

NOTICE OF ELECTION TO INCREASE TAXES ON A CITIZEN PETITION

STATEWIDE ELECTION DAY IS

Tuesday, November 2, 2004

Polling places open from 7 a.m. to 7 p.m.
(Early Voting Begins October 18, 2004)



ANALYSIS OF THE 2004 BALLOT PROPOSALS

Legislative Council
of the
Colorado General Assembly

Research Publication No. 527-1

***A YES vote on any ballot issue is a vote IN FAVOR OF
changing current law or existing circumstances, and a
NO vote on any ballot issue is a vote AGAINST
changing current law or existing circumstances.***

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September 8, 2004

Dear Colorado Voter:

This booklet provides information on two subjects to be decided by voters at the November 2, 2004 election. The first subject concerns six proposals that will be on this year's ballot; the second subject is the retention of judges. The booklet presents the information in three sections.

The **first section** contains an analysis of each proposed change to the state constitution and state statute. Each analysis describes the major provisions of the proposal, summarizes major arguments for and against the proposal, and indicates the estimated fiscal impact. Careful consideration has been given to the arguments in an effort to fairly represent both sides of the issue. The Legislative Council takes no position with respect to the merits of the proposals. The state constitution requires the nonpartisan research staff of the General Assembly to prepare these analyses and to distribute them in a ballot information booklet to registered voter households.

The "amendments" are put on the ballot through a signature collection process; the "referendums" are put on the ballot by the state legislature. Amendment 37 amends state statute; all of the remaining proposals amend the state constitution. Any future change to a constitutional proposal requires another vote of the people.

The **second section** provides the title and the legal language of each proposed change to the state constitution and state statutes.

The **third section** contains information about the performance of Colorado Court of Appeals judges and trial judges in your area of the state. The information was prepared by the state and district commissions on judicial performance. Each profile includes a recommendation stated as "RETAIN," "DO NOT RETAIN," or "NO OPINION."

Sincerely,

A handwritten signature in cursive script that reads "Lola Spradley".

Representative Lola Spradley
Chairman

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LOCAL ELECTION OFFICES

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**Amendment 34
Construction Liability**

**The proposed amendment to the Colorado
Constitution:**

with some exceptions, prohibits limits, including limiting damages for pain and suffering to \$250,000, on a property owner's ability to recover damages when improvements to property are not constructed in a "good and workmanlike manner"; and

defines an improvement constructed in a "good and workmanlike manner" as an improvement that is suitable for its intended purposes.

Background

Currently, state law establishes a procedure to recover damages from a construction professional when construction is defective. Under this law, a property owner may sue the responsible construction professional after giving notice and providing an opportunity to fix the defect. Construction professionals include architects, contractors, developers, and others involved in the construction business. If an agreement to fix the defect is not reached within 75 days in the case of residential property, or 90 days in the case of commercial property, the property owner may sue the construction professional responsible for the defect.

A property owner who sues, and wins, may be reimbursed for the lesser of the following three dollar amounts: 1) the value of the property without the defect, 2) the cost to replace the property, or 3) the reasonable cost to repair the defect. Medical expenses resulting from an injury are fully reimbursable. Awards for "pain and suffering" for bodily and personal injury are capped at \$250,000. In addition, if the owner can show that the construction professional knowingly violated the law that protects consumers from fraud, he or she may be awarded up to an additional \$250,000. Damage awards may also include the costs associated with moving, interest, or legal fees. Under this law, a lawsuit must

be filed within two years from the date of discovering the defect or six years from the date the construction occurred.

The proposal. This proposal creates a new section in the state constitution that repeals current law. It removes limitations on the amount of money a property owner can collect in damages, except for punitive damages and lawsuits against governments. It also sets in the state constitution the current time frames for filing a lawsuit. Finally, the proposal eliminates the current requirement that a property owner and construction professional try to resolve the problem before bringing a lawsuit. In addition to these changes to current law, the proposal restricts the types of laws the legislature can pass in the future concerning construction liability.

Arguments For

1) The proposal protects property owners by ensuring they can be fully compensated for faulty construction. For the past three years, property owners have been limited in their ability to recover damages. Damages will be determined on a case-by-case basis in a court of law, rather than through a formula that treats all property owners the same. Property owners will be eligible for compensation for the pain and suffering caused by a defect.

2) The proposal changes a system that favors construction professionals at the expense of property owners. Individual property owners do not have the necessary time or resources to effectively negotiate with construction professionals or corporations that may be responsible. It creates constitutional standards that safeguard property owners from laws that limit their ability to collect damages.

Arguments Against

1) The proposal will drive up the cost of housing. An increase in the number of lawsuits, and the awards that result from those lawsuits, could make insurance costs prohibitive. In addition to construction professionals, this proposal allows for lawsuits against anyone who makes improvements to property, not just construction professionals. The proposal creates a fundamental change in liability to include construction professionals and non-professionals alike.

2) A process already exists for property owners and construction professionals to resolve construction defect disputes without immediately turning to the courts. The current system also defines damages in a way that is fair to both property owners and construction professionals: it compensates property owners for the actual cost of fixing their property but limits excessive compensation.

Estimate of Fiscal Impact

This proposal may affect the time devoted to construction-related cases by Colorado courts. If the proposal increases the incentive for property owners to pursue claims, the caseload and the time spent per case may increase. On the other hand, if it increases the incentive for construction professionals to either increase construction quality or settle claims out of court, the time devoted to construction-related cases may decrease. Ultimately, the effect of the proposal on the courts will depend on the number of claims filed, the portion of those claims settled out of court, and the time devoted to each case that goes to trial.

Amendment 35
Tobacco Tax Increase for Health-Related Purposes

The proposed amendment to the Colorado Constitution:

increases the tax on a pack of cigarettes from 20 cents to 84 cents, or 320 percent;

doubles the tax on tobacco products other than cigarettes from 20 percent to 40 percent of the price;

specifies that the new tax revenue is to be used for health care services and tobacco education and cessation programs;

requires the legislature to maintain funding levels for existing health-related programs as of January 1, 2005, and to use the new revenue only to expand these programs;

excludes the new tax revenue from state revenue and spending limits and local government revenue limits; and

allows the legislature, by a two-thirds vote, to declare a state fiscal emergency and to use all of the new revenue only for health-related purposes for up to one budget year at a time.

Background

Cigarette taxes. Cigarette taxes are levied by the federal government and all 50 states. The federal tax rate on cigarettes is 39 cents per pack. For 2004, state tax rates range from a high of \$2.80 per pack in Rhode Island to a low of 20 cents per pack in Colorado. The national average is 98 cents per pack.

Tobacco products taxes. Taxes on non-cigarette tobacco products are levied on cigars, pipe tobacco, snuff, and chewing tobacco by the federal government and 47 states. The federal government levies its tax according to weight. States tax tobacco products based either on weight or a percentage of price. The tobacco products tax rate in Colorado is 20 percent of the price.

History of tobacco taxes in Colorado. In 1964, the state established a tax on cigarettes of 3 cents per pack. Prior to the state cigarette tax and through 1972, many local governments also taxed cigarettes. In 1973, the state raised the tax on cigarettes to 10 cents per pack and gave local governments the option of receiving a portion of state cigarette taxes or levying their own tax. No local government has levied a tax since that time. In 1986, Colorado's cigarette tax was raised to its current rate of 20 cents per pack, and the tobacco products tax of 20 percent of the price was enacted. The proposal prohibits the legislature from reducing these taxes in the future.

Current tobacco revenues. Colorado collected about \$64.8 million from cigarette and tobacco products taxes last year. About one-quarter of this amount is sent to local governments statewide to use as they see fit. The remaining three-quarters is deposited into the state's bank account, along with other state taxes, to pay for state programs. Because Colorado is a participant to the master settlement agreement between the tobacco companies and the various states, the state expects to receive approximately \$118 million per year in additional money for the next 20 years.

Current state health-related programs. In the current budget year, the state will spend about \$3.0 billion to provide health care to low-income individuals, \$4.3 million for programs on the dangers of tobacco use, and \$141.2 million for a variety of prevention programs run by the state health department.

Distribution of tobacco tax revenues under the proposal. Collection of the new tobacco taxes would begin on January 1, 2005. The proposal is expected to raise an additional \$175 million annually. Of this amount, \$169.8 million goes to targeted health care programs and \$5.2 million can be spent by the state and local governments on health-related programs of their choosing. Table 1 shows how the new revenue is required to be spent.

Table 1. Distribution of New Tax Revenue

Percentage	Purpose	Annual Estimated Distribution
46%	to increase the number of low-income children and their parents, pregnant women, and other adults served by state health care programs	\$80.5 million
19%	to pay for health care services at clinics or hospitals where at least half of the patients served are poor	\$33.3 million
16%	for school, community, and statewide education programs designed to reduce the number of children and adults who smoke and reduce the community's exposure to second-hand smoke	\$28.0 million
16%	to prevent, detect, and treat cancer, heart, and lung diseases	\$28.0 million
3%	to be used by the state and local governments for any health-related purpose	\$5.2 million

This proposal and current law. In 2004, the state legislature passed a law in anticipation of this proposal. The law does not affect how the new money raised from this proposal is distributed. However, it declares that the legislature is responsible for setting the spending levels for health-related programs funded from existing sources of revenue. The proposal directs where the new revenue will be spent but gives the legislature flexibility during a fiscal emergency to spend these dollars for other health-related purposes. At any time, the legislature may refer a measure to the people to change how this money is spent.

Arguments For

1) Tobacco use is the leading cause of preventable death in Colorado, killing 4,200 Coloradans each year. Annual health care costs in Colorado directly related to smoking are more than \$1.0 billion. Under this proposal, funds will be provided to prevent, detect, and treat cancer and heart and lung disease, ailments that affect many Coloradans. The new taxes will also help low-income children and adults receive health care that they could not otherwise afford. The proposal will provide money to treat individuals who have tobacco-related illnesses and will lower future tobacco-related health care costs by reducing tobacco use throughout the state.

2) Colorado is currently 50th among the states in the level of cigarette taxes. Raising tobacco taxes will deter many youth from becoming addicted to tobacco products. Almost all adult smokers started smoking when they were teenagers. In Colorado, one in every four high school students smokes and over a third use tobacco of some sort. Youth tobacco consumption in Colorado is higher than the national average. Studies have shown that as the price of tobacco products rises, an increasing number of youth will stop, or never start, using tobacco. Funding programs that educate children about the dangers of tobacco use will also discourage youth from using tobacco and will help smokers to quit.

3) This proposal will not decrease revenue to state and local governments. In every state that has raised cigarette taxes, revenue has increased despite reduced cigarette pack sales and use of the internet to purchase cigarettes. This proposal ensures that local governments will receive funds to make up for any revenue loss due to lower tobacco sales because it guarantees that local governments will receive a portion of the new tax moneys.

Arguments Against

1) The proposal puts a tax increase in the state constitution and increases the size and cost of government. Colorado smokers and tobacco users will pay 320 percent more in state cigarette taxes and 100 percent more in state taxes on other tobacco products to fund state health care programs. Taxes for a one-pack-a-day smoker would increase by \$234 each year. Existing constitutional spending requirements have limited the ability of the legislature to react to changes in the state budget and economic conditions. This proposal adds yet another inflexible spending mandate. Further, reductions in sales and consumption due to this proposal will reduce funding to local governments that depend upon current cigarette tax revenues to fund essential government functions like fire and police protection.

2) The tax increase may cause additional hardship to low-income families in Colorado. People living in poverty are 48 percent more likely to smoke than those not living in poverty. The tax takes a much larger bite out of the budgets of low-income individuals than wealthy individuals. There is no guarantee that smokers will benefit from the new health care programs. If this is the case, smokers would be paying much higher taxes, but few would receive additional health care services.

3) The proposal allocates \$28 million in badly needed state revenue to tobacco education programs which may not be needed in future years if tobacco use continues to decline. Nationally, demand is decreasing 2 percent per year, but in Colorado demand is falling even more rapidly and will decrease further if consumers turn to other sources, such as the internet, for their purchases. The new tax money may be inadequate over time to maintain some of the proposal's programs while others may have more money than they require. The legislature will not be able to fix these problems because it will have no control over the distribution of this money.

Estimate of Fiscal Impact

The proposal will raise about \$169.8 million in new revenue for health care programs and \$5.2 million for the state and local governments in the 2005-06 budget year. Additionally, the state will incur a one-time cost of \$3,500 for computer programming changes to track the new revenue. Current law reduces revenue for health-related purposes as of January 1, 2005, in order to preserve the power of the legislature to appropriate existing funds for state programs and functions.

State Fiscal Year Spending and the Proposed Tobacco Taxes

The state constitution requires that the following fiscal information be provided when a taxation question is on the ballot:

1. an estimate or actual total of state fiscal year spending for the current year and each of the past four years with an overall percentage change and dollar change for that period; and
2. for the first full fiscal year of the proposed tax increases, an estimate of the maximum dollar amount of each tax increase and of state fiscal year spending without the increase.

Table 2 shows state fiscal year spending. Table 3 shows the revenue expected from the new tobacco taxes and state fiscal year spending with and without these taxes.

Table 2. State Fiscal Year Spending History

	2000-01 Actual	2001-02 Actual	2002-03 Actual	2003-04 Estimate	2004-05 Estimate
State Spending	\$7,949 million	\$7,760 million	\$7,713 million	\$8,191 million	\$8,220 million
Four-Year Dollar Change in Spending: \$271 million from 2000-01 to 2004-05.					
Four-Year Percent Change in Spending: 3.4% from 2000-01 to 2004-05.					

Table 3. State Fiscal Year Spending and the Proposed Tobacco Tax Increases

	2005-06 Estimate
State Spending without New Taxes	\$8,483 million
New Cigarette Tax of \$0.64 per Pack	\$162 million
New Tobacco Products Tax of 20%	\$13 million
Total New Tobacco Taxes*	\$175 million
State Spending with New Taxes*	\$8,658 million

* The new tobacco tax revenue is not subject to the state's fiscal year spending limits.

**Amendment 36
Selection of Presidential Electors**

The proposed amendment to the Colorado Constitution:

eliminates the current system in which the presidential candidate receiving the most votes gets all of the state's electoral votes;

allocates Colorado's electoral votes based on the percentage of votes for each presidential candidate; and

makes the changes effective for the November 2004 presidential election.

Background

In the United States, the president and vice president are elected using a system called the electoral college. Under this system, each state is allotted electoral votes equal to the number of the state's representatives and senators in the U.S. Congress. The electoral college currently consists of 538 electors from all 50 states and the District of Columbia. Colorado has nine of these electors. In all but two states, the candidate who gets the most votes receives all of the state's electoral votes. A candidate must receive

at least 270 electoral votes to win the presidency. If no candidate obtains a majority of electoral votes, the presidency is decided by the U.S. House of Representatives, with each state allotted one vote.

In Colorado, each political party designates nine electors. Electors pledge to support that party's candidate for president and vice president. After each presidential election, electors from the winning party meet at the State Capitol to cast their vote for president and for vice president. All 50 states have a similar process for choosing electors.

Under this proposal, beginning with the November 2004 election, Colorado would allocate its electoral votes according to the percentage of ballots cast for each presidential ticket. Electoral votes would be divided, in whole numbers, among the competing candidates according to the number of votes each candidate receives. For example, if Candidate Smith gets 55 percent of the votes and Candidate Jones gets 45 percent, then Smith would receive five electoral votes and Jones would receive four.

The proposal also adds procedures and timelines to the state constitution for certifying election results and recounts related to the vote on this proposal.

Arguments For

1) This proposal makes Colorado's electoral vote more accurately reflect the statewide vote. Under the current winner-take-all system, one candidate automatically gets all of the state's electoral votes, even if he or she doesn't win a majority of votes on election day. Instead, Colorado's electoral votes should reflect all candidates who have widespread support, not just the candidate who gets as few as one more vote than another.

2) This proposal may motivate more people to vote because the votes of more Coloradans will be represented in the electoral college. Under the current system, eligible citizens may not bother to participate in elections if they believe that their vote will have no impact on the outcome, especially voters not affiliated with a political party. The proposal may also encourage minor-party

candidates to pay more attention to Colorado issues, in hopes of winning an electoral vote.

3) There can be no delay in the election of the president because of this change to the Colorado Constitution. The U.S. Constitution requires that the electoral college meet and cast votes in December following a presidential election, and that timing is unaffected by this proposal. Further, the Colorado courts have approved other proposals that are retroactive in nature.

Arguments Against

1) Colorado will likely become the least influential state in presidential elections because our current nine electoral votes will almost always be split 5-4. By awarding nine electoral votes to the winner, the current system encourages candidates to campaign in the state on issues of importance to Coloradans. In contrast, the proposal reduces the incentive to campaign in Colorado when a candidate might only pick up one or two additional electoral votes.

2) By making it easier for minor-party candidates to win electoral votes in Colorado, the proposal could lead to a situation where no candidate wins a majority of the electoral vote nationally. If this happens, the presidency would be determined by the U.S. House of Representatives with each state getting only one vote. Smaller states then would have disproportionate power, further weakening the popular vote by increasing the chance that the U.S. Congress, not the public, will elect the president.

3) Because the proposal attempts to be retroactive, it may be subject to legal challenge on the issue of timing, which could delay a final decision in Colorado on who wins the presidency in 2004. Further, voters in the 2004 election cycle may not realize that the outcome of the vote on this proposal will affect how Colorado's electoral votes are allocated in 2004.

Estimate of Fiscal Impact

This proposal does not significantly affect state or local expenditures.

**Amendment 37
Renewable Energy Requirement**

The proposed amendment to the Colorado Revised Statutes:

requires certain Colorado utilities to generate or purchase a portion of their electric power from renewable energy resources beginning in 2007;

defines the renewable energy resources that may be used to meet the requirement;

limits the amount that an average residential electric bill can increase as a result of the requirement to 50 cents per month;

provides financial incentives to certain customers and utilities to invest in renewable energy; and

allows a utility to hold an election to either exempt or include itself in the renewable energy requirement.

Background

Colorado is served by 60 utilities that generate electricity using primarily coal and natural gas, and some hydroelectric power. Colorado utilities are not required to use renewable energy sources to generate electricity; however, roughly 2 percent of electricity currently generated in Colorado comes from the renewable energy sources defined in this proposal. To date, 16 other states have adopted renewable energy requirements. The maximum amount and source of the renewable energy vary by state, ranging from 1.1 percent of the total electricity generated in Arizona (mostly solar) to 30 percent in Maine (mostly hydroelectric).

The proposal requires Colorado utilities with 40,000 or more customers to generate or purchase a percentage of their electricity from renewable sources according to the following schedule:

- 3 percent from 2007 through 2010;
- 6 percent from 2011 through 2014; and
- 10 percent by 2015 and thereafter.

Of the electricity generated each year from renewable sources, at least 4 percent must come from solar technologies. Initially, nine Colorado utilities serving over 80 percent of the state's electric customers will be required to comply with this proposal.

Eligible sources of renewable energy. Utilities may use a variety of renewable energy sources to satisfy the new requirement. These are: wind; solar; geothermal heat, such as underground reservoirs of steam or hot water; biomass facilities that burn nontoxic plants, methane from landfills, or animal waste; small hydroelectric power stations; and hydrogen fuel cells.

Financial incentives. Under the proposal, utility customers may earn a rebate for installing solar electric generation equipment on their property. Any electricity generated from the solar equipment in excess of the customer's annual use may be sold to the utility. In addition, for-profit utilities may earn extra profit and bonuses if their investment in renewable energy technologies reduces the retail cost of electricity to their customers.

Tradeable renewable energy credit system. A system of tradeable renewable energy credits will allow utilities that do not generate the required amount of electricity from renewable energy sources to purchase "credits" from those utilities that exceed the requirement.

Procedure for exemption and inclusion. Affected utilities may hold elections to exempt themselves from the renewable energy requirement. Similarly, utilities not subject to the requirement may hold elections to be included. At least 25 percent of the utility's customers must vote on the issue of exemption or inclusion, with a majority vote required for passage. In addition, a municipal utility or a rural electric cooperative may develop a similar renewable energy requirement and be exempted from this proposal. To qualify, the utility must: 1) use at least one of the eligible renewable energy sources, 2) follow the same schedule for electricity generation from renewable sources, and 3) offer an optional pricing program that allows customers to support emerging renewable technologies. Utilities that choose this option are not required to generate electricity from solar sources.

Role of the Colorado Public Utilities Commission.

The Public Utilities Commission must adopt rules to implement this proposal. The Commission will monitor and enforce the compliance of those utilities required to meet the new renewable energy requirements.

Arguments For

1) Using renewable energy makes economic sense.

Conventional fuels are finite, while renewable energy sources are unlimited. As time passes, supplies of coal and natural gas will diminish and these resources will likely become more expensive. In contrast, the price of renewable energy will decrease as technologies improve. Generating a percentage of electricity from renewable resources contributes to energy diversity and reduces Colorado's vulnerability to fluctuations in the price or supply of fuel.

2) Electricity generated from renewable sources has less

harmful environmental impacts than electricity generated from conventional fuels. The environmental benefits of using renewable energy include cleaner air and water, more efficient use of water, and less damage to the landscape. Both coal and natural gas-fired power plants emit significant amounts of air pollutants. According to the federal Environmental Protection Agency, generating 10 percent of electricity from renewable sources is roughly equal to eliminating the carbon dioxide emissions from 600,000 cars annually.

3) Using a variety of resources to meet Colorado's increasing

electricity needs will improve the stability and security of Colorado's electricity supply. Increasing Colorado's use of renewable energy will reduce its dependence on conventional fuels. The state must prepare for the future by requiring a percentage of its electricity to be generated from renewable resources.

4) Renewable energy facilities, typically located in rural areas,

boost rural economies. The construction and maintenance of renewable energy facilities will create jobs in rural Colorado. Some farmers and ranchers will be able to tap into a new source of income by using agricultural waste to generate electricity and by leasing their land for wind facilities. In addition, renewable energy

facilities provide tax revenues that can be used by local governments to pay for services such as schools and hospitals.

Arguments Against

1) Electricity generated from renewable resources is oftentimes more expensive than electricity generated from conventional fuels. Colorado utilities with over 40,000 customers will be required to generate electricity from renewable resources, regardless of cost. Currently, utilities generate electricity using the least expensive fuel source. The proposal requires at least 4 percent of renewable energy to come from solar sources, one of the most expensive renewable energy sources. The proposal also prohibits utilities from counting electricity generated from large hydroelectric projects that are already in place toward the new requirement.

2) Consumers may pay more for electricity under this proposal. Utilities will pass any additional costs on to consumers, such as those for building or acquiring more transmission lines. While the proposal caps the amount that an average residential electric bill can increase as a result of the renewable energy requirement, it provides no such cap for non-residential customers such as business, industrial, government, or wholesale.

3) Colorado requires a continual and reliable means of energy production. A certain amount of electricity must be available at all times, and a certain amount must be maintained in reserve. Renewable energy, especially wind and solar resources, are intermittent and may not be available when needed. This could cause problems during peak energy demand periods or in emergencies.

4) The use of renewable resources should be a choice not a mandate. Colorado utilities are already using renewable energy resources when they are cost-effective. Further, most utilities have programs that give customers the option to purchase all or a share of their electricity from renewable sources.

Estimate of Fiscal Impact

State impact. The renewable energy requirement will be administered by the Colorado Public Utilities Commission. Average annual administrative costs to the Commission are estimated at roughly \$60,000, with the potential for an additional one-time start-up cost of up to \$80,000. These costs will be covered by fees charged to affected utilities. In addition, to the extent that this proposal changes retail electricity rates, state and local governments will see changes to their electric utility bills.

Impact on retail electricity rates. Changes in retail electricity rates as a result of this proposal will vary by service provider, and will depend upon several factors, including:

- the amount of renewable generation the provider has installed versus the amount it must acquire from other providers in the form of renewable energy credits;
- the cost difference of generating electricity from renewable sources versus conventional fuel sources;
- the price of natural gas and coal;
- whether federal tax credits for renewable energy facilities are available;
- the amount of solar generation the provider currently has in place; and
- the number of customers choosing to install on-site solar facilities.

Referendum A State Personnel System

The proposed amendment to the Colorado Constitution:

exempts about 140 additional state employees from the state civil service system, also known as the state personnel system;

changes testing and hiring procedures for filling vacancies in the state personnel system;

transfers certain oversight responsibilities from the State Personnel Board to the executive director of the Department of Personnel and Administration;

allows the legislature to change certain state personnel policies and procedures by law; and

expands veterans' hiring preferences to include members of the National Guard.

Background

What is the state personnel system? Colorado voters amended the state constitution in 1918 to create the state personnel system. It requires that state employees be hired and promoted according to merit. This proposal makes a number of changes to the constitution and in certain instances gives the legislature the authority to change the personnel system.

Currently, there are about 31,000 state employees in the state personnel system. Most are employees of the state's 19 departments, and some are employees of state higher education institutions. About 29,000 additional state employees are exempt from the state personnel system, including department heads, faculty of public universities, and employees of the legislature, the Governor's Office, and the state courts. This proposal exempts an additional 0.45 percent of the number of employees in the state personnel system, or about 140 senior state officers and support staff combined. Table 1 shows the personnel system employment requirements under the constitution and this proposal.

Table 1: Current and Proposed State Personnel System

Issue	The Current Personnel System:	The Proposed Personnel System:
Hiring and Promotions	Prohibits discrimination based on race, religion, and political affiliation.	Adds prohibitions on discrimination based on sex and age, unless otherwise permitted by law.
Residency	Requires state employees to reside in Colorado.	Allows the legislature to make exceptions to the Colorado residency requirement, provided employees are United States residents.
Discipline	Sets criteria for disciplining an employee in the constitution.	Allows the legislature to address certain disciplinary policies in law.
Temporary Employees	Limits temporary employment to six months.	Limits temporary employment to nine months in any 12-month period.

How is the state personnel system governed? The five-member State Personnel Board sets the policy for the state personnel system, and the executive director of the Department of Personnel and Administration takes care of day-to-day operations. Table 2 describes the current duties of the board and the executive director and the proposed changes.

Table 2: Oversight of State Personnel System

Issue	The Current Personnel System:	The Proposed Personnel System:
Board Membership	Limits members' terms to five years. Prohibits state employees from serving on the board.	Limits members' terms to two five-year terms. Allows state employees to serve on the board.
Board Duties	Requires the board to make rules governing the state personnel system and to hear appeals from employees and job applicants.	Transfers the board's rule-making authority over hiring, job classifications, compensation, performance standards, and voluntary departures to the executive director. Retains the board's powers over grievances, discipline, involuntary dismissals, and appeals. Allows the legislature to transfer duties between the board and executive director.
Executive Director Duties	Manages the state personnel system and approves temporary employment of up to six months.	Expands the executive director's duties to include rule-making over hiring, job classifications, compensation, performance standards, and voluntary departures.

How are job applicants hired? Current law identifies how employees are hired and promoted. Table 3 describes current law pertaining to testing and hiring procedures and the proposed changes.

Table 3: Hiring of State Personnel System Employees

Issue	The Current Personnel System:	The Proposed Personnel System:
Testing	Requires applicants for jobs in the state personnel system to be hired based on competitive testing.	Requires job applicants to be hired based on a comparison of qualifications. Requires the legislature to determine the methods for comparing applicants.
Interview Eligibility List	Limits the eligibility list to the three highest scoring applicants.	Increases the eligibility list to six applicants.
Veterans' Preference	Adds preference points to the passing test scores of veterans who served during war time.	Extends the preference to National Guard veterans who served during war time. Requires that all veterans who served during war time be interviewed if scored testing is not used.

How will this proposal be implemented? During the 2004 legislative session, a state law was passed that defines procedures and sets limits on issues addressed in this proposal. Most of the law will go into effect only if this proposal is adopted. Among other provisions, the bill prohibits more than 15 exempt officers and employees in any department and changes the laws regulating contracts for services. Table 4 shows the current limits on such contracts and the new requirements.

Table 4: Contracts for Services

Issue	Current Service Contract Law:	House Bill 04-1373:
Service Contracts	Permits contracting only for state government functions not traditionally performed by employees in the state personnel system. Prohibits contracts that eliminate a position within the state personnel system.	Repeals current law pertaining to when the state may use contracts for services. Allows contracts for all state government functions as long as the security of state, local, and national information systems are not compromised. Allows positions to be eliminated as long as employees are moved to new positions within the state personnel system.
Notice and Appeal	Not addressed in law.	Requires notification of the public and affected employees prior to eliminating jobs in the state personnel system. Allows employees to request a review of the contract by the executive director of the Department of Personnel and Administration and the courts.
Contract Oversight	Requires contract approval by the Department of Personnel and Administration executive director.	Requires approval by the contracting department's executive director.
Foreign Contractors	Not addressed in law.	Permits, if the contract maintains quality of service, protects privacy, and discloses work performed outside the United States.

Arguments For

1) The constitution needs to be updated to allow the state's workforce to keep pace with the work environment of the 21st Century. The state personnel system has not changed significantly in the past 85 years. This proposal increases the flexibility of the personnel system by eliminating unnecessary detail from the constitution and allowing the legislature to adjust the system to respond to changing circumstances. Colorado is one of only 15 states whose personnel system is tied to the state constitution. Requiring a vote of the people every time an aspect of the system becomes outdated or unworkable is inefficient.

2) Taxpayer money should be used to hire the best candidate for a job. The current personnel system favors people who are the best test takers, not necessarily the most qualified candidates. This proposal helps ensure that the best candidate is hired by expanding the pool of eligible candidates and allowing a more effective comparison of desired job qualifications.

3) This proposal allows a governor's administration to select about 140 more individuals who share the governor's values to carry out the administration's policies. The state personnel system has grown from about 1,000 employees in 1916 to over 31,000 in 2004. However, the ability of a governor and the administration to appoint high-level state administrators has not changed. With this proposal, future governors will be able to get off to a quick start on their policy initiatives because senior personnel from past administrations can be easily replaced.

4) The state will spend taxpayer money wisely if it can hire well-qualified employees and improve the use of service contracts, resulting in an efficient personnel system that provides high quality services. Further, all state contracts will continue to be subject to current purchasing, financial, employee conduct, and disclosure requirements. These requirements protect the new system against awarding contracts as political favors.

Arguments Against

1) This proposal gives governors and their appointees too much power to control state government. Each administration will be given about 140 additional appointments. Also, the governor-appointed executive director of the Department of Personnel and Administration will now have policy-making authority over areas of the personnel system that the State Personnel Board has traditionally overseen. Those areas include hiring, job classifications, compensation, performance standards, and voluntary departures. The proposal also allows the legislature to shift further power from the State Personnel Board to the executive director. Making the personnel system subject to annual changes by the legislature could disrupt the personnel system. These changes combined may make the state personnel system less predictable and vulnerable to abuse.

2) Comparing applicant qualifications, rather than testing, could be manipulated to allow state employees to be hired based on their political connections and not on merit. Testing candidates to determine the best candidate for a job is the most efficient and fair way to hire employees.

3) More contracting with private companies could shift jobs out of Colorado to other states and countries. Also, there is no guarantee that unregulated contract workers will provide services to the state in the most cost-effective manner. State contracts awarded by appointees may lead to abuses if contracts are used as political favors.

4) This proposal could result in more political appointees. More political appointees in management positions may not lead to better state government. Instead, institutional knowledge will be lost as experienced senior personnel system employees are displaced by appointees who may not have the necessary skills to perform the job.

Estimate of Fiscal Impact

This proposal is not expected to significantly affect state or local expenditures.

**Referendum B
Obsolete Constitutional Provisions**

The proposed amendment to the Colorado Constitution:

removes provisions that are obsolete;

strikes references to one-time events that have already occurred; and

removes voting requirements found unconstitutional by the Colorado Supreme Court in 1972.

Background

Obsolete provisions. A requirement that the Superintendent of Public Instruction serve as the state librarian is deleted because the superintendent position no longer exists. The Commissioner of Education replaced the Superintendent of Public Instruction in 1948. A provision concerning the eligibility of a person living in a poorhouse to vote or run for office is also deleted. Poorhouses, or publicly supported homes for the poor, no longer exist in Colorado.

References to one-time events. The constitution required all agencies of state government to be divided among no more than 20 state departments by June 30, 1968. This requirement stemmed from a major reorganization of state government in the 1960s. The proposal removes the reference to June 30, 1968, but does not change the limit on the number of departments. The proposal also removes language regarding the expiration of terms for former State Board of Land Commissioners since they are no longer in office.

Unconstitutional provisions. The proposal strikes a requirement in one section of the constitution that citizens live in the state for three months before being eligible to vote and a requirement in another section that citizens live in the state for at least one year before being eligible to vote. The Colorado Supreme Court held in 1972 that voting is a fundamental right that cannot be limited by imposing a three-month residency requirement. The court based its ruling on a U.S. Supreme Court decision that a

similar residency requirement violated the U.S. Constitution. State law currently establishes a 30-day residency requirement for voters for all elections.

Argument For

1) The proposal continues an effort to update the constitution by deleting unconstitutional and outdated language. Unconstitutional language can be confusing and misleading to readers who do not know the language has been nullified by a court. Outdated language clutters the constitution.

Argument Against

1) All provisions of the constitution have historical significance. Removing these provisions may diminish the historical character of the constitution and make research of constitutional provisions and state laws more difficult.

Estimate of Fiscal Impact

The proposal does not affect state or local revenues or expenditures.

TITLES AND TEXT

Amendment 34 Construction Liability

Ballot Title: An amendment to the Colorado constitution concerning recovery of damages relating to construction of real property improvements, and, in connection therewith, prohibiting laws that limit or impair a property owner's right to recover damages caused by a failure to construct an improvement in a good and workmanlike manner; defining "good and workmanlike manner" to include construction that is suitable for its intended purposes; and permitting exceptions for laws that limit punitive damages, afford governmental immunity, or impose time limits of specified minimum lengths on filing lawsuits.

Text of Proposed Amendment:

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

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

Section 15. Protection of property owner's right to workmanlike construction. NO LAW SHALL LIMIT OR IMPAIR A PUBLIC OR PRIVATE PROPERTY OWNER'S RIGHT TO RECOVER DAMAGES, OTHER THAN PUNITIVE DAMAGES, CAUSED BY THE FAILURE TO CONSTRUCT AN IMPROVEMENT TO REAL PROPERTY IN A GOOD AND WORKMANLIKE MANNER. STATUTES OF LIMITATIONS OF NOT LESS THAN TWO YEARS AND STATUTES OF REPOSE OF NOT LESS THAN SIX YEARS, AS WELL AS LAWS AFFORDING GOVERNMENTAL IMMUNITY, SHALL BE PERMITTED. CONSTRUCTION IN A "GOOD AND WORKMANLIKE MANNER" SHALL INCLUDE, WITHOUT LIMITATION, CONSTRUCTION SO THAT THE IMPROVEMENT TO REAL PROPERTY IS SUITABLE FOR ITS INTENDED PURPOSES. THIS SECTION SHALL BE STRICTLY ENFORCED.

TITLES AND TEXT

Amendment 35
Tobacco Tax Increase for Health-Related Purposes

Ballot Title: STATE TAXES SHALL BE INCREASED \$175 MILLION ANNUALLY THROUGH ADDITIONAL TOBACCO TAXES IMPOSED FOR HEALTH RELATED PURPOSES, AND, IN CONNECTION THEREWITH, AMENDING THE COLORADO CONSTITUTION TO INCREASE STATEWIDE TAXES ON THE SALE OF CIGARETTES BY WHOLESALERS OF THREE AND TWO-TENTHS CENTS PER CIGARETTE AND ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF OTHER TOBACCO PRODUCTS BY DISTRIBUTORS AT THE RATE OF TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE; INCREASING SUCH TOBACCO TAXES EFFECTIVE JANUARY 1, 2005; REQUIRING ANNUAL APPROPRIATIONS OF SPECIFIED PERCENTAGES OF THE ADDITIONAL TOBACCO TAX REVENUES TO EXPAND ELIGIBILITY FOR AND INCREASE ENROLLMENT IN THE CHILDREN'S BASIC HEALTH PLAN, TO FUND COMPREHENSIVE PRIMARY MEDICAL CARE THROUGH CERTAIN COLORADO QUALIFIED PROVIDERS, TOBACCO EDUCATION PROGRAMS, AND PREVENTION, EARLY DETECTION, AND TREATMENT OF CANCER AND CARDIOVASCULAR AND PULMONARY DISEASES, TO COMPENSATE THE STATE GENERAL FUND, THE OLD AGE PENSION FUND, AND LOCAL GOVERNMENTS FOR TOBACCO TAX LOSSES RESULTING FROM REDUCED SALES OF CIGARETTES AND TOBACCO PRODUCTS; SPECIFYING THAT THE APPROPRIATIONS OF ADDITIONAL TOBACCO TAX REVENUES SHALL BE IN ADDITION TO AND NOT SUBSTITUTED FOR APPROPRIATIONS FOR SUCH PROGRAMS ON JANUARY 1, 2005; ALLOWING THE USE OF ADDITIONAL TOBACCO TAX REVENUES FOR ANY HEALTH RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM AS OF JANUARY 1, 2005, UPON A DECLARATION OF A STATE FISCAL EMERGENCY BY TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE GENERAL ASSEMBLY AND THE GOVERNOR; PROHIBITING THE REPEAL OR REDUCTION OF EXISTING TAXES IMPOSED ON CIGARETTES AND OTHER TOBACCO PRODUCTS; EXCLUDING ALL ADDITIONAL TOBACCO TAX REVENUES FROM FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION; AND EXEMPTING APPROPRIATIONS OF ADDITIONAL TOBACCO TAX REVENUES FROM THE STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH OR ANY OTHER EXISTING SPENDING LIMITATION.

Text of Proposal:

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

Article X of the Constitution of the State of Colorado is hereby amended BY THE ADDITION OF A NEW SECTION to read:

Section 21. Tobacco Taxes for Health Related Purposes.

(1) THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND THAT TOBACCO ADDICTION IS THE LEADING CAUSE OF PREVENTABLE DEATH IN COLORADO, THAT COLORADO SHOULD DETER CHILDREN AND YOUTH FROM STARTING SMOKING, THAT CIGARETTE AND TOBACCO TAXES ARE EFFECTIVE AT PREVENTING AND REDUCING TOBACCO USE AMONG CHILDREN AND YOUTH, AND THAT TOBACCO TAX REVENUES WILL BE USED TO EXPAND HEALTH CARE FOR CHILDREN AND LOW INCOME POPULATIONS, TOBACCO EDUCATION PROGRAMS AND THE PREVENTION AND TREATMENT OF CANCER AND HEART AND LUNG DISEASE.

(2) THERE ARE HEREBY IMPOSED THE FOLLOWING ADDITIONAL CIGARETTE AND TOBACCO TAXES:

(a) STATEWIDE CIGARETTE TAX, ON THE SALE OF CIGARETTES BY WHOLESALERS, AT THE RATE OF THREE AND TWO-TENTHS CENTS PER CIGARETTE (64 CENTS PER PACK OF TWENTY); AND

(b) A STATEWIDE TOBACCO PRODUCTS TAX, ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF TOBACCO PRODUCTS BY DISTRIBUTORS, AT THE RATE OF TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE.

(3) THE CIGARETTE AND TOBACCO TAXES IMPOSED BY THIS SECTION SHALL BE IN ADDITION TO ANY OTHER CIGARETTE AND TOBACCO TAXES EXISTING AS OF THE EFFECTIVE DATE OF THIS SECTION ON THE SALE OR USE OF CIGARETTES BY WHOLESALERS AND ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF TOBACCO PRODUCTS BY DISTRIBUTORS. SUCH EXISTING TAXES AND THEIR DISTRIBUTION SHALL NOT BE REPEALED OR REDUCED BY THE GENERAL ASSEMBLY.

(4) ALL REVENUES RECEIVED BY OPERATION OF SUBSECTION (2) SHALL BE EXCLUDED FROM FISCAL YEAR SPENDING, AS THAT TERM IS DEFINED IN SECTION 20 OF ARTICLE X OF THIS CONSTITUTION, AND THE CORRESPONDING SPENDING LIMITS UPON STATE GOVERNMENT AND ALL LOCAL GOVERNMENTS RECEIVING SUCH REVENUES.

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(5) THE REVENUES GENERATED BY OPERATION OF SUBSECTION (2) SHALL BE APPROPRIATED ANNUALLY BY THE GENERAL ASSEMBLY ONLY IN THE FOLLOWING PROPORTIONS AND FOR THE FOLLOWING HEALTH RELATED PURPOSES:

(a) FORTY-SIX PERCENT (46%) OF SUCH REVENUES SHALL BE APPROPRIATED TO INCREASE THE NUMBER OF CHILDREN AND PREGNANT WOMEN ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN ABOVE THE AVERAGE ENROLLMENT FOR STATE FISCAL YEAR 2004, ADD THE PARENTS OF ENROLLED CHILDREN, AND EXPAND ELIGIBILITY OF LOW INCOME ADULTS AND CHILDREN WHO RECEIVE MEDICAL CARE THROUGH THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 19 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, OR THROUGH THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLE 4 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT.

(b) NINETEEN PERCENT (19%) OF SUCH REVENUES SHALL BE APPROPRIATED TO FUND COMPREHENSIVE PRIMARY CARE THROUGH ANY COLORADO QUALIFIED PROVIDER, AS DEFINED IN THE "COLORADO MEDICAL ASSISTANCE ACT," ARTICLE 4 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, THAT MEETS EITHER OF THE FOLLOWING CRITERIA:

(I) IS A COMMUNITY HEALTH CENTER AS DEFINED IN SECTION 330 OF THE U.S. PUBLIC HEALTH SERVICES ACT, OR ANY SUCCESSOR ACT; OR

(II) AT LEAST 50% OF THE PATIENTS SERVED BY THE QUALIFIED PROVIDER ARE UNINSURED OR MEDICALLY INDIGENT AS DEFINED IN THE "COLORADO MEDICAL ASSISTANCE ACT," ARTICLE 4 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, OR ARE ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN OR THE COLORADO MEDICAL ASSISTANCE PROGRAM, OR SUCCESSOR PROGRAMS.

SUCH REVENUES SHALL BE APPROPRIATED TO THE COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, OR SUCCESSOR AGENCY, AND SHALL BE DISTRIBUTED ANNUALLY TO ALL ELIGIBLE QUALIFIED PROVIDERS THROUGHOUT THE STATE PROPORTIONATE TO THE NUMBER OF UNINSURED OR MEDICALLY INDIGENT PATIENTS SERVED.

(c) SIXTEEN PERCENT (16%) OF SUCH REVENUES SHALL BE APPROPRIATED FOR SCHOOL AND COMMUNITY-BASED AND STATEWIDE TOBACCO EDUCATION PROGRAMS DESIGNED TO REDUCE INITIATION OF TOBACCO USE BY CHILDREN AND YOUTH, PROMOTE CESSATION OF TOBACCO USE AMONG YOUTH AND ADULTS, AND REDUCE EXPOSURE TO SECOND-HAND SMOKE. SUCH REVENUES SHALL BE APPROPRIATED THROUGH THE "TOBACCO EDUCATION, PREVENTION AND CESSATION ACT", PART 8 OF ARTICLE 3.5 OF TITLE 25, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT.

(d) SIXTEEN PERCENT (16%) OF SUCH REVENUES SHALL BE APPROPRIATED FOR THE PREVENTION, EARLY DETECTION, AND TREATMENT OF CANCER AND CARDIOVASCULAR AND PULMONARY DISEASES. SUCH REVENUES SHALL BE APPROPRIATED TO THE PREVENTION SERVICES DIVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR SUCCESSOR AGENCY, AND SHALL BE DISTRIBUTED STATEWIDE WITH OVERSIGHT AND ACCOUNTABILITY BY THE COLORADO STATE BOARD OF HEALTH CREATED BY ARTICLE 1 OF TITLE 25, COLORADO REVISED STATUTES.

(e) THREE PERCENT (3%) OF SUCH REVENUES SHALL BE APPROPRIATED FOR HEALTH RELATED PURPOSES TO PROVIDE REVENUE FOR THE STATE'S GENERAL FUND, OLD AGE PENSION FUND, AND MUNICIPAL AND COUNTY GOVERNMENTS TO COMPENSATE PROPORTIONATELY FOR TAX REVENUE REDUCTIONS ATTRIBUTABLE TO LOWER CIGARETTE AND TOBACCO SALES RESULTING FROM THE IMPLEMENTATION OF THIS TAX.

(6) REVENUES APPROPRIATED PURSUANT TO PARAGRAPHS (a), (b), AND (d) OF SUBSECTION (5) SHALL BE USED TO SUPPLEMENT REVENUES THAT ARE APPROPRIATED BY THE GENERAL ASSEMBLY FOR HEALTH RELATED PURPOSES ON THE EFFECTIVE DATE OF THIS SECTION, AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED REVENUES.

(7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY MAY USE REVENUE GENERATED UNDER THIS SECTION FOR ANY HEALTH RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM AT THEIR RESPECTIVE LEVELS OF ENROLLMENT ON THE EFFECTIVE DATE OF THIS SECTION. SUCH USE OF REVENUE MUST BE PRECEDED BY A DECLARATION OF A STATE FISCAL EMERGENCY, WHICH SHALL BE ADOPTED ONLY BY A JOINT RESOLUTION, APPROVED BY A TWO-THIRDS MAJORITY VOTE OF THE MEMBERS OF BOTH HOUSES OF THE GENERAL ASSEMBLY AND THE GOVERNOR. SUCH DECLARATION SHALL APPLY ONLY TO A SINGLE FISCAL YEAR.

(8) REVENUES APPROPRIATED PURSUANT TO SUBSECTIONS (5) AND (7) OF THIS SECTION SHALL NOT BE SUBJECT TO THE STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH OR ANY OTHER SPENDING LIMITATION EXISTING IN LAW.

(9) THIS SECTION IS EFFECTIVE JANUARY 1, 2005.

TITLES AND TEXT

Amendment 36
Selection of Presidential Electors

Ballot Title: An amendment to the Colorado constitution concerning popular proportional selection of presidential electors, and, in connection therewith, creating procedures for allocating Colorado's electoral votes for president and vice-president of the United States, based on the proportion of ballots that are cast in this state for each presidential ticket; making the terms of the proposed amendment effective so that popular proportional selection of presidential electors applies to the 2004 general election; setting forth procedures and timelines that govern the certification of election results and the potential recounting of votes in elections for presidential electors and in the election on this proposed amendment; granting the Colorado supreme court original jurisdiction for the adjudication of all contests concerning presidential electors and requiring that such matters be heard and decided on an expedited basis; and authorizing the general assembly to enact legislation to change the manner of selecting presidential electors or any of the procedures contained in this amendment.

Text of Proposal:

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

ARTICLE VII OF THE CONSTITUTION is amended BY THE ADDITION OF A NEW SECTION, to read:

Section 13. Popular proportional selection of presidential electors.

(1) THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND AND DECLARE THAT:

(a) THE UNITED STATES CONSTITUTION DELEGATES TO EACH STATE THE METHOD OF CHOOSING PRESIDENTIAL ELECTORS WHO ARE CHARGED WITH CASTING VOTES IN THE ELECTORAL COLLEGE FOR THE OFFICES OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;

(b) THE COLORADO CONSTITUTION RESERVES TO THE PEOPLE OF THIS STATE THE RIGHT TO ACT IN THE PLACE OF THE STATE LEGISLATURE IN ANY LEGISLATIVE MATTER, AND THROUGH ENACTMENT OF THIS SECTION, THE PEOPLE DO HEREBY ACT AS THE LEGISLATURE OF COLORADO FOR THE PURPOSE OF CHANGING THE MANNER OF ELECTING PRESIDENTIAL ELECTORS IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE II, SECTION 1 OF THE UNITED STATES CONSTITUTION;

(c) THE RIGHT TO VOTE FOR PRESIDENT OF THE UNITED STATES IS A FUNDAMENTAL RIGHT AND EACH PERSON'S VOTE IS ENTITLED TO EQUAL DIGNITY AND SHOULD COUNT EQUALLY;

(d) THE PRESENT WINNER-TAKE-ALL METHOD OF AWARDING PRESIDENTIAL ELECTORS IN COLORADO PERMITS A PRESIDENTIAL TICKET TO RECEIVE ALL OF THIS STATE'S ELECTORAL VOTES EVEN THOUGH IT WINS LESS THAN A MAJORITY OF THE BALLOTS CAST IN THIS STATE;

(e) THE WILL OF THE COLORADO ELECTORATE IS BEST REFLECTED BY THE POPULAR PROPORTIONAL ALLOCATION OF ELECTORAL COLLEGE REPRESENTATIVES, BASED ON THE NUMBER OF BALLOTS CAST FOR THE RESPECTIVE PRESIDENTIAL TICKETS IN THIS STATE; AND

(f) IN THE STRONGEST POSSIBLE TERMS, THE VOTERS OF COLORADO DECLARE THAT, BY APPROVING THIS INITIATIVE, THEY UNDERSTAND, DESIRE, AND EXPECT THAT THE POPULAR PROPORTIONAL SELECTION OF PRESIDENTIAL ELECTORS IS INTENDED TO APPLY RETROACTIVELY AND THUS DETERMINE THE MANNER IN WHICH OUR STATE'S PRESIDENTIAL ELECTORS ARE CHOSEN AND OUR STATE'S ELECTORAL VOTES ARE CAST FOR THE GENERAL ELECTION OF 2004.

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(2) THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED SHALL BE DIVIDED AMONG THE PRESIDENTIAL TICKETS ON THE GENERAL ELECTION BALLOT, BASED UPON THE POPULAR PROPORTIONAL SHARE OF THE TOTAL STATEWIDE BALLOTS CAST FOR EACH PRESIDENTIAL TICKET, SUBJECT TO SUBSECTIONS (3) AND (4) OF THIS SECTION. EACH PRESIDENTIAL ELECTOR SHALL VOTE FOR THE PRESIDENTIAL CANDIDATE AND, BY SEPARATE BALLOT, VICE-PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL TICKET OF THE POLITICAL PARTY OR POLITICAL ORGANIZATION THAT NOMINATED THAT PRESIDENTIAL ELECTOR.

(3) THE ALLOCATION OF A PRESIDENTIAL TICKET'S POPULAR PROPORTION OF THIS STATE'S ELECTORAL VOTES SHALL BE IN WHOLE NUMBERS AND SHALL BE MADE IN THE FOLLOWING MANNER:

(a) THE TOTAL NUMBER OF BALLOTS CAST IN THIS STATE FOR EACH PRESIDENTIAL TICKET AT A GENERAL ELECTION SHALL BE DIVIDED BY THE TOTAL NUMBER OF BALLOTS CAST FOR ALL PRESIDENTIAL TICKETS THAT RECEIVE VOTES AT THAT GENERAL ELECTION; AND

(b) THE PROPORTION OF A PRESIDENTIAL TICKET'S POPULAR VOTE, AS DETERMINED IN PARAGRAPH (a) OF THIS SUBSECTION, SHALL BE MULTIPLIED BY THE NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED.

(4) THE NUMBER OF ELECTORAL VOTES THAT IS ATTRIBUTABLE TO THE BALLOTS CAST FOR ANY PRESIDENTIAL TICKET, AS DETERMINED IN SUBSECTION (3) OF THIS SECTION, SHALL BE ROUNDED TO THE NEAREST WHOLE NUMBER, SUBJECT TO THE FOLLOWING LIMITATIONS.

(a) NO PRESIDENTIAL TICKET SHALL RECEIVE ANY ELECTORAL VOTES FROM THIS STATE IF ITS PROPORTION OF THE TOTAL BALLOTS CAST FOR ALL PRESIDENTIAL TICKETS WOULD REFLECT LESS THAN A FULL ELECTORAL VOTE AFTER ROUNDING TO THE NEAREST WHOLE NUMBER.

(b) IF THE SUM OF ELECTORAL VOTES ALLOCATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION IS GREATER THAN THE NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED:

(I) THE ALLOCATION OF ELECTORAL VOTES TO THE PRESIDENTIAL TICKET RECEIVING AT LEAST ONE ELECTORAL VOTE AND THE FEWEST NUMBER OF BALLOTS CAST SHALL BE REDUCED BY WHOLE ELECTORAL VOTES UNTIL ONLY THAT NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED HAVE BEEN ALLOCATED; AND

(II) THE PROCESS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE REPEATED IF, AFTER THE REDUCTION OF ELECTORAL VOTES AS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE TOTAL NUMBER OF ELECTORAL VOTES ALLOCATED TO ALL PRESIDENTIAL TICKETS REMAINS GREATER THAN THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH THIS STATE IS ENTITLED, AND SUCH PROCESS SHALL BE APPLIED TO THE PRESIDENTIAL TICKET RECEIVING AT LEAST ONE ELECTORAL VOTE AND THE NEXT FEWEST NUMBER OF BALLOTS CAST UNTIL THE TOTAL NUMBER OF ELECTORAL VOTES ALLOCATED TO ALL PRESIDENTIAL TICKETS IS EQUAL TO THE TOTAL NUMBER OF ELECTORAL VOTES TO WHICH THIS STATE IS ENTITLED.

(c) IF THE SUM OF ALL ELECTORAL VOTES ALLOCATED WOULD BE LESS THAN THE NUMBER OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED, THE PRESIDENTIAL TICKET RECEIVING THE GREATEST NUMBER OF BALLOTS CAST SHALL RECEIVE ANY UNALLOCATED ELECTORAL VOTES UNTIL ALL OF THE ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED HAVE BEEN ALLOCATED.

(d) IF TWO OR MORE PRESIDENTIAL TICKETS RECEIVE THE IDENTICAL TOTAL NUMBER OF BALLOTS CAST FOR ALL PRESIDENTIAL TICKETS AND THE ALLOCATION OF ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED CANNOT

BE PROPORTIONALLY ALLOCATED IN WHOLE ELECTORAL VOTES TO THESE PRESIDENTIAL TICKETS, THE SECRETARY OF STATE SHALL DETERMINE BY LOT WHICH OF THESE PRESIDENTIAL TICKETS WILL HAVE THEIR NUMBER OF ELECTORAL VOTES INCREASED OR DECREASED BY A WHOLE ELECTORAL VOTE UNTIL ALL OF THE ELECTORAL VOTES TO WHICH COLORADO IS ENTITLED HAVE BEEN ALLOCATED.

(5) (a) A RECOUNT OF BALLOTS CAST FOR AND AGAINST THIS INITIATIVE SHALL BE ORDERED BY THE SECRETARY OF STATE IF THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR AND AGAINST THIS INITIATIVE IS LESS THAN OR EQUAL TO ONE-HALF OF ONE PERCENT OF THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION ON THIS INITIATIVE. WHERE THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR AND AGAINST THIS INITIATIVE IS GREATER THAN ONE-HALF OF ONE PERCENT OF THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION ON THIS INITIATIVE, A RECOUNT IN CONNECTION WITH THIS INITIATIVE MAY BE REQUESTED BY A PETITION REPRESENTATIVE IDENTIFIED WITH THIS INITIATIVE OR THE REGISTERED AGENT OF AN ISSUE COMMITTEE OPPOSING THIS INITIATIVE; PROVIDED, HOWEVER, THAT ANY SUCH PERSON OR THE COMMITTEE WITH WHICH HE OR SHE IS ASSOCIATED SHALL PAY THE COST OF SUCH RECOUNT BEFORE THE SECRETARY MAY BEGIN THE RECOUNT, BUT IF THE PREVAILING SIDE IN THE ELECTION IS CHANGED THEREBY, SUCH AMOUNT SHALL BE REFUNDED.

(b) A RECOUNT SHALL BE ORDERED BY THE SECRETARY OF STATE IF:

(I) THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR ANY TWO PRESIDENTIAL TICKETS IS LESS THAN OR EQUAL TO ONE-HALF OF ONE PERCENT OF THE BALLOTS CAST FOR THE TICKET THAT RECEIVED THE MOST VOTES OF THE TWO PRESIDENTIAL TICKETS IN QUESTION; AND

(II) AT LEAST ONE OF THE TWO PRESIDENTIAL TICKETS, AS A RESULT OF SUCH RECOUNT, COULD QUALIFY FOR ONE OR MORE ADDITIONAL ELECTORAL VOTES.

WHERE THE DIFFERENCE BETWEEN THE NUMBER OF BALLOTS CAST FOR THE TWO PRESIDENTIAL TICKETS IN QUESTION IS GREATER THAN ONE-HALF OF ONE PERCENT OF THE BALLOTS CAST FOR THE TICKET THAT RECEIVED THE MOST VOTES AS BETWEEN THOSE TWO TICKETS, A RECOUNT FOR PRESIDENTIAL ELECTORS MAY BE REQUESTED BY A PRESIDENTIAL TICKET OR THE POLITICAL PARTY OR POLITICAL ORGANIZATION ASSOCIATED WITH SUCH TICKET; PROVIDED, HOWEVER, THAT ANY SUCH TICKET OR POLITICAL PARTY OR ORGANIZATION WITH WHICH IT IS ASSOCIATED SHALL PAY THE COST OF SUCH RECOUNT BEFORE THE

SECRETARY MAY BEGIN THE RECOUNT, BUT IF THE ELECTION RESULT IS CHANGED THEREBY AND AN ADDITIONAL ELECTORAL VOTE OR VOTES IS AWARDED TO THAT PRESIDENTIAL TICKET, SUCH AMOUNT SHALL BE REFUNDED.

(c) ANY RECOUNT AUTHORIZED PURSUANT TO THIS SUBSECTION SHALL BE ORDERED OR REQUESTED NOT LATER THAN 5:00 P.M ON THE TWENTY-THIRD DAY AFTER THE GENERAL ELECTION AT WHICH SUCH BALLOTS ARE CAST AND SHALL BE COMPLETED AND THE RESULT SHALL BE CERTIFIED BY THE SECRETARY OF STATE NOT LATER THAN CLOSE OF BUSINESS ON THE THIRTIETH DAY AFTER THE GENERAL ELECTION AT WHICH SUCH BALLOTS ARE CAST.

(6) FOR PURPOSES OF THIS SECTION ONLY AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONSTITUTION:

(a) THE RESULTS OF THE ELECTION ON THIS INITIATIVE SHALL BE OFFICIALLY DECLARED BY PROCLAMATION OF THE GOVERNOR WHICH SHALL BE ISSUED AFTER THE VOTES THEREON HAVE BEEN CANVASSED BUT BEFORE NOON ON:

(I) THE TWENTY-FOURTH DAY FOLLOWING THE GENERAL ELECTION, IF NO RECOUNT IS ORDERED OR REQUESTED; OR

(II) THE THIRTY-FIRST DAY FOLLOWING THE GENERAL ELECTION, IF A RECOUNT IS ORDERED OR REQUESTED.

(b) THE SECRETARY OF STATE SHALL CERTIFY THE ELECTION OF PRESIDENTIAL ELECTORS, AS DETERMINED PURSUANT TO THIS SECTION, BUT IN NO EVENT SHALL SUCH CERTIFICATION BE ISSUED LATER THAN 2:00 P.M. ON:

(I) THE TWENTY-FOURTH DAY FOLLOWING THE GENERAL ELECTION, IF NO RECOUNT IS ORDERED OR REQUESTED AS TO SUCH ELECTION; OR

(II) THE THIRTY-FIRST DAY FOLLOWING THE GENERAL ELECTION, IF A RECOUNT IS ORDERED OR REQUESTED AS TO SUCH ELECTION.

(c) THE ELECTION CERTIFICATION PROCESS REFERRED TO IN PARAGRAPH (b) OF THIS SUBSECTION SHALL APPLY TO THE BALLOTS CAST FOR PRESIDENTIAL TICKETS AT THE NOVEMBER 2, 2004 GENERAL ELECTION AND AT GENERAL ELECTIONS HELD AFTER 2004 AT WHICH PRESIDENTIAL TICKETS ARE ON THE STATEWIDE BALLOT.

(7) THE SECRETARY OF STATE SHALL DETERMINE BY LOT WHICH PRESIDENTIAL ELECTORS, NOMINATED IN CONJUNCTION WITH A PRESIDENTIAL TICKET THAT QUALIFIES FOR AT LEAST ONE ELECTORAL VOTE PURSUANT TO THIS SECTION, SHALL BE ENTITLED TO CAST ELECTORAL VOTES. FOR EACH PRESIDENTIAL

TICKET, THE SECRETARY OF STATE SHALL THEN DETERMINE BY LOT THE ORDER OF NOMINATED PRESIDENTIAL ELECTORS FOR THAT PRESIDENTIAL TICKET TO SERVE AS ALTERNATES IF ANY VACANCIES OCCUR IN THE OFFICE OF PRESIDENTIAL ELECTOR FOR THAT PRESIDENTIAL TICKET BECAUSE OF DEATH, REFUSAL TO ACT, ABSENCE OR OTHER CAUSE. SUCH DETERMINATIONS BY LOT PERFORMED BY THE SECRETARY OF STATE SHALL BE MADE BEFORE 3:00 P.M. OF THE TWENTY-FOURTH DAY FOLLOWING THE ELECTION IF NO RECOUNT IS ORDERED OR REQUESTED AND BEFORE 3:00 P.M. OF THE THIRTY-FIRST DAY FOLLOWING SUCH ELECTION IF A RECOUNT IS ORDERED OR REQUESTED. IF THE NUMBER OF NOMINATED PRESIDENTIAL ELECTORS FOR A PRESIDENTIAL TICKET IS INSUFFICIENT TO ALLOW THE SECRETARY OF STATE TO FILL A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR BY LOT, THE POLITICAL PARTY OR POLITICAL ORGANIZATION OF THE PRESIDENTIAL TICKET FOR WHICH THE VACANCY REMAINS SHALL NOMINATE THE NUMBER OF ADDITIONAL PRESIDENTIAL ELECTORS NECESSARY TO FILL THE VACANCY. THE SECRETARY OF STATE SHALL PREPARE A CERTIFICATE OF ELECTION FOR EACH PRESIDENTIAL ELECTOR ENTITLED TO CAST AN ELECTORAL VOTE. THE GOVERNOR SHALL SIGN AND AFFIX THE SEAL OF THE STATE TO THE CERTIFICATES AND DELIVER ONE CERTIFICATE TO EACH ELECTOR ON THE FIRST MONDAY AFTER THE SECOND WEDNESDAY OF DECEMBER FOLLOWING A GENERAL ELECTION.

(8) THE SUPREME COURT SHALL HAVE ORIGINAL JURISDICTION FOR THE ADJUDICATION OF ALL CONTESTS CONCERNING PRESIDENTIAL ELECTORS AND SHALL PRESCRIBE RULES FOR PRACTICE AND PROCEEDINGS FOR SUCH CONTESTS. CONTESTS CONCERNING THE ELECTION OF PRESIDENTIAL ELECTORS SHALL BE GIVEN THE HIGHEST PRIORITY ON THE COURT'S CALENDAR AND SHALL BE EXPEDITED IN ALL RESPECTS, INCLUDING HEARING AND DECISION. THE COURT SHALL RENDER ITS FINAL DECISION IN ANY CONTEST CONCERNING PRESIDENTIAL ELECTORS NOT LATER THAN THE FIRST FRIDAY AFTER THE SECOND WEDNESDAY OF DECEMBER FOLLOWING A GENERAL ELECTION. NO JUSTICE OF THE COURT WHO IS A CONTESTOR IN THE ELECTION CONTEST SHALL BE PERMITTED TO HEAR AND DETERMINE THE MATTER.

(9) THIS SECTION SHALL BE EFFECTIVE ON AND AFTER NOVEMBER 3, 2004.

(10) THIS SECTION SHALL BE LIBERALLY CONSTRUED TO ACHIEVE POPULAR PROPORTIONAL ALLOCATION OF PRESIDENTIAL ELECTORS AT THE 2004 GENERAL ELECTION.

(11) THE GENERAL ASSEMBLY MAY ENACT LEGISLATION TO CHANGE THE MANNER OF SELECTING PRESIDENTIAL ELECTORS OR ANY OF THE PROCEDURES RELATED THERETO.

(12) FOR PURPOSES OF THIS SECTION:

(a) "PRESIDENTIAL TICKET" MEANS CANDIDATES FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES WHO RUN FOR THEIR RESPECTIVE OFFICES JOINTLY IN COLORADO.

(b) "ROUNDED TO THE NEAREST WHOLE NUMBER" MEANS:

(I) INCREASED TO THE NEXT WHOLE NUMBER IF THE FRACTIONAL PROPORTION OF AN ELECTORAL VOTE ALLOCATED IS EQUAL TO OR GREATER THAN .5; AND

(II) DECREASED TO THE PRECEDING WHOLE NUMBER IF THE FRACTIONAL PROPORTION OF AN ELECTORAL VOTE ALLOCATED IS LESS THAN .5.

(c) "THIS INITIATIVE" MEANS THE VOTER-INITIATED CONSTITUTIONAL AMENDMENT, APPROVED AT THE NOVEMBER 2, 2004 GENERAL ELECTION, PROVIDING FOR POPULAR PROPORTIONAL SELECTION OF PRESIDENTIAL ELECTORS.

(d) "WHOLE NUMBER" MEANS A POSITIVE INTEGER, INCLUDING ZERO.

(13) IF ANY PROVISION OF THIS SECTION OR ANY PART THEREOF IS, FOR ANY REASON, HELD TO BE INVALID OR UNCONSTITUTIONAL, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL REMAIN IN FULL FORCE AND EFFECT, AND TO THIS END, THE PROVISIONS OF THIS SECTION ARE SEVERABLE.

Amendment 37
Renewable Energy Requirement

Ballot Title: An amendment to the Colorado revised statutes concerning renewable energy standards for large providers of retail electric service, and, in connection therewith, defining eligible renewable energy resources to include solar, wind, geothermal, biomass, small hydroelectricity, and hydrogen fuel cells; requiring that a percentage of retail electricity sales be derived from renewable sources, beginning with 3% in the year 2007 and increasing to 10% by 2015; requiring utilities to offer customers a rebate of \$2.00 per watt and other incentives for solar electric generation; providing incentives for utilities to invest in renewable energy resources that provide net economic benefits to customers; limiting the retail rate impact of renewable energy resources to 50 cents per month for residential customers; requiring public utilities commission rules to establish major aspects of the measure; prohibiting utilities from using condemnation or eminent domain to acquire land for generating facilities used to meet the standards; requiring utilities with requirements contracts to address shortfalls from the standards; and specifying election procedures by which the customers of a utility may opt out of the requirements of this amendment.

Text of Proposal:

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

SECTION 1. Legislative declaration of intent:

Energy is critically important to Colorado's welfare and development, and its use has a profound impact on the economy and environment. Growth of the state's population and economic base will continue to create a need for new energy resources, and Colorado's renewable energy resources are currently underutilized.

Therefore, in order to save consumers and businesses money, attract new businesses and jobs, promote development of rural economies, minimize water use for electricity generation, diversify Colorado's energy resources, reduce the impact of volatile fuel prices, and improve the natural environment of the state, it is in the best interests of the citizens of Colorado to develop and utilize renewable energy resources to the maximum practicable extent.

SECTION 2. Article 2 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**ARTICLE 2
Renewable Energy Standard**

40-2-124. Renewable Energy Standard. (1) EACH PROVIDER OF RETAIL ELECTRIC SERVICE IN THE STATE OF COLORADO THAT SERVES OVER 40,000 CUSTOMERS SHALL BE CONSIDERED A QUALIFYING RETAIL UTILITY AND SHALL BE SUBJECT TO THE RULES ESTABLISHED UNDER THIS ARTICLE BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO (COMMISSION). NO ADDITIONAL REGULATORY AUTHORITY OF THE COMMISSION OTHER THAN THAT SPECIFICALLY CONTAINED HEREIN IS PROVIDED OR IMPLIED. IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., ON OR BEFORE APRIL 1, 2005, THE COMMISSION SHALL INITIATE ONE OR MORE RULEMAKING PROCESSES TO ESTABLISH THE FOLLOWING:

(A) DEFINITIONS OF ELIGIBLE RENEWABLE ENERGY RESOURCES THAT CAN BE USED TO MEET THE STANDARDS. ELIGIBLE RENEWABLE ENERGY RESOURCES ARE SOLAR, WIND, GEOTHERMAL, BIOMASS, AND HYDROELECTRICITY WITH A NAMEPLATE RATING OF 10 MEGAWATTS OR LESS. THE COMMISSION SHALL DETERMINE, FOLLOWING AN EVIDENTIARY HEARING, THE EXTENT THAT SUCH ELECTRIC GENERATION TECHNOLOGIES UTILIZED IN AN OPTIONAL PRICING PROGRAM MAY BE USED TO COMPLY WITH THIS STANDARD. A FUEL CELL USING

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HYDROGEN DERIVED FROM THESE ELIGIBLE RESOURCES IS ALSO AN ELIGIBLE ELECTRIC GENERATION TECHNOLOGY. FOSSIL AND NUCLEAR FUELS AND THEIR DERIVATIVES ARE NOT ELIGIBLE RESOURCES. FURTHER, "BIOMASS" SHALL BE DEFINED TO MEAN:

(I) NONTOXIC PLANT MATTER THAT IS THE BYPRODUCT OF AGRICULTURAL CROPS, URBAN WOOD WASTE, MILL RESIDUE, SLASH, OR BRUSH;

(II) ANIMAL WASTES AND PRODUCTS OF ANIMAL WASTES; OR

(III) METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF THE TREATMENT OF WASTEWATER RESIDUALS.

(B) STANDARDS FOR THE DESIGN, PLACEMENT AND MANAGEMENT OF ELECTRIC GENERATION TECHNOLOGIES THAT USE ELIGIBLE RENEWABLE ENERGY RESOURCES TO ENSURE THAT THE ENVIRONMENTAL IMPACTS OF SUCH FACILITIES ARE MINIMIZED.

(C) (I) ELECTRIC RESOURCE STANDARDS FOR RENEWABLE ENERGY RESOURCES. THE ELECTRIC RESOURCE STANDARD SHALL REQUIRE EACH QUALIFYING RETAIL UTILITY TO GENERATE, OR CAUSE TO BE GENERATED, ELECTRICITY FROM ELIGIBLE RENEWABLE ENERGY RESOURCES IN THE FOLLOWING MINIMUM AMOUNTS:

(A) 3% OF ITS RETAIL ELECTRICITY SALES IN COLORADO FOR THE YEARS 2007 THROUGH 2010;

(B) 6% OF ITS RETAIL ELECTRICITY SALES IN COLORADO FOR THE YEARS 2011 THROUGH 2014;

(C) 10% OF ITS RETAIL ELECTRICITY SALES IN COLORADO FOR THE YEARS 2015 AND THEREAFTER.

(II) OF THE AMOUNTS IN SUBPART (C)(I), AT LEAST 4% SHALL BE DERIVED FROM SOLAR ELECTRIC GENERATION TECHNOLOGIES. AT LEAST ONE-HALF OF THIS 4% SHALL BE DERIVED FROM SOLAR ELECTRIC TECHNOLOGIES LOCATED ON-SITE AT CUSTOMERS' FACILITIES.

(III) EACH KILOWATT-HOUR OF RENEWABLE ELECTRICITY GENERATED IN COLORADO SHALL BE COUNTED AS 1.25 KILOWATT-HOURS FOR THE PURPOSES OF COMPLIANCE WITH THIS STANDARD.

(IV) TO THE EXTENT THAT THE ABILITY OF A QUALIFYING RETAIL UTILITY TO ACQUIRE ELIGIBLE RENEWABLE ELECTRIC GENERATION IS LIMITED BY A REQUIREMENTS CONTRACT WITH A WHOLESALE ELECTRIC SUPPLIER, THE

QUALIFYING RETAIL UTILITY SHALL ACQUIRE THE MAXIMUM AMOUNT ALLOWED BY THE CONTRACT. FOR ANY SHORTFALLS TO THE AMOUNTS ESTABLISHED BY THE COMMISSION PURSUANT TO PART (C)(I), THE QUALIFYING RETAIL UTILITY SHALL ACQUIRE AN EQUIVALENT AMOUNT OF EITHER (I) RENEWABLE ENERGY CREDITS, (II) DOCUMENTED AND VERIFIED ENERGY SAVINGS THROUGH ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, OR (III) A COMBINATION OF BOTH. ANY CONTRACT ENTERED INTO BY A QUALIFYING RETAIL UTILITY AFTER THE EFFECTIVE DATE OF THIS ARTICLE SHALL NOT CONFLICT WITH THIS ARTICLE.

(D) A SYSTEM OF TRADABLE RENEWABLE ENERGY CREDITS THAT MAY BE USED BY A QUALIFYING RETAIL UTILITY TO COMPLY WITH THIS STANDARD. THE COMMISSION SHALL ALSO ANALYZE THE EFFECTIVENESS OF UTILIZING ANY REGIONAL SYSTEM OF RENEWABLE ENERGY CREDITS IN EXISTENCE AT THE TIME OF ITS RULEMAKING PROCESS AND DETERMINE IF THE SYSTEM IS GOVERNED BY RULES THAT ARE CONSISTENT WITH THE RULES ESTABLISHED FOR THIS ARTICLE.

(E) A STANDARD REBATE OFFER PROGRAM. EACH QUALIFYING RETAIL UTILITY SHALL MAKE AVAILABLE TO ITS RETAIL ELECTRICITY CUSTOMERS A STANDARD REBATE OFFER OF A MINIMUM OF \$2.00 PER WATT FOR THE INSTALLATION OF ELIGIBLE SOLAR ELECTRIC GENERATION ON CUSTOMERS' PREMISES UP TO A MAXIMUM OF ONE-HUNDRED KILOWATTS PER INSTALLATION. SUCH OFFER SHALL ALLOW CUSTOMER'S RETAIL ELECTRICITY CONSUMPTION TO BE OFFSET BY THE SOLAR ELECTRICITY GENERATED. TO THE EXTENT THAT SOLAR ELECTRICITY GENERATION EXCEEDS THE CUSTOMER'S CONSUMPTION DURING A BILLING MONTH, SUCH EXCESS ELECTRICITY SHALL BE CARRIED FORWARD AS A CREDIT TO THE FOLLOWING MONTH'S CONSUMPTION. TO THE EXTENT THAT SOLAR ELECTRICITY GENERATION EXCEEDS THE CUSTOMER'S CONSUMPTION DURING A CALENDAR YEAR, THE CUSTOMER SHALL BE REIMBURSED BY THE QUALIFYING RETAIL UTILITY AT ITS AVERAGE HOURLY INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE PRIOR TWELVE MONTH PERIOD. THE QUALIFYING RETAIL UTILITY SHALL NOT APPLY UNREASONABLY BURDENSOME INTERCONNECTION REQUIREMENTS IN CONNECTION WITH THIS STANDARD REBATE OFFER. ELECTRICITY GENERATED UNDER THIS PROGRAM SHALL BE ELIGIBLE FOR THE QUALIFYING RETAIL UTILITY'S COMPLIANCE WITH THIS ARTICLE.

(F) POLICIES FOR THE RECOVERY OF COSTS INCURRED WITH RESPECT TO THESE STANDARDS FOR QUALIFYING RETAIL UTILITIES THAT ARE SUBJECT TO RATE REGULATION BY THE COMMISSION. SUCH POLICIES SHALL INCLUDE:

(I) ALLOWING QUALIFYING RETAIL UTILITIES TO EARN AN EXTRA PROFIT ON THEIR INVESTMENT IN RENEWABLE ENERGY TECHNOLOGIES IF THESE INVESTMENTS PROVIDE NET ECONOMIC BENEFITS TO CUSTOMERS AS DETERMINED BY THE

COMMISSION. THE ALLOWABLE EXTRA PROFIT IN ANY YEAR SHALL BE THE QUALIFYING RETAIL UTILITY'S MOST RECENT COMMISSION AUTHORIZED RATE OF RETURN PLUS A BONUS LIMITED TO 50% OF THE NET ECONOMIC BENEFIT.

(II) ALLOWING QUALIFYING RETAIL UTILITIES TO EARN THEIR MOST RECENT COMMISSION AUTHORIZED RATE OF RETURN, BUT NO BONUS, ON INVESTMENTS IN RENEWABLE ENERGY TECHNOLOGIES IF THESE INVESTMENTS DO NOT PROVIDE A NET ECONOMIC BENEFIT TO CUSTOMERS.

(III) IF THE COMMISSION APPROVES THE TERMS AND CONDITIONS OF A RENEWABLE ENERGY CONTRACT BETWEEN THE QUALIFYING RETAIL UTILITY AND ANOTHER PARTY, THE RENEWABLE ENERGY CONTRACT AND ITS TERMS AND CONDITIONS SHALL BE DEEMED TO BE A PRUDENT INVESTMENT, AND THE COMMISSION SHALL APPROVE RETAIL RATES SUFFICIENT TO RECOVER ALL JUST AND REASONABLE COSTS ASSOCIATED WITH THE CONTRACT. ALL CONTRACTS FOR ACQUISITION OF ELIGIBLE RENEWABLE ELECTRICITY SHALL HAVE A MINIMUM TERM OF 20 YEARS. ALL CONTRACTS FOR THE ACQUISITION OF RENEWABLE ENERGY CREDITS FROM SOLAR ELECTRIC TECHNOLOGIES LOCATED ON SITE AT CUSTOMER FACILITIES SHALL ALSO HAVE A MINIMUM TERM OF TWENTY YEARS.

(IV) A REQUIREMENT THAT QUALIFYING RETAIL UTILITIES CONSIDER PROPOSALS OFFERED BY THIRD PARTIES FOR THE SALE OF RENEWABLE ENERGY AND/OR RENEWABLE ENERGY CREDITS. THE COMMISSION MAY DEVELOP STANDARD TERMS FOR THE SUBMISSION OF SUCH PROPOSALS.

(G) RETAIL RATE IMPACT RULE. THE COMMISSION SHALL ANNUALLY ESTABLISH A MAXIMUM RETAIL RATE IMPACT FOR THIS SECTION OF 50 CENTS (\$0.50) PER MONTH FOR THE AVERAGE RESIDENTIAL CUSTOMER OF A QUALIFYING RETAIL UTILITY. THE RETAIL RATE IMPACT SHALL BE DETERMINED NET OF NEW NON-RENEWABLE ALTERNATIVE SOURCES OF ELECTRICITY SUPPLY REASONABLY AVAILABLE AT THE TIME OF THE DETERMINATION.

(H) ANNUAL REPORTS. EACH QUALIFYING RETAIL UTILITY SHALL SUBMIT TO THE COMMISSION AN ANNUAL REPORT THAT PROVIDES INFORMATION RELATING TO THE ACTIONS TAKEN TO COMPLY WITH THIS ARTICLE INCLUDING THE COSTS AND BENEFITS OF EXPENDITURES FOR RENEWABLE ENERGY. THE REPORT SHALL BE WITHIN THE TIME PRESCRIBED AND IN A FORMAT APPROVED BY THE COMMISSION.

(I) RULES NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE INCLUDING ENFORCEMENT MECHANISMS NECESSARY TO ENSURE THAT EACH QUALIFYING RETAIL UTILITY COMPLIES WITH THIS STANDARD; AND PROVISIONS GOVERNING THE IMPOSITION OF ADMINISTRATIVE PENALTIES ASSESSED AFTER A HEARING HELD BY THE COMMISSION PURSUANT TO SECTION 40-6-109. UNDER NO CIRCUMSTANCES

SHALL THE COSTS OF ADMINISTRATIVE PENALTIES BE RECOVERED FROM COLORADO RETAIL CUSTOMERS.

(2) THE COMMISSION SHALL ESTABLISH ALL RULES CALLED FOR IN SUBSECTIONS (A) THROUGH (G) OF THIS SECTION BY MARCH 31, 2006.

(3) IF A MUNICIPALLY OWNED ELECTRIC UTILITY OR A RURAL ELECTRIC COOPERATIVE IMPLEMENTS A RENEWABLE ENERGY STANDARD SUBSTANTIALLY SIMILAR TO THIS SECTION 40-2-124, THEN THE GOVERNING BODY OF THE MUNICIPALLY OWNED ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE MAY SELF-CERTIFY ITS RENEWABLE ENERGY STANDARD AND UPON SELF-CERTIFICATION WILL HAVE NO OBLIGATIONS UNDER THIS ARTICLE. THE MUNICIPALLY OWNED UTILITY OR COOPERATIVE SHALL SUBMIT A STATEMENT TO THE COMMISSION THAT DEMONSTRATES SUCH UTILITY OR COOPERATIVE HAS A SUBSTANTIALLY SIMILAR RENEWABLE ENERGY STANDARD. IN ORDER FOR SUCH UTILITY OR COOPERATIVE TO SELF-CERTIFY, SUCH RENEWABLE ENERGY STANDARD SHALL, AT A MINIMUM, MEET THE FOLLOWING CRITERIA:

(A) THE ELIGIBLE RENEWABLE ENERGY RESOURCES MUST BE LIMITED TO THOSE IDENTIFIED IN SUBSECTION 40-2-124(1)(A),

(B) THE PERCENTAGE REQUIREMENTS MUST BE EQUAL TO OR GREATER IN THE SAME YEARS THAN THOSE IDENTIFIED IN SUBSECTION 40-2-124(1)(C)(I), AND

(C) THE UTILITY MUST HAVE AN OPTIONAL PRICING PROGRAM IN EFFECT THAT ALLOWS RETAIL CUSTOMERS THE OPTION TO SUPPORT THROUGH UTILITY RATES EMERGING RENEWABLE ENERGY TECHNOLOGIES.

(4) PROCEDURE FOR EXEMPTION AND INCLUSION - ELECTION.

(A) THE BOARD OF DIRECTORS OF EACH QUALIFYING RETAIL UTILITY SUBJECT TO SECTION 40-2-124 MAY, AT ITS OPTION, SUBMIT THE QUESTION OF ITS EXEMPTION FROM SECTION 40-2-124 CRS, TO ITS CONSUMERS ON A ONE METER EQUALS ONE VOTE BASIS. APPROVAL BY A MAJORITY OF THOSE VOTING IN THE ELECTION SHALL BE REQUIRED FOR SUCH EXEMPTION, PROVIDING THAT A MINIMUM OF 25% OF ELIGIBLE CONSUMERS PARTICIPATES IN THE ELECTION.

(B) THE BOARD OF DIRECTORS OF EACH MUNICIPALLY OWNED ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE NOT SUBJECT TO SECTION 40-2-124 MAY, AT ITS OPTION, SUBMIT THE QUESTION OF ITS INCLUSION IN SECTION 40-2-124 CRS, TO ITS CONSUMERS ON A ONE METER EQUALS ONE VOTE BASIS. APPROVAL BY A MAJORITY OF THOSE VOTING IN THE ELECTION SHALL BE REQUIRED FOR SUCH

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INCLUSION, PROVIDING THAT A MINIMUM OF 25% OF ELIGIBLE CONSUMERS PARTICIPATES IN THE ELECTION.

40-2-125 Eminent Domain Restrictions. A QUALIFYING RETAIL UTILITY SHALL NOT HAVE THE AUTHORITY TO CONDEMN OR EXERCISE THE POWER OF EMINENT DOMAIN OVER ANY REAL ESTATE, RIGHT-OF-WAY, EASEMENT, OR OTHER RIGHT PURSUANT TO SECTION 38-2-101, C.R.S., TO SITE THE GENERATION FACILITIES OF A RENEWABLE ENERGY SYSTEM USED IN WHOLE OR IN PART TO MEET THE ELECTRIC RESOURCE STANDARDS SET FORTH IN SECTION 40-2-124.

SECTION 3. This article shall be effective on December 1, 2004.

**Referendum A
State Personnel System**

Ballot Title: Amendments to sections 13, 14, and 15 of article XII and section 22 of article IV of the constitution of the state of Colorado, concerning reform of the state civil service system, and, in connection therewith, modifying the merit principle, exempting certain positions from the system, modifying the number of eligible applicants from which an appointment is to be made, modifying the residency requirement, expanding the duration of temporary employment, specifying the rule-making authority of the state personnel board and the state personnel director, allowing the general assembly to reallocate the rule-making authority of the state personnel board and the state personnel director, authorizing a modification to the veterans' preference, and making conforming amendments.

Text of Proposal:

Be It Resolved by the House of Representatives of the Sixty-fourth 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 13 of article XII of the constitution of the state of Colorado is amended to read:

Section 13. State personnel system - merit system.

(1) Appointments and promotions to offices and employments in the STATE

personnel system of the state shall be made according to merit, and fitness, to be ascertained by competitive tests of competence COMPARATIVE ASSESSMENTS OF QUALIFICATIONS AS PROVIDED BY LAW, without regard to race, creed, or color, or political affiliation, AND WITHOUT REGARD TO SEX OR AGE EXCEPT AS OTHERWISE PERMITTED BY LAW.

(2) The personnel system of the state shall comprise all appointive public officers and employees of the state, except the following: ~~Members of the public utilities commission, the industrial commission of Colorado, the state board of land commissioners, the Colorado tax commission, the state parole board, and the state personnel board~~ HEADS OF PRINCIPAL DEPARTMENTS; members of any board or commission; ~~servicing without compensation except for per diem allowances provided by law and reimbursement of expenses;~~ the employees in the offices of the governor and the lieutenant governor whose functions are confined to such offices and whose duties are concerned only with the administration thereof; appointees to fill vacancies in elective offices; one deputy of each elective officer other than the governor and lieutenant governor specified in section 1 of article IV of this constitution; officers otherwise specified in this constitution; OTHER OFFICERS RESPONSIBLE FOR DIRECTLY CONTROLLING SIGNIFICANT SEGMENTS OF PRINCIPAL DEPARTMENTS AND EMPLOYEES IN THE OFFICES OF THE HEADS OF PRINCIPAL DEPARTMENTS WHOSE FUNCTIONS ARE CONFINED TO SUCH OFFICES AND WHOSE DUTIES ARE CONCERNED ONLY WITH THE ADMINISTRATION OF SUCH OFFICES, THE NUMBER OF WHICH SHALL NOT EXCEED FORTY-FIVE ONE-HUNDREDTHS PERCENT OF THE TOTAL NUMBER OF CERTIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM; OFFICERS AND faculty members of educational institutions and departments not reformatory or charitable in character, and such administrators thereof as may be exempt by law; students and inmates ~~in~~ EMPLOYED BY state educational or other institutions; ~~employed therein;~~ attorneys at law ~~servicing as assistant attorneys~~ APPOINTED BY THE ATTORNEY general; and members, officers, and employees of the legislative and judicial departments of the state, unless otherwise specifically provided in this constitution.

(3) Officers and employees within the judicial department, other than judges and justices, may be included within the STATE personnel system of the state upon determination by the supreme court, sitting en banc, that such would be in the best interests of the state.

(4) ~~Where authorized by law, any political subdivision of this state may contract with the state personnel board for personnel services.~~

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~~(5) The person to be appointed to any position under the STATE personnel system shall be one of the three persons ranking highest on the eligible list for such position, or such lesser number as qualify, as determined from competitive tests of competence, subject to limitations set forth in rules of the state personnel board applicable to multiple appointments from any such list. A LIMITED NUMBER OF QUALIFIED APPLICANTS NOT TO EXCEED SIX, AS PROVIDED BY LAW. ANY PERSON WHO MAKES AN APPOINTMENT IN VIOLATION OF THIS SECTION SHALL BE SUBJECT TO CIVIL AND CRIMINAL LIABILITY, AS PROVIDED BY LAW.~~

~~(6) All appointees shall reside IN THE UNITED STATES, AND SHALL RESIDE in the state but applications need not be limited to residents of the state as to those positions found by the state personnel board to require special education or training or special professional or technical qualifications and which cannot be readily filled from among residents of this state EXCEPT AS OTHERWISE PROVIDED BY LAW.~~

~~(7) The head of each principal department shall be the appointing authority for the employees of his office and for heads of divisions, within the personnel system, ranking next below the head of such department. Heads of such divisions shall be the appointing authorities for all positions in the personnel system within their respective divisions. Nothing in this subsection shall be construed to affect the supreme executive powers of the governor prescribed in section 2 of article IV of this constitution.~~

~~(8) (a) Persons CERTIFIED EMPLOYEES in the STATE personnel system of the state shall hold their respective positions during efficient service or until reaching retirement age PERFORMANCE UNTIL SEPARATION FOR RETIREMENT, RESIGNATION, OR CAUSE, as provided by law. They shall be graded and compensated according to standards of efficient service which shall be the same for all persons having like duties. ALL CERTIFIED EMPLOYEES HAVING SIMILAR DUTIES SHALL RECEIVE SIMILAR SALARIES, AS PROVIDED BY LAW. A person certified to any class or position in the personnel system CERTIFIED EMPLOYEE may be dismissed, suspended, or otherwise disciplined by the appointing authority upon written findings of failure to comply with standards of efficient service or competence, or for PERFORM, willful misconduct, willful failure or inability to perform his duties, or final conviction of a felony or any other offense, which involves moral turpitude, or written charges thereof may be filed by any person with the appointing authority, which shall be promptly determined AS PROVIDED BY LAW.~~

~~(b) Any action of the appointing authority taken under this subsection shall be subject to appeal to the state personnel board, with the right to be heard thereby in person or by counsel, or both.~~

(9) ~~The state personnel director may authorize the~~ No temporary employment of persons, not to APPOINTMENT OR SUCCESSION OF TEMPORARY APPOINTMENTS SHALL exceed six NINE months during which time an eligible list shall be provided for permanent positions IN ANY TWELVE-MONTH PERIOD, AS PROVIDED BY LAW. TEMPORARY APPOINTMENTS FOR VACANT PERMANENT POSITIONS SHALL BE PERMITTED UNTIL AN ELIGIBLE LIST IS AVAILABLE AND A PERMANENT APPOINTMENT IS MADE, AS PROVIDED BY LAW. No other temporary or emergency employment shall be permitted under the STATE personnel system.

(10) ~~The state personnel board shall establish~~ Probationary periods for all persons initially appointed but SHALL not to exceed twelve months. for any class or position. After satisfactory completion of any such PROBATIONARY period, the person shall be certified to such class or position THE APPLICABLE CLASSIFICATION within the STATE personnel system, but unsatisfactory performance DURING ANY PROBATIONARY PERIOD shall be grounds for dismissal by the appointing authority during such period without right of appeal.

(11) Persons certified to ~~classes and positions~~ CLASSIFICATIONS under the ~~classified civil service~~ of the state immediately PERSONNEL SYSTEM prior to July 1, 1971, persons having served for six months or more as provisional or acting provisional employees in such positions immediately prior to such date, and all persons having served six months or more in positions not within the classified civil service immediately prior to such date but included in the personnel system by this section JULY 1, 2005, shall be certified to comparable positions, and grades and classifications under the personnel system, and shall not be subject to ADDITIONAL probationary periods. of employment. All other persons in positions CLASSIFICATIONS under the STATE personnel system shall be subject to the provisions of this section concerning initial appointment on or after such date.

Section 14 of article XII of the constitution of the state of Colorado is amended to read:

Section 14. State personnel board - state personnel director.

(1) There is hereby created a state personnel board to consist of five members, three of whom shall be appointed by the governor with the consent of the senate, and two of whom shall be elected by persons certified to ~~classes and positions~~ in the state personnel system in the manner prescribed by law. Each member shall be appointed or elected for a term of five years and may succeed himself, but of the members first

~~selected, the members appointed by the governor shall serve for terms of one, two, and three years, respectively, and the members elected shall serve for terms of four and five years, respectively~~ SHALL NOT SERVE MORE THAN TWO CONSECUTIVE TERMS OF OFFICE. Each member of the board shall be a qualified elector of the state, but shall not be otherwise an officer or employee of the state or of any state employee organization, and shall receive such compensation as shall be fixed by law.

(2) Any member of the board may be removed by the governor for willful misconduct in office, ~~willful failure or inability to perform his OR HER duties, OR final conviction of a felony or of any other offense, involving moral turpitude, or by reason of permanent disability interfering with the performance of his duties~~ AS PROVIDED BY LAW, which removal shall be subject to judicial review. Any vacancy in office shall be filled in the same manner as the selection of the person vacating the office, and for the unexpired term.

(3) The state personnel board shall ~~adopt and may from time to time amend or repeal~~ rules to implement the ~~provisions of this section and sections 13 and 15 of this article, as amended, and laws enacted pursuant thereto~~ LAWS ENACTED PURSUANT TO THIS SECTION AND SECTIONS 13 AND 15 OF THIS ARTICLE, including but not limited to rules concerning ~~standardization of positions, determination of grades of positions, standards of efficient and competent service, the conduct of competitive examinations of competence, grievance procedures, DISCIPLINE, INVOLUNTARY SEPARATIONS, appeals from actions by appointing authorities~~ TO THE BOARD, and THE conduct of hearings. ~~by hearing officers where authorized by law.~~

(4) ~~There is hereby created the department of personnel, which shall be one of the principal departments of the executive department, the head of which shall be~~ The state personnel director, who shall be appointed under qualifications established by law, ~~The state personnel director shall be responsible for~~ ADMINISTER THE STATE PERSONNEL SYSTEM AND ADOPT RULES TO IMPLEMENT THE LAWS ENACTED PURSUANT TO THIS SECTION AND SECTIONS 13 AND 15 OF THIS ARTICLE FOR the administration of the STATE personnel system, ~~of the state under this constitution and laws enacted pursuant thereto and the rules adopted thereunder by the state personnel board.~~ INCLUDING BUT NOT LIMITED TO RULES CONCERNING APPOINTMENTS AND PROMOTIONS, STANDARDIZATION OF POSITIONS, COMPENSATION, VOLUNTARY SEPARATIONS, AND STANDARDS OF PERFORMANCE.

(5) ~~Adequate appropriations shall be made to carry out the purposes of this section and section 13 of this article.~~ NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (3) AND (4) OF THIS SECTION, THE GENERAL ASSEMBLY, ACTING

BY BILL, MAY ALTER THE ALLOCATION OF THE RULE-MAKING AUTHORITY OF THE STATE PERSONNEL BOARD AND THE STATE PERSONNEL DIRECTOR AS SPECIFIED IN THOSE SUBSECTIONS.

(6) ADEQUATE APPROPRIATIONS SHALL BE MADE TO CARRY OUT THE PURPOSES OF THIS SECTION AND SECTION 13 OF THIS ARTICLE.

Section 15 of article XII of the constitution of the state of Colorado is amended to read:

Section 15. Veterans' preference. (1) (a) (I) ~~The passing grade on each competitive examination~~ THE MINIMUM REQUIREMENTS FOR EACH ASSESSMENT OF QUALIFICATIONS shall be the same for each ~~candidate~~ APPLICANT for appointment or employment in the STATE personnel system ~~of the state~~ or in any comparable civil service or merit system of any agency or political subdivision of the state, including any municipality chartered or to be chartered under article XX of this constitution.

(II) A NUMERICAL OR NONNUMERICAL METHOD MAY BE USED FOR ASSESSING THE QUALIFICATIONS OF APPLICANTS FOR APPOINTMENT OR EMPLOYMENT IN THE STATE PERSONNEL SYSTEM. IF A NUMERICAL ASSESSMENT METHOD IS USED, APPLICANTS ENTITLED TO PREFERENCE UNDER THIS SECTION SHALL BE GIVEN PREFERENCE IN ACCORDANCE WITH PARAGRAPHS (b) TO (e) OF THIS SUBSECTION (1). IF A NONNUMERICAL ASSESSMENT METHOD IS USED, APPLICANTS ENTITLED TO PREFERENCE UNDER THIS SECTION SHALL BE GIVEN AN INTERVIEW.

(b) Five PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of each ~~candidate~~ APPLICANT on each such ~~examination~~ ASSESSMENT OF QUALIFICATIONS, except any promotional ~~examination~~ ASSESSMENT, who is SERVING OR WAS separated under honorable conditions and who ~~other than for training purposes~~, (i) served in any branch of the armed forces of the United States during any period of any declared war or any undeclared war or other armed hostilities against an armed foreign enemy, or (ii) served on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized.

(c) Ten PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of any ~~candidate~~ APPLICANT ON each such ~~examination~~ ASSESSMENT OF QUALIFICATIONS, except any promotional ~~examination~~ ASSESSMENT, who has so served ~~other than for training purposes~~, and who, because of disability incurred in the line of duty, is receiving monetary compensation or disability

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retired benefits by reason of public laws administered by the department of defense or the veterans administration, or any successor thereto.

(d) Five PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of any ~~candidate~~ of APPLICANT ON each such ~~examination~~ ASSESSMENT OF QUALIFICATIONS, except any promotional ~~examination~~ ASSESSMENT, who is the surviving spouse of any person who was or would have been entitled to ~~additional points~~ A PREFERENCE under paragraph (b) or (c) of this subsection (1) or of any person who died during such service or as a result of service-connected cause while on ~~active~~ duty in any such branch. ~~other than for training purposes.~~

(e) No more than a total of ten PERCENTAGE points shall be added to the ~~passing grade~~ SCORE of any such ~~candidate~~ APPLICANT pursuant to this subsection (1).

(2) The certificate of the department of defense, OF A STATE NATIONAL GUARD, or of the veterans administration, or any successor thereto, shall be conclusive proof of service under honorable conditions or of disability or death incurred in the line of duty during such service.

(3) (a) When a reduction in the work force of the state or any such political subdivision thereof becomes necessary because of lack of work or curtailment of funds, employees not eligible for ~~added points~~ PREFERENCE under subsection (1) of this section shall be separated before those so entitled who have the same or more service in the employment of the state or such political subdivision, counting both military service for which such ~~points are added~~ PREFERENCE IS GIVEN and such employment with the state or such political subdivision, as the case may be, from which the employee is to be separated.

(b) In the case of such a person eligible for ~~added points~~ PREFERENCE who has completed twenty or more years of active military service, no military service shall be counted in determining length of service in respect to such retention rights. In the case of such a person who has completed less than twenty years of such military service, no more than ten years of service under subsection (1) (b) (i) and (ii) shall be counted in determining such length of service for such retention rights.

(4) The state personnel ~~board~~ DIRECTOR and each comparable supervisory or administrative ~~board~~ PERSON OR ENTITY of any ~~such~~ civil service or merit system of any agency of the state or any such political subdivision thereof, shall implement the provisions of this section to assure

that all persons entitled to ~~added points and preference in examinations and retention~~ shall enjoy their full privileges and rights granted by this section.

(5) ~~Any examination which is a promotional examination, but which ANY PROMOTIONAL ASSESSMENT THAT is also open to persons other than employees for whom such appointment would be a promotion shall be considered a promotional examination ASSESSMENT for the purposes of this section.~~

(6) ~~Any other provision of this section to the contrary Notwithstanding ANY OTHER PROVISION OF THIS SECTION, no person shall be entitled to the addition of points under this section PREFERENCE for more than one appointment or employment with the same jurisdiction, personnel system, civil service, or merit system.~~

(7) ~~This section shall be in full force and effect on and after July 1, 1971, and shall grant veterans' preference to all persons who have served in the armed forces of the United States in any declared or undeclared war, conflict, engagement, expedition, or campaign for which a campaign badge has been authorized, and who meet the requirements of service or disability, or both, as provided in this section. This section shall apply to all public employment examinations ASSESSMENTS, except promotional examinations ASSESSMENTS, conducted on or after such date JULY 1, 2005, and it shall be in all respects self-executing.~~

Section 22 of article IV of the constitution of the state of Colorado is amended to read:

Section 22. Principal departments. All executive and administrative offices, agencies, and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor and lieutenant-governor, shall be allocated by law among and within not more than twenty departments. ~~by no later than June 30, 1968. Subsequently, all new powers or functions shall be assigned to departments, divisions, sections, or units in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department. Nothing in this section shall supersede the provisions of section 13, article XII, of this constitution. except that the classified civil service of the state shall not extend to heads of principal departments established pursuant to this section.~~

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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: "AMENDMENTS TO SECTIONS 13, 14, AND 15 OF ARTICLE XII AND SECTION 22 OF ARTICLE IV OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING REFORM OF THE STATE CIVIL SERVICE SYSTEM, AND, IN CONNECTION THEREWITH, MODIFYING THE MERIT PRINCIPLE, EXEMPTING CERTAIN POSITIONS FROM THE SYSTEM, MODIFYING THE NUMBER OF ELIGIBLE APPLICANTS FROM WHICH AN APPOINTMENT IS TO BE MADE, MODIFYING THE RESIDENCY REQUIREMENT, EXPANDING THE DURATION OF TEMPORARY EMPLOYMENT, SPECIFYING THE RULE-MAKING AUTHORITY OF THE STATE PERSONNEL BOARD AND THE STATE PERSONNEL DIRECTOR, ALLOWING THE GENERAL ASSEMBLY TO REALLOCATE THE RULE-MAKING AUTHORITY OF THE STATE PERSONNEL BOARD AND THE STATE PERSONNEL DIRECTOR, AUTHORIZING A MODIFICATION TO THE VETERANS' PREFERENCE, AND MAKING CONFORMING AMENDMENTS."

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
Obsolete Constitutional Provisions

Ballot Title: Amendments to articles IV, VII, and IX of the constitution of the state of Colorado, concerning the elimination of obsolete provisions of the state constitution.

Text of Proposal:

Be It Resolved by the Senate of the Sixty-fourth 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 amendments to the constitution of the state of Colorado, to wit:

Section 20 of article IV of the constitution of the state of Colorado is repealed as follows:

Section 20. State librarian. ~~The superintendent of public instruction shall be ex officio state librarian.~~

Section 22 of article IV of the constitution of the state of Colorado is amended to read:

Section 22. Principal departments. All executive and administrative offices, agencies, and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor and ~~lieutenant-governor~~ LIEUTENANT GOVERNOR, shall be allocated by law among and within not more than twenty departments. ~~by no later than June 30, 1968.~~ Subsequently, all new powers or functions shall be assigned to departments, divisions, sections, or units in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department. Nothing in this section shall supersede the provisions of section 13, article XII, of this constitution, except that the classified civil service of the state shall not extend to heads of principal departments established pursuant to this section.

Section 1 of article VII of the constitution of the state of Colorado is amended to read:

Section 1. Qualifications of elector. Every citizen of the United States who has attained the age of eighteen years, has resided in this state ~~not less than one year next preceding the election at which he offers to vote and in the county, city, town, ward, or precinct~~ FOR such time as may be prescribed by law, and has been duly registered as a voter if required by law shall be qualified to vote at all elections. ~~except that the general assembly may by law extend to citizens of the United States who have resided in this state less than one year the right to vote for presidential and vice-presidential electors.~~

Section 1a of article VII of the constitution of the state of Colorado is amended to read:

Section 1a. Qualifications of elector - residence on federal land. Any other provision of this constitution with regard to "qualifications of electors" notwithstanding, every citizen of the United States who shall be otherwise qualified and shall have resided in this state not less than three months next preceding the election at which he offers to vote, and in the county or precinct such time as may be prescribed by law, shall be qualified to vote at all elections; provided, that the general assembly may by law extend to citizens of the United States who have resided in this state less than three

~~months, the right to vote for presidential and vice-presidential electors, United States senators, and United States representatives.~~

Any person who otherwise meets the requirements of law for voting in this state shall not be denied the right to vote in an election because of residence on land situated within this state that is under the jurisdiction of the United States.

Section 4 of article VII of the constitution of the state of Colorado is amended to read:

Section 4. When residence does not change. For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his OR HER presence, or lost it by reason of his OR HER absence, while in the civil or military service of the state, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any ~~poorhouse or other~~ asylum, nor while confined in public prison.

Section 9 (3) of article IX of the constitution of the state of Colorado is amended to read:

Section 9. State board of land commissioners. (3) The governor shall appoint a new board of land ~~Commissioners~~ COMMISSIONERS on or before May 1, 1997. The term of each member shall be for four years; except that of the first board members appointed under this subsection (3), two members shall be appointed for terms that expire June 30, 1999, and three members shall be appointed for terms that expire June 30, 2001. ~~The terms of office of the members of the board appointed prior to the effective date of this subsection (3) shall expire upon the confirmation of the appointment of the first three members of the first board appointed under this subsection (3).~~ No member shall serve more than two consecutive terms. Members of the board shall be subject to removal, and vacancies on the board shall be filled, as provided in article IV, section 6 of this constitution.

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: "AMENDMENTS TO ARTICLES IV, VII, AND IX OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE ELIMINATION OF OBSOLETE PROVISIONS OF THE STATE CONSTITUTION."

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.

LOCAL ELECTION OFFICES

Adams	1865 W. 121 st Ave., Westminster, CO 80234	(303) 654-6030
Alamosa	402 Edison Ave., Alamosa, CO 81101-0630	(719) 589-6681
Arapahoe	5334 S. Prince St., Littleton, CO 80166-0211	(303) 795-4511
Archuleta	449 San Juan, Pagosa Springs, CO 81147-2589	(970) 264-8350
Baca	741 Main St., Springfield, CO 81073	(719) 523-4372
Bent	725 Carson Ave., Las Animas, CO 81054-0350	(719) 456-2009
Boulder	1750 33 rd St. #200, Boulder, CO 80301-2546	(303) 413-7740
Broomfield	1 DesCombes Drive, Broomfield, CO 80020	(303) 464-5857
Chaffee	104 Crestone Ave., Salida, CO 81201-0699	(719) 539-4004
Cheyenne	51 S. 1 st St., Cheyenne Wells, CO 80810-0567	(719) 767-5685
Clear Creek	405 Argentine St., Georgetown, CO 80444-2000	(303) 679-2339
Conejos	6683 County Road 13, Conejos, CO 81129-0127	(719) 376-5422
Costilla	416 Gasper St., San Luis, CO 81152-0308	(719) 672-3301
Crowley	631 Main St., Suite 104, Ordway, CO 81063	(719) 267-4643, ext. 3
Custer	205 S. 6 th St., Westcliffe, CO 81252-0150	(719) 783-2441
Delta	501 Palmer #211, Delta, CO 81416	(970) 874-2150
Denver	200 W. 14 th Ave., Suite 100, Denver, CO 80204	(720) 913-8683
Dolores	409 N. Main St., Dove Creek, CO 81324-0058	(970) 677-2381
Douglas	301 Wilcox St., Castle Rock, CO 80104	(303) 660-7469
Eagle	500 Broadway, Eagle, CO 81631-0537	(970) 328-8728
Elbert	215 Comanche St., Kiowa, CO 80117-0037	(303) 621-3116
El Paso	200 S. Cascade, Colorado Springs, CO 80901	(719) 575-8683
Fremont	615 Macon Ave. #102, Canon City, CO 81212	(719) 276-7330
Garfield	109 Eighth St. #200, Glenwood Spgs, CO 81601	(970) 945-2377
Gilpin	203 Eureka St., Central City, CO 80427-0429	(303) 582-5321
Grand	308 Byers Ave., Hot Sulphur Springs, CO 80451	(970) 725-3347
Gunnison	221 N. Wisconsin, Suite C, Gunnison, CO 81230	(970) 641-1516
Hinsdale	317 N. Henson St., Lake City, CO 81235-0009	(970) 944-2228
Huerfano	401 Main St., Suite 204, Walsenburg, CO 81089	(719) 738-2380
Jackson	396 La Fever St., Walden, CO 80480-0337	(970) 723-4334
Jefferson	100 Jefferson Cty. Pkwy. #2560, Golden, CO 80419	(303) 271-8111

Local Election Offices

Kiowa	1305 Goff St., Eads, CO 81036-0037	(719) 438-5421
Kit Carson	251 16th St., Burlington, CO 80807-0249	(719) 346-8638
Lake	505 Harrison Ave., Leadville, CO 80461-0917	(719) 486-1410
La Plata	1060 Second Ave., #134, Durango, CO 81301	(970) 382-6297
Larimer	200 W. Oak St., Ft. Collins, CO 80522	(970) 498-7820
Las Animas	200 E. First St., Room 205, Trinidad, CO 81082	(719) 846-3314
Lincoln	103 Third Ave., Hugo, CO 80821-0067	(719) 743-2444
Logan	315 Main St., Suite 3, Sterling, CO 80751-4357	(970) 522-1544
Mesa	544 Rood Ave., Suite 200, Grand Junction, CO 81502-5006	(970) 244-1662
Mineral	1201 N. Main St., Creede, CO 81130	(719) 658-2440
Moffat	221 W. Victory Way #200, Craig, CO 81625	(970) 824-9104
Montezuma	109 W. Main St., Room 108, Cortez, CO 81321	(970) 565-3728
Montrose	320 S. First St., Montrose, CO 81401	(970) 249-3362
Morgan	231 Ensign, Ft. Morgan, CO 80701-1399	(970) 542-3521
Otero	13 W. Third St., Room 210, La Junta, CO 81050	(719) 383-3020
Ouray	541 Fourth St., Ouray, CO 81427	(970) 325-4961
Park	501 Main St., Fairplay, CO 80440-0220	(719) 836-4333
Phillips	221 S. Interocean Ave., Holyoke, CO 80734	(970) 854-3131
Pitkin	530 E. Main St. #101, Aspen, CO 81611	(970) 920-5180
Prowers	301 S. Main St. #210, Lamar, CO 81052-0889	(719) 336-8011
Pueblo	215 W. 10th St., Pueblo, CO 81003-2992	(719) 583-6620
Rio Blanco	555 Main St., Meeker, CO 81641-1067	(970) 878-5068
Rio Grande	965 Sixth St., Del Norte, CO 81132-0160	(719) 657-3334
Routt	522 Lincoln Ave. Steamboat Springs, CO 80487	(970) 870-5556
Saguache	501 Fourth St., Saguache, CO 81149-0176	(719) 655-2512
San Juan	1557 Green St., Silverton, CO 81433-0466	(970) 387-5671
San Miguel	305 W. Colorado Ave., Telluride, CO 81435-0548	(970) 728-3954
Sedgwick	315 Cedar St., Julesburg, CO 80737	(970) 474-3346
Summit	208 E. Lincoln Ave., Breckenridge, CO 80424	(970) 453-3479
Teller	101 W. Bennett Ave., Cripple Creek, CO 80813	(719) 689-2951
Washington	150 Ash, Akron, CO 80720	(970) 345-6565
Weld	1402 N. 17th Ave., Greeley, CO 80632	(970) 304-6530
Yuma	310 Ash St., Suite F, Wray, CO 80758	(970) 332-5809

Local Election Offices