



# 2016 Statewide Ballot Issues

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The Colorado Constitution (Article V, Section 1(7.3)) requires the Colorado Legislative Council to publish the ballot title and legal text of each statewide ballot measure.

A **"YES/FOR"** vote on any ballot issue is a vote **in favor of** changing current law or existing circumstances, and a **"NO/AGAINST"** vote on any ballot issue is a vote **against** changing current law or existing circumstances.

## Amendment T No Exception to Involuntary Servitude Prohibition

The ballot title below is a summary drafted by the professional legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was referred to the voters because it passed by a two-thirds majority vote of the state senate and the state house of representatives.

### Ballot Title:

Shall there be an amendment to the Colorado constitution concerning the removal of the exception to the prohibition of slavery and involuntary servitude when used as punishment for persons duly convicted of a crime?

### Text of Measure:

*Be It Resolved by the Senate of the Seventieth General Assembly of the State of Colorado, the House of Representatives concurring herein:*

**SECTION 1.** At the election held on November 8, 2016, the secretary of state shall submit to the registered electors of the state the ballot title set forth in section 2 for the following amendment to the state constitution:

In the constitution of the state of Colorado, **amend** section 26 of article II as follows:

**Section 26. Slavery prohibited.** There shall never be in this state either slavery or involuntary servitude. ~~except as a punishment for crime, whereof the party shall have been duly convicted.~~

**SECTION 2.** Each elector voting at the election may cast a vote either "Yes/For" or "No/Against" on the following ballot ti-

tle: "Shall there be an amendment to the Colorado constitution concerning the removal of the exception to the prohibition of slavery and involuntary servitude when used as punishment for persons duly convicted of a crime?"

**SECTION 3.** Except as otherwise provided in section 1-40-123, Colorado Revised Statutes, if a majority of the electors voting on the ballot title vote "Yes/For", then the amendment will become part of the state constitution.

## Amendment U Exempt Certain Possessory Interests from Property Taxes

The ballot title below is a summary drafted by the professional legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was referred to the voters because it passed by a two-thirds majority vote of the state senate and the state house of representatives.

### Ballot Title:

Shall there be an amendment to the Colorado constitution concerning an exemption from property taxation for a possessory interest in real property if the actual value of the interest is less than or equal to six thousand dollars or such amount adjusted for inflation?

### Text of Measure:

*Be It Resolved by the Senate of the Seventieth General Assembly of the State of Colorado, the House of Representatives concurring herein:*

**SECTION 1.** At the election held on November 8, 2016, the secretary of state shall submit to the registered electors of the state the ballot title set forth in section 2 for the following amendment to the state constitution:

In the constitution of the state of Colorado, section 3 of article X, **amend** (1) (b) as follows:

**Section 3. Uniform taxation - exemptions.** (1) (b) (I) Residential real property, which shall include all residential dwelling units and the land, as defined by law, on which such units are located, and mobile home parks, but shall not in-

clude hotels and motels, shall be valued for assessment at twenty-one percent of its actual value. For the property tax year commencing January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property. For each subsequent year, the general assembly shall again determine the percentage of the aggregate statewide valuation for assessment which is attributable to each class of taxable property, after adding in the increased valuation for assessment attributable to new construction and to increased volume of mineral and oil and gas production. For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential real property for those years for which such new level of value is used. In determining the adjustment to be made in the ratio of valuation for assessment for residential real property, the aggregate statewide valuation for assessment that is attributable to residential real property shall be calculated as if the full actual value of all owner-occupied primary residences that are partially exempt from taxation pursuant to section 3.5 of this article was subject to taxation. All other taxable property shall be valued for assessment at twenty-nine percent of its actual value. However, the valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals. Non-producing unpatented mining claims, which are possessory interests in real property by virtue of leases from the United States of America, shall be exempt from property taxation. OTHER POSSESSORY INTERESTS IN REAL PROPERTY SHALL BE EXEMPT FROM PROPERTY TAXATION AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b). (II) (A) FOR THE PROPERTY TAX YEAR

COMMENCING ON JANUARY 1, 2018, A POSSESSORY INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX IF THE ACTUAL VALUE OF SUCH POSSESSORY INTEREST IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX THOUSAND DOLLARS. (B) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, A POSSESSORY INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX IF THE ACTUAL VALUE OF SUCH POSSESSORY INTEREST IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX THOUSAND DOLLARS ADJUSTED BIENNIALY TO ACCOUNT FOR INFLATION AS DEFINED IN SECTION 20 (2) (f) OF ARTICLE X OF THIS CONSTITUTION. ON OR BEFORE NOVEMBER 1, 2018, AND ON OR BEFORE NOVEMBER 1 OF EACH EVEN-NUMBERED YEAR THEREAFTER, THE PROPERTY TAX ADMINISTRATOR SHALL CALCULATE THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE USING INFLATION FOR THE PRIOR TWO CALENDAR YEARS AS OF THE DATE OF THE CALCULATION. THE ADJUSTED EXEMPTION SHALL BE ROUNDED UPWARD TO THE NEAREST ONE-HUNDRED-DOLLAR INCREMENT. THE ADMINISTRATOR SHALL CERTIFY THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND PUBLISH THE AMOUNT IN A MANNER PROVIDED BY LAW.

**SECTION 2.** Each elector voting at the election may cast a vote either "Yes/For" or "No/Against" on the following ballot title: "Shall there be an amendment to the Colorado constitution concerning an exemption from property taxation for a possessory interest in real property if the actual value of the interest is less than or equal to six thousand dollars or such amount adjusted for inflation?"

**SECTION 3.** Except as otherwise provided in section 1-40-123, Colorado Revised Statutes, if a majority of the electors voting on the ballot title vote "Yes/For", then the amendment will become part of the state constitution.

## Amendment 69 Statewide Health Care System

The ballot title below is a summary drafted by the professional staff of the offices of



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the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

## Ballot Title:

SHALL STATE TAXES BE INCREASED \$25 BILLION ANNUALLY IN THE FIRST FULL FISCAL YEAR, AND BY SUCH AMOUNTS THAT ARE RAISED THEREAFTER, BY AN AMENDMENT TO THE COLORADO CONSTITUTION ESTABLISHING A HEALTH CARE PAYMENT SYSTEM TO FUND HEALTH CARE FOR ALL INDIVIDUALS WHOSE PRIMARY RESIDENCE IS IN COLORADO, AND, IN CONNECTION THEREWITH, CREATING A GOVERNMENTAL ENTITY CALLED COLORADOCARE TO ADMINISTER THE HEALTH CARE PAYMENT SYSTEM; PROVIDING FOR THE GOVERNANCE OF COLORADOCARE BY AN INTERIM APPOINTED BOARD OF TRUSTEES UNTIL AN ELECTED BOARD OF TRUSTEES TAKES RESPONSIBILITY; EXEMPTING COLORADOCARE FROM THE TAXPAYER'S BILL OF RIGHTS; ASSESSING AN INITIAL TAX ON THE TOTAL PAYROLL FROM EMPLOYERS, PAYROLL INCOME FROM EMPLOYEES, AND NONPAYROLL INCOME AT VARYING RATES; INCREASING THESE TAX RATES WHEN COLORADOCARE BEGINS MAKING HEALTH CARE PAYMENTS FOR BENEFICIARIES; CAPPING THE TOTAL AMOUNT OF INCOME SUBJECT TO TAXATION; AUTHORIZING THE BOARD TO INCREASE THE TAXES IN SPECIFIED CIRCUMSTANCES UPON APPROVAL OF THE MEMBERS OF COLORADOCARE; REQUIRING COLORADOCARE TO CONTRACT WITH HEALTH CARE PROVIDERS TO PAY FOR SPECIFIC HEALTH CARE BENEFITS; TRANSFERRING ADMINISTRATION OF THE MEDICAID AND CHILDREN'S BASIC HEALTH PROGRAMS AND ALL OTHER STATE AND FEDERAL HEALTH CARE FUNDS FOR COLORADO TO COLORADOCARE; TRANSFERRING RESPONSIBILITY TO COLORADOCARE FOR MEDICAL CARE THAT WOULD OTHERWISE BE

PAID FOR BY WORKERS' COMPENSATION INSURANCE; REQUIRING COLORADOCARE TO APPLY FOR A WAIVER FROM THE AFFORDABLE CARE ACT TO ESTABLISH A COLORADO HEALTH CARE PAYMENT SYSTEM; AND SUSPENDING THE OPERATIONS OF THE COLORADO HEALTH BENEFIT EXCHANGE AND TRANSFERRING ITS RESOURCES TO COLORADOCARE?

## Text of Measure:

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

**SECTION 1.** In the constitution of the state of Colorado, **add** article XXX as follows:

### ARTICLE XXX ColoradoCare

**Section 1. Purpose and findings.** (1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT: (a) COLORADANS NEED THE SECURITY OF KNOWING THAT THEY CAN AFFORD HEALTH CARE FOR THEMSELVES AND THEIR FAMILIES; (b) BUSINESSES NEED RELIEF FROM THE UNSUSTAINABLE FINANCIAL AND ADMINISTRATIVE BURDENS OF PROVIDING HEALTH INSURANCE FOR THEIR EMPLOYEES; (c) ANNUAL INSURANCE CHANGES DISRUPT COORDINATED LIFETIME HEALTH CARE; (d) HEALTH CARE COSTS HAVE BEEN INCREASING AT UNSUSTAINABLE RATES AND MUST BE STABILIZED; (e) COLORADO NEEDS A HEALTH CARE DELIVERY SYSTEM THAT PRIORITIZES VALUE OVER VOLUME AND THAT ENCOURAGES QUALITY, EFFICIENT, AND ACCESSIBLE HEALTH CARE; (f) COLORADO HEALTH CARE PROVIDERS NEED RELIEF FROM THE ADMINISTRATIVE BURDENS THAT INTERFERE WITH QUALITY HEALTH CARE; (g) SECTION 1332 OF THE AFFORDABLE CARE ACT ALLOWS COLORADO TO OBTAIN WAIVERS FROM THE INSURANCE EXCHANGE PROGRAM IN ORDER TO CREATE A UNIQUE COLORADO HEALTH CARE SYSTEM; AND THEREFORE, THAT (2) COLORADO WILL FINANCE HEALTH CARE THROUGH COLORADOCARE, A POLITICAL SUBDIVISION OF THE STATE GOVERNED BY A TWENTY-ONE MEMBER BOARD OF

TRUSTEES THAT WILL ADMINISTER A COORDINATED PAYMENT SYSTEM FOR HEALTH CARE SERVICES AND CONTROL THE PER CAPITA COST OF HEALTH CARE, THEREBY IMPROVING ACCESS TO HEALTH CARE FOR ALL COLORADANS, ENHANCING THEIR HEALTH CARE EXPERIENCES, GIVING COLORADANS THE RIGHT TO CHOOSE THEIR PRIMARY HEALTH CARE PROVIDERS, AND IMPROVING THE WORKING LIVES OF PROVIDERS.

**Section 2. Definitions.** FOR THE PURPOSE OF THIS ARTICLE:

- (1) "AFFORDABLE CARE ACT" MEANS THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", PUBL.L. 111-148, AS AMENDED BY THE FEDERAL "HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010", PUBL.L. 111-152, AND AS MAY BE FURTHER AMENDED, INCLUDING ANY FEDERAL REGULATIONS ADOPTED UNDER THE ACT.
- (2) "BENEFICIARY" MEANS AN INDIVIDUAL WHOSE PRIMARY RESIDENCE IS IN COLORADO.
- (3) "BOARD" MEANS THE ELECTED BOARD OF TRUSTEES ESTABLISHED IN SECTION 5 OF THIS ARTICLE UNLESS THE CONTEXT INDICATES THAT "BOARD" MEANS THE INTERIM BOARD DEFINED IN SUBSECTION (9) OF THIS SECTION.
- (4) "CHILDREN'S BASIC HEALTH PLAN" MEANS THE HEALTH BENEFIT PLAN ESTABLISHED IN ARTICLE 8 OF TITLE 25.5, COLORADO REVISED STATUTES.
- (5) "COLORADO HEALTH BENEFIT EXCHANGE" MEANS THE COLORADO HEALTH BENEFIT EXCHANGE CREATED IN ARTICLE 22 OF TITLE 10, COLORADO REVISED STATUTES, OR ITS SUCCESSOR ENTITY.
- (6) "EFFECTIVE DATE" MEANS THE EFFECTIVE DATE OF THIS ARTICLE AS SPECIFIED IN SECTION 14 OF THIS ARTICLE.
- (7) "EMPLOYEE" MEANS AN INDIVIDUAL WHO WORKS OR RESIDES IN COLORADO AND WHO RECEIVES WAGES, SALARIES, TIPS, OR ANY OTHER INCOME WHICH MUST BE REPORTED ON INTERNAL REVENUE SERVICE FORM W-2.
- (8) "EMPLOYER" MEANS AN INDIVIDUAL, A GOVERNMENTAL ENTITY, AND ANY ORGANIZATION DEFINED IN TITLE 7, COLORADO REVISED STATUTES, THAT:
  - (a) PAYS COMPENSATION TO ONE OR MORE INDIVIDUALS FOR WORK PER-

- FORMED; AND
- (b) IS REQUIRED BY COLORADO LAW TO WITHHOLD A PORTION OF THE COMPENSATION FOR THE PAYMENT OF COLORADO INCOME TAXES, OR TO REPORT THOSE EARNINGS TO THE COLORADO DEPARTMENT OF REVENUE.
- (9) "INTERIM BOARD" MEANS THE BOARD OF TRUSTEES APPOINTED PURSUANT TO SECTION 4 OF THIS ARTICLE.
- (10) "MEDICAID PROGRAM" MEANS THE MEDICAL ASSISTANCE PROGRAM AUTHORIZED IN TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SECTIONS 1305 ET SEQ., AS AMENDED, AND UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5, COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTES.
- (11) "MEMBER" MEANS A BENEFICIARY WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHOSE PRIMARY RESIDENCE HAS BEEN IN COLORADO FOR AT LEAST ONE CONTINUOUS YEAR.
- (12) "NONPAYROLL INCOME" MEANS TOTAL INCOME FROM ALL SOURCES SPECIFIED ON LINES 8 THROUGH 10, 12 THROUGH 18, AND 20 THROUGH 21 OF THE INTERNAL REVENUE SERVICE FORM 1040 FOR THE TAX YEAR 2014 OR THE CORRESPONDING LINES OF ANY SUCCESSOR FORM. "NONPAYROLL INCOME" DOES NOT INCLUDE ANY PENSION OR ANNUITY INCOME WHICH IS NOT SUBJECT TO COLORADO INCOME TAXES PURSUANT TO SECTION 39-22-104(f)(4), COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTE.
- (13) "PAYROLL INCOME" MEANS WAGES, TIPS, SALARIES, AND ALL OTHER INCOME THAT MUST BE REPORTED ON INTERNAL REVENUE SERVICE FORM W-2.
- (14) "PREMIUM TAX" MEANS THE TAX SPECIFIED IN SECTION 9(2) OF THIS ARTICLE.
- (15) "PROVIDER" MEANS A HEALTH CARE PROFESSIONAL LICENSED BY THE STATE OF COLORADO AND INCLUDES INDIVIDUALS, HOSPITALS, AND OTHER HEALTH CARE FACILITIES LICENSED OR CERTIFIED BY THE STATE. "PROVIDER" INCLUDES AN INDIVIDUAL OR ENTITY THAT PROVIDES SERVICES, MEDICAL INTERVENTIONS, PHARMACEUTICALS, OR EQUIPMENT USED TO TREAT BENEFICIARIES.
- (16) "TRANSITIONAL OPERATING



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FUND TAX" MEANS THE TAX SPECIFIED IN SECTION 9 (1) OF THIS ARTICLE.

(17) "TRUSTEE" MEANS AN INDIVIDUAL APPOINTED OR ELECTED TO SERVE ON THE INTERIM OR ELECTED BOARD OF TRUSTEES.

**Section 3. ColoradoCare - establishment.** (1) THERE IS HEREBY ESTABLISHED A POLITICAL SUBDIVISION OF THE STATE CALLED COLORADOCARE. COLORADOCARE IS NOT AN AGENCY OF THE STATE AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION OR CONTROL BY ANY STATE EXECUTIVE, DEPARTMENT, COMMISSION, BOARD, BUREAU, OR AGENCY.

(2) THE PURPOSE OF COLORADOCARE IS TO FINANCE HEALTH CARE SERVICES FOR ALL COLORADO RESIDENTS, TO ADMINISTER STATE AND FEDERAL HEALTH CARE FUNDS, AND TO INSTITUTE FISCALLY SOUND PAYMENT POLICIES THAT IMPROVE AND MAINTAIN HIGH STANDARDS FOR VALUE, QUALITY, AND HEALTHY OUTCOMES FOR ALL BENEFICIARIES.

**Section 4. Interim board - governance and responsibilities.** (1) (a) WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE PRESIDENT OF THE COLORADO SENATE, THE MINORITY LEADER OF THE COLORADO SENATE, THE SPEAKER OF THE COLORADO HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF THE COLORADO HOUSE OF REPRESENTATIVES, AND THE GOVERNOR OF THE STATE OF COLORADO SHALL EACH APPOINT THREE TRUSTEES TO SERVE ON THE INTERIM BOARD. IN MAKING THE APPOINTMENTS TO THE INTERIM BOARD, THE APPOINTING AUTHORITIES SHALL MAKE GOOD-FAITH EFFORTS TO ENSURE THAT:

(I) EACH TRUSTEE WILL STRIVE TO REPRESENT THE INTERESTS OF ALL COLORADANS;

(II) THEIR APPOINTMENTS REFLECT THE SOCIAL, DEMOGRAPHIC, AND GEOGRAPHIC DIVERSITY OF THE STATE; AND

(III) THEIR APPOINTEES ARE COMMITTED TO SUCCESSFULLY IMPLEMENTING THIS ARTICLE.

(b) AN INTERIM TRUSTEE MAY BE REMOVED FOR CAUSE BY A MAJORITY VOTE OF THE OTHER TRUSTEES.

(c) IF A VACANCY OCCURS ON THE INTERIM BOARD, THE APPOINTING AUTHORITY SHALL APPOINT A NEW

TRUSTEE TO FILL THE VACANCY WITHIN THIRTY DAYS AFTER THE VACANCY OCCURS.

(2)(a) THE INTERIM BOARD SHALL CARRY OUT ALL DUTIES AND RESPONSIBILITIES OF THE BOARD UNTIL THE ELECTED BOARD ASSUMES RESPONSIBILITY FOR THE OPERATION OF COLORADOCARE ON THE DATE SPECIFIED IN PARAGRAPH (i) OF THIS SUBSECTION.

(b) THE INTERIM BOARD SHALL:

(I) PROMULGATE BYLAWS, PROCEDURES, RULES, AND POLICIES. THE BYLAWS, PROCEDURES, RULES, AND POLICIES OF THE INTERIM BOARD SHALL EXPIRE ONE HUNDRED TWENTY DAYS AFTER THE ELECTED BOARD TAKES OFFICE UNLESS THE ELECTED BOARD RATIFIES THEM.

(II) APPROVE AN OPERATING BUDGET; (III) HIRE EMPLOYEES AND CONSULTANTS; AND

(IV) PROMULGATE RULES TO ENSURE TRANSPARENCY IN ITS OPERATIONS AND DECISIONMAKING, WHICH RULES MUST BE AT LEAST AS STRICT AS THE REQUIREMENTS IN THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ITS SUCCESSOR ACT.

(c) AS SOON AS IT IS ALLOWED UNDER FEDERAL LAW, THE INTERIM BOARD SHALL SEEK A WAIVER TO ALLOW THE STATE TO SUSPEND OPERATION OF THE COLORADO HEALTH BENEFIT EXCHANGE AND TRANSFER ITS RESOURCES TO COLORADOCARE NO LATER THAN THE DATE ON WHICH COLORADOCARE ASSUMES RESPONSIBILITY FOR HEALTH CARE PAYMENTS.

(d) NO LATER THAN NINETY DAYS PRIOR TO THE DATE COLORADOCARE IS TO ASSUME RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE BOARD SHALL PROVIDE WRITTEN CERTIFICATION TO THE GOVERNOR AND THE COLORADO DEPARTMENT OF REVENUE OF THE DATE COLORADOCARE INTENDS TO ASSUME THIS RESPONSIBILITY.

(e) FOR PURPOSES OF ELECTING THE BOARD OF TRUSTEES, THE INTERIM BOARD SHALL USE THE MOST RECENT UNITED STATES DECENNIAL CENSUS FIGURES TO DIVIDE THE STATE INTO SEVEN COMPACT CONTIGUOUS DISTRICTS WITH SUBSTANTIALLY THE SAME NUMBER OF RESIDENTS IN EACH DISTRICT.

(f) ELECTIONS SHALL BE NONPARTI-

SAN.

(g) THE INTERIM BOARD SHALL PROMULGATE RULES GOVERNING THE SELECTION OF TRUSTEE CANDIDATES AND THE CONDUCT OF ELECTIONS, INCLUDING RULES THAT REGULATE CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, AND THE CERTIFICATION OF ELECTION RESULTS.

(h) TRUSTEE CANDIDATES MUST BE MEMBERS OF COLORADOCARE WHO LIVE IN THE DISTRICT FROM WHICH THEY ARE SEEKING ELECTION.

(i) THE INTERIM BOARD SHALL SCHEDULE THE FIRST ELECTION WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS ARTICLE. THE ELECTED BOARD SHALL ASSUME RESPONSIBILITY FOR THE OPERATION OF COLORADOCARE WITHIN FORTY-FIVE DAYS AFTER THE INTERIM BOARD CERTIFIES THE ELECTION RESULTS. INTERIM TRUSTEES SHALL CONTINUE TO SERVE AS EX OFFICIO, NONVOTING TRUSTEES FOR NINETY DAYS AFTER THE ELECTED BOARD ASSUMES RESPONSIBILITY FOR THE OPERATION OF COLORADOCARE.

**Section 5. Elected board of trustees - duties and responsibilities.** (1) A MEMBER ELECTED BOARD OF TWENTY-ONE TRUSTEES SHALL GOVERN COLORADOCARE. THREE TRUSTEES SHALL BE ELECTED FROM AMONG THE MEMBERS RESIDING IN EACH DISTRICT.

(2) (a) ELECTED TRUSTEES SHALL SERVE FOUR YEAR TERMS OF OFFICE, EXCEPT THAT, OF THE TRUSTEES FIRST ELECTED TO THE BOARD, ONE TRUSTEE FROM EACH DISTRICT SHALL SERVE AN INITIAL TWO YEAR TERM AND TWO TRUSTEES FROM EACH DISTRICT SHALL SERVE INITIAL FOUR YEAR TERMS. THE CHAIRPERSON OF THE INTERIM BOARD SHALL DETERMINE BY LOT WHICH TRUSTEES ELECT WILL SERVE INITIAL TWO YEAR TERMS AND WHICH WILL SERVE INITIAL FOUR YEAR TERMS. TRUSTEES WHO SERVE INITIAL TWO YEAR TERMS ARE ELIGIBLE TO SERVE TWO CONSECUTIVE FOUR YEAR TERMS AFTER COMPLETING THEIR INITIAL TERMS. TRUSTEES ELECTED TO SERVE AN INITIAL TERM OF FOUR YEARS MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(b) A TRUSTEE MAY BE REMOVED FOR CAUSE BY A MAJORITY VOTE OF THE OTHER TRUSTEES.

(c) TRUSTEES ARE NOT SUBJECT TO

RECALL ELECTIONS.

(d) IF A VACANCY OCCURS ON THE BOARD, THE BOARD, BY MAJORITY VOTE, SHALL APPOINT A TRUSTEE FROM THE DEPARTING TRUSTEE'S DISTRICT TO COMPLETE THE REMAINDER OF THE DEPARTING TRUSTEE'S TERM OF OFFICE.

(3) NOT MORE OFTEN THAN ONCE PER DECENNIAL, THE ELECTED BOARD MAY MODIFY THE BOUNDARIES OF THE SEVEN DISTRICTS, BUT ONLY IF IT DOES SO WITHIN ONE YEAR AFTER DECENNIAL CENSUS FIGURES ARE PUBLISHED BY THE UNITED STATES CENSUS BUREAU. EACH NEW DISTRICT SHALL BE COMPACT AND CONTIGUOUS AND ALL DISTRICTS SHALL HAVE SUBSTANTIALLY THE SAME NUMBER OF RESIDENTS.

(4) THE BOARD SHALL:

(a) PROMULGATE BYLAWS, PROCEDURES, RULES, AND POLICIES, AND RATIFY, AMEND, OR REJECT THOSE BYLAWS, PROCEDURES, RULES AND POLICIES PROMULGATED BY THE INTERIM BOARD;

(b) HIRE AN EXECUTIVE TEAM TO ADMINISTER THE OPERATIONS OF COLORADOCARE. THE EXECUTIVE TEAM SHALL INCLUDE A CHIEF EXECUTIVE OFFICER, A CHIEF FINANCIAL OFFICER, AND A CHIEF MEDICAL OFFICER.

(c) ESTABLISH A CENTRAL PURCHASING AUTHORITY RESPONSIBLE FOR NEGOTIATING FAVORABLE PRICES FOR PRESCRIPTION DRUGS, MEDICAL EQUIPMENT AND OTHER PRODUCTS AND SERVICES REQUIRED BY COLORADOCARE;

(d) PROVIDE FUNDS TO THE COMMISSIONER OF INSURANCE FOR THE OPERATION OF SEPARATE OMBUDSMAN OFFICES FOR BENEFICIARIES AND PROVIDERS. FUNDING SHALL BE SUFFICIENT TO ALLOW THE TIMELY COMPLETION OF ALL INVESTIGATIONS. EACH OFFICE SHALL HAVE THE CAPACITY TO INVESTIGATE AND RESPOND TO INQUIRIES AND COMPLAINTS AND MAKE RECOMMENDATIONS TO THE BOARD.

(e) ESTABLISH AND FUND AN OFFICE FOR THE INVESTIGATION AND PREVENTION OF FRAUD. THE OFFICE SHALL HAVE THE POWER TO BRING CIVIL ACTIONS IN THE NAME OF COLORADOCARE TO RECOVER ANY MONIES OR THE VALUE OF ANY BENEFITS OBTAINED BY FRAUD OR MISTAKE AND MAY REFER FRAUDULENT CONDUCT TO A DISTRICT ATTORNEY FOR CRIMINAL PROSECUTION.



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(f) ESTABLISH PROCEDURES FOR MANAGING SURPLUS FUNDING BY MAINTAINING NECESSARY OPERATING RESERVES, INCREASING BENEFITS, OR ISSUING REFUNDS TO MEMBERS;

(g) ESTABLISH PROCEDURES FOR ENSURING FINANCIAL SUSTAINABILITY BY ADJUSTING PAYMENTS AND BENEFITS;

(h) PROMULGATE RULES FOR INDEPENDENT ANNUAL PERFORMANCE AND FINANCIAL AUDITS;

(i) PROMULGATE RULES THAT PROTECT BENEFICIARY CONFIDENTIALITY WHILE ALLOWING FOR PUBLICLY AVAILABLE RESEARCH OF COLORADOCARE'S DATABASES;

(j) PROMULGATE RULES TO ENSURE TRANSPARENCY IN ITS OPERATIONS AND DECISIONMAKING, WHICH RULES MUST BE AT LEAST AS STRICT AS THE REQUIREMENTS IN THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ITS SUCCESSOR ACT;

(k) APPROVE AND MAKE PUBLICLY AVAILABLE AN ANNUAL BUDGET;

(l) FACILITATE CREATION OF EFFICIENT MEDICAL RECORDS AND BILLING RECORDS SYSTEMS THAT:

(I) CAN BE EASILY ACCESSED BY PROVIDERS AND BENEFICIARIES;

(II) ALLOW COLORADOCARE TO MAINTAIN A CENTRAL DATABASE OF MEDICAL RECORDS FOR MANAGEMENT AND RESEARCH PURPOSES; AND

(III) ENSURE THE CONFIDENTIALITY OF BENEFICIARIES' MEDICAL RECORDS IN COMPLIANCE WITH ALL FEDERAL AND STATE HEALTH CARE LAWS, REGULATIONS, AND RULES CONCERNING THE CONFIDENTIALITY OF PATIENT MEDICAL RECORDS.

(m) ADMINISTER ALL STATE FUNDS FOR HEALTH CARE SERVICES PROVIDED TO BENEFICIARIES;

(n) ESTABLISH POLICIES AND PROCEDURES TO PAY BENEFITS FOR HEALTH CARE SERVICES RENDERED TO A BENEFICIARY WHO IS TEMPORARILY LIVING OR TRAVELING IN ANOTHER STATE; AND

(o) ESTABLISH AN APPEALS PROCEDURE THAT ALLOWS BENEFICIARIES AND PROVIDERS TO CHALLENGE COVERAGE AND PAYMENT DECISIONS. FINAL ACTION ON AN APPEAL SHALL BE SUBJECT TO JUDICIAL REVIEW ACCORDING TO COLORADO LAW AND THE COLORADO RULES OF CIVIL AND APPELLATE PROCEDURE

FOR THE REVIEW OF FINAL AGENCY ACTIONS.

(5) THE BOARD MAY:

(a) AUTHORIZE REASONABLE COMPENSATION AND EXPENSE REIMBURSEMENT FOR THE TRUSTEES;

(b) SEEK WAIVERS FROM STATE AND FEDERAL LAWS, RULES, AND REGULATIONS; AND

(c) SEEK AND ACCEPT GIFTS, GRANTS, AND DONATIONS ON BEHALF OF COLORADOCARE.

(6) THE BOARD IS GRANTED ALL POWERS NECESSARY AND PROPER TO FULFILL COLORADOCARE'S RESPONSIBILITIES, INCLUDING THE POWER TO PROMULGATE SUCH RULES AS THE BOARD FINDS NECESSARY FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE.

**Section 6. Health care benefits paid by ColoradoCare.** (1) (a) COLORADOCARE SHALL CONTRACT WITH PROVIDERS TO PAY FOR HEALTH CARE SERVICES TO BENEFICIARIES THAT MUST INCLUDE:

(I) AMBULATORY PATIENT SERVICES, INCLUDING PRIMARY AND SPECIALTY CARE;

(II) HOSPITALIZATION;

(III) PRESCRIPTION DRUGS AND DURABLE MEDICAL EQUIPMENT;

(IV) MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES, INCLUDING BEHAVIORAL HEALTH TREATMENT;

(V) EMERGENCY AND URGENT CARE;

(VI) PREVENTIVE AND WELLNESS SERVICES AND CHRONIC DISEASE MANAGEMENT;

(VII) REHABILITATIVE AND HABILITATIVE SERVICES AND DEVICES;

(VIII) PEDIATRIC SERVICES, INCLUDING ORAL, VISION, AND HEARING CARE;

(IX) LABORATORY SERVICES;

(X) MATERNITY AND NEWBORN CARE; AND

(XI) PALLIATIVE AND END-OF-LIFE CARE.

(b) THE BOARD MAY AUTHORIZE PAYMENT FOR BENEFITS NOT SPECIFIED IN PARAGRAPH (a) OF SUBSECTION 1 OF THIS SECTION.

(2) (a) COLORADOCARE SHALL PAY FOR HEALTH CARE SERVICES TO BENEFICIARIES REGARDLESS OF THE CAUSE OF THEIR INJURIES OR ILLNESSES.

(b) COLORADOCARE SHALL ASSUME RESPONSIBILITY FOR PAYMENT OF ALL REASONABLE AND NECESSARY

MEDICAL EXPENSES INCURRED BY WORKERS WHO SUFFER INJURIES OR ILLNESSES ARISING OUT OF AND IN THE COURSE OF THEIR EMPLOYMENT ON AND AFTER THE DATE COLORADOCARE ASSUMES RESPONSIBILITY FOR HEALTH CARE PAYMENTS. COLORADOCARE'S RESPONSIBILITY EXTENDS ONLY TO EMPLOYEES WHOSE EMPLOYERS ARE REQUIRED BY THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, COLORADO REVISED STATUTES, TO PROVIDE WORKERS' COMPENSATION INSURANCE FOR THEIR EMPLOYEES. WORKERS SUFFERING FROM INJURIES OR ILLNESSES ARISING OUT OF AND IN THE COURSE OF THEIR EMPLOYMENT ARE ENTITLED TO THE SAME BENEFITS AND HAVE THE SAME RIGHTS AND RESPONSIBILITIES AS OTHER BENEFICIARIES.

(c) FOR INDIVIDUALS ELIGIBLE FOR THE MEDICAID PROGRAM, THE CHILDREN'S BASIC HEALTH PLAN, AND ANY OTHER FEDERAL HEALTH CARE PROGRAMS TO BE ADMINISTERED BY COLORADOCARE, THE BENEFIT PACKAGE UNDER COLORADOCARE MUST INCLUDE:

(I) THE BENEFITS REQUIRED BY FEDERAL LAW;

(II) ANY OPTIONAL MEDICAID PROGRAM BENEFITS AUTHORIZED UNDER 42 U.S.C. SEC. 1396d OR THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, COLORADO REVISED STATUTES, OR SERVICES COVERED UNDER THE STATE PLAN FOR THE CHILDREN'S BASIC HEALTH PLAN AS PROVIDED IN 42 U.S.C. SEC. 1397cc, FOR WHICH THESE INDIVIDUALS ARE ELIGIBLE; AND

(III) ANY ADDITIONAL BENEFITS PROVIDED IN COLORADOCARE'S BENEFIT PACKAGE.

(d) AN INDIVIDUAL WHO LOSES ELIGIBILITY FOR STATE OR FEDERAL BENEFITS UNDER THE MEDICAID PROGRAM OR THE CHILDREN'S BASIC HEALTH PLAN SHALL RECEIVE THE SAME BENEFITS AS ANY OTHER BENEFICIARY OF COLORADOCARE.

(3) COLORADOCARE SHALL NOT CHARGE BENEFICIARIES ANY DEDUCTIBLES.

(4) THE BOARD SHALL PROMULGATE RULES FOR WAIVING COPAYMENTS WHEN THEY WILL CAUSE FINANCIAL HARDSHIP FOR A BENEFICIARY. THE BOARD SHALL NOT REQUIRE COPAY-

MENTS FOR DESIGNATED PRIMARY AND PREVENTIVE CARE SERVICES.

(5) A PROVIDER MAY NOT REQUIRE A BENEFICIARY TO MAKE A COPAYMENT OR SUBMIT TO ANY OTHER COST-SHARING ARRANGEMENT WITHOUT COLORADOCARE'S APPROVAL.

(6) COLORADOCARE SHALL ALLOW BENEFICIARIES TO CHOOSE THEIR OWN PRIMARY CARE PROVIDERS.

(7) COLORADOCARE MAY PROVIDE FUNDING AND OTHER SUPPORT TO IMPROVE ACCESS TO HEALTH CARE SERVICES FOR ALL BENEFICIARIES REGARDLESS OF WHERE THEY LIVE IN COLORADO.

(8) COLORADOCARE MAY PROVIDE FUNDING AND OTHER SUPPORT FOR STATEWIDE ACCESS TO EMERGENCY AND TRAUMA CARE SERVICES.

**Section 7. Delivery of service models.**

(1) COLORADOCARE SHALL BEGIN OPERATION BY ASSUMING PAYMENT FOR HEALTH CARE SERVICES IN A MANNER DESIGNED TO MINIMIZE DISRUPTIONS TO CURRENT DELIVERY AND PAYMENT SYSTEMS.

(2) COLORADOCARE SHALL PHASE IN PAYMENT REFORMS AND A UNIFIED BILLING SYSTEM.

(3) COLORADOCARE SHALL USE PAYMENT MODELS THAT OPTIMIZE QUALITY, VALUE, AND HEALTHY OUTCOMES FOR BENEFICIARIES.

**Section 8. Transition to ColoradoCare.**

(1) (a) THE COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE COLORADO HEALTH BENEFIT EXCHANGE, AND ANY OTHER NECESSARY STATE DEPARTMENT OR AGENCY SHALL ASSIST THE INTERIM AND ELECTED BOARDS IN SEEKING ALL WAIVERS, EXEMPTIONS, AND AGREEMENTS FROM THE STATE AND FEDERAL GOVERNMENTS THAT ARE NECESSARY TO TRANSFER HEALTH CARE FUNDING FROM THE FEDERAL GOVERNMENT AND FROM ANY STATE DEPARTMENTS AND AGENCIES TO COLORADOCARE.

(b) TO THE EXTENT ALLOWABLE UNDER FEDERAL LAW, COLORADOCARE AND ALL INVOLVED STATE DEPARTMENTS AND AGENCIES SHALL ARRANGE FOR FEDERAL FUNDS TO BE DELIVERED DIRECTLY TO COLORADOCARE. IF THESE FUNDS CANNOT BE DELIVERED DIRECTLY TO COLORADOCARE, THE STATE SHALL TRANSFER THEM TO COLORADO-





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CARE WITHIN TEN DAYS AFTER IT RECEIVES THEM.

(2) NO LATER THAN THE DATE COLORADOCARE IS TO ASSUME RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE STATE SHALL TRANSFER TO COLORADOCARE ALL STATE AND FEDERAL FUNDS FOR THE MEDICAID, CHILDREN'S BASIC HEALTH PLAN, AND ANY OTHER PROGRAM TO BE ADMINISTERED BY COLORADOCARE. THE STATE MAY RETAIN ANY FUNDS NECESSARY TO MEET PAYMENT OBLIGATIONS WHICH EXIST AS OF THE DATE OF TRANSFER. UPON RECEIPT OF THIS FUNDING, COLORADOCARE SHALL BE RESPONSIBLE FOR PAYING FOR ALL BENEFITS AND SERVICES PREVIOUSLY PAID BY THE STATE AND FEDERAL GOVERNMENT WITH THOSE FUNDS.

(3) COLORADOCARE SHALL ASSUME RESPONSIBILITY FOR THE PROPER ADMINISTRATION AND DISTRIBUTION OF STATE AND FEDERAL FUNDS PURSUANT TO STATE AND FEDERAL LAW.

(4) THE BOARD MAY APPLY FOR COLORADOCARE TO BECOME A MEDICARE ADVANTAGE PROGRAM, A MEDICARE SUPPLEMENTAL PROGRAM, OR ANY SUCCESSOR PROGRAM.

(5) THE BOARD IS AUTHORIZED TO APPLY FOR FUNDS AND ENROLL IN ANY PROGRAM THAT DOES NOT ALTER THE PURPOSE OF COLORADOCARE AS SET FORTH IN SECTION 3(2) OF THIS ARTICLE.

**Section 9. Funding of ColoradoCare - collection of premiums.** (1) ON AND AFTER JULY 1 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, AND UNTIL THIRTY DAYS BEFORE COLORADOCARE ASSUMES RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE COLORADO DEPARTMENT OF REVENUE SHALL COLLECT A TRANSITIONAL OPERATING FUND TAX OF:

(a) SIX-TENTHS PERCENT OF TOTAL PAYROLL FROM EACH EMPLOYER;

(b) THREE-TENTHS PERCENT OF ALL PAYROLL INCOME FROM EACH EMPLOYEE; AND

(c) NINE-TENTHS PERCENT OF ALL NONPAYROLL INCOME FROM ALL BENEFICIARIES.

(d) FROM JULY 1 UNTIL DECEMBER 31 OF THE FIRST YEAR IN WHICH THE TAXES IN THIS SUBSECTION (1) ARE LEVIED, THEY SHALL BE LEVIED ON FIFTY PERCENT OF THE BENEFICIARY'S TOTAL NONPAYROLL INCOME.

(2) THIRTY DAYS BEFORE COLORADOCARE IS TO ASSUME RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE COLORADO DEPARTMENT OF REVENUE SHALL CEASE COLLECTING TRANSITIONAL OPERATING FUND TAXES AND SHALL BEGIN COLLECTING A PREMIUM TAX OF:

(a) SIX AND SIXTY-SEVEN-ONE-HUNDREDTHS PERCENT OF TOTAL PAYROLL FROM ALL EMPLOYERS, WHICH SATISFIES THEIR OBLIGATION TO PROVIDE HEALTH CARE INSURANCE FOR THEIR EMPLOYEES;

(b) THREE AND THIRTY-THREE-ONE-HUNDREDTHS PERCENT OF ALL PAYROLL INCOME FROM EACH EMPLOYEE; AND

(c) TEN PERCENT OF ALL NON-PAYROLL INCOME FROM ALL BENEFICIARIES.

(d) IF THE PREMIUM TAX LEVIED PURSUANT TO THIS SUBSECTION (2) IS FIRST LEVIED ON A DATE OTHER THAN JANUARY 1, IT SHALL BE LEVIED ON THE BENEFICIARY'S TOTAL NONPAYROLL INCOME MULTIPLIED BY THE PERCENTAGE OF THE CALENDAR YEAR IN WHICH THE TAX IS FIRST LEVIED.

(3) PAYMENT OF THE PREMIUM TAX DOES NOT CONSTITUTE THE PURCHASE OF A HEALTH INSURANCE POLICY BY AN EMPLOYER OR TAXPAYER.

(4) THE TAXES LEVIED PURSUANT TO THIS SECTION 9 SHALL BE LEVIED AGAINST THE INCOME OF NONRESIDENT INDIVIDUALS IN THE MANNER SPECIFIED IN SECTION 39-22-109, COLORADO REVISED STATUTES OR ANY SUCCESSOR STATUTE, AND AGAINST THE INCOME OF PART-YEAR RESIDENTS IN THE MANNER SPECIFIED IN SECTION 39-22-110, COLORADO REVISED STATUTES OR ANY SUCCESSOR STATUTE.

(5) AN EMPLOYER MAY PAY ALL OR PART OF AN EMPLOYEE'S SHARE OF THE TAXES LEVIED PURSUANT TO THIS SECTION.

(6) THE TOTAL AMOUNT OF PAYROLL EARNINGS BY EMPLOYEES AND OF NONPAYROLL INCOME SUBJECT TO THE TAXES LEVIED PURSUANT TO THIS SECTION SHALL NOT EXCEED THREE HUNDRED FIFTY THOUSAND DOLLARS FOR THOSE FILING INDIVIDUAL INCOME TAX RETURNS AND FOUR HUNDRED FIFTY THOUSAND DOLLARS FOR COUPLES FILING JOINTLY. THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST

THESE LIMITS FOR INFLATION USING THE CONSUMER PRICE INDEX PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR FOR THE BOULDER-GREELEY-DENVER METROPOLITAN STATISTICAL AREA. ADJUSTMENTS SHALL BE EFFECTIVE ON JANUARY 1 OF EACH YEAR, BEGINNING WITH THE CALENDAR YEAR 2018 AND USING THE CALENDAR YEAR 2017 AS THE BASE YEAR.

(7) THE BOARD SHALL CONDUCT AN ANNUAL ASSESSMENT OF REVENUES AND COSTS AND PREPARE A PUBLIC REPORT REGARDING THE FINANCIAL STATUS OF COLORADOCARE AND OPTIONS CONSIDERED FOR ECONOMIES, BENEFITS, REFUNDS, BUILDING NECESSARY RESERVES, AND PREMIUM ADJUSTMENTS.

(8) IF THE BOARD DETERMINES THAT A PREMIUM INCREASE IS NECESSARY TO MAINTAIN THE FISCAL STABILITY OF COLORADOCARE, THE BOARD MAY INCREASE THE PREMIUM TAXES SPECIFIED IN SUBSECTION (2) OF THIS SECTION NOT MORE OFTEN THAN ONCE PER FISCAL YEAR, BUT ONLY IF A MAJORITY OF THE MEMBERS OF COLORADOCARE WHO CAST VOTES ON THE PROPOSED INCREASE APPROVE IT.

**Section 10. Exemption.** COLORADOCARE AND THIS ARTICLE ARE EXEMPT FROM SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION.

**Section 11. ColoradoCare secondary payor - subrogation rights.** (1) COLORADOCARE SERVES AS A SECONDARY PAYOR TO ANY HEALTH INSURANCE PLAN IN WHICH A BENEFICIARY IS ENROLLED OR WHICH MAY BE RESPONSIBLE FOR A BENEFICIARY'S HEALTH CARE EXPENSES. THE TOTAL OF COLORADOCARE'S PAYMENT AND ALL OTHER PAYMENTS SHALL NOT EXCEED THE AMOUNT THAT COLORADOCARE WOULD PAY IF IT WERE THE ONLY PAYOR.

(2) COLORADOCARE SHALL SERVE AS A STATE HEALTH PLAN THAT PAYS FOR DESIGNATED SUPPLEMENTAL HEALTH CARE SERVICES FOR MEDICARE BENEFICIARIES; EXCEPT THAT COLORADOCARE SHALL NOT PAY FOR SERVICES:

(a) COVERED BY MEDICARE PARTS A, B AND D; OR

(b) COVERED BY A MEDICARE ADVANTAGE PLAN THAT A BENEFICIARY HAS

WITH AN ENTITY OTHER THAN COLORADOCARE; OR

(c) THAT WOULD HAVE BEEN PAID BY MEDICARE PARTS B OR D HAD THE BENEFICIARY PURCHASED THOSE OPTIONAL MEDICARE COVERAGES, UNLESS:

(i) COLORADOCARE HAS AN AGREEMENT WITH THE CENTER FOR MEDICARE AND MEDICAID SERVICES THAT REQUIRES IT TO PAY FOR SERVICES THAT WOULD HAVE BEEN PAID UNDER PARTS B AND D; OR

(ii) COLORADOCARE OFFERS A MEDICARE ADVANTAGE PLAN AND THE BENEFICIARY VOLUNTARILY ENROLLS IN THIS PLAN.

(3)(a) COLORADOCARE HAS FULL RIGHTS OF SUBROGATION, AHEAD OF THE RIGHTS OF A WORKERS' COMPENSATION OR OTHER INSURER OR HEALTH CARE PLAN, INCLUDING THE RIGHT TO BRING AN INDEPENDENT LAWSUIT OR TO INTERVENE IN A LAWSUIT FILED BY A BENEFICIARY, IN ORDER TO RECOVER HEALTH CARE COSTS FROM COLLATERAL SOURCES FOR WHICH THE BENEFICIARY HAS A RIGHT OF ACTION FOR COMPENSATION AGAINST THE PERSON OR ENTITY THAT CAUSED HIS OR HER ILLNESS OR INJURY. COLORADOCARE MAY ASSERT A LIEN AGAINST ANY PROCEEDS RECOVERED BY THE BENEFICIARY.

(b) COLORADOCARE MAY RECOVER HEALTH CARE PAYMENTS FROM ANY OTHER COLLATERAL SOURCE, SUCH AS A HEALTH INSURANCE PLAN, HEALTH BENEFIT PLAN, OR OTHER PAYOR THAT IS PRIMARY TO COLORADOCARE.

**Section 12. Legislation.** (1) IN THE FIRST REGULAR SESSION OF THE GENERAL ASSEMBLY THAT CONVENES AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION:

(a) TO ENABLE THE COLORADO DEPARTMENT OF REVENUE TO COLLECT AND TRANSFER TO COLORADOCARE THE TAXES LEVIED PURSUANT TO SECTION 9 OF THIS ARTICLE. THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS TO THE DEPARTMENT OF REVENUE TO ENSURE THAT IT CAN BEGIN COLLECTING THESE TAXES ON AND AFTER JULY 1 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, AND TO ENSURE THAT FUNDS ARE TRANSFERRED TO COLORADOCARE



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WITHIN TEN DAYS OF COLLECTION;

(b) TO SUSPEND OPERATIONS OF THE COLORADO HEALTH BENEFIT EXCHANGE, TRANSFER ITS RESOURCES TO COLORADOCARE PURSUANT TO SECTION 8 OF THIS ARTICLE, AND REPEAL ARTICLE 22 OF TITLE 10, COLORADO REVISED STATUTES;

(c) TO TRANSFER RESPONSIBILITY FOR ADMINISTERING THE MEDICAID PROGRAM AND THE CHILDREN'S BASIC HEALTH PLAN TO COLORADOCARE;

(d) TO TRANSFER RESPONSIBILITY FOR ADMINISTERING ANY OTHER STATE AND FEDERAL HEALTH CARE PROGRAMS TO COLORADOCARE;

(e) TO ENABLE COLORADOCARE TO RECEIVE THE APPROPRIATE FEDERAL FUND CONTRIBUTION IN LIEU OF THE FEDERAL PREMIUM TAX CREDITS, COST-SHARING SUBSIDIES, AND SMALL BUSINESS TAX CREDITS PROVIDED IN THE AFFORDABLE CARE ACT;

(f) TO REPEAL OR AMEND, AS APPROPRIATE, THOSE PROVISIONS OF THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, COLORADO REVISED STATUTES, AND ANY OTHER PROVISIONS OF LAW THAT CONCERN THE PROVISION OF MEDICAL CARE FOR WORKERS WHO SUFFER INJURIES OR ILLNESSES ARISING OUT OF AND IN THE COURSE OF THEIR EMPLOYMENT AND FOR THE PAYMENT OF PREMIUMS FOR MEDICAL BENEFITS, WHETHER BY EMPLOYERS OR INSURERS COVERED UNDER THE WORKERS' COMPENSATION ACT, OR THAT OTHERWISE CONFLICT WITH THIS ARTICLE;

(g) TO ENSURE THAT THE STATE'S EXPENDITURES FOR HEALTH CARE SERVICES, INCLUDING THE STATE'S RESPONSIBILITY FOR PROVIDING MATCHING FUNDS FOR MEDICAID AND OTHER FEDERALLY SUPPORTED HEALTH CARE PROGRAMS, DO NOT FALL BELOW THE EXPENDITURE LEVELS FOR HEALTH CARE SERVICES IN THE YEAR PRECEDING THE EFFECTIVE DATE OF THIS ARTICLE. THE BASE YEAR EXPENDITURE LEVELS SHALL BE ADJUSTED ANNUALLY FOR CHANGES IN THE CONSUMER PRICE INDEX FOR THE DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL AREA AND IN THE STATE'S POPULATION; AND

(h) NECESSARY TO IMPLEMENT THIS ARTICLE.

(2) THE LEGISLATION SPECIFIED IN PARAGRAPHS (b), (c) AND (d) OF SUBSECTION (1) OF THIS SECTION SHALL INCLUDE THE TRANSFER OF ALL STATE AND FEDERAL FUNDS FOR THESE PROGRAMS TO COLORADOCARE.

(3) THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS TO ENSURE A SMOOTH AND EFFICIENT TRANSFER OF THE PROGRAMS SPECIFIED IN PARAGRAPHS (b), (c) AND (d) OF SUBSECTION (1) OF THIS SECTION AND TO ENABLE THE AGENCIES SPECIFIED IN SECTION 8(1) OF THIS ARTICLE TO ASSIST COLORADOCARE IN THE MANNER SPECIFIED BY THAT SECTION.

**Section 13. Subject to Colorado sunshine laws.** THE MEETINGS OF THE BOARD AND THE INTERIM BOARD ARE SUBJECT TO ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, THE "COLORADO SUNSHINE ACT OF 1972", OR ITS SUCCESSOR ACT.

**Section 14. Effective Date.** THIS ARTICLE SHALL TAKE FULL FORCE AND EFFECT UPON THE GOVERNOR'S PROCLAMATION PURSUANT TO SECTION 1, ARTICLE V OF THIS CONSTITUTION.

**Section 15. Severability.** IF THE COURTS OF THIS STATE OR OF THE UNITED STATES DECLARE ANY SECTION, PROVISION, PARAGRAPH, CLAUSE, OR PART OF THIS ARTICLE UNCONSTITUTIONAL OR INVALID, THE DECISION OF THE COURT AFFECTS ONLY THE SECTION, PROVISION, PARAGRAPH, CLAUSE, OR PART DECLARED UNCONSTITUTIONAL OR INVALID AND DOES NOT AFFECT ANY OTHER PART OF THIS ARTICLE.

**Section 16. Termination of Colorado-Care's Operations.** (1) IF THE BOARD DETERMINES THAT COLORADOCARE HAS NOT RECEIVED THE WAIVERS, EXEMPTIONS, AND AGREEMENTS FROM THE FEDERAL GOVERNMENT SUFFICIENT FOR ITS FISCALLY SOUND OPERATION, THE BOARD SHALL:

- (a) SHUT DOWN OPERATIONS AND RETURN UNUSED FUNDS;
- (b) NOTIFY THE GOVERNOR OF THE STATE OF COLORADO OF COLORADOCARE'S INABILITY TO FUNCTION; AND
- (c) NOTIFY THE REVISOR OF STAT-

UTES IN WRITING OF THE DATE THE OPERATIONS ARE SHUT DOWN.

## Amendment 70 State Minimum Wage

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

### Ballot Title:

Shall there be an amendment to the Colorado constitution increasing the minimum wage to \$9.30 per hour with annual increases of \$0.90 each January 1 until it reaches \$12 per hour effective January 2020, and annually adjusting it thereafter for cost-of-living increases?

### Text of Measure:

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

**SECTION 1.** In the constitution of the state of Colorado, **amend** section 15 of article XVIII as follows:

**Section 15. State minimum wage rate.** Effective January 1, 2007, Colorado's minimum wage shall be IS increased to ~~\$6.85~~ \$9.30 per hour and shall be IS adjusted INCREASED annually BY \$0.90 EACH JANUARY 1 UNTIL IT REACHES \$12 PER HOUR EFFECTIVE JANUARY 2020, AND THEREAFTER IS ADJUSTED ANNUALLY for inflation COST OF LIVING INCREASES, as measured by the Consumer Price Index used for Colorado. This minimum wage shall be paid to employees who receive the state or federal minimum wage. No more than \$3.02 per hour in tip income may be used to offset the minimum wage of employees who regularly receive tips.

## Amendment 71 Requirements for Constitutional Amendments

The ballot title below is a summary drafted

by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

### Ballot Title:

Shall there be an amendment to the Colorado constitution making it more difficult to amend the Colorado constitution by requiring that any petition for a citizen-initiated constitutional amendment be signed by at least two percent of the registered electors who reside in each state senate district for the amendment to be placed on the ballot and increasing the percentage of votes needed to pass any proposed constitutional amendment from a majority to at least fifty five percent of the votes cast, unless the proposed constitutional amendment only repeals, in whole or in part, any provision of the constitution?

### Text of Measure:

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

**SECTION 1.** In the constitution of the state of Colorado, Section 1(4) of article V is amended and said section 1 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**Section 1. General assembly - initiative and referendum.** (2.5) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, A PETITION FOR AN INITIATED CONSTITUTIONAL AMENDMENT SHALL BE SIGNED BY REGISTERED ELECTORS WHO RESIDE IN EACH STATE SENATE DISTRICT IN COLORADO IN AN AMOUNT EQUAL TO AT LEAST TWO PERCENT OF THE TOTAL REGISTERED ELECTORS IN THE SENATE DISTRICT PROVIDED THAT THE TOTAL NUMBER OF SIGNATURES OF REGISTERED ELECTORS ON THE PETITION SHALL AT LEAST EQUAL THE NUMBER OF SIGNATURES REQUIRED BY SUBSECTION (2) OF THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (2.5), THE NUMBER AND BOUNDARIES



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OF THE SENATE DISTRICTS AND THE NUMBER OF REGISTERED ELECTORS IN THE SENATE DISTRICTS SHALL BE THOSE IN EFFECT AT THE TIME THE FORM OF THE PETITION HAS BEEN APPROVED FOR CIRCULATION AS PROVIDED BY LAW.

(4) (a) The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures initiated by or referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the power to enact any measure.

(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, AN INITIATED CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO AN INITIATED CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

**SECTION 2.** In the constitution of the state of Colorado, Section 2(1) of article XIX is amended to read:

**Section 2. Amendments to constitution - how adopted.** (1) (a) Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and, if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment or amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals. The proposed amendment or amendments shall be published with the laws of that session of the general assembly. At the next general election for members of the general assembly, the said amendment or amendments shall be submitted to the registered electors of the

state for their approval or rejection, and such as are approved by a majority of those voting thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1), shall become part of this constitution.

(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, A CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO A CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

## **Amendment 72 Increase Cigarette and Tobacco Taxes**

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

### **Ballot Title:**

SHALL STATE TAXES BE INCREASED \$315.7 MILLION ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION INCREASING TOBACCO TAXES, AND, IN CONNECTION THEREWITH, BEGINNING JANUARY 1, 2017, INCREASING TAXES ON CIGARETTES BY 8.75 CENTS PER CIGARETTE (\$1.75 PER PACK OF 20 CIGARETTES) AND ON OTHER TOBACCO PRODUCTS BY 22 PERCENT OF THE MANUFACTURER'S LIST PRICE; AND ALLOCATING SPECIFIED PERCENTAGES OF THE NEW TOBACCO TAX REVENUE TO HEALTH-RELATED PROGRAMS AND TOBACCO EDUCATION, PREVENTION, AND CESSATION PROGRAMS CURRENTLY FUNDED BY EXISTING CONSTITUTIONAL TOBACCO TAXES; AND ALSO ALLOCATING NEW REVENUE FOR TOBACCO-RELATED HEALTH RESEARCH, VETERANS' PRO-

GRAMS, CHILD AND ADOLESCENT BEHAVIORAL HEALTH, CONSTRUCTION AND TECHNOLOGY IMPROVEMENTS FOR QUALIFIED HEALTH PROVIDERS, EDUCATIONAL LOAN REPAYMENT FOR HEALTH PROFESSIONALS IN RURAL AND UNDERSERVED AREAS, AND HEALTH PROFESSIONAL TRAINING TRACKS?

### **Text of Measure:**

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

**Section 1.** In the constitution of the state of Colorado, section 21 of article X, add (10) as follows:

**Section 21. Tobacco Taxes for Health Related Purposes.** (10) (a) THE PEOPLE OF COLORADO HEREBY FURTHER FIND THAT:

(I) TOBACCO PRODUCT SALES IN THE STATE OF COLORADO HAVE INCREASED;

(II) COLORADO'S NEED TO DETER CHILDREN AND YOUNG ADULTS FROM STARTING SMOKING IS AS CRITICAL AS EVER;

(III) COLORADO NOW SPENDS LESS THAN HALF OF THE CENTERS FOR DISEASE CONTROL RECOMMENDED LEVEL ON TOBACCO EDUCATION AND CESSATION PROGRAMS;

(IV) SMOKING ADVERSELY AFFECTS THE WELFARE OF COLORADANS DIRECTLY AND INDIRECTLY AND, WITHOUT FURTHER ACTION, WILL DO SO NOW AND IN THE FUTURE; AND

(V) IT IS IN THE COLLECTIVE INTEREST OF ALL COLORADANS TO RAISE TOBACCO TAXES AND COMPETITIVELY AWARD TOBACCO TAX REVENUES TO ENHANCE THE PHYSICAL AND BEHAVIORAL HEALTH OF OUR POPULATION, TO FUND RESEARCH TO PREVENT AND CURE DISEASES SUCH AS CANCER, EMPHYSEMA, AND ALZHEIMER'S, AND TO PROVIDE PROGRAMS THAT WILL ENHANCE THE WELL-BEING OF VETERANS, AS WELL AS THOSE WHO LIVE IN RURAL AND UNDERSERVED AREAS OF OUR STATE.

(b) THERE ARE HEREBY IMPOSED THE FOLLOWING ADDITIONAL CIGARETTE AND TOBACCO TAXES, WHICH SHALL BE IN ADDITION TO THE INCREASED RATES BY SUBSECTION (2) OF THIS SECTION:

(I) A STATEWIDE CIGARETTE TAX, ON THE SALE OF CIGARETTES BY

WHOLESALE, AT EIGHT AND THREE-QUARTERS CENTS PER CIGARETTE (\$1.75 PER PACK OF TWENTY); AND

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

(c) THE CIGARETTE AND TOBACCO TAXES IMPOSED BY THIS SUBSECTION (10) SHALL BE IN ADDITION TO ANY OTHER CIGARETTE AND TOBACCO TAXES EXISTING AS OF THE EFFECTIVE DATE OF THIS SUBSECTION ON THE SALE OR USE OF CIGARETTES BY WHOLESALE 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.

(d) THE REVENUES GENERATED BY OPERATION OF THIS SUBSECTION (10)(b) SHALL BE APPROPRIATED AS FOLLOWS:

(I) EIGHTEEN PERCENT OF THE REVENUES COLLECTED UNDER THIS SUBSECTION, UP TO THIRTY-SIX MILLION DOLLARS ANNUALLY, SHALL BE ALLOCATED UNDER THE FORMULA FOR PROGRAMS SET FORTH IN SUBSECTION (5); PROVIDED, HOWEVER, ANY AMOUNT OVER THIRTY-SIX MILLION DOLLARS THAT WOULD OTHERWISE BE APPROPRIATED FOR THIS PURPOSE, BASED ON THIS EIGHTEEN PERCENT ALLOCATION, SHALL BE DISTRIBUTED PROPORTIONATELY ACCORDING TO THE RELATIVE DISTRIBUTION OF REVENUES PROVIDED BY SUBSECTION (10)(d)(II) (A)-(F).

(II) IN LIGHT OF THE ALLOCATION OF EIGHTEEN PERCENT OF REVENUES COLLECTED UNDER THIS SUBSECTION AS PROVIDED IN SUBSECTION (10)(d)(I), THE REMAINING REVENUES COLLECTED UNDER THIS SUBSECTION (10) SHALL BE APPROPRIATED IN THE FOLLOWING AMOUNTS:

(A) SIXTEEN PERCENT FOR TOBACCO EDUCATION, PREVENTION, AND CESSATION IN THE SAME MANNER AS THE REVENUE PROVIDED BY SUBSECTION (5)(c) OF THIS SECTION.

(B) TWENTY-SEVEN PERCENT FOR TOBACCO-RELATED RESEARCH INTO CARDIOVASCULAR AND PULMONARY DISEASES, CANCER, ALZ-





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HEIMER'S DISEASE, BEHAVIORAL HEALTH, MATERNAL HEALTH, AND EARLY CHILDHOOD DEVELOPMENT TO BE ADMINISTERED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR ITS SUCCESSOR AGENCY, WHICH SHALL ESTABLISH FOR THIS PURPOSE GRANT-MAKING GUIDELINES AFTER CONSULTING WITH RESEARCH INSTITUTIONS THAT ARE RECOGNIZED AS AUTHORITIES IN THESE RESEARCH AREAS AND THAT SPECIALIZE IN SUCH RESEARCH. BASED ON SUCH GUIDELINES, GRANTS FROM THESE REVENUES SHALL BE AWARDED FOR IN-STATE RESEARCH BY COLORADO ENTITIES ON THE BASIS OF SCIENTIFIC MERIT AS DETERMINED BY AN OPEN, COMPETITIVE PEER REVIEW PROCESS THAT ASSURES OBJECTIVITY, CONSISTENCY, AND HIGH QUALITY RESEARCH AND ALSO EMPLOYS CONFLICT OF INTEREST STANDARDS THAT REPRESENT BEST PRACTICES AS UTILIZED IN THE COMPETITION FOR AND AWARD OF FEDERAL GRANTS IN THIS FIELD.

(C) FOURTEEN PERCENT FOR VETERANS' PROGRAMS TO ASSIST WITH THEIR WELL-BEING, INCLUDING PHYSICAL AND BEHAVIORAL HEALTH, SERVICES TO RURAL VETERANS, HOMELESSNESS PREVENTION, AND EMPLOYMENT TRANSITION SERVICES THROUGH PROGRAMS TO BE ADMINISTERED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR ITS SUCCESSOR AGENCY. THE DEPARTMENT SHALL CONSULT WITH, AND CONSIDER THE EXPERTISE AND RECOMMENDATIONS OF NONPROFIT VETERANS SERVICE ORGANIZATIONS TO DETERMINE SERVICE PRIORITIES AND DEVELOP THE GRANT-MAKING PROCESS.

(D) TEN PERCENT FOR CHILD AND ADOLESCENT BEHAVIORAL HEALTH INCLUDING EVIDENCE BASED PREVENTION, EARLY INTERVENTION, AND TREATMENT PROGRAMS TO BE ADMINISTERED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR ITS SUCCESSOR AGENCY, THROUGH A GRANT-MAKING PROCESS.

(E) TEN PERCENT FOR CONSTRUCTION, IMPROVEMENT, AND NEW TECHNOLOGIES FOR ANY QUALIFIED PROVIDER, AS DEFINED IN SECTION 25.5-3-301, COLORADO REVISED STATUTES, OR ANY SUCCESSOR

ACT, THAT MEETS EITHER OF THE FOLLOWING CRITERIA: IS A COMMUNITY HEALTH CENTER AS DEFINED IN SECTION 330 OF THE PUBLIC HEALTH SERVICE ACT OR ANY SUCCESSOR ACT; OR AT LEAST FIFTY PERCENT OF THE PATIENTS SERVED BY THE QUALIFIED PROVIDER ARE UNINSURED OR MEDICALLY INDIGENT AS DEFINED IN THE COLORADO MEDICAL ASSISTANCE ACT 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 ITS SUCCESSOR AGENCY, FOR THE PURPOSE OF FUNDING COLORADO HEALTH SAFETY NET INFRASTRUCTURE IMPROVEMENTS, INCLUDING ALTERATION AND RENOVATION, CONSTRUCTION, EQUIPMENT-ONLY PURCHASES, AND HEALTH INFORMATION TECHNOLOGY-RELATED HARDWARE AND SOFTWARE.

(F) FIVE PERCENT FOR EDUCATIONAL LOAN REPAYMENT FOR HEALTH PROFESSIONALS WHO WORK IN RURAL AND UNDERSERVED AREAS OF THE STATE THROUGH THE COLORADO HEALTH SERVICES CORPS, OR SUCCESSOR PROGRAM, AND PROFESSIONAL TRAINING TRACKS FOR PHYSICIANS AT TEACHING HEALTH CENTERS, DENTISTS, PEDIATRIC RESIDENCIES, PEDIATRIC PSYCHOLOGY FELLOWSHIPS, AND COMMUNITY DENTAL HEALTH COORDINATORS THROUGH PROGRAMS TO BE ADMINISTERED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR ITS SUCCESSOR AGENCY.

(e) THE LEGISLATIVE RESEARCH OFFICES OF THE GENERAL ASSEMBLY SHALL ANNUALLY PUBLISH ON AN EASILY IDENTIFIED PORTION OF THE GENERAL ASSEMBLY'S WEBSITE THE NAMES OF ALL PROGRAMS FUNDED UNDER THIS SUBSECTION (10) FOR THE PREVIOUS FISCAL YEAR, THE AMOUNTS APPROPRIATED FROM THE TAXES GENERATED BY THIS SUBSECTION (10) FOR SUCH PROGRAMS, AND THE PURPOSES OF THE EXPENDITURES.

(f) ALL REVENUES RECEIVED BY OPERATION OF THIS SUBSECTION (10) 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.

(g) REVENUES APPROPRIATED PURSUANT TO PARAGRAPHS (10)(d)(II) (B)-(F) OF SUBSECTION (10) SHALL BE USED TO SUPPLEMENT REVENUES THAT ARE APPROPRIATED BY THE GENERAL ASSEMBLY AS OF JANUARY 1, 2016, AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED REVENUES.

(h) THE GENERAL ASSEMBLY MAY ENACT SUCH LEGISLATION AS WILL FACILITATE IMPLEMENTATION OF THIS INITIATIVE.

(i) THIS SUBSECTION (10) IS EFFECTIVE JANUARY 1, 2017.

## Proposition 106 Access to Medical Aid-in-Dying Medication

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado Revised Statutes. The text of the measure that will appear in the Colorado Revised Statutes below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

### Ballot Title:

Shall there be a change to the Colorado Revised Statutes to permit any mentally capable adult Colorado resident who has a medical prognosis of death by terminal illness within six months to receive a prescription from a willing licensed physician for medication that can be self-administered to bring about death; and in connection therewith, requiring two licensed physicians to confirm the medical prognosis, that the terminally-ill patient has received information about other care and treatment options, and that the patient is making a voluntary and informed decision in requesting the medication; requiring evaluation by a licensed mental health professional if either physician believes the patient may not be mentally capable; granting immunity from civil and criminal liability and professional discipline to any

person who in good faith assists in providing access to or is present when a patient self-administers the medication; and establishing criminal penalties for persons who knowingly violate statutes relating to the request for the medication?

### Text of Measure:

*Be it enacted by the people of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, add article 48 to title 25 as follows:

## ARTICLE 48 End-of-life Options

**25-48-101. Short title.** THE SHORT TITLE OF THIS ARTICLE IS THE "COLORADO END OF LIFE OPTIONS ACT".

**25-48-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE OR OLDER.

(2) "ATTENDING PHYSICIAN" MEANS A PHYSICIAN WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE OF A TERMINALLY ILL INDIVIDUAL AND THE TREATMENT OF THE INDIVIDUAL'S TERMINAL ILLNESS.

(3) "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS REGARDING A TERMINALLY ILL INDIVIDUAL'S ILLNESS.

(4) "HEALTH CARE PROVIDER" OR "PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, REGISTERED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW TO ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION. THE TERM INCLUDES A HEALTH CARE FACILITY, INCLUDING A LONG-TERM CARE FACILITY AS DEFINED IN SECTION 25-3-103.7 (1) (f.3) AND A CONTINUING CARE RETIREMENT COMMUNITY AS DESCRIBED IN SECTION 25.5-6-203 (1) (c)(I), C.R.S.

(5) "INFORMED DECISION" MEANS A DECISION THAT IS:

(a) MADE BY AN INDIVIDUAL TO OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION THAT THE QUALIFIED INDIVIDUAL MAY DECIDE TO SELF-ADMINISTER TO END HIS OR





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HER LIFE IN A PEACEFUL MANNER;  
(b) BASED ON AN UNDERSTANDING AND ACKNOWLEDGMENT OF THE RELEVANT FACTS; AND  
(c) MADE AFTER THE ATTENDING PHYSICIAN FULLY INFORMS THE INDIVIDUAL OF;  
(I) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS;  
(II) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICAL AID-IN DYING MEDICATION TO BE PRESCRIBED;  
(III) THE PROBABLE RESULT OF TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;  
(IV) THE CHOICES AVAILABLE TO AN INDIVIDUAL THAT DEMONSTRATE HIS OR HER SELF- DETERMINATION AND INTENT TO END HIS OR HER LIFE IN A PEACEFUL MANNER, INCLUDING THE ABILITY TO CHOOSE WHETHER TO:  
(A) REQUEST MEDICAL AID IN DYING;  
(B) OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE;  
(C) FILL THE PRESCRIPTION AND POSSESS MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE; AND  
(D) ULTIMATELY SELF-ADMINISTER THE MEDICAL AID-IN-DYING MEDICATION TO BRING ABOUT A PEACEFUL DEATH; AND  
(V) ALL FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL.  
(6) "LICENSED MENTAL HEALTH PROFESSIONAL" MEANS A PSYCHIATRIST LICENSED UNDER ARTICLE 36 OF TITLE 12, C.R.S., OR A PSYCHOLOGIST LICENSED UNDER PART 3 OF ARTICLE 43 OF TITLE 12, C.R.S.  
(7) "MEDICAL AID IN DYING" MEANS THE MEDICAL PRACTICE OF A PHYSICIAN PRESCRIBING MEDICAL AID-IN-DYING MEDICATION TO A QUALIFIED INDIVIDUAL THAT THE INDIVIDUAL MAY CHOOSE TO SELF-ADMINISTER TO BRING ABOUT A PEACEFUL DEATH.  
(8) "MEDICAL AID-IN-DYING MEDICATION" MEANS MEDICATION PRESCRIBED BY A PHYSICIAN PURSUANT TO THIS ARTICLE TO PROVIDE MEDICAL AID IN DYING TO A QUALIFIED INDIVIDUAL.  
(9) "MEDICALLY CONFIRMED" MEANS THAT A CONSULTING PHYSICIAN WHO HAS EXAMINED THE TERMINALLY ILL INDIVIDUAL AND THE INDIVIDUAL'S

RELEVANT MEDICAL RECORDS HAS CONFIRMED THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN.

(10) "MENTAL CAPACITY" OR "MENTALLY CAPABLE" MEANS THAT IN THE OPINION OF AN INDIVIDUAL'S ATTENDING PHYSICIAN, CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST, THE INDIVIDUAL HAS THE ABILITY TO MAKE AND COMMUNICATE AN INFORMED DECISION TO HEALTH CARE PROVIDERS.

(11) "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR OSTEOPATHY LICENSED TO PRACTICE MEDICINE BY THE COLORADO MEDICAL BOARD.

(12) "PROGNOSIS OF SIX MONTHS OR LESS" MEANS A PROGNOSIS RESULTING FROM A TERMINAL ILLNESS THAT THE ILLNESS WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH WITHIN SIX MONTHS AND WHICH HAS BEEN MEDICALLY CONFIRMED.

(13) "QUALIFIED INDIVIDUAL" MEANS A TERMINALLY ILL ADULT WITH A PROGNOSIS OF SIX MONTHS OR LESS, WHO HAS MENTAL CAPACITY, HAS MADE AN INFORMED DECISION, IS A RESIDENT OF THE STATE, AND HAS SATISFIED THE REQUIREMENTS OF THIS ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE IN A PEACEFUL MANNER.

(14) "RESIDENT" MEANS AN INDIVIDUAL WHO IS ABLE TO DEMONSTRATE RESIDENCY IN COLORADO BY PROVIDING ANY OF THE FOLLOWING DOCUMENTATION TO HIS OR HER ATTENDING PHYSICIAN:

(a) A COLORADO DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED PURSUANT TO ARTICLE 2 OF TITLE 42, C.R.S.;

(b) A COLORADO VOTER REGISTRATION CARD OR OTHER DOCUMENTATION SHOWING THE INDIVIDUAL IS REGISTERED TO VOTE IN COLORADO;

(c) EVIDENCE THAT THE INDIVIDUAL OWNS OR LEASES PROPERTY IN COLORADO; OR

(d) A COLORADO INCOME TAX RETURN FOR THE MOST RECENT TAX YEAR.

(15) "SELF-ADMINISTER" MEANS A QUALIFIED INDIVIDUAL'S AFFIRMATIVE, CONSCIOUS, AND PHYSICAL ACT OF ADMINISTERING THE MEDICAL AID-IN-DYING MEDICATION TO HIMSELF OR HERSELF TO BRING ABOUT HIS OR HER OWN DEATH.

(16) "TERMINAL ILLNESS" MEANS AN INCURABLE AND IRREVERSIBLE ILLNESS THAT WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH.

**25-48-103. Right to request medical aid-in-dying medication.** (1) AN ADULT RESIDENT OF COLORADO MAY MAKE A REQUEST, IN ACCORDANCE WITH SECTIONS 25-48-104 AND 25-48-112, TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION IF:

(a) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DIAGNOSED THE INDIVIDUAL WITH A TERMINAL ILLNESS WITH A PROGNOSIS OF SIX MONTHS OR LESS;

(b) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DETERMINED THE INDIVIDUAL HAS MENTAL CAPACITY; AND

(c) THE INDIVIDUAL HAS VOLUNTARILY EXPRESSED THE WISH TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION.

(2) THE RIGHT TO REQUEST MEDICAL AID-IN-DYING MEDICATION DOES NOT EXIST BECAUSE OF AGE OR DISABILITY.

**25-48-104. Request process - witness requirements.** (1) IN ORDER TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, AN INDIVIDUAL WHO SATISFIES THE REQUIREMENTS IN SECTION 25-48-103 MUST MAKE TWO ORAL REQUESTS, SEPARATED BY AT LEAST FIFTEEN DAYS, AND A VALID WRITTEN REQUEST TO HIS OR HER ATTENDING PHYSICIAN.

(2)(a) TO BE VALID, A WRITTEN REQUEST FOR MEDICAL AID-IN-DYING MEDICATION MUST BE:

(I) SUBSTANTIALLY IN THE SAME FORM AS SET FORTH IN SECTION 25-48-112;

(II) SIGNED AND DATED BY THE INDIVIDUAL SEEKING THE MEDICAL AID-IN-DYING MEDICATION; AND

(III) WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE PRESENCE OF THE INDIVIDUAL, ATTEST TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THAT THE INDIVIDUAL IS:

(A) MENTALLY CAPABLE;  
(B) ACTING VOLUNTARILY; AND  
(C) NOT BEING COERCED TO SIGN THE REQUEST.

(b) OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE

MUST NOT BE:

(I) RELATED TO THE INDIVIDUAL BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION;

(II) AN INDIVIDUAL WHO, AT THE TIME THE REQUEST IS SIGNED, IS ENTITLED, UNDER A WILL OR BY OPERATION OF LAW, TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON HIS OR HER DEATH; OR  
(III) AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTH CARE FACILITY WHERE THE INDIVIDUAL IS RECEIVING MEDICAL TREATMENT OR IS A RESIDENT.

(c) NEITHER THE INDIVIDUAL'S ATTENDING PHYSICIAN NOR A PERSON AUTHORIZED AS THE INDIVIDUAL'S QUALIFIED POWER OF ATTORNEY OR DURABLE MEDICAL POWER OF ATTORNEY SHALL SERVE AS A WITNESS TO THE WRITTEN REQUEST.

**25-48-105. Right to rescind request - requirement to offer opportunity to rescind.** (1) AT ANY TIME, AN INDIVIDUAL MAY RESCIND HIS OR HER REQUEST FOR MEDICAL AID-IN-DYING MEDICATION WITHOUT REGARD TO THE INDIVIDUAL'S MENTAL STATE.

(2) AN ATTENDING PHYSICIAN SHALL NOT WRITE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE UNLESS THE ATTENDING PHYSICIAN OFFERS THE QUALIFIED INDIVIDUAL AN OPPORTUNITY TO RESCIND THE REQUEST FOR THE MEDICAL AID-IN-DYING MEDICATION.

**25-48-106. Attending physician responsibilities.** (1) THE ATTENDING PHYSICIAN SHALL:

(a) MAKE THE INITIAL DETERMINATION OF WHETHER AN INDIVIDUAL REQUESTING MEDICAL AID-IN-DYING MEDICATION HAS A TERMINAL ILLNESS, HAS A PROGNOSIS OF SIX MONTHS OR LESS, IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND HAS MADE THE REQUEST VOLUNTARILY;

(b) REQUEST THAT THE INDIVIDUAL DEMONSTRATE COLORADO RESIDENCY BY PROVIDING DOCUMENTATION AS DESCRIBED IN SECTION 25-48-102 (14);

(c) PROVIDE CARE THAT CONFORMS TO ESTABLISHED MEDICAL STANDARDS AND ACCEPTED MEDICAL GUIDELINES;

(d) REFER THE INDIVIDUAL TO A CONSULTING PHYSICIAN FOR MEDICAL



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CONFIRMATION OF THE DIAGNOSIS AND PROGNOSIS AND FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND ACTING VOLUNTARILY;

(e) PROVIDE FULL, INDIVIDUAL-CENTERED DISCLOSURES TO ENSURE THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION BY DISCUSSING WITH THE INDIVIDUAL:

(I) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS;

(II) THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL;

(III) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;

(IV) THE PROBABLE RESULT OF TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED; AND

(V) THE POSSIBILITY THAT THE INDIVIDUAL CAN OBTAIN THE MEDICAL AID-IN-DYING MEDICATION BUT CHOOSE NOT TO USE IT;

(f) REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL PURSUANT TO SECTION 25-48-108 IF THE ATTENDING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY NOT BE MENTALLY CAPABLE OF MAKING AN INFORMED DECISION;

(g) CONFIRM THAT THE INDIVIDUAL'S REQUEST DOES NOT ARISE FROM COERCION OR UNDUE INFLUENCE BY ANOTHER PERSON BY DISCUSSING WITH THE INDIVIDUAL, OUTSIDE THE PRESENCE OF OTHER PERSONS, WHETHER THE INDIVIDUAL IS FEELING COERCED OR UNDULY INFLUENCED BY ANOTHER PERSON;

(h) COUNSEL THE INDIVIDUAL ABOUT THE IMPORTANCE OF:

(I) HAVING ANOTHER PERSON PRESENT WHEN THE INDIVIDUAL SELF-ADMINISTERS THE MEDICAL AID-IN-DYING MEDICATION PRESCRIBED PURSUANT TO THIS ARTICLE;

(II) NOT TAKING THE MEDICAL AID-IN-DYING MEDICATION IN A PUBLIC PLACE;

(III) SAFE-KEEPING AND PROPER DISPOSAL OF UNUSED MEDICAL AID-IN-DYING MEDICATION IN ACCORDANCE WITH SECTION 25-48-120; AND

(IV) NOTIFYING HIS OR HER NEXT OF KIN OF THE REQUEST FOR MEDICAL AID-IN-DYING MEDICATION;

(i) INFORM THE INDIVIDUAL THAT HE OR SHE MAY RESCIND THE REQUEST FOR MEDICAL AID-IN-DYING MEDICATION AT ANY TIME AND IN ANY MANNER;

(j) VERIFY, IMMEDIATELY PRIOR TO WRITING THE PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION, THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION;

(k) ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE WITH THIS ARTICLE BEFORE WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION; AND

(l) EITHER:

(I) DISPENSE MEDICAL AID-IN-DYING MEDICATIONS DIRECTLY TO THE QUALIFIED INDIVIDUAL, INCLUDING ANCILLARY MEDICATIONS INTENDED TO MINIMIZE THE INDIVIDUAL'S DISCOMFORT, IF THE ATTENDING PHYSICIAN HAS A CURRENT DRUG ENFORCEMENT ADMINISTRATION CERTIFICATE AND COMPLIES WITH ANY APPLICABLE ADMINISTRATIVE RULE; OR

(II) DELIVER THE WRITTEN PRESCRIPTION PERSONALLY, BY MAIL, OR THROUGH AUTHORIZED

ELECTRONIC TRANSMISSION IN THE MANNER PERMITTED UNDER ARTICLE 42.5 OF TITLE 12, C.R.S., TO A LICENSED PHARMACIST, WHO SHALL DISPENSE THE MEDICAL AID-IN-DYING MEDICATION TO THE QUALIFIED INDIVIDUAL, THE ATTENDING PHYSICIAN, OR AN INDIVIDUAL EXPRESSLY DESIGNATED BY THE QUALIFIED INDIVIDUAL.

**25-48-107. Consulting physician responsibilities.** BEFORE AN INDIVIDUAL WHO IS REQUESTING MEDICAL AID-IN-DYING MEDICATION MAY RECEIVE A PRESCRIPTION FOR THE MEDICAL AID-IN-DYING MEDICATION, A CONSULTING PHYSICIAN MUST:

(1) EXAMINE THE INDIVIDUAL AND HIS OR HER RELEVANT MEDICAL RECORDS;

(2) CONFIRM, IN WRITING, TO THE ATTENDING PHYSICIAN:

(a) THAT THE INDIVIDUAL HAS A TERMINAL ILLNESS;

(b) THE INDIVIDUAL HAS A PROGNOSIS OF SIX MONTHS OR LESS;

(c) THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION; AND

(d) THAT THE INDIVIDUAL IS MENTALLY CAPABLE, OR PROVIDE DOCUMENTATION THAT THE CONSULTING PHYSICIAN HAS REFERRED THE IN-

DIVIDUAL FOR FURTHER EVALUATION IN ACCORDANCE WITH SECTION 25-48-108.

**25-48-108. Confirmation that individual is mentally capable - referral to mental health professional.** (1) AN ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE FOR AN INDIVIDUAL WITH A TERMINAL ILLNESS UNTIL THE INDIVIDUAL IS DETERMINED TO BE MENTALLY CAPABLE AND MAKING AN INFORMED DECISION, AND THOSE DETERMINATIONS ARE CONFIRMED IN ACCORDANCE WITH THIS SECTION.

(2) IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY NOT BE MENTALLY CAPABLE OF MAKING AN INFORMED DECISION, THE ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN SHALL REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING AN INFORMED DECISION.

(3) A LICENSED MENTAL HEALTH PROFESSIONAL WHO EVALUATES AN INDIVIDUAL UNDER THIS SECTION SHALL COMMUNICATE, IN WRITING, TO THE ATTENDING OR CONSULTING PHYSICIAN WHO REQUESTED THE EVALUATION, HIS OR HER CONCLUSIONS ABOUT WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING INFORMED DECISIONS. IF THE LICENSED MENTAL HEALTH PROFESSIONAL DETERMINES THAT THE INDIVIDUAL IS NOT MENTALLY CAPABLE OF MAKING INFORMED DECISIONS, THE PERSON SHALL NOT BE DEEMED A QUALIFIED INDIVIDUAL UNDER THIS ARTICLE AND THE ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICAL AID-IN-DYING MEDICATION TO THE INDIVIDUAL.

**25-48-109. Death certificate.** (1) UNLESS OTHERWISE PROHIBITED BY LAW, THE ATTENDING PHYSICIAN OR THE HOSPICE MEDICAL DIRECTOR SHALL SIGN THE DEATH CERTIFICATE OF A QUALIFIED INDIVIDUAL WHO OBTAINED AND SELF-ADMINISTERED AID-IN-DYING MEDICATION.

(2) WHEN A DEATH HAS OCCURRED IN ACCORDANCE WITH THIS ARTICLE, THE CAUSE OF DEATH SHALL BE LISTED AS THE UNDERLYING TERMINAL ILLNESS AND THE DEATH DOES

NOT CONSTITUTE GROUNDS FOR POST-MORTEM INQUIRY UNDER SECTION 30-10-606 (1), C.R.S.

**25-48-110. Informed decision required.**

(1) AN INDIVIDUAL WITH A TERMINAL ILLNESS IS NOT A QUALIFIED INDIVIDUAL AND MAY NOT RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNLESS HE OR SHE HAS MADE AN INFORMED DECISION.

(2) IMMEDIATELY BEFORE WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE, THE ATTENDING PHYSICIAN SHALL VERIFY THAT THE INDIVIDUAL WITH A TERMINAL ILLNESS IS MAKING AN INFORMED DECISION.

**25-48-111. Medical record documentation requirements - reporting requirements - department compliance reviews - rules.** (1) THE ATTENDING PHYSICIAN SHALL DOCUMENT IN THE INDIVIDUAL'S MEDICAL RECORD, THE FOLLOWING INFORMATION:

(a) DATES OF ALL ORAL REQUESTS;

(b) A VALID WRITTEN REQUEST;

(c) THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, DETERMINATION OF MENTAL CAPACITY AND THAT THE INDIVIDUAL IS MAKING A VOLUNTARY REQUEST AND AN INFORMED DECISION;

(d) THE CONSULTING PHYSICIAN'S CONFIRMATION OF DIAGNOSIS AND PROGNOSIS, MENTAL CAPACITY AND THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION;

(e) IF APPLICABLE, WRITTEN CONFIRMATION OF MENTAL CAPACITY FROM A LICENSED MENTAL HEALTH PROFESSIONAL;

(f) A NOTATION OF NOTIFICATION OF THE RIGHT TO RESCIND A REQUEST MADE PURSUANT TO THIS ARTICLE; AND

(g) A NOTATION BY THE ATTENDING PHYSICIAN THAT ALL REQUIREMENTS UNDER THIS ARTICLE HAVE BEEN SATISFIED; INDICATING STEPS TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF THE MEDICAL AID-IN-DYING MEDICATIONS PRESCRIBED AND WHEN.

(2)(a) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ANNUALLY REVIEW A SAMPLE OF RECORDS MAINTAINED PURSUANT TO THIS ARTICLE TO ENSURE COMPLIANCE. THE DEPARTMENT SHALL ADOPT RULES TO FACILITATE THE COLLECTION OF INFORMATION DE-



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FINED IN SUBSECTION (1) OF THIS SECTION. EXCEPT AS OTHERWISE REQUIRED BY LAW, THE INFORMATION COLLECTED BY THE DEPARTMENT IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION. HOWEVER, THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE PUBLIC AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED UNDER THIS SUBSECTION (2).

(b) THE DEPARTMENT SHALL REQUIRE ANY HEALTH CARE PROVIDER, UPON DISPENSING A MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, TO FILE A COPY OF A DISPENSING RECORD WITH THE DEPARTMENT. THE DISPENSING RECORD IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION.

**25-48-112. Form of written request.** (1) A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION AUTHORIZED BY THIS ARTICLE MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

REQUEST FOR MEDICATION TO END  
MY LIFE  
IN A PEACEFUL MANNER

I, \_\_\_\_\_  
AM AN ADULT OF SOUND MIND. I AM SUFFERING FROM \_\_\_\_\_ WHICH MY ATTENDING PHYSICIAN HAS DETERMINED IS A TERMINAL ILLNESS AND WHICH HAS BEEN MEDICALLY CONFIRMED. I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS, THE NATURE OF THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL.

I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE MEDICAL AID-IN-DYING MEDICATION THAT WILL END MY LIFE IN A PEACEFUL MANNER IF I CHOOSE TO TAKE IT, AND I AUTHORIZE MY ATTENDING PHYSICIAN TO CONTACT ANY PHARMACIST ABOUT MY REQUEST.

I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST AT ANY TIME.

I UNDERSTAND THE SERIOUSNESS

OF THIS REQUEST, AND I EXPECT TO DIE IF I TAKE THE AID IN DYING MEDICATION PRESCRIBED.

I FURTHER UNDERSTAND THAT ALTHOUGH MOST DEATHS OCCUR WITHIN THREE HOURS, MY DEATH MAY TAKE LONGER, AND MY ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY. I MAKE THIS REQUEST VOLUNTARILY, WITHOUT RESERVATION, AND WITHOUT BEING COERCED, AND I ACCEPT FULL RESPONSIBILITY FOR MY ACTIONS.

SIGNED: \_\_\_\_\_  
DATED: \_\_\_\_\_

### DECLARATION OF WITNESSES

WE DECLARE THAT THE INDIVIDUAL SIGNING THIS REQUEST:

IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF IDENTITY; SIGNED THIS REQUEST IN OUR PRESENCE;

APPEARS TO BE OF SOUND MIND AND NOT UNDER DURESS, COERCION, OR UNDUE INFLUENCE; AND I AM NOT THE ATTENDING PHYSICIAN FOR THE INDIVIDUAL.

\_\_\_\_\_ WITNESS 1/DATE  
\_\_\_\_\_ WITNESS 2/DATE

NOTE: OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE MUST NOT:

BE A RELATIVE (BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION) OF THE INDIVIDUAL SIGNING THIS REQUEST; BE ENTITLED TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON DEATH; OR OWN, OPERATE, OR BE EMPLOYED AT A HEALTH CARE FACILITY WHERE THE INDIVIDUAL IS A PATIENT OR RESIDENT.

AND NEITHER THE INDIVIDUAL'S ATTENDING PHYSICIAN NOR A PERSON AUTHORIZED AS THE INDIVIDUAL'S QUALIFIED POWER OF ATTORNEY OR DURABLE MEDICAL POWER OF ATTORNEY SHALL SERVE AS A WITNESS TO THE WRITTEN REQUEST.

**25-48-113. Standard of care.** (1) PHYSICIANS AND HEALTH CARE PROVIDERS SHALL PROVIDE MEDICAL SERVICES UNDER THIS ACT THAT MEET OR EXCEED THE STANDARD OF CARE FOR END-OF-LIFE MEDICAL CARE.

(2) IF A HEALTH CARE PROVIDER IS UNABLE OR UNWILLING TO CARRY OUT AN ELIGIBLE INDIVIDUAL'S RE-

QUEST AND THE INDIVIDUAL TRANSFERS CARE TO A NEW HEALTH CARE PROVIDER, THE HEALTH CARE PROVIDER SHALL COORDINATE TRANSFER OF THE INDIVIDUAL'S MEDICAL RECORDS TO A NEW HEALTH CARE PROVIDER.

**25-48-114. Effect on wills, contracts, and statutes.** (1) A PROVISION IN A CONTRACT, WILL, OR OTHER AGREEMENT, WHETHER WRITTEN OR ORAL, THAT WOULD AFFECT WHETHER AN INDIVIDUAL MAY MAKE OR RESCIND A REQUEST FOR MEDICAL AID IN DYING PURSUANT TO THIS ARTICLE IS INVALID.

(2) AN OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE.

**25-48-115. Insurance or annuity policies.** (1) THE SALE, PROCUREMENT, OR ISSUANCE OF, OR THE RATE CHARGED FOR, ANY LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION IN ACCORDANCE WITH THIS ARTICLE.

(2) A QUALIFIED INDIVIDUAL'S ACT OF SELF-ADMINISTERING MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE DOES NOT AFFECT A LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY.

(3) AN INSURER SHALL NOT DENY OR OTHERWISE ALTER HEALTH CARE BENEFITS AVAILABLE UNDER A POLICY OF SICKNESS AND ACCIDENT INSURANCE TO AN INDIVIDUAL WITH A TERMINAL ILLNESS WHO IS COVERED UNDER THE POLICY, BASED ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

(4) AN INDIVIDUAL WITH A TERMINAL ILLNESS WHO IS A RECIPIENT OF MEDICAL ASSISTANCE UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5, C.R.S. SHALL NOT BE DENIED BENEFITS UNDER THE MEDICAL ASSISTANCE PROGRAM OR HAVE HIS OR HER BENEFITS UNDER THE PROGRAM OTHERWISE ALTERED BASED

ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

**25-48-116. Immunity for actions in good faith - prohibition against reprisals.** (1) A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR ACTING IN GOOD FAITH UNDER THIS ARTICLE, WHICH INCLUDES BEING PRESENT WHEN A QUALIFIED INDIVIDUAL SELF-ADMINISTERS THE PRESCRIBED MEDICAL AID-IN-DYING MEDICATION.

(2) EXCEPT AS PROVIDED FOR IN SECTION 25-48-118, A HEALTH CARE PROVIDER OR PROFESSIONAL ORGANIZATION OR ASSOCIATION SHALL NOT SUBJECT AN INDIVIDUAL TO ANY OF THE FOLLOWING FOR PARTICIPATING OR REFUSING TO PARTICIPATE IN GOOD-FAITH COMPLIANCE UNDER THIS ARTICLE:

- (a) CENSURE;
- (b) DISCIPLINE;
- (c) SUSPENSION;
- (d) LOSS OF LICENSE, PRIVILEGES, OR MEMBERSHIP; OR
- (e) ANY OTHER PENALTY.

(3) A REQUEST BY AN INDIVIDUAL FOR, OR THE PROVISION BY AN ATTENDING PHYSICIAN OF, MEDICAL AID-IN-DYING MEDICATION IN GOOD-FAITH COMPLIANCE WITH THIS ARTICLE DOES NOT:

- (a) CONSTITUTE NEGLIGENCE OR ELDER ABUSE FOR ANY PURPOSE OF LAW; OR
  - (b) PROVIDE THE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.
- (4) THIS SECTION DOES NOT LIMIT CIVIL OR CRIMINAL LIABILITY FOR NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT.

**25-48-117. No duty to prescribe or dispense.** (1) A HEALTH CARE PROVIDER MAY CHOOSE WHETHER TO PARTICIPATE IN PROVIDING MEDICAL AID-IN-DYING MEDICATION TO AN INDIVIDUAL IN ACCORDANCE WITH THIS ARTICLE.

(2) IF A HEALTH CARE PROVIDER IS UNABLE OR UNWILLING TO CARRY OUT AN INDIVIDUAL'S REQUEST FOR MEDICAL AID-IN-DYING MEDICATION MADE IN ACCORDANCE WITH THIS ARTICLE, AND THE INDIVIDUAL TRANSFERS HIS OR HER CARE TO A NEW HEALTH CARE PROVIDER, THE PRIOR HEALTH CARE PROVIDER





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SHALL TRANSFER, UPON REQUEST, A COPY OF THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH CARE PROVIDER.

**25-48-118. Health care facility permissible prohibitions - sanctions if provider violates policy.** (1) A HEALTH CARE FACILITY MAY PROHIBIT A PHYSICIAN EMPLOYED OR UNDER CONTRACT FROM WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION FOR A QUALIFIED INDIVIDUAL WHO INTENDS TO USE THE MEDICAL AID-IN-DYING MEDICATION ON THE FACILITY'S PREMISES. THE HEALTH CARE FACILITY MUST NOTIFY THE PHYSICIAN IN WRITING OF ITS POLICY WITH REGARD TO PRESCRIPTIONS FOR MEDICAL AID-IN-DYING MEDICATION. A HEALTH CARE FACILITY THAT FAILS TO PROVIDE ADVANCE NOTICE TO THE PHYSICIAN SHALL NOT BE ENTITLED TO ENFORCE SUCH A POLICY AGAINST THE PHYSICIAN.

(2) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL NOT SUBJECT A PHYSICIAN, NURSE, PHARMACIST, OR OTHER PERSON TO DISCIPLINE, SUSPENSION, LOSS OF LICENSE OR PRIVILEGES, OR ANY OTHER PENALTY OR SANCTION FOR ACTIONS TAKEN IN GOOD-FAITH RELIANCE ON THIS ARTICLE OR FOR REFUSING TO ACT UNDER THIS ARTICLE.

(3) A HEALTH CARE FACILITY MUST NOTIFY PATIENTS IN WRITING OF ITS POLICY WITH REGARD TO MEDICAL AID-IN-DYING. A HEALTH CARE FACILITY THAT FAILS TO PROVIDE ADVANCE NOTIFICATION TO PATIENTS SHALL NOT BE ENTITLED TO ENFORCE SUCH A POLICY.

**25-48-119. Liabilities.** (1) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH SECTION 18-1.3-401, C.R.S. IF THE PERSON, KNOWINGLY OR INTENTIONALLY CAUSES AN INDIVIDUAL'S DEATH BY:

(a) FORGING OR ALTERING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION TO END AN INDIVIDUAL'S LIFE WITHOUT THE INDIVIDUAL'S AUTHORIZATION; OR

(b) CONCEALING OR DESTROYING A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.

(2) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH

SECTION 18-1.3-401, C.R.S. IF THE PERSON KNOWINGLY OR INTENTIONALLY COERCES OR EXERTS UNDUE INFLUENCE ON AN INDIVIDUAL WITH A TERMINAL ILLNESS TO:

(a) REQUEST MEDICAL AID-IN-DYING MEDICATION FOR THE PURPOSE OF ENDING THE TERMINALLY ILL INDIVIDUAL'S LIFE; OR

(b) DESTROY A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.

(3) NOTHING IN THIS ARTICLE LIMITS FURTHER LIABILITY FOR CIVIL DAMAGES RESULTING FROM OTHER NEGLIGENCE CONDUCT OR INTENTIONAL MISCONDUCT BY ANY PERSON.

(4) THE PENALTIES SPECIFIED IN THIS ARTICLE DO NOT PRECLUDE CRIMINAL PENALTIES APPLICABLE UNDER THE "COLORADO CRIMINAL CODE", TITLE 18, C.R.S., FOR CONDUCT THAT IS INCONSISTENT WITH THIS ARTICLE.

**25-48-120. Safe disposal of unused medical aid-in-dying medications.** A PERSON WHO HAS CUSTODY OR CONTROL OF MEDICAL AID-IN-DYING MEDICATION DISPENSED UNDER THIS ARTICLE THAT THE TERMINALLY ILL INDIVIDUAL DECIDES NOT TO USE OR THAT REMAINS UNUSED AFTER THE TERMINALLY ILL INDIVIDUAL'S DEATH SHALL DISPOSE OF THE UNUSED MEDICAL AID-IN-DYING MEDICATION EITHER BY:

(1) RETURNING THE UNUSED MEDICAL AID-IN-DYING MEDICATION TO THE ATTENDING PHYSICIAN WHO PRESCRIBED THE MEDICAL AID-IN-DYING MEDICATION, WHO SHALL DISPOSE OF THE UNUSED MEDICAL AID-IN-DYING MEDICATION IN THE MANNER REQUIRED BY LAW; OR

(2) LAWFUL MEANS IN ACCORDANCE WITH SECTION 25-15-328, C.R.S. OR ANY OTHER STATE OR FEDERALLY APPROVED MEDICATION TAKE-BACK PROGRAM AUTHORIZED UNDER THE FEDERAL "SECURE AND RESPONSIBLE DRUG DISPOSAL ACT OF 2010", PUB.L.111-273, AND REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

**25-48-121. Actions complying with article not a crime.** NOTHING IN THIS ARTICLE AUTHORIZES A PHYSICIAN OR ANY OTHER PERSON TO END AN INDIVIDUAL'S LIFE BY LETHAL INJECTION, MERCY KILLING, OR EUTHANASIA. ACTIONS TAKEN IN ACCORDANCE

WITH THIS ARTICLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY KILLING, HOMICIDE, OR ELDER ABUSE UNDER THE "COLORADO CRIMINAL CODE", AS SET FORTH IN TITLE 18, C.R.S.

**25-48-122. Claims by government entity for costs.** A GOVERNMENT ENTITY THAT INCURS COSTS RESULTING FROM AN INDIVIDUAL TERMINATING HIS OR HER LIFE PURSUANT TO THIS ARTICLE IN A PUBLIC PLACE HAS A CLAIM AGAINST THE ESTATE OF THE INDIVIDUAL TO RECOVER THE COSTS AND REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE CLAIM.

**25-48-123. No effect on advance medical directives.** NOTHING IN THIS ARTICLE SHALL CHANGE THE LEGAL EFFECT OF:

(1) A DECLARATION MADE UNDER ARTICLE 18 OF TITLE 15, C.R.S., DIRECTING THAT LIFE-SUSTAINING PROCEDURES BE WITHHELD OR WITHDRAWN;

(2) A CARDIOPULMONARY RESUSCITATION DIRECTIVE EXECUTED UNDER ARTICLE 18.6 OF TITLE 15, C.R.S.; OR

(3) AN ADVANCE MEDICAL DIRECTIVE EXECUTED UNDER ARTICLE 18.7 OF TITLE 15, C.R.S.

## Proposition 107 Presidential Primary Elections

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado Revised Statutes. The text of the measure that will appear in the Colorado Revised Statutes below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

### Ballot Title:

Shall there be a change to the Colorado Revised Statutes recreating a presidential primary election to be held before the end of March in each presidential election year in which unaffiliated electors may vote without declaring an affiliation with a political party?

### Text of Measure:

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

### SECTION 1. Declaration of the People of Colorado.

COLORADO VOTERS EXPERIENCED DISENFRANCHISEMENT AND PROFOUND DISAPPOINTMENT WITH THE STATE'S SYSTEM FOR PARTICIPATING IN THE PRESIDENTIAL NOMINATION PROCESS IN 2016.

ON THE DEMOCRATIC SIDE, ATTENDANCE AT CAUCUSES OVERWHELMED MANY PARTY-RUN EVENTS, WITH LONG LINES OR OTHER PROBLEMS LIMITING MANY ELIGIBLE VOTERS' ABILITY TO TAKE PART. THE STATE'S REPUBLICAN PARTY CHOSE NOT TO HOLD OFFICIAL PREFERENCE POLLS, ESSENTIALLY LEAVING ACTIVE REPUBLICAN VOTERS WITHOUT A SAY ON THE PARTY'S POTENTIAL NOMINEES.

AND, GIVEN THE RULES FOR PARTICIPATING IN CAUCUSES, THE STATE'S LARGEST GROUP OF VOTERS -- MORE THAN 1 MILLION UNAFFILIATED ELECTORS -- WERE DISENFRANCHISED ALTOGETHER.

COLORADO PREVIOUSLY HELD PRESIDENTIAL PRIMARIES IN 1992, 1996 AND 2000. THIS MEASURE WOULD RESTORE A PRESIDENTIAL PRIMARY IN COLORADO BEGINNING IN 2020. BECAUSE A PRESIDENTIAL PRIMARY ELECTION WOULD BE PAID FOR BY ALL TAXPAYERS, ALL ELIGIBLE VOTERS WHO WANT THEIR VOICES TO BE HEARD SHOULD BE ABLE TO VOTE IN THOSE ELECTIONS.

CURRENTLY, THE 35% OF COLORADO VOTERS WHO ARE INDEPENDENT OF A PARTY MUST JOIN A PARTY IF THEY WANT TO PARTICIPATE IN CAUCUSES WHERE PRESIDENTIAL PREFERENCE POLLS ARE TAKEN OR A PRIMARY ELECTION. IN FACT, COLORADO IS IN THE MINORITY OF STATES THAT LIMIT PARTICIPATION IN THE PRESIDENTIAL NOMINATION PROCESS TO ONLY THOSE REGISTERED WITH A MAJOR POLITICAL PARTY.

A PRESIDENTIAL PRIMARY WOULD INVOLVE MORE VOTERS, INCREASE PARTICIPATION AND COULD ENCOURAGE CANDIDATES WHO ARE RESPONSIVE TO THE VIEWPOINTS OF MORE COLORADANS.

ACCORDINGLY, COLORADO SHOULD RESTORE ITS PRESIDENTIAL PRIMARY AND ALL VOTERS SHOULD BE AL-



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LOWED TO PARTICIPATE IN SELECTING THE PRIMARY CANDIDATES FOR PRESIDENT.

**SECTION 2.** In Colorado Revised Statutes, **recreate and reenact, with amendments**, part 12 to article 4 of title 1 as follows:

**1-4-1201. Declaration.** IN RECREATING AND REENACTING THIS PART 12, IT IS THE INTENT OF THE PEOPLE OF THE STATE OF COLORADO THAT THE PROVISIONS OF THIS PART 12 CONFORM TO THE REQUIREMENTS OF FEDERAL LAW AND NATIONAL POLITICAL PARTY RULES GOVERNING PRESIDENTIAL PRIMARY ELECTIONS, AND THAT THE COLORADO GENERAL ASSEMBLY WILL, DURING THE 2017 LEGISLATIVE SESSION, ADOPT ALL NECESSARY CONFORMING AMENDMENTS TO ENSURE THE PROPER OPERATION OF A PRESIDENTIAL PRIMARY ELECTION IN COLORADO.

**1-4-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "POLITICAL PARTY" MEANS A MAJOR POLITICAL PARTY AS DEFINED IN SECTION 1-1-104 (22).

(2) "PRESIDENTIAL PRIMARY ELECTION" MEANS A PRIMARY ELECTION CONDUCTED IN A YEAR IN WHICH A UNITED STATES PRESIDENTIAL ELECTION WILL BE HELD TO ALLOCATE DELEGATES TO NATIONAL NOMINATING CONVENTIONS OF THE MAJOR POLITICAL PARTIES SELECTED IN ACCORDANCE WITH SECTION 1-4-701.

**1-4-1203. Presidential primary elections - when - conduct.** (1) A PRESIDENTIAL PRIMARY ELECTION SHALL BE HELD ON A TUESDAY ON A DATE DESIGNATED BY THE GOVERNOR. THE DATE SELECTED FOR THE PRIMARY MUST BE NO EARLIER THAN THE DATE THE NATIONAL RULES OF THE MAJOR POLITICAL PARTIES PROVIDE FOR STATE DELEGATIONS TO THE PARTY'S NATIONAL CONVENTION TO BE ALLOCATED WITHOUT PENALTY AND NOT LATER THAN THE THIRD TUESDAY IN MARCH IN YEARS IN WHICH A UNITED STATES PRESIDENTIAL ELECTION WILL BE HELD. THE GOVERNOR SHALL DESIGNATE THE DATE OF THE PRESIDENTIAL PRIMARY ELECTION NO LATER THAN THE FIRST DAY OF SEPTEMBER IN THE YEAR BEFORE THE PRESIDENTIAL

PRIMARY ELECTION WILL BE HELD.

(2)(a) EXCEPT AS PROVIDED FOR IN SUBSECTION (5) OF THIS SECTION, EACH POLITICAL PARTY THAT HAS A QUALIFIED CANDIDATE ENTITLED TO PARTICIPATE IN THE PRESIDENTIAL PRIMARY ELECTION PURSUANT TO THIS SECTION IS ENTITLED TO PARTICIPATE IN THE COLORADO PRESIDENTIAL PRIMARY ELECTION. AT THE PRESIDENTIAL PRIMARY ELECTION, AN ELECTOR THAT IS AFFILIATED WITH A POLITICAL PARTY MAY VOTE ONLY FOR A CANDIDATE OF THAT POLITICAL PARTY.

(b) AN UNAFFILIATED ELIGIBLE ELECTOR MAY VOTE IN A POLITICAL PARTY'S PRESIDENTIAL PRIMARY ELECTION WITHOUT AFFILIATING WITH THAT PARTY OR MAY DECLARE AN AFFILIATION WITH A POLITICAL PARTY TO THE ELECTION JUDGES AT THE PRESIDENTIAL PRIMARY ELECTION IN ACCORDANCE WITH SECTION 1-7-201. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO ELECTOR AFFILIATED WITH A MAJOR OR MINOR POLITICAL PARTY OR POLITICAL ORGANIZATION MAY CHANGE OR WITHDRAW HIS OR HER AFFILIATION IN ORDER TO VOTE IN THE PRESIDENTIAL PRIMARY ELECTION OF ANOTHER POLITICAL PARTY UNLESS THE ELECTOR HAS CHANGED OR WITHDRAWN SUCH AFFILIATION NO LATER THAN THE TWENTY-NINTH DAY PRECEDING THE PRESIDENTIAL PRIMARY ELECTION AS PROVIDED IN SECTION 1-2-219 (1).

(3) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 12, A PRESIDENTIAL PRIMARY ELECTION MUST BE CONDUCTED IN THE SAME MANNER AS ANY OTHER PRIMARY ELECTION TO THE EXTENT STATUTORY PROVISIONS GOVERNING OTHER PRIMARY ELECTIONS ARE APPLICABLE TO THIS PART 12. THE ELECTION OFFICERS AND COUNTY CLERK AND RECORDERS HAVE THE SAME POWERS AND SHALL PERFORM THE SAME DUTIES FOR PRESIDENTIAL PRIMARY ELECTIONS AS THEY PROVIDE BY LAW FOR OTHER PRIMARY ELECTIONS AND GENERAL ELECTIONS.

(4)(a) A BALLOT USED IN A PRESIDENTIAL PRIMARY ELECTION MUST ONLY CONTAIN THE NAMES OF CANDIDATES FOR THE OFFICE OF THE PRESIDENT OF THE UNITED STATES OF AMERICA. THE BALLOT SHALL NOT BE USED FOR THE PURPOSE OF PRESENTING ANY OTHER ISSUE

OR QUESTION TO THE ELECTORATE UNLESS EXPRESSLY AUTHORIZED BY LAW.

(b) EACH POLITICAL PARTY THAT IS ENTITLED TO PARTICIPATE IN THE PRESIDENTIAL PRIMARY ELECTION SHALL HAVE A SEPARATE PARTY BALLOT FOR USE BY ELECTORS AFFILIATED WITH THAT POLITICAL PARTY. IN ADDITION, ALL POLITICAL PARTIES THAT ARE ENTITLED TO PARTICIPATE IN THE PRIMARY ELECTION SHALL HAVE THEIR CANDIDATES PLACED ON A SINGLE COMBINED BALLOT TO BE USED BY UNAFFILIATED ELECTORS THAT CONTAINS THE NAMES OF THE CANDIDATES OF EACH OF THE POLITICAL PARTIES AND THAT ARE CLEARLY AND CONSPICUOUSLY SEGREGATED FROM THE NAMES OF THE CANDIDATES OF ANY OTHER POLITICAL PARTY. ACROSS THE TOP OF EACH SUCH BALLOT THE WORDS "PRIMARY ELECTION BALLOT FOR UNAFFILIATED VOTERS" SHALL BE PRINTED AND CLEARLY ADVISE THAT AN ELECTOR MAY CAST THE BALLOT OF ONLY ONE POLITICAL PARTY AND THAT ANY BALLOT IN WHICH VOTES HAVE BEEN CAST IN THE PRIMARY OF MORE THAN ONE PARTY SHALL BE VOID AND NOT COUNTED.

(5) IF, AT THE CLOSE OF BUSINESS ON THE SIXTIETH DAY BEFORE A PRESIDENTIAL PRIMARY ELECTION, THERE IS NOT MORE THAN ONE CANDIDATE FOR PRESIDENT AFFILIATED WITH A POLITICAL PARTY CERTIFIED TO THE PRESIDENTIAL PRIMARY BALLOT PURSUANT TO SECTION 1-4-1204(1) OR WHO HAS FILED A WRITE-IN CANDIDATE STATEMENT OF INTENT PURSUANT TO 1-4-1205, THE SECRETARY OF STATE MAY CANCEL THE PRESIDENTIAL PRIMARY ELECTION FOR THAT POLITICAL PARTY AND DECLARE THAT CANDIDATE THE WINNER OF THE PRESIDENTIAL PRIMARY ELECTION OF SUCH POLITICAL PARTY.

(6) THE SECRETARY OF STATE MAY BY RULE ADOPT ADDITIONAL BALLOT REQUIREMENTS NECESSARY TO AVOID VOTER CONFUSION IN VOTING IN PRESIDENTIAL PRIMARY ELECTIONS.

(7) THE STATE SHALL REIMBURSE THE COUNTIES FOR ALL EXPENSES INCURRED AND SHOWN TO BE DIRECTLY ATTRIBUTABLE TO THE PREPARATION AND CONDUCT OF THE PRESIDENTIAL PRIMARY ELECTION IN THE SAME MANNER AS THE STATE

REIMBURSES COUNTIES FOR STATE BALLOT ISSUES IN SECTION 1-5-505.5; EXCEPT THAT THE REIMBURSEMENT MUST BE BASED ON THE NUMBER OF ACTIVE REGISTERED ELECTORS PARTICIPATING IN THE PRESIDENTIAL PRIMARY ELECTION AS OF THE DAY OF THE PRESIDENTIAL PRIMARY ELECTION. THE GENERAL ASSEMBLY SHALL MAKE APPROPRIATIONS TO THE DEPARTMENT OF STATE FROM THE DEPARTMENT OF STATE CASH FUND OR FROM THE GENERAL FUND FOR THE PURPOSE OF REIMBURSING COUNTIES UNDER THE TERMS OF THIS SECTION IN CONFORMITY WITH SECTION 24-21-104.5.

**1-4-1204. Names on ballots.** (1) NOT LATER THAN SIXTY DAYS BEFORE THE PRESIDENTIAL PRIMARY ELECTION, THE SECRETARY OF STATE SHALL CERTIFY THE NAMES AND PARTY AFFILIATIONS OF THE CANDIDATES TO BE PLACED ON ANY PRESIDENTIAL PRIMARY ELECTION BALLOTS. THE ONLY CANDIDATES WHOSE NAMES SHALL BE PLACED ON BALLOTS FOR THE ELECTION SHALL BE THOSE CANDIDATES WHO:

(a) ARE ELIGIBLE TO RECEIVE PAYMENTS PURSUANT TO THE FEDERAL "PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT ACT", 26 U.S.C. SEC. 9031 ET SEQ., OR ANY SUCCESSOR SECTION OF FEDERAL LAW, AT THE TIME CANDIDATES' NAMES ARE TO BE CERTIFIED BY THE SECRETARY OF STATE PURSUANT TO THIS SUBSECTION (1);

(b) ARE SEEKING THE NOMINATION FOR PRESIDENT OF A POLITICAL PARTY AS A BONA FIDE CANDIDATE FOR PRESIDENT OF THE UNITED STATES PURSUANT TO POLITICAL PARTY RULES AND ARE AFFILIATED WITH A MAJOR POLITICAL PARTY THAT RECEIVED AT LEAST TWENTY PERCENT OF THE VOTES CAST BY ELIGIBLE ELECTORS IN COLORADO AT THE LAST PRESIDENTIAL ELECTION; AND

(c) HAVE SUBMITTED TO THE SECRETARY, BY THE SECOND DAY OF JANUARY IN THE YEAR OF THE PRESIDENTIAL PRIMARY ELECTION, A NOTARIZED CANDIDATE'S STATEMENT OF INTENT TOGETHER WITH EITHER A NONREFUNDABLE FILING FEE OF FIVE HUNDRED DOLLARS OR A PETITION SIGNED BY AT LEAST FIVE THOUSAND ELIGIBLE ELECTORS OF THE CANDIDATE'S POLITICAL PARTY WHO RESIDE IN THE STATE. CANDI-



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DATE PETITIONS MUST MEET THE REQUIREMENTS OF PARTS 8 AND 9 OF THIS ARTICLE, AS APPLICABLE.

(2) THE NAMES OF CANDIDATES APPEARING ON ANY PRESIDENTIAL PRIMARY BALLOT MUST BE IN AN ORDER DETERMINED BY LOT. THE SECRETARY OF STATE SHALL DETERMINE THE METHOD OF DRAWING LOTS.

(3) EXCEPT AS OTHERWISE PROHIBITED BY POLITICAL PARTY RULES, THE STATE CHAIRPERSON OF A POLITICAL PARTY MAY REQUEST THE SECRETARY TO PROVIDE A PLACE ON THE PRIMARY BALLOT FOR ELECTORS WHO HAVE NO PRESIDENTIAL CANDIDATE PREFERENCE TO REGISTER A VOTE TO SEND A NONCOMMITTED DELEGATE TO THE POLITICAL PARTY'S NATIONAL CONVENTION. TO BE VALID, THIS REQUEST MUST BE RECEIVED BY THE SECRETARY OF STATE NO LATER THAN SEVENTY DAYS BEFORE THE PRESIDENTIAL PRIMARY ELECTION.

(4) ANY CHALLENGE TO THE LISTING OF ANY CANDIDATE ON THE PRESIDENTIAL PRIMARY ELECTION BALLOT MUST BE MADE IN WRITING AND FILED WITH THE SECRETARY NO LATER THAN FIVE DAYS AFTER THE FILING DEADLINE FOR CANDIDATES. ANY SUCH CHALLENGE MUST PROVIDE NOTICE IN WRITING IN A SUMMARY MANNER OF AN ALLEGED IMPROPRIETY THAT GIVES RISE TO THE COMPLAINT. THE SECRETARY SHALL ADDRESS BY RULE OTHER REQUIREMENTS OF A VALID CHALLENGE. IN RESPONSE TO A VALID CHALLENGE BROUGHT UNDER THIS SUBSECTION (4), THE SECRETARY SHALL TRANSMIT NOTICE OF THE CHALLENGE FORTHWITH TO ALL CANDIDATES APPEARING ON THE PRESIDENTIAL PRIMARY BALLOT AND TO THE STATE CHAIRPERSON OF EACH MAJOR POLITICAL PARTY. NO LATER THAN FIVE DAYS AFTER THE CHALLENGE IS FILED, A HEARING MUST BE HELD AT WHICH TIME THE SECRETARY SHALL HEAR THE CHALLENGE AND ASSESS THE VALIDITY OF ALL ALLEGED IMPROPRIETIES. THE SECRETARY SHALL ISSUE FINDINGS OF FACT AND CONCLUSIONS OF LAW NO LATER THAN FORTY-EIGHT HOURS AFTER THE HEARING. THE PARTY FILING THE CHALLENGE HAS THE BURDEN TO SUSTAIN THE CHALLENGE BY A PREPONDERANCE OF THE EVIDENCE. THE SECRETARY OF STATE'S DECISIONS UPON MATTERS OF SUB-

STANCE ARE OPEN TO REVIEW, IF PROMPT APPLICATION IS MADE, AS PROVIDED IN SECTION 1-1-113.

**1-4-1205. Write-in candidate affidavit for presidential primary.** A WRITE-IN VOTE FOR ANY CANDIDATE ON THE PRESIDENTIAL PRIMARY BALLOT SHALL NOT BE COUNTED UNLESS THE CANDIDATE FOR WHOM THE WRITE-IN VOTE WAS CAST HAS FILED A NOTARIZED CANDIDATE'S STATEMENT OF INTENT TO SEEK THE OFFICE OF PRESIDENT OF THE UNITED STATES. ANY SUCH AFFIDAVIT MUST BE ACCOMPANIED BY A NONRE-FUNDABLE FEE OF FIVE HUNDRED DOLLARS AND MUST BE FILED WITH THE SECRETARY OF STATE NO LATER THAN THE CLOSE OF BUSINESS ON THE SIXTY SEVENTH DAY BEFORE THE PRESIDENTIAL PRIMARY ELECTION.

**1-4-1206. Presidential primary ballots - survey of returns.** EACH COUNTY CLERK AND RECORDER SHALL SURVEY ALL RETURNS RECEIVED FROM THE PRESIDENTIAL PRIMARY ELECTION IN ALL COUNTY PRECINCTS, AS PROVIDED IN THIS TITLE, AND SHALL CERTIFY THE RESULTS OF THE PRESIDENTIAL PRIMARY ELECTION TO THE SECRETARY NO LATER THAN THIRTEEN DAYS AFTER THE ELECTION.

**1-4-1207. Election results - certification - pledging of delegates.** (1) THE SECRETARY SHALL COMPILE THE NUMBER OF VOTES CAST FOR EACH CANDIDATE NAMED ON THE PRESIDENTIAL PRIMARY ELECTION BALLOT AND THE VOTES CAST TO SEND A NONCOMMITTED DELEGATE TO THE POLITICAL PARTY'S NATIONAL CONVENTION, IF APPLICABLE, AND SHALL CALCULATE THE PERCENTAGE OF VOTES RECEIVED BY EACH CANDIDATE AS COMPARED TO THE NUMBER OF VOTES RECEIVED BY ALL CANDIDATES OF THE SAME POLITICAL PARTY. (2) THE SECRETARY SHALL CERTIFY THE RESULTS AND PERCENTAGES CALCULATED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE STATE CHAIRPERSON AND THE NATIONAL COMMITTEE OF EACH POLITICAL PARTY WHICH HAD AT LEAST ONE CANDIDATE ON THE PRESIDENTIAL PRIMARY ELECTION BALLOT. (3) EACH POLITICAL PARTY SHALL USE THE RESULTS OF THE ELECTION

RESULTS TO ALLOCATE ALL NATIONAL DELEGATE VOTES TO THE PRESIDENTIAL PRIMARY CANDIDATE RECEIVING THE HIGHEST NUMBER OF VOTES AND TO BIND MEMBERS OF THE STATE'S DELEGATION TO VOTE FOR THAT CANDIDATE AT THE PARTY'S NATIONAL CONVENTION.

**SECTION 3.** In Colorado Revised Statutes, 1-2-218.5, **amend** (2) as follows:

**1-2-218.5. Declaration of affiliation.** (2) Any eligible elector who has not declared an affiliation with a political party or political organization shall be designated on the registration records of the county clerk and recorder as "unaffiliated". Any unaffiliated eligible elector may declare a political party affiliation when the elector desires to vote at a primary election, as provided in section 1-7-201(2), or the elector may declare his or her political party or political organization affiliation at any other time during which electors are permitted to register by submitting a letter or a form furnished by the county clerk and recorder, either by mail, or in person, OR ONLINE IN ACCORDANCE WITH SECTION 1-2-202.5. AN UNAFFILIATED ELIGIBLE ELECTOR NEED NOT DECLARE AN AFFILIATION TO VOTE IN A PRESIDENTIAL PRIMARY ELECTION.

**SECTION 4.** In Colorado Revised Statutes, 24-21-104.5, **amend** as follows:

**24-21-104.5. General fund appropriation - cash fund appropriation - elections.** The general assembly is authorized to appropriate moneys from the department of state cash fund to the department of state to cover the costs of the local county clerk and recorders relating to the conduct of PRESIDENTIAL PRIMARY ELECTIONS, general elections, and November odd-year elections. If the amount of moneys in the department of state cash fund is insufficient to cover such costs, the general assembly may appropriate additional general fund moneys to cover such costs after exhausting all moneys in the department of state cash fund. The intent of the general assembly is to authorize the appropriation of department of state cash fund moneys and general fund moneys to the department of state to offset some of the costs of local county clerk and recorders associated with the additional election duties and requirements resulting FROM THE PREPARATION AND CONDUCT OF PRESIDENTIAL PRIMARY ELECTIONS AND from the passage of section 20 of

article X of the state constitution and from the increased number of initiatives that are being filed.

**SECTION 5.** In Colorado Revised Statutes, 1-3-102, **amend** (1)(a)(III) as follows:

**1-3-102. Precinct caucuses.** (1) (a) (III) In a year in which a presidential election will be held, a political party may, by decision of its state central committee, hold its precinct caucuses on the first ~~Tuesday~~ **in February** SATURDAY FOLLOWING THE PRESIDENTIAL PRIMARY ELECTION. The committee shall notify the secretary of state and the clerk and recorder of each county in the state of the decision within five days after the decision.

**SECTION 6.** In Colorado Revised Statutes, 1-4-801, **add** (6) as follows:

**1-4-801. Designation of party candidates by petition.** (6) A CANDIDATE FOR A PRESIDENTIAL PRIMARY ELECTION SHALL NOT BEGIN CIRCULATING PETITIONS BEFORE THE FIRST MONDAY IN NOVEMBER OF THE YEAR PRECEDING THE YEAR IN WHICH THE PRESIDENTIAL PRIMARY ELECTION IS HELD. A CANDIDATE MUST FILE A PETITION NO LATER THAN THE SECOND DAY OF JANUARY IN THE YEAR OF THE PRESIDENTIAL PRIMARY ELECTION.

**SECTION 7. Effective date - applicability.** This measure shall apply to any presidential primary election conducted after the effective date of this measure as declared by proclamation of the governor.

## Proposition 108 Unaffiliated Voter Participation in Primary Elections

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado Revised Statutes. The text of the measure that will appear in the Colorado Revised Statutes below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.





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## Ballot Title:

Shall there be a change to the Colorado Revised Statutes concerning the process of selecting candidates representing political parties on a general election ballot, and, in connection therewith, allowing an unaffiliated elector to vote in the primary election of a political party without declaring an affiliation with that party and permitting a political party in specific circumstances to select all of its candidates by assembly or convention instead of by primary election?

## Text of Measure:

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

### SECTION 1. Declaration of the people of Colorado

BECAUSE PRIMARY ELECTIONS ARE PAID FOR BY TAXPAYERS, ALL ELIGIBLE VOTERS WHO WANT THEIR VOICES TO BE HEARD SHOULD BE ABLE TO VOTE IN THOSE ELECTIONS. CURRENTLY, THE 35% OF COLORADO VOTERS WHO ARE INDEPENDENT OF A POLITICAL PARTY MUST JOIN A PARTY IF THEY WANT TO PARTICIPATE IN THE SELECTION OF OUR GENERAL ELECTION CANDIDATES. IN FACT, COLORADO IS IN THE MINORITY OF STATES THAT LIMIT PARTICIPATION IN PRIMARY ELECTIONS TO ONLY THOSE AFFILIATED WITH A MAJOR POLITICAL PARTY. BECAUSE PRIMARY ELECTION TURNOUT IS DECLINING, INVOLVING MORE VOTERS CAN INCREASE PARTICIPATION AND ENCOURAGE CANDIDATES WHO ARE RESPONSIVE TO THE VIEWPOINTS OF MORE COLORADANS. ACCORDINGLY, ALL VOTERS SHOULD BE ALLOWED TO VOTE IN STATE AND LOCAL PRIMARY ELECTIONS WITH THE SAME EASE AS THOSE VOTERS AFFILIATED WITH A MAJOR POLITICAL PARTY.

**SECTION 2.** In Colorado Revised Statutes, 1-2-218.5, **amend** (2) as follows:

**1-2-218.5. Declaration of affiliation.** (2) Any eligible elector who has not declared an affiliation with a political party or political organization shall be designated on the registration records of the county clerk and recorder as "unaffiliated". Any unaffiliated eligible elector may, BUT IS NOT REQUIRED TO, declare a political

party affiliation when the elector desires to vote at a primary election, as provided in section 1-7-201 (2), or the elector may declare his or her political party or political organization affiliation at any other time during which electors are permitted to register by submitting a letter or a form furnished by the county clerk and recorder, either by mail, or in person, OR ONLINE IN ACCORDANCE WITH SECTION 1-2-202.5.

**SECTION 3.** In Colorado Revised Statutes, 1-4-101, **amend** (2) as follows:

**1-4-101. Primary elections - when nominations - expenses.** (2) Each political party that is entitled to participate in the primary election shall have a separate party ballot FOR USE BY ELECTORS AFFILIATED WITH THAT POLITICAL PARTY. IN ADDITION, ALL POLITICAL PARTIES THAT ARE ENTITLED TO PARTICIPATE IN THE PRIMARY ELECTION SHALL HAVE THEIR CANDIDATES PLACED ON A SINGLE COMBINED BALLOT TO BE USED BY UNAFFILIATED ELECTORS THAT CONTAINS THE NAMES OF THE CANDIDATES OF EACH OF THE POLITICAL PARTIES AND THAT ARE CLEARLY AND CONSPICUOUSLY SEGREGATED FROM THE NAMES OF THE CANDIDATES OF ANY OTHER POLITICAL PARTY. ALL CANDIDATES OF A POLITICAL PARTY SHALL BE GROUPED TOGETHER AND SEPARATED BY THE OFFICE EACH CANDIDATE IS SEEKING. SUCH BALLOTS SHALL CLEARLY ADVISE THAT AN ELECTOR MAY CAST THE BALLOT OF ONLY ONE MAJOR POLITICAL PARTY AND THAT ANY BALLOT IN WHICH VOTES HAVE BEEN CAST IN THE PRIMARY OF MORE THAN ONE PARTY SHALL BE VOID AND NOT COUNTED. HOWEVER, AN ELECTOR IS NOT REQUIRED TO VOTE IN THE SAME PARTY PRIMARY AS THE ELECTOR VOTED IN AS PART OF A PRESIDENTIAL PRIMARY ELECTION OCCURRING IN THAT SAME YEAR, IF SUCH AN ELECTION IS HELD;

(a) IF IT IS NOT PRACTICABLE FOR A COUNTY TO USE A SINGLE COMBINED BALLOT THAT CONTAINS THE NAMES OF THE CANDIDATES OF EACH OF THE POLITICAL PARTIES, THE COUNTY CLERK AND RECORDER SHALL SEND TO ALL ACTIVE ELECTORS IN THE COUNTY WHO HAVE NOT DECLARED AN AFFILIATION WITH A POLITICAL PARTY A MAILING THAT CONTAINS THE BALLOTS OF ALL OF THE

MAJOR POLITICAL PARTIES. IN THIS MAILING, THE CLERK SHALL ALSO PROVIDE WRITTEN INSTRUCTIONS ADVISING THE ELECTOR OF THE MANNER IN WHICH THE ELECTOR WILL BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS CODE IN SELECTING AND CASTING THE BALLOT OF A MAJOR POLITICAL PARTY. AN ELECTOR MAY CAST THE BALLOT OF ONLY ONE MAJOR POLITICAL PARTY. AFTER SELECTING AND CASTING A BALLOT OF A SINGLE MAJOR POLITICAL PARTY, THE ELECTOR SHALL RETURN THE BALLOT TO THE CLERK. IF AN ELECTOR CASTS AND RETURNS TO THE CLERK THE BALLOT OF MORE THAN ONE MAJOR POLITICAL PARTY, ALL SUCH BALLOTS RETURNED WILL BE VOID AND WILL NOT BE COUNTED. (b) THE SECRETARY OF STATE MAY BY RULE ADOPT ADDITIONAL BALLOT REQUIREMENTS NECESSARY TO AVOID VOTER CONFUSION IN VOTING IN PRIMARY ELECTIONS.

(c) The primary election of all political parties shall be held at the same time and shall be conducted by the same election officials.

**SECTION 4.** In Colorado Revised Statutes, 1-4-502, **amend** (1) as follows:

**1-4-502. Methods of nomination for partisan candidates.** (1) Except as otherwise provided in paragraphs (b) and (c) of subsection (3) of this section, nominations for United States senator, representative in congress, governor, lieutenant governor, secretary of state, state treasurer, attorney general, member of the state board of education, regent of the university of Colorado, member of the general assembly, district attorney, and all county officers to be elected at the general election may be made by primary election UNDER SECTION 1-4-101 OR BY ASSEMBLY OR CONVENTION UNDER SECTION 1-4-702 by major political parties, by petition for nomination as provided in section 1-4-802, or by a minor political party as provided in section 1-4-1304.

**SECTION 5.** In Colorado Revised Statutes, **add** 1-4-702 as follows:

**1-4-702. Nominations of candidates for general election by convention.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLITICAL PARTY MAY CHOOSE TO CHANGE FROM THE NOMINATION OF CANDIDATES BY PRIMARY ELECTION TO THE NOMINA-

TION OF CANDIDATES BY ASSEMBLY OR CONVENTION FOR ALL OFFICES INCLUDING, BUT NOT LIMITED TO, UNITED STATES SENATOR, REPRESENTATIVE IN CONGRESS, ALL ELECTIVE STATE, DISTRICT, AND COUNTY OFFICERS, AND MEMBERS OF THE GENERAL ASSEMBLY IF AT LEAST THREE-FOURTHS OF THE TOTAL MEMBERSHIP OF THE PARTY'S STATE CENTRAL COMMITTEE VOTES TO USE THE ASSEMBLY OR CONVENTION NOMINATION PROCESS; EXCEPT THAT NOMINATIONS BY MAJOR POLITICAL PARTIES FOR CANDIDATES FOR LIEUTENANT GOVERNOR SHALL BE MADE BY THE PARTY'S CANDIDATE FOR GOVERNOR PURSUANT TO SECTION 1-4-502 (3). SUCH VOTE OF THE PARTY CENTRAL COMMITTEE SHALL OCCUR NO LATER THAN OCTOBER 1 OF THE YEAR PRECEDING THE YEAR IN WHICH AN ASSEMBLY OR CONVENTION NOMINATING PROCESS IS TO BE USED.

(2) A POLITICAL PARTY NOMINATING CANDIDATES BY PARTY ASSEMBLY OR CONVENTION SHALL NOMINATE THE CANDIDATES OF THE PARTY AND MAKE SUCH NOMINATIONS PUBLIC NOT LATER THAN SEVENTY-FIVE DAYS BEFORE THE GENERAL ELECTION.

(3) WHICHEVER METHOD OF CANDIDATE SELECTION IS CHOSEN BY A MAJOR POLITICAL PARTY AS BETWEEN PRIMARY ELECTION, ASSEMBLY OR CONVENTION, ALL OF THE CANDIDATES FOR THAT PARTY AT ANY LEVEL OF OFFICE IN THAT ELECTION YEAR MUST BE SELECTED BY SUCH METHOD, EXCEPT THAT THE REQUIREMENTS OF THIS PROVISION SHALL NOT APPLY TO A PRIMARY FOR PRESIDENT OF THE UNITED STATES IF SUCH AN ELECTION IS HELD.

**SECTION 6.** In Colorado Revised Statutes, 1-4-1002, **amend** (2.3)(a) as follows:

**1-4-1002. Vacancies in designation or nomination.** (2.3)(a) A vacancy in a party nomination, other than a vacancy for a party nomination for lieutenant governor for a general election occurring after January 1, 2001, that occurs after the day of the primary election or AFTER NOMINATION BY ASSEMBLY OR CONVENTION UNDER SECTION 1-4-702 and more than eighteen days before the general election may be filled by the respective party assembly vacancy committee of the district,



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county, or state, as appropriate, depending upon the office for which the vacancy in nomination has occurred in accordance with the provisions of subsection (9) of this section. A vacancy in a party nomination for lieutenant governor for a general election occurring after January 1, 2001, shall be filled by a replacement candidate for lieutenant governor nominated by the party's candidate for governor. A vacancy may be caused by the declination, death, disqualification, resignation, or withdrawal of the person nominated at the primary election or by the declination, death, disqualification, resignation, or withdrawal of an elective officer after a primary election at which a nomination could have been made for the office had the vacancy then existed. No person is eligible for appointment to fill a vacancy in the party nomination unless the person meets all of the requirements of candidacy as of the date of the primary election. When a vacancy is filled pursuant to this paragraph (a), the designated election official shall provide notice by publication of the replacement nomination in the same manner as the notice required by section 1-5-205.

**SECTION 7.** In Colorado Revised Statutes, 1-4-1304, **amend** (1.5)(c) as follows:

**1-4-1304. Nomination of candidates.** (1.5) (c) If an assembly designates more than one candidate for an office, or if an assembly designates one or more candidates and one or more candidates qualifies by petition, the candidate of the minor political party for that office shall be nominated at a primary election held in accordance with this code. A MINOR POLITICAL PARTY MAY PROHIBIT UNAFFILIATED ELECTORS FROM VOTING IN THE PARTY'S PRIMARY ELECTION SO LONG AS THE PROHIBITION IS IN ACCORDANCE WITH THE PARTY'S CONSTITUTION, BYLAWS, OR OTHER APPLICABLE RULES. ANY MINOR PARTY CHOOSING TO PROHIBIT UNAFFILIATED ELECTORS FROM VOTING IN ITS PRIMARY ELECTION MUST NOTIFY THE SECRETARY OF STATE OF THE PROHIBITION NOT LESS THAN SEVENTY-FIVE DAYS PRIOR TO THE PRIMARY ELECTION.

**SECTION 8.** In Colorado Revised Statutes, 1-5-402, **add** (2) as follows:

**1-5-402. Primary election ballots.** (2) NO LATER THAN FORTY-FIVE DAYS BEFORE THE PRIMARY ELECTION,

THE COUNTY CLERK AND RECORDER SHALL PREPARE A COMBINED PRIMARY ELECTION BALLOT TO BE USED BY UNAFFILIATED ELECTORS. THE BALLOT MUST BE PRINTED IN THE FOLLOWING MANNER:

(a) ALL OFFICIAL BALLOTS MUST BE PRINTED ACCORDING TO THE PROVISIONS OF SECTIONS 1-4-101, 1-5-407, AND 1-5-408. ACROSS THE TOP OF EACH BALLOT THE WORDS "PRIMARY ELECTION BALLOT FOR UNAFFILIATED VOTERS" SHALL BE PRINTED.

(b) THE POSITIONS OF CANDIDATES ON THE BALLOTS TO BE USED BY UNAFFILIATED ELECTORS MUST BE ARRANGED IN THE ORDER SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE CANDIDATES OF EACH POLITICAL PARTY MUST BE CLEARLY AND CONSPICUOUSLY SEGREGATED FROM THE CANDIDATES OF ANY OTHER POLITICAL PARTY AND GROUPED TOGETHER ACCORDING TO SECTION 1-4-101(2).

**SECTION 9.** In Colorado Revised Statutes, 1-7-201, **amend** (2); and add (2.3) as follows:

**1-7-201. Voting at primary election.** (2) If the name is found on the registration list, the election judge having charge of the list shall likewise repeat the elector's name and present the elector with the party ballot of the political party affiliation last recorded. ~~If unaffiliated, the eligible elector shall openly declare to the election judges the name of the political party with which the elector wishes to affiliate, complete the approved form for voter registration information changes, and initial the registration list in the space provided. Declaration of affiliation with a political party shall be separately dated and signed or dated and initialed by the eligible elector in such manner that the elector clearly acknowledges that the affiliation has been properly recorded. Thereupon, the election judges shall deliver the appropriate party ballot to the eligible elector. Eligible electors who decline to state an affiliation with a political party that is participating in the primary shall not be entitled to vote at the primary election.~~

(2.3) AN ELIGIBLE UNAFFILIATED ELECTOR IS ENTITLED TO VOTE IN THE PRIMARY ELECTION OF A MAJOR POLITICAL PARTY WITHOUT AFFILIATING WITH THAT POLITICAL PARTY. TO VOTE IN A POLITICAL PARTY'S PRIMA-

RY ELECTION WITHOUT DECLARING AN AFFILIATION WITH THE POLITICAL PARTY, ANY ELIGIBLE UNAFFILIATED ELECTOR SHALL BE GIVEN A COMBINED BALLOT, IF APPLICABLE. IF A COMBINED BALLOT IS NOT AVAILABLE, THE ELECTOR SHALL DECLARE TO THE ELECTION JUDGES THE NAME OF THE POLITICAL PARTY IN WHOSE PRIMARY ELECTION THE ELECTOR WISHES TO VOTE. THEREUPON, THE ELECTION JUDGES SHALL DELIVER THE APPROPRIATE PARTY BALLOT TO THE ELECTOR. IN ADDITION, ANY ELIGIBLE UNAFFILIATED ELECTOR MAY OPENLY DECLARE TO THE ELECTION JUDGES THE NAME OF THE POLITICAL PARTY WITH WHICH THE ELECTOR WISHES TO AFFILIATE AND COMPLETE THE NECESSARY FORMS. AN ELIGIBLE ELECTOR MUST SEPARATELY DATE AND SIGN OR DATE AND INITIAL A DECLARATION OF AFFILIATION WITH A POLITICAL PARTY FORM IN SUCH MANNER THAT THE ELECTOR CLEARLY ACKNOWLEDGES THAT THE AFFILIATION HAS BEEN PROPERLY RECORDED. THEREUPON, THE ELECTION JUDGES SHALL DELIVER THE APPROPRIATE PARTY BALLOT TO THE ELIGIBLE ELECTOR.

**SECTION 10.** In Colorado Revised Statutes, 1-7-5-107, **delete** (2.3); and **amend** (2.5)(a)(II) as follows:

**1-7-5-107. Procedures for conducting mail ballot election - primary elections - first time voters casting a mail ballot after having registered by mail to vote - in-person request for ballot - repeal.** (2.3) (a) Not less than thirty days nor more than forty-five days before a primary election, the county clerk and recorder shall mail a notice by forwardable mail to each unaffiliated active registered eligible elector:  
(b) The notice shall indicate that the unaffiliated elector has the ability to and must affiliate with a political party in order to vote in the primary election.  
(c) The notice shall have a returnable portion that allows the elector to request affiliation with a political party.  
(d) The notice may be included with any other communication by mail from the county clerk and recorder to electors within the county.

(2.5) (a) (II) For a primary mail ballot election, in addition to the items described in the notice required by subparagraph (I) of this paragraph (a), such notice shall

advise eligible electors who are not affiliated with a political party of the ability to ~~declare an affiliation with a political party and vote in the primary election~~ VOTE IN THE PRIMARY ELECTION OF ANY POLITICAL PARTY. THE NOTICE MUST CLEARLY AND CONSPICUOUSLY ADVISE ELECTORS THAT ANY PRIMARY BALLOT CONTAINING VOTES FOR A CANDIDATE OF MORE THAN ONE POLITICAL PARTY SHALL NOT BE COUNTED.

**SECTION 11.** In Colorado Revised Statutes, 1-7-5-116, **amend** (1) (b) as follows:

**1-7-5-116. Applications for absentee ballot.** (1) (b) If the application is made for a primary election ballot, the application shall name the political party with which the applicant is affiliated ~~or wishes to affiliate~~, OR, IF THE APPLICANT IS UNAFFILIATED, THE APPLICATION MUST EITHER NAME THE POLITICAL PARTY WITH WHICH THE APPLICANT WISHES TO AFFILIATE OR MUST STATE THAT THE APPLICANT WISHES TO REMAIN UNAFFILIATED AND RECEIVE AN UNAFFILIATED PRIMARY ELECTION BALLOT, OR IF SUCH COMBINED BALLOT IS NOT AVAILABLE, THE BALLOTS FOR EACH PARTY PRIMARY ALONG WITH NOTICE THAT THE ELECTOR SHALL VOTE IN ONLY ONE PRIMARY.

**SECTION 12.** In Colorado Revised Statutes, 1-8-5-101, **amend** (5) as follows:

**1-8-5-101. Provisional ballot - entitlement to vote.** (5) ANY UNAFFILIATED ELECTOR AT A PRIMARY ELECTION MAY CAST A REGULAR PARTY BALLOT UPON REQUESTING SUCH BALLOT FROM AN ELECTION JUDGE IN ACCORDANCE WITH SECTION 1-7-201 (2.3). Any unaffiliated elector at a primary election may ALSO cast a regular party ballot upon openly declaring to the election judge the name of the political party with which the elector wishes to affiliate pursuant to section 1 2 218.5 or 1-7-201. NOTHING IN THIS SECTION REQUIRES A MINOR POLITICAL PARTY TO ALLOW AN UNAFFILIATED ELECTOR TO VOTE IN THE PRIMARY ELECTION OF SUCH POLITICAL PARTY.

**SECTION 13. Effective date - applicability.** This measure applies to any primary election conducted after the effective date of this measure as declared by proclamation of the governor.