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

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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-threatened 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