

**2008 GENERAL ELECTION BALLOT INITIATIVES**  
**Health**

**Arizona Initiatives and Referenda**

---

***Proposition 101 Medical Choice for Arizona***

Election: General -- 2008

Type: Initiative Status:

Summary: Official ballot title and summary not yet available.

The "Freedom of Choice in Health Care Act" will preserve and protect the rights of individuals to make their own health care and health insurance choices. Currently, many lobbyists and special interest groups in Arizona and around the country are promoting policies that would limit or even eliminate the ability of people to have choices when seeking out health care for themselves and their families. This initiative will guarantee the right of Arizonans to make their own health care choices. Lobbyists and special interests will see their power to control and dictate your health care limited.

[CA] (5245)

---

**California Initiatives and Referenda**

---

***Proposition 3 Children's Hospital Bond Act. Grant Program. Statute.***

Type: Initiative Status:

Summary: Authorizes \$980,000,000 in bonds, to be repaid from state's General Fund, to fund the construction, expansion, remodeling, renovation, furnishing and equipping of children's hospitals. Designates that 80 percent of bond proceeds go to hospitals that focus on children with illnesses such as leukemia, cancer, heart defects, diabetes, sickle cell anemia and cystic fibrosis. Requires that qualifying children's hospitals provide comprehensive services to a high volume of children eligible for governmental programs and meet other requirements. Designates that 20 percent of bond proceeds go to University of California general acute care hospitals. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: State costs of about \$2 billion over 30 years to pay off both the principal (\$980 million) and the interest (\$1 billion) costs of the bond. Payments of about \$67 million per year.

(4994)

---

***Proposition 4 Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. Constitutional Amendment.***

Type: Initiative Status:

Summary: Official summary not yet available.

Amends California Constitution to prohibit abortion for unemancipated minor until 48 hours after physician notifies minor's parent, legal guardian or, if parental abuse reported, an adult family member. Provides exceptions for medical emergency or parental waiver. Permits courts to waive notice based on clear and convincing evidence of minor's maturity or best interests. Mandates reporting requirements, including reports from physicians regarding abortions on minors. Authorizes monetary damages against physicians for violation. Requires minor's consent to abortion, with exceptions. Permits judicial relief if minor's consent is coerced. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Potential unknown net state costs of several million dollars annually for health and social services programs, court administration, and state health agency administration combined. (5025)

---

## **Colorado Initiatives and Referenda**

---

### ***Amendment 56 Employer Responsibility for Health Insurance***

Type: Initiative Status:

Summary: Amendment 56 proposes amending the Colorado Constitution to:

- require private employers with 20 or more employees to either provide health insurance for both employees and their dependents or pay for insurance through a new state authority;
- limit the amount the employee must pay to 20 percent for employee-only coverage and to 30 percent for dependent coverage; and
- require the state legislature to implement the measure, including establishing the new state authority and minimum standards for health insurance plans.

#### Summary and Analysis

Currently, employers in Colorado are not required by state or federal law to provide health insurance for their employees. No information is available on how many employers with 20 or more employees offer health insurance; however, federal data show that most employers in Colorado with more than 25 employees offer some type of health insurance to their employees. Federal data also show that small employers are less likely to offer health insurance than larger employers. For those employers who offer health insurance, plans and premiums may vary significantly. For example, an employer may offer employees a basic plan, and pay 90 percent of the premium. Another employer may offer a comprehensive plan, and pay 50 percent of the premium. There is no state or federal law that requires an employer to contribute to the cost of insurance for employees or their dependents.

Health care coverage in Colorado. According to a state study, about 58 percent of Coloradans obtain health insurance through their employer or through a family member's employer. Other sources of coverage include government programs such as Medicare and

Medicaid (21 percent) and individually purchased health insurance (4 percent). The remaining 17 percent of Coloradans are uninsured.

Requirements of Amendment 56. Amendment 56 requires every private employer in Colorado with 20 or more employees to provide health insurance to employees and dependents. Those that currently provide insurance may need to change their plans to meet the requirements of Amendment 56 to: (1) offer dependent insurance, (2) pay 80 percent of the cost of the health insurance for the employee, and (3) pay 70 percent of the cost of insurance for the employee's dependents.

Alternatively, employers may choose to pay premiums to a newly established state authority. The authority must contract for health insurance for employees whose employers do not directly provide coverage. The state legislature is responsible for determining how the authority operates. Amendment 56 prohibits the legislature from using general state tax dollars for the operation of the authority or to pay insurance costs, but other sources of revenue may be used. Amendment 56 also requires the legislature to enact laws to implement its provisions, including determining the types of health plans that must be offered by employers.

Other employer mandates for health insurance in the U.S. Federal law generally prohibits states from requiring employers to provide health insurance. Thus, few states have such laws. Congress granted an exception for a Hawaii law that requires employers to choose one of three ways to provide health insurance to employees. Recently, an ordinance was adopted in the City of San Francisco requiring employers to spend a certain amount on health care for employees; it has been implemented, but is being challenged in federal court. A court struck down a Maryland law that would have required private employers with at least 10,000 employees to spend at least 8 percent of their payroll on health insurance benefits because it effectively required employers to change their employee health insurance plans. Massachusetts and Vermont require employers who do not provide health insurance benefits to pay a fee to the state; neither of those laws has been challenged in court.

[CA]  
(5673)

### ***Amendment 46 Discrimination and Preferential Treatment by Governments***

Election: General -- 2008

Type: Initiative Status:

Topic Areas: | Civil & Constitutional Law | Labor & Employment | State & Local Government |

Summary: Amendment 46 proposes amending the Colorado Constitution to:

- prohibit Colorado government from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in public employment, public education, or public contracting;
- make exceptions for federal programs, existing court orders or other legally binding agreements, and bona fide qualifications based on sex; and

- provide the same remedies that are available for violations of existing Colorado anti-discrimination law.

## Summary and Analysis

Discrimination generally means denying access to an individual based on certain characteristics such as race, age, or sex. The term preferential treatment is often used to refer to policies that assist historically disadvantaged groups in order to remedy past and current discrimination or to increase diversity.

The U.S. Constitution protects individuals against unequal treatment by governments based on such characteristics as race and gender. Currently, governments may consider race and gender when choosing among qualified individuals or firms as long as they do so under a narrowly tailored plan to correct discrimination or promote diversity. The use of quotas and point systems, particularly in public college admissions practices, is rarely allowed.

Provisions of Amendment 46. Amendment 46 adds language to the Colorado Constitution that prohibits discrimination or preferential treatment in the areas of public employment, public education, and public contracting on the basis of race, sex, color, ethnicity, or national origin. The terms "discrimination" and "preferential treatment" are not defined in the measure.

There are various government programs and agencies in Colorado that target assistance to a particular race, gender, or ethnicity that may be affected by Amendment 46. Examples of assistance include programs to help individuals obtain financial aid for college, develop professional skills, or start a business. Private organizations and programs are not affected by the measure.

Exceptions in Amendment 46. Amendment 46 does not affect the following:

- Action required to receive federal funding. For example, public schools must ensure that girls receive the same access to school athletics programs as boys in order to receive federal funding.
- Existing court orders and legally binding agreements that provide a remedy for discrimination. The City and County of Denver, for instance, is under a court order that governs hiring practices for police officers to achieve diversity in the workforce.
- Bona fide qualifications based on sex. In the area of privacy, hiring a female, as opposed to a male, prison guard for the purpose of searching female inmates is an example of a bona fide qualification for public employment based on sex. Amendment 46 expands this exemption to the areas of public education and public contracting.

Remedies for discriminatory practices and preferential treatment. The measure requires that the remedies that exist for Colorado anti-discrimination law be used for violations of Amendment 46. Additionally, the remedies must be the same regardless of the injured party's race, sex, color, ethnicity, or national origin. Most remedies that exist today relate

to employment law. Examples include paying lost wages, hiring or reinstating employees, and orders to stop discriminatory practices.  
[CA] (4998)

### ***Amendment 48 Definition of Person***

Type: Initiative Status:

Summary: Amendment 48 proposes amending the Colorado Constitution to:

- define the term "person" to "include any human being from the moment of fertilization"; and
- apply this definition of person to the sections of the Colorado Constitution that protect the natural and essential rights of persons, allow open access to courts for every person, and ensure that no person has his or her life, liberty, or property taken away without due process of law.

### Summary and Analysis

Like the U.S. Constitution, the Colorado Constitution has a bill of rights. The Colorado bill of rights contains the rights and duties of the people of Colorado and outlines the principles of state government. Amendment 48 defines the term "person" for sections 3, 6, and 25 of the Colorado bill of rights. These sections concern inalienable rights, equality of justice, and due process of law.

**Inalienable rights.** Section 3 asserts that all persons have natural, essential, and inalienable rights to life, liberty, property, safety, and happiness. These rights include the right to defend against threats to safety, the freedom to make independent decisions, the right to work and obtain economic goods, and the right to survive. Inalienable rights are fundamental to all humans and are not created by laws and government. The constitution requires that the government protect these rights, although the government is permitted to limit the exercise of rights as necessary for the public welfare.

The constitutional provision regarding inalienable rights has been applied by courts, for example, to guarantee the right of an individual to pursue a legitimate trade or business, to acquire property without fear of discrimination, and to travel freely around the state.

**Equality of justice.** Section 6 requires the courts in Colorado to be open to all persons. If a person's legal rights are violated, this section guarantees that a judicial remedy is available.

Courts have determined that this section applies to a variety of circumstances. For instance, individuals are denied equal access to justice if juries are chosen in a discriminatory manner. Additionally, all persons have the same right to use the courts regardless of their financial resources.

**Due process of law.** Section 25 ensures that no person is deprived of life, liberty, or property without due process of law. Due process of law requires the government to follow consistent procedures before a person's fundamental rights are taken away. The

courts have determined, for example, that due process requires the government to provide notice and a fair hearing before detaining a person, taking a person's property, or sentencing a person to death.

Definition of the term "person." The Colorado bill of rights does not currently contain a definition of person. Amendment 48 defines person to include a human being from the moment of fertilization. The term "moment of fertilization" is not defined in Amendment 48. The generally accepted medical definition of fertilization is the union of a male sperm and a female egg.

[CA] (5037)

---

## **Maine Initiatives and Referenda**

---

### ***Question 1 People's Veto - Beverage Tax***

Type: Popular Referendum Status:

Summary: Official summary not yet available.

Do you want to reject the parts of a new law that change the method of funding Maine's Dirigo Health Program through charging health insurance companies a fixed fee on paid claims and adding taxes to malt liquor, wine and soft drinks?

(5248)

---

## **Michigan Initiatives and Referenda**

---

### ***A Legislative Initiative to Permit the Use and Cultivation of Marijuana for Specified Medical Conditions***

Type: Initiative Status:

Summary: The proposed law would:

- Permit use of marijuana by registered patients with debilitating medical conditions including cancer, glaucoma, HIV, hepatitis C, epilepsy and MS.
- Permit registered individuals to grow marijuana for qualifying patients in an enclosed, locked facility.
- Require Department of Community Health to establish a registry system for patients qualified to use marijuana and individuals qualified to grow marijuana.
- Require Department of Community Health to establish a procedure for considering the expansion of medical conditions which can be treated with medical marijuana.
- Permit unregistered patients and primary caregivers to assert medical reasons for using marijuana as a defense to any prosecution involving marijuana.

[S] (5008)

***A Proposal to Amend the State Constitution to Permit Human Embryo and Human Embryonic Stem Cell Research in Michigan***

Type: Initiative Status:

Summary: The proposed constitutional amendment would:

- Allow use of human embryos for any research permitted under federal law if the embryos:
  - are created for fertility treatment purposes;
  - are not suitable for implantation or are in excess of clinical needs;
  - would be discarded unless used for research; and
  - were donated by the person seeking fertility treatment.
- Provide that stem cells cannot be taken from human embryos more than 14 days after cell division begins.
- Prohibit any person from selling or purchasing human embryos for stem cell research, therapies or cures.
- Prohibit state laws that prevent, restrict or discourage stem cell research, therapies or cures.

[CA] (5250)

---

**Missouri Initiatives and Referenda**

---

***Proposition B Home Care***

Type: Initiative Status:

Summary: Shall Missouri law be amended to enable the elderly and Missourians with disabilities to continue living independently in their homes by creating the Missouri Quality Homecare Council to ensure the availability of quality home care services under the Medicaid program by recruiting, training, and stabilizing the home care workforce?

The exact cost of this proposal to state governmental entities is unknown, but is estimated to exceed \$510,560 annually. Additional costs for training are possible. Matching federal funds, if available, could reduce state costs. It is estimated there would be no costs or savings to local governmental entities.

[S] (5185)

---

**Montana Initiatives and Referenda**

---

***I-155 Healthy Montana Kids Plan Act***

Type: Initiative Status:

Summary: I-155 establishes the Healthy Montana Kids plan to expand and coordinate health coverage for uninsured children under the Children's Health Insurance Program (CHIP), the Montana Medicaid Program, and employer-sponsored health insurance. The

State Health Department may: raise income eligibility levels for children under CHIP and Medicaid; simplify transitions between CHIP and Medicaid coverage; provide assistance for children in employer-sponsored insurance; and work with health care providers, schools, organizations, and agencies to encourage enrollment of uninsured children. Funding for I-155 will come from a share of the insurance premium tax and federal matching funds.

I-155 costs an estimated \$22 million of state funds, paid from the treasury with a share of current revenues from the insurance premium tax. Actual expenditures will depend on other factors, including the amount of federal matching dollars and enrollment.  
[S] (5113)

---

## **Nebraska Initiative and Referenda**

---

### ***Affirmative Action Ban***

Type: Initiative Status:

Topic Areas: | Civil & Constitutional Law | Labor & Employment | State & Local Government |

Summary: Official ballot number and title not available.

The object of this petition is to place on the general election ballot an amendment to the Constitution of the State of Nebraska to prohibit discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education or public contracting by the state or any of its agencies, institutions or political subdivisions.

[CA] (5668)

---

## **New Mexico Initiatives and Referenda**

---

### ***Bond Question 3 Health Facility Improvement Bonds***

Type: Legislative Referendum Status:

Summary: The 2008 Capital Projects General Obligation Bond Act authorizes the issuance and sale of health facility improvement bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed \$57,925,000 to make capital expenditures for cancer research and treatment facilities, other statewide and regional health facilities, educational facilities for statewide dental services and public health and behavioral health facilities and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and for the collection of the tax as permitted by law?

(5794)

---

## North Dakota Initiatives and Referenda

---

### *Statutory Measure 3 Tobacco Use Prevention and Control Program*

Type: Initiative Status:

Summary: This initiated statutory measure would add seven new sections to the North Dakota Century Code and amends section 54-27-25.

This measure would establish a tobacco prevention and control advisory committee and an executive committee; develop and fund a comprehensive statewide tobacco prevention and control plan; and create a tobacco prevention and control trust fund to receive tobacco settlement dollars to be administered by the executive committee.

[S] (5718)

---

## South Dakota Initiatives and Referenda

---

### *Initiated Measure 11 Reinstate Prohibition Against Abortion*

Election: General -- 2008

Type: Initiative Status:

Topic Areas: | Health |

Summary: Currently a woman may obtain an abortion during the first 24 weeks of pregnancy. Beyond 24 weeks, abortions may be performed only if necessary to preserve the life or health of the woman.

Measure 11 would prohibit all abortions performed by medical procedures or substances administered to terminate a pregnancy, except for: abortions medically necessary to prevent death or the serious risk of substantial and irreversible impairment of a major bodily organ or system of the woman; and abortions to terminate a pregnancy of less than 20 weeks resulting from rape or incest reported to law enforcement.

When an abortion is performed as a result of reported rape or incest, the woman must consent to biological sampling from herself and the embryo or fetus for DNA testing by law enforcement.

Measure 11 would allow the provision of contraception substances prior to the time pregnancy can be determined by conventional medical testing, or assistance in obtaining abortions in states where the procedure is legal.

If approved, Measure 11 will likely be challenged in court and may be declared to be in violation of the United States Constitution. The State may be required to pay attorneys fees and costs.

[S] (5017)

---

## Washington Initiatives and Referenda

---

### *Initiative 1000 Allowing Certain Terminally Ill Competent Adults to Obtain Lethal Prescriptions*

Type: Initiative Status:

Summary: This measure would permit terminally ill, competent, adult Washington residents, who are medically predicted to have six months or less to live, to request and self-administer lethal medication prescribed by a physician.

[S] (5170)

---

### *Initiative 1029 Long-Term Care Services for the Elderly and Persons with Disabilities*

Type: Initiative Status:

Topic Areas: | Health |

Summary: This measure would require long-term care workers to be certified as home-care aides based on an examination, with exceptions; increase training and criminal background check requirements; and establish disciplinary standards and procedures.

[S] (5187)

---

© 2008 National Conference of State Legislatures, All Rights Reserved

Denver Office: Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230 | [Map](#)

Washington Office: Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001