER TO MANAGE, SELL, LEASE, OR OTHERWISE DISPOSE OF THE SAME IN ACCORDANCE WITH THE TERMS OF THE GIFT, BEQUEST, DONATION, OR TRUST.

THE CITY AND COUNTY OF BROOMFIELD SHALL HAVE THE POWER WITHIN AND WITHOUT ITS TERRITORIAL LIMITS TO CONSTRUCT, CONDEMN, PURCHASE, ACQUIRE, LEASE, ADD TO, MAINTAIN, CONDUCT, AND OPERATE WATER WORKS, WATER SUPPLIES, SANITARY SEWER FACILITIES, STORM WATER FACILITIES, PARKS, RECREATION FACILITIES, OPEN SPACE LANDS, LIGHT PLANTS, POWER PLANTS, HEATING PLANTS, ELECTRIC AND OTHER ENERGY FACILITIES AND SYSTEMS, GAS FACILITIES AND SYSTEMS, TRANSPORTATION SYSTEMS, CABLE TELEVISION SYSTEMS, TELECOMMUNICATION SYSTEMS, AND OTHER PUBLIC UTILITIES OR WORKS OR WAYS LOCAL IN USE AND EXTENT, IN WHOLE OR IN PART, AND EVERYTHING REQUIRED THEREFOR, FOR THE USE OF SAID CITY AND COUNTY AND THE INHABITANTS THEREOF; TO PURCHASE IN WHOLE OR IN PART ANY SUCH SYSTEMS, PLANTS, WORKS, FACILITIES, OR WAYS, OR ANY CONTRACTS IN RELATION OR CONNECTION THERETO THAT MAY EXIST, AND MAY ENFORCE SUCH PURCHASE BY PROCEEDINGS AT LAW AS IN TAKING LAND FOR PUBLIC USE BY RIGHT OF EMINENT DOMAIN; AND TO ISSUE BONDS IN ACCORDANCE WITH ITS CHARTER IN ANY AMOUNT NECESSARY TO CARRY OUT ANY SAID POWERS OR PURPOSES, AS THE CHARTER MAY PROVIDE AND LIMIT. THE CITY AND COUNTY OF

BROOMFIELD SHALL HAVE ALL OF THE POWERS OF ITS CHARTER AND SHALL HAVE ALL OF THE POWERS SET OUT IN SECTION 6 OF THIS ARTICLE, INCLUDING THE POWER TO MAKE, AMEND, ADD TO, OR REPLACE ITS CHARTER AS SET FORTH IN SECTION 9 OF THIS ARTICLE. THE CHARTER PROVISIONS AND PROCEDURES SHALL SUPERSEDE ANY CONSTITUTIONAL OR STATUTORY LIMITATIONS AND PROCEDURES REGARDING FINANCIAL OBLIGATIONS. THE CITY AND COUNTY OF BROOMFIELD SHALL HAVE ALL POWERS CONFERRED TO HOME RULE MUNICIPALITIES AND TO HOME RULE COUNTIES BY THE CONSTITUTION AND GENERAL LAWS OF THE STATE OF COLORADO THAT ARE NOT INCONSISTENT WITH THE CONSTITUTIONAL PROVISIONS CREATING THE CITY AND COUNTY OF BROOMFIELD.

PRIOR TO NOVEMBER 15, 2001, THE CHARTER AND ORDINANCES OF THE CITY OF BROOMFIELD SHALL GOVERN ALL LOCAL AND MUNICIPAL MATTERS OF THE CITY. ON AND AFTER NOVEMBER 15, 2001, THE CONSTITUTIONAL PROVISIONS CREATING AND GOVERNING THE CITY AND COUNTY OF BROOMFIELD, THE CITY AND COUNTY CHARTER ADOPTED IN ACCORDANCE WITH THESE CONSTITUTIONAL PROVISIONS, AND THE ORDINANCES EXISTING AND ADOPTED FROM TIME TO TIME SHALL GOVERN ALL LOCAL AND MUNICIPAL MATTERS OF THE CITY AND COUNTY OF BROOMFIELD.

ON AND AFTER NOVEMBER 15, 2001, THE REQUIREMENTS OF SECTION 3 OF ARTICLE XIV OF THIS CONSTITUTION AND THE GENERAL ANNEXATION AND CONSOLIDATION STATUTES OF THE STATE RELATING TO COUNTIES SHALL APPLY TO THE CITY AND COUNTY OF BROOMFIELD. ON AND AFTER NOVEMBER 15, 2001, ANY CONTIGUOUS TERRITORY, TOGETHER WITH ALL PROPERTY BELONGING THERETO, HEREAFTER ANNEXED TO OR CONSOLIDATED WITH THE CITY AND COUNTY OF BROOMFIELD UNDER ANY LAWS OF THIS STATE, IN WHATSOEVER COUNTY THE SAME MAY BE AT THE TIME, SHALL BE DETACHED FROM SUCH OTHER COUNTY AND BECOME A MUNICIPAL AND TERRITORIAL PART OF THE CITY AND COUNTY OF BROOMFIELD.

ON AND AFTER NOVEMBER 15, 2001, NO ANNEXATION OR CONSOLIDATION PROCEEDING SHALL BE INITIATED PURSUANT TO THE GENERAL ANNEXATION AND CONSOLIDATION STATUTES OF THE STATE TO ANNEX LANDS TO OR CONSOLIDATE LANDS WITH THE CITY AND COUNTY OF BROOMFIELD UNTIL SUCH PROPOSED ANNEXATION OR CONSOLIDATION IS FIRST APPROVED BY A MAJORITY VOTE OF A SEVEN-MEMBER BOUNDARY CONTROL COMMISSION. THE BOUNDARY CONTROL COMMISSION SHALL BE COMPOSED OF ONE COMMISSIONER FROM EACH OF THE BOARDS OF COMMISSIONERS OF ADAMS, BOULDER, JEFFERSON, AND WELD COUNTIES, RESPECTIVELY, AND THREE ELECTED OFFICIALS OF THE CITY AND COUNTY OF BROOMFIELD. THE COMMISSIONERS FROM EACH OF THE SAID COUNTIES SHALL BE APPOINTED BY RESOLUTION OF THE RESPECTIVE COUNTY BOARDS OF COMMISSIONERS. THE THREE ELECTED OFFICIALS FROM THE CITY AND COUNTY OF BROOMFIELD

SHALL BE APPOINTED BY THE MAYOR OF THE CITY AND COUNTY OF BROOMFIELD. THE BOUNDARY CONTROL COMMISSION SHALL ADOPT ALL ACTIONS, INCLUDING ACTIONS REGARDING PROCEDURAL RULES, BY MAJORITY VOTE. EACH MEMBER OF THE BOUNDARY CONTROL COMMISSION SHALL HAVE ONE VOTE, INCLUDING THE COMMISSIONER WHO ACTS AS CHAIRPERSON OF THE COMMISSION. THE COMMISSION SHALL FILE ALL PROCEDURAL RULES ADOPTED BY THE COMMISSION WITH THE SECRETARY OF STATE.

SECTION 11. OFFICERS - CITY AND COUNTY OF BROOMFIELD. THE OFFICERS OF THE CITY AND COUNTY OF BROOMFIELD SHALL BE AS PROVIDED FOR BY ITS CHARTER OR ORDINANCES. THE JURISDICTION, TERM OF OFFICE, AND DUTIES OF SUCH OFFICERS SHALL COMMENCE ON NOVEMBER 15, 2001. THE QUALIFICATIONS AND DUTIES OF ALL SUCH OFFICERS SHALL BE AS PROVIDED FOR BY THE CITY AND COUNTY CHARTER AND ORDINANCES, BUT THE ORDINANCES SHALL DESIGNATE THE OFFICERS WHO SHALL PERFORM THE ACTS AND DUTIES REQUIRED OF COUNTY OFFICERS PURSUANT TO THIS CONSTITUTION OR THE GENERAL LAWS OF THE STATE OF COLORADO, AS FAR AS APPLICABLE. ALL COMPENSATION FOR ELECTED OFFICIALS SHALL BE DETERMINED BY ORDINANCE AND NOT BY STATE STATUTE. IF ANY ELECTED OFFICER OF THE CITY AND COUNTY OF BROOMFIELD SHALL RECEIVE ANY COMPENSATION, SUCH OFFICER SHALL RECEIVE THE SAME AS A STATED SALARY, THE AMOUNT OF WHICH SHALL BE FIXED BY ORDINANCE WITHIN LIMITS FIXED BY THE CITY AND COUNTY CHARTER OR BY RESOLUTION APPROVING THE CITY AND COUNTY BUDGET AND PAID IN EQUAL MONTHLY PAYMENTS. NO ELECTED OFFICER SHALL RECEIVE ANY INCREASE OR DECREASE IN COMPENSATION UNDER ANY ORDINANCE OR RESOLUTION PASSED DURING THE TERM FOR WHICH SUCH OFFICER WAS ELECTED.

SECTION 12. TRANSFER OF GOVERNMENT. UPON THE CANVASS OF THE VOTE SHOWING THE ADOPTION OF THE CONSTITUTIONAL PROVISIONS CREATING AND GOVERNING THE CITY AND COUNTY OF BROOMFIELD, THE GOVERNOR SHALL ISSUE A PROCLAMATION ACCORDINGLY, AND, ON AND AFTER NOVEMBER 15, 2001, THE CITY OF BROOMFIELD AND THOSE PARTS OF THE COUNTIES OF ADAMS, BOULDER, JEFFERSON, AND WELD INCLUDED IN THE BOUNDARIES OF SAID CITY SHALL BE CONSOLIDATED INTO THE CITY AND COUNTY OF BROOMFIELD. THE DUTIES AND TERMS OF OFFICE OF ALL OFFICERS OF ADAMS, BOULDER, JEFFERSON, AND WELD COUNTIES SHALL NO LONGER BE APPLICABLE TO AND SHALL TERMINATE WITH REGARD TO THE CITY AND COUNTY OF BROOMFIELD. ON AND AFTER NOVEMBER 15, 2001, THE TERMS OF OFFICE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BROOMFIELD SHALL TERMINATE WITH REGARD TO THE CITY OF BROOMFIELD AND SAID MAYOR AND CITY COUNCIL SHALL BECOME THE MAYOR AND CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD. THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, IN ADDITION TO PERFORMING THE DUTIES

PRESCRIBED IN THE CITY AND COUNTY CHARTER AND ORDINANCES, SHALL PERFORM THE DUTIES OF A BOARD OF COUNTY COMMISSIONERS OR MAY DELEGATE CERTAIN DUTIES TO VARIOUS BOARDS AND COMMISSIONS APPOINTED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD. THE CITY AND COUNTY OF BROOMFIELD SHALL BE A SUCCESSOR DISTRICT OF THE CITY OF BROOMFIELD UNDER SECTION 20 OF ARTICLE X OF THIS CONSTITUTION. ANY VOTER APPROVAL GRANTED THE CITY OF BROOMFIELD UNDER SECTION 20 OF ARTICLE X OF THIS CONSTITUTION PRIOR TO NOVEMBER 15, 2001, SHALL BE CONSIDERED VOTER APPROVAL UNDER SAID SECTION FOR THE CITY AND COUNTY OF BROOMFIELD. THE CITY AND COUNTY OF BROOMFIELD SHALL HAVE THE POWER TO CONTINUE TO IMPOSE AND COLLECT SALES, USE, AND PROPERTY TAXES THAT WERE IMPOSED BY THE CITY OF BROOMFIELD AND THE COUNTIES OF ADAMS, BOULDER, JEFFERSON, AND WELD WITHIN THE AREAS WHERE SAID TAXES WERE IMPOSED ON NOVEMBER 14, 2001, UNTIL THE VOTERS OF THE CITY AND COUNTY OF BROOMFIELD APPROVE UNIFORM SALES, USE, AND PROPERTY TAXES WITHIN THE CITY AND COUNTY OF BROOMFIELD OR APPROVE INCREASED SALES, USE, OR PROPERTY TAXES WITHIN THE CITY AND COUNTY OF BROOMFIELD. ANY VIOLATION OF ANY CRIMINAL STATUTES OF THE STATE OF COLORADO OCCURRING ON OR BEFORE NOVEMBER 14, 2001, SHALL CONTINUE TO BE PROSECUTED WITHIN THE COUNTY WHERE THE VIOLATION ORIGINALLY OCCURRED.

SECTION 13. SECTIONS SELF-EXECUTING - APPROPRIATIONS. SECTIONS 10 THROUGH 13 OF THIS ARTICLE SHALL BE IN ALL RESPECTS SELF-EXECUTING AND SHALL BE CONSTRUED SO AS TO SUPERSEDE ANY CONFLICTING CONSTITUTIONAL OR STATUTORY PROVISION THAT WOULD OTHERWISE IMPEDE THE CREATION OF THE CITY AND COUNTY OF BROOMFIELD OR LIMIT ANY OF THE PROVISIONS OF THOSE SECTIONS. EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 10 THROUGH 13, SAID SECTIONS SHALL BE EFFECTIVE ON AND AFTER NOVEMBER 15, 2001. AFTER THE ADOPTION OF THE CONSTITUTIONAL PROVISIONS CREATING AND GOVERNING THE CITY AND COUNTY OF BROOMFIELD, THE GENERAL ASSEMBLY MAY APPROPRIATE FUNDS, IF NECESSARY, IN COOPERATION WITH THE CITY AND COUNTY OF BROOMFIELD TO IMPLEMENT THESE CONSTITUTIONAL PROVISIONS AT THE STATE LEVEL.

SECTION 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast a vote as provided by law either "Yes" or "No" on the proposition: "AN AMENDMENT TO ARTICLE XX OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE CREATION OF THE CITY AND COUNTY OF BROOMFIELD."

SECTION 3. THE VOTES CAST FOR THE ADOPTION OR REJECTION OF SAID AMENDMENT SHALL BE CANVASSED AND THE RESULT DETERMINED IN THE MANNER PROVIDED BY LAW FOR THE CANVASSING OF VOTES FOR REPRESENTATIVES IN CONGRESS, AND IF A MAJORITY OF THE ELECTORS

VOTING ON THE QUESTION SHALL HAVE VOTED "YES", THE SAID
AMENDMENT SHALL BECOME A PART OF THE STATE CONSTITUTION.