

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 46

DISCRIMINATION AND PREFERENTIAL TREATMENT BY GOVERNMENTS

Amendment to the Colorado Constitution

Ballot Issues Pamphlet Pg 7 Blue Book pg 1

Summary

This ballot issue would amend Article II of the Colorado constitution by adding a new section that forbids discriminating against or granting preferential treatment to individuals or groups in the awarding of state contracts, employment and admission to Colorado universities.

Major provisions of this ballot issue

- Forbids the state from discriminating against or granting preferential treatment to any individual or group on the basis of race, gender, ethnicity or national origin in the operation of public employment, education or contracting
- Exempts the following:
 - Maintaining legitimate qualifications based on sex that are reasonably necessary (such as female prison guards)
 - Preserving the validity of court orders or consent decrees in effect
 - Establishing or maintaining eligibility for federal funds
- Defines “state” as all levels of state government including higher education, agencies or departments of the state, any public subdivision or governmental instrumentality in the state
- Requires that remedies that exist for Colorado anti-discrimination laws such as paying lost wages, hiring or reinstating employees, and orders to stop discriminatory practices be used for violations

Background

The U.S. Constitution’s Equal Protection Clause protects against discrimination by governments but allows them to consider race and gender when choosing among qualified individuals or firms under plans to correct discrimination or promote diversity. Colorado law currently contains numerous anti-discriminatory provisions. It also provides for certain programs that target assistance to a particular race, gender, or ethnicity, such as obtaining financial aid for college, starting a business, or developing skills.

While Amendment 46 is presumably aimed at “affirmative action” programs, there is no definition in the measure or in existing law for “preferential treatment” nor have the proponents provided such a definition. If Amendment 46 passes, both sides predict lawsuits against Colorado governments.

Fort Lewis College’ policy offering Native American students tuition-free education would probably not be effected. It is not an affirmative-action effort but is in a 1916 compact

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

between the state of Colorado and the federal government and would potentially fall within exemption parameters.

A national group led by California political activist Ward Connerly is funding the pro-46 campaign. Similar measures opposing affirmative-action programs have been passed in California, Washington and Michigan. A nearly identical initiative is on the ballot in Nebraska in 2008.

A yes vote will take away all programs that give special treatment to women or minorities.

A no vote will keep the laws about discrimination and special treatment the same in Colorado.

Those in favor say:

1. This amendment would assure that every person – regardless of race or gender – has equal access to outreach programs now aimed at minorities or women.
2. Because this amendment applies only to public education, hiring and contracting, private organizations can still provide targeted outreach programs.

Those opposed say:

1. The amendment prohibits a broad range of programs that give individuals an equal opportunity to compete on a level playing field.
2. Similar proposals enacted in other states have resulted in dramatic negative consequences for minority/women owned business with regard to public contracts and minorities in higher education attendance.
3. The amendment fails to define “preferential treatment” or “discrimination” leaving these terms open to interpretation and to lawsuits funded at taxpayers’ expense.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 47

PROHIBITION ON MANDATORY LABOR UNION MEMBERSHIP AND DUES AS CONDITION OF EMPLOYMENT, A.K.A. COLORADO RIGHT TO WORK AMENDMENT

Amendment to the Constitution, so we need to think carefully about whether this belongs in the Constitution

p. 9 Ballot Issues pamphlet, p. 4. Blue book

Major Provisions:

- * Prohibits requiring a person, as condition of employment, to be a member of a labor union and pay any dues, fees, etc., to labor union or other party.
- * Allows voluntary membership/payment of dues
- * Defines a labor union to include organizations that deal with employers over employee issues, such as wages, pay rates, hours, grievances AND organizations that provide mutual aid or protection in connection with employment.
- * Applies to both the public and private sector
- * Creates the highest level misdemeanor penalty for violation (\$500 - \$5000)
- * Applies to all union employment contracts entered into, renewed or extended after date of passage of amendment

Background:

Federal law gives private sector employees the right to join a workplace union. A majority of workers must approve the decision to be represented by a particular union. Membership and payment of dues are voluntary at this point. Once a union is in place, CO state law allows employees to seek an all-union agreement, becoming a union shop, a.k.a. a closed shop. Under a union shop, all employees, whether they choose to belong to union or not must pay their share of the cost of collective bargaining as a condition of employment. Employees may elect not to pay the portion of union charges that does not go to collective bargaining, i.e., they can request not to pay the part that go to things like political action committees.

The rules are slightly different in CO for public sector unions, such as teachers and government employees, giving the employer a greater role in recognizing and interacting with a prospective union, but collective bargaining agreements can require still public employees to pay their share of collective bargaining costs.

A yes vote would add a Constitutional amendment making CO a 'right-to-work' state by prohibiting requiring a person, as a condition of employment, to be a member of a labor union and pay dues

A no vote would keep things the same as they are now, in other words, allowing union shops and requiring all employees to pay dues to the union.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

Those in favor say it would stop the unfair practice of requiring workers to support the union without their consent and that it would strengthen CO's economy create jobs and make our state more competitive. Most of Colorado's neighboring states have laws similar to Amendment 47 and labor laws are a factor that businesses consider when deciding where to locate or expand. States with similar laws have seen an increase in economic productivity and job growth and this Constitutional change may help CO compete.

Those opposed say it would change the current balance between business and labor and weaken the ability of all unions to bargain effectively with employers. They say it defines a labor union too broadly. By including organizations that provide mutual aid or protection, employers may be banned from requiring employees to belong to organizations that promote workplace safety or provide job-related education programs.

Considerations:

Does this belong in the Constitution?

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 48

DEFINITION OF A PERSON

Amendment to the Colorado Constitution

Ballot Issues Pamphlet pg 11 Blue Book pg 6

Amendment 48 is an initiated amendment which seeks to amend Section 1, Article II of the Colorado Constitution and defines a person or persons as a human being from the moment of fertilization.

The major provisions of this ballot issue:

- Defines the term 'person' to include any human being from the moment of fertilization.
- Applies this definition of 'person' to those sections of the constitution dealing with inalienable rights, equality of justice, and due process of law.

Summary

The Colorado Constitution has a Bill of Rights which contains the rights and duties of the people of Colorado, and protects the essential rights of persons, allows open access to courts for all persons, and ensures that no persons may have life, liberty or property taken away without due process of law. There is currently no definition of the term person in the constitution, and this amendment proposes that the definition of person include any human being from the moment of fertilization.

A yes vote would protect every human at every stage from the moment the egg is fertilized.

A no vote: would keep the law as it is.

Those in favor say:

1. This measure would define 'person' in Colorado's constitution and provide the foundation for protecting every human being at all stages of life including a human being from the moment of fertilization.
2. Under this amendment Colorado voters would have the opportunity to inform courts and legislators that they believe every human being has value and should be protected with equal rights.
3. This measure may establish the legal foundation to challenge the practice of abortion in Colorado

Those opposed say:

1. Defining the term 'person' and granting full constitutional rights from the moment of fertilization is more complex than simply adding a definition to the constitution. It could impact many state laws, including property rights and criminal law, and the courts will have

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

to decide how to apply this definition. There are 100 Colorado laws that use the word "person"; it is used 20,000 times in Colorado statutes.

2. A woman should have the right to make decisions about her own health care in consultations with her doctor and family without government intrusion. This amendment would strip away Colorado women's constitutional right to privacy and reproductive freedom as well as create a legal nightmare by forcing the government to intrude upon numerous facets of people's personal lives.
3. Amendment 48 allows government interference in the doctor-patient relationship and could limit the exercise of independent medical judgment, for example, in treating pregnant women for life-threatening diseases such as cancer. This proposal could ban the most widely used forms of birth control, emergency contraception, treatment for tubal pregnancies, and infertility. Abortion would most likely be restricted.

Notes

Since 1873, the year the federal Comstock laws were enacted prohibiting all distribution of information or devices for birth control or abortion, groups have argued vehemently about the fundamental right of privacy in reproductive health. At both state and federal levels, there have been many attempts to effect women's rights to birth control and abortion. In 1973, the U.S. Supreme Court legalized abortion throughout our country with the Roe v. Wade decision which has been under steady attack but remains in effect today.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 49

ALLOWABLE GOVERNMENT PAYCHECK DEDUCTIONS

Amendment to the Colorado Constitution

Ballot Issues Pamphlet Pg 13

Blue Book pg 8

Amendment 49 amends the Colorado Constitution to prohibit certain deductions from governmental payrolls – i.e. all state and local government units including school districts and higher education institutions.

Deductions still allowed are:

- Deductions required by federal law (e.g. Social Security, Medicare).
- Tax withholdings
- Judicial liens and garnishments, including court-ordered child support, domestic support and maintenance obligations
- Deductions for individual or group health benefits or other insurance
- Deductions for pension or retirement plans; or other savings or investment programs
- Charitable deductions

This amendment specifically supercedes any conflicting state constitutional, statutory, local charter, ordinance, resolution, or other state and local provisions.

Currently, public employers make deductions from employee payrolls for a variety of reasons, some mandatory, such as taxes, and some as employee benefits. These vary with different public employers.

State law regulates the type of deductions that may be made for state employees.

Each local government, as well as each higher education institution, makes its own separate decision regarding payroll deductions.

The intent of this amendment is to eliminate payroll deductions that are currently in place in state government and many local governments, including school districts, for employee organizations, e.g. labor unions and professional organizations.

A YES vote on this amendment will allow fewer deductions from a public employee's paycheck, excluding those for union and employee organizations.

A NO vote will keep the number of deductions the same.

Those in favor say:

1. This amendment establishes "ethical standards" prohibiting Colorado governments from bundling money from public employees' paychecks and delivering the funds to special interest

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

groups, like unions & professional associations, which may contribute to campaigns and lobby elected officials. It is unethical for government to be the banker, accountant, and collection agent for such organizations.

2. In an era of automatic transfers and electronic transfers, employees can contribute to any organization they wish through automatic bank account withdrawals.

Those opposed say:

1. The proposal precludes public employees from making decisions about organizations they want to support through paycheck deductions. In addition, the measure is inconsistent because it permits employees to contribute to some private groups (such as charities), while prohibiting contributions to others.
2. This proposal will not produce any real cost saving for government. With automated payroll systems, most governments experience little or no cost impact because of automatic employee payroll deductions.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 50

Limited Gaming in Central City, Black Hawk, and Cripple Creek

Amendment to the Colorado Constitution

Pg 15 in Ballot Issue Pamphlet

Summary

Amendment 50 would give voters in Central City, Black Hawk and Cripple Creek the option to extend operating hours, add games and increase the single-bet maximum at casinos. Any new gaming tax revenues would go to community, junior and local district colleges and to gaming towns and county governments.

Major Provisions in the amendment

- Allows voters in Black Hawk, Central City and Cripple Creek to vote to increase the current maximum single bet from \$5 to \$100, to extend the hours of operation to 24 hours per day 7 days per week, and/or to add wagering on roulette and crap games.
- Establishes a new formula for distribution of increased tax revenue from expanded gaming. The major amount would go to financial aid and classroom instruction in Colorado community colleges.
- Requires any increases in gaming taxes to be approved by a statewide vote.

Background

A current constitution amendment allows limited gaming in Black Hawk, Central City, and Cripple Creek. Single bets are limited to \$5 and casinos are required to be closed between the hours of 2:00 am and 8:00 am. Only slot machines, blackjack and poker are allowed. This amendment would allow local voters to expand any or all of these limitations in their community.

The Colorado Gaming Commission sets the percentage of revenue that is taxed to go into the Gaming Fund. Last year, the state collected \$112 million from gaming. If this amendment were passed, the extra tax money from higher bets would go to community colleges – an estimated \$29 million the first year. Amendment 50 constitutionally limits the tax on casinos to 20% -- the rate that's charged today. Current law allows tax rates up to 40%.

Currently gaming tax revenues are distributed, after expenses, approximately 25% to affected cities and counties, 25% to statewide historic preservation, and 50% to the state legislature for related programs such as tourism, energy projects and transportation. Amendment 50 would allocate 78% of the increased tax revenue to community colleges and 22% to the affected cities and counties.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

Indian casinos may be affected by this amendment. Federal law allows Indian casinos to offer the same games and betting limits allowed elsewhere in the state. Any changes in state gambling limits would apply to the Ute tribes casinos.

A yes vote will allow gaming towns to increase the size of bets at casinos. The extra money will be used to help Community Colleges.

A no vote will keep the amount of bets the same.

Those in favor say:

1. This measure would make Colorado's gaming industry more competitive and increase tourism.
2. Millions of dollars in new funding would be provided for community colleges without raising taxes.

Those opposed say:

1. Gaming's negative economic and social impacts are disproportionately felt by low-income Coloradans. Research shows a strong correlation between gambling addiction and domestic violence, child abuse, divorce, crime and bankruptcies.
2. This is not a stable source of funding for community colleges and is dependent upon economic conditions.
3. Language allowing gaming changes does not belong in the state constitution. The authority to make regulatory changes about gaming belongs to the Legislature.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 51

STATE SALES TAX INCREASE FOR SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Statutory Amendment

Ballot Issues Pamphlet Pg 17

Blue Book pg 15

This is an initiated amendment to Article 10 of the Colorado Revised Statutes to increase and protect funding for individuals with developmental disabilities.

The major provisions of this amendment:

- Increases Colorado sales and use tax from 2.9% to 3.0% on July 1, 2009, and to 3.1% on July 1, 2010.
- Directs this new money to be used for services for people with Developmental disabilities and help end the wait list for these services.
- Prohibits the legislature from reducing current levels of such spending
- Exempts the new money from state spending limits

Summary

Developmental disabilities arise from conditions such as Down syndrome, cerebral palsy, autism and mental retardation. Some individuals are able to live independently and hold jobs with training and supervision, while others require intensive care and equipment all of their lives. Types of assistance include supervision and residential services for adults living outside their family homes; specialized medical equipment; skilled nursing, mental health, medical and dental services; specific programs for autistic children; and support for families to enable them to care for the disabled individual.

Currently, Colorado's sales tax is 2.9%. This proposal would increase it to 3.1% over a period of two years.

At this time, 11,800 developmentally disabled individuals receive services. With federal and state funding for disability programs declining for a decade, the state has roughly 9700 adults and children on waiting lists, a number that is expected to grow to over 12,000 by 2012.

The new sales tax will raise about \$186 million in 2011, sufficient to provide services to all developmentally disabled persons and their families who are on the waiting list.

The new money may only go toward services for the developmentally disabled.

The increase would cost a three-person household making \$55,000 annually an additional \$20 in the first year and will increase to \$40 in the second year.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

A yes vote would increase Colorado sales tax from 2.9% to 3.1% over a two year period.

A no vote would keep the sales tax the same.

Those in favor say:

1. Research shows that a lack of funding for developmentally disabled people is at the point of crisis. Wait times can last as long as ten years and the demand will grow as aging parents are no longer able to care for adult children.
2. This need is so great that it cannot be met without a new source of funding unless other necessary programs are cut. This proposal is a modest solution that can be changed by the Legislature when the state adopts comprehensive fiscal reform.

Those opposed say:

1. This proposal earmarks general sales tax for a specific purpose. Traditionally sales tax money has gone to the state General Fund to be used for all state programs.
2. Sales tax is a regressive tax. In difficult economic times, it will hurt Colorado's poorest citizens the most.

Notes

Food, prescription drugs exempt from sales tax
No sunset clause on this.

Total spending from all sources is about \$400 million/year with the state's share about \$184 million.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 52

Use of Severance Tax Revenue for Highways

Amendment to the Constitution

Blue Book Page 84-85, LWV Pamphlet Page 19-22

Summary

This initiative would alter the allocation of severance tax revenues with an amendment to the Colorado Constitution, Article 10. It would require the state legislature to expend a portion of severance tax revenues on state highways. Currently, severance tax provisions are statutory and are allocated by the General Assembly.

Major Provisions:

- Divides the severance taxes imposed on minerals and mineral-fuels (except oil shale) 50% to the local government severance tax fund and 50% to the state severance tax trust fund.
- Credits any monies in the state severance tax fund in excess of a calculated amount to a newly-created Colorado Transportation Trust Fund. The calculated amount is based on the previous year's amount plus an inflation adjustment or the highest amount beginning on July 1, 2007 whichever is greater.
- Makes available the monies in the Colorado Transportation Trust Fund for the construction, maintenance and supervision of highways with first priority to relieve congestion on the I-70 corridor which runs west from Denver through Vail.

Background:

In 1977 the Colorado General Assembly imposed a severance tax on nonrenewable natural resources removed from the state and sold for private profit. This tax—an attempt to recapture a portion of this lost wealth for the state and its political subdivisions—was to be levied on metallic minerals, molybdenum ore, oil and gas, coal, and oil shale. It is based on company income or the volume of the resource mined.

Currently, severance taxes are divided 50/50 between the department of Natural Resources (DNR) and the Department of Local Affairs (DOLA). DNR's half—the State Severance Tax Trust Fund—is divided equally between two accounts: one used for loans for state water projects; and the other used for programs within the Colorado Oil and Gas Conservation Commission, the Colorado Geological Survey, the Division of Minerals and Geology, and the Colorado Water Conservation Board. The legislature determines where the money is spent. Currently, it is used predominately on water projects, with other amounts for mining regulation, low-income energy assistance and wildlife conservation.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

The Local Government Severance Tax Fund - DOLA's half - is divided 70/30. Seventy percent is made available for discretionary loans and grants to impacted local governments. Thirty percent is distributed directly to local governments based on the proportion of severance-related employees in their areas. La Plata County has 1500 oil and gas employees.

There were several bills passed during the 2008 session of the General Assembly which modified the severance tax laws but did not change the basic distribution of the money. Because the severance tax provisions are statutory, the General Assembly has been using the money for purposes not delineated in current law, such as species conservation and budget shortfalls.

Amendment 52 is not a tax increase. It provides no new revenue. It changes where some of the revenue goes from existing programs, primarily water projects, to highways.

Note that both Amendment 52 and Amendment 58 deal with the severance tax but their provisions are in conflict with each other. If they both pass, the issue may end up in court, where presumably Amendment 52 would prevail because it is a constitutional amendment.

A YES vote would change the amount of money the state receives for severance taxes and give more of it to construction projects without raising taxes.

A NO vote would not change the distribution of severance tax money and would keep the process of dividing it within the state legislature.

Those in favor say:

1. This proposal provides additional funding for maintaining our roads and bridges without raising taxes or creating tolls. It is estimated to increase funding for highways by \$225 million over the next 4 years.
2. Placing this language in the constitution protects a funding source for transportation and ensures that other severance tax monies will go to local governments.
3. Transportation needs have been ignored for too long and we need better roads now. (The pro campaign is called "Better Roads Now").

Those opposed say:

1. This proposal diverts severance tax money from necessary statewide water projects. Colorado's water needs are continually growing and this proposal would divert half of the money currently available for loans and grants for water projects to transportation.
2. This measure removes highway construction projects from the statewide planning process which is currently being done by an independent commission. This process would become politicized if the Legislature took over the selection of transportation projects.
3. This amendment is bad fiscal policy and does not belong in the state Constitution.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 54:

CAMPAIGN CONTRIBUTIONS FROM CERTAIN GOVERNMENT CONTRIBUTORS

Amendment to the Colorado Constitution

Ballot Issues Pamphlet Pg 24

Blue Book pg 28

Amendment 54 is an initiated amendment to the Colorado Constitution. It prohibits political campaign contributions by contractors who have no-bid government contracts and by labor organizations that have collective bargaining agreements.

State law regulates how government entities purchase goods and services from the private sector. With few exceptions, public competitive bidding soliciting at least three bids is required. No-bid contracts are extremely rare, used only in very specific situations, such as a government purchase of certain equipment requiring one designated entity to service that equipment.

Major Provisions

Prohibits companies with no-bid contracts and labor organizations with collective bargaining agreements from making political campaign contributions during the period of the contract or agreement and for two years afterward.

- Applies to company and union officers and directors and their extended families, which extends to grandparents and grandchildren, step-relations, in-laws, guardians and domestic partners. [The actual list is: spouses, children, spouse's children, sons- and daughters-in-law, parents, siblings, grandparents, grandchildren, step-siblings, step-parents, parents-in-law, brothers- and sisters-in-law, aunts, uncles, nieces, nephews, guardians and domestic partners.]
- Prohibits contributors to ballot issues from entering into sole source contracts regarding that ballot issue.
- Applies to any contract valued at over \$100,000 in a single year where fewer than three bids are solicited.
- Applies to state government and all local governments including school districts.
- There are several penalty provisions: Individuals or entities accepting contributions must pay restitution to the affected government. Elected or appointed government officials may be disqualified for office. A government contractor in violation is barred from holding a government contract or public employment for three years.
- There does not have to be any relationship between the contribution being made and the contract or agreement in question.
- The measure requires the state to publish and maintain a database of every covered government contract issued at every level of government.

Background

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

There are currently no laws in Colorado preventing individual or labor union contributions to political campaigns.

In 45 school districts in Colorado representing 80% of Colorado teachers, local education associations (teacher unions) have negotiated collective bargaining agreements with the local school board. Four city police departments representing 33% of the state's police officers have negotiated agreements. Under this proposal, these organizations and their officers, directors (and families) would be prohibited from making contributions to political or issue campaigns.

A YES vote would make it illegal for a person or company who receives a government contract (when there were no other bidders) to give money to political campaigns.

A NO vote would keep the law the way it is.

Those who are for the proposal say:

- It will help to ensure that government contractors do not buy influence over policy decisions.
- It promotes competitive bidding by making no-bid contracts less attractive.
- It requires the state to make available information on such contracts allowing the public to hold elected officials to a higher ethical standard.

Those who are against the proposal say:

- It limits the rights of people associated with these companies to participate in the political process.
- The requirement for the state to set up and maintain the database would be an inefficient use of limited state resources.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

AMENDMENT 58

Severance Taxes on the Oil and Natural Gas Industry

Statutory change only

Blue Book, Page 97-102, LWV Ballot Issues Pamphlet Page 34-36

Summary

This amendment would eliminate the property tax credit given to oil and gas producers and would reallocate some of the severance tax revenues to scholarships for higher education, wildlife habitat preservation, clean energy production, and other purposes.

Major Provisions:

- Eliminates the current severance tax credit given to oil and gas producers for most of their property taxes.
- Increases the number of oil and gas producers subject to the tax by broadening the effect on individual well production, The effects are estimated to increase severance tax \$62 million in 2010.
- Changes severance tax rates, estimated to increase revenues by \$1 million in 2010.
- Directs distribution of the total severance tax revenues from oil and gas production as follows:
 - ✓ 22% to state severance tax trust fund;
 - ✓ 22% to local government severance tax fund;
 - ✓ 56% to the **new** severance tax stabilization trust fund.
- Allocates 90 % annually of the severance tax stabilization trust fund as follows:
 - ✓ 60 % scholarships for higher education
 - ✓ Lesser designated percentages to wildlife habitat preservation, clean energy production, transportation, and drinking and wastewater projects.

Background:

What is a severance tax? In 1977 the Colorado General Assembly imposed a severance tax on nonrenewable natural resources removed from the state and sold for private profit. This tax—an attempt to recapture a portion of this lost wealth for the state and its political subdivisions—was to be levied on metallic minerals, molybdenum ore, oil and gas, coal, and oil shale.

What will be the impact of a reduction in the severance tax returned to La Plata County? It is estimated that over 50% of the total severance tax money collected comes from natural gas production in the state. Since La Plata County currently produces over half of the state's natural gas that means our county's natural gas producing companies pay a significant portion of the state's total severance tax.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

Currently, severance taxes are divided 50/50 between the department of Natural Resources (DNR) and the Department of Local Affairs (DOLA). DNR's half—the State Severance Tax Trust Fund—is divided equally between two accounts: one used for loans for state water projects; and the other used for programs within the Colorado Oil and Gas Conservation Commission, the Colorado Geological Survey, the Division of Minerals and Geology, and the Colorado Water Conservation Board.

The Local Government Severance Tax Fund - DOLA's half - is divided 70/30. Seventy percent is made available for discretionary loans and grants to impacted local governments. Thirty percent is distributed directly to local governments based on the proportion of severance-related employees in their areas.

In 2005-2006, both DNR and DOLA received approximately \$111 million from the severance tax. The changes proposed by this initiative are projected to increase severance tax revenues by approximately \$304 million in 2010.

Property taxes are imposed on the assessed value of property in the County. In La Plata County the assessment ratios (AR) are set by the Gallagher Amendment – which fixes the amount of taxes residential property owners pay as property values rise. Thus, as property value increases, the assessment ratio decreases. This ratio is updated about every two years. For residential property the AR fell from 12.34% in 1993-94 to 7.96% in 2003-04. For commercial properties the AR has remained the same at 29% and for natural gas companies the AR is 87.5%.

So, what would happen without taxes from oil and gas in La Plata County? The Gallagher amendment stipulates that in the absence of mineral tax revenues, the tax structure should be such that 45% of the new burden will fall on residents and 55% on businesses.

The total amount of taxes raised from residential, commercial and natural gas property taxes plus the impact grants was about \$48 million/\$57 million in 2003/2004. Under the 45%/55% distributional requirements of the Gallagher Amendment that means that residential taxes would have to be \$21.8 million and \$25.5 million; while commercial taxes must increase to approximately \$26.7 million and \$31.1 million in 2003/2004, considerably higher than the revenues discussed above. For residences they would see an average increase in their taxes of

about +96% and +155% over the two years; while for businesses the shift in the burden would be even more dramatic: +221% and +609% respectively.

Note that there is a conflict between Amendment 58, which is statutory, and Amendment 52, which is constitutional. If both pass, Amendment 52 would presumably take precedence.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

A YES vote would eliminate a credit for oil and gas companies for their property taxes and redistribute all severance tax money with a greater percentage being retained by the state.

A NO vote would keep the property tax credit in place and would retain the current distribution of severance taxes as 50% to local governments and 50% to state government.

Those in favor say:

1. This initiative will end Colorado's \$300 million property tax credit for the oil and gas industry, which is a subsidy greater than that given by any other state.
2. By repealing this subsidy for companies that are currently making record profits, this will provide additional benefits for Coloradans without raising taxes or increasing costs.
3. Scholarships that make college more affordable for working families are critical to ensuring a highly trained workforce and the state's long term economic health.
4. Local communities will be held harmless with this initiative because, although they will be getting a lesser percentage of severance taxes, more taxes will be collected.

Those opposed say:

1. This is a tax increase. The price of food and fuel will rise, and utility bills will increase because the added costs of gasoline, diesel, and natural gas production will be passed along to consumers.
2. Current severance taxes are directed to the communities where the resources are extracted—enabling them to build infrastructure and address the impacts of production. This proposal reverses this priority and sends more money to state government.
3. The scholarship program to be funded by this initiative is directed toward individual students and does not provide critical operating capital for Colorado colleges and universities.
4. Local communities will receive less money in severance taxes as oil and gas production declines. They will have more trouble raising mill levy taxes because the industry will oppose these issues if their property tax credit is eliminated.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

CONSTITUTIONAL AMENDMENT 59

EDUCATION FUNDING & TABOR REBATES

References:

CO Blue Book – p103-106 LWV Ballot Issues Pamphlet – p37-39

Summary:

- If passed, Constitutional Amendment 59 eliminates the TABOR (Taxpayer Bill of Rights) taxpayer rebates when the state collects money over the TABOR revenue limit and puts the money in a newly created State Education Fund to be spent on Pre-K-12 education beginning in the 2011-2012 fiscal year.
- Amendment 59 also removes the Amendment 23 requirement that pupil funding be increased each year to match the rate of inflation.

A YES vote means:

- Beginning in 2011, any taxpayer rebates, as defined by TABOR (Taxpayer Bill of Rights) would be eliminated and instead, the money would be placed in a newly created education savings fund as part of the already existing State Education Fund.
- Additionally starting in the 2009-2010 state fiscal year, 10% of the state income tax monies that are put into the Education Fund would be deposited into the education savings account each year until a specific threshold of 8% growth in the fund is reached.
- Monies from the savings account could be spent only if two-thirds of the legislature agrees or by a simple majority in any state fiscal year in which Colorado personal income grows less than six percent.
- Monies in the education savings fund may be used only on Pre-K-12 education.

A NO vote means:

- Any future taxpayer rebates, as defined by TABOR (Taxpayer Bill of Rights), will remain in place directing that any money collected by the state over the revenue limits must be rebated directly to the taxpayers.
- Amendment 23 will remain in place directing that Pre-K-12 per pupil funding be increased by at least the rate of inflation.
- Pre-K-12 education funding will be funded solely from the already existing State Education Fund or from the State General Fund.

Those IN FAVOR say:

- The measure will protect education from budget cuts during economic downturns by creating an educational savings fund to guarantee a permanent source of funding for Pre-K-12 education.
- This proposal corrects inconsistencies in the Colorado Constitution related to monies in the general fund that make it difficult for government spending on public services to keep pace with changing economic needs.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

- This proposal invests in education and provides children with the skills they need for the jobs of the future. A well-educated workforce is vital for attracting new businesses, generating new quality jobs and retaining Colorado's existing jobs.

Those OPPOSED say:

- This proposal will permanently eliminate all future taxpayer rebates. It is a tax increase that will grow the size of state government. It adds a new funding source that will allow existing education monies to be used for other programs, thereby allowing other state programs to grow as well.

- This measure will allow money that is currently used to maintain the state's deteriorating buildings to be spent on Pre-K-12 education thus allowing the state's infrastructure to further deteriorate.

- Guaranteed funding for education will be eliminated by the passage of this proposal. Legislators could reduce educational spending by less than inflationary growth in order to pay for other state programs.

BACKGROUND:

TABOR (Tax Payer Bill of Rights): TABOR stands for "Taxpayers' Bill of Rights," and plays on the name of Horace Tabor, a well-known 19th century Colorado silver king.

TABOR is a set of constitutional provisions Colorado voters adopted in 1992 to limit revenue growth for state and local governments in Colorado and to require that any tax increase in any state or local government (counties, cities, towns, school districts and special districts) must be approved by the voters of the affected government.

TABOR is principally a revenue limit, not a spending limit. **It limits revenue the state government can retain from all sources except federal funds in a year to the previous year's allowed collections (not actual collections) plus a percentage adjustment equal to the percentage growth in population plus the inflation rate. Any revenues received in excess of this limit must be refunded to the voters.** In this paragraph, allowed collections means the amount that the Tabor Amendment allowed state government to retain in the previous year.

Constitutional Amendment 23: Amendment 23 is an amendment to Colorado's constitution approved by voters in 2000. The basic aim of Amendment 23 is to increase spending on kindergarten through twelfth grade (K-12) public education. Amendment 23 also creates a special fund—the State Education Trust Fund—to help pay for the increased spending.

1-It requires the state to increase the base per pupil funding, and funding for certain specified programs (called categoricals) for K-12 by at least inflation plus one percent each year for ten years, and by at least inflation thereafter.>

2-It establishes the State Education Fund which receives the amount of the tax on one third of one percent of Colorado taxable income (about 7% of total state income tax). This fund is then used to meet the additional funding requirements of amendment 23 and other specified educational programs.

3-It includes a "maintenance of effort" clause to ensure the solvency of the State Education Fund by requiring that current K-12 General Fund spending is not diverted. This General Fund K-

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

12 spending requirement contains an "escape valve" which is activated when personal income growth falls below a specified level.

PRO Amendment 59: House Speaker Andrew Romanoff is the leading proponent of this measure in order to fix problems and conflicts he sees in the state Constitution, between the [Taxpayer Bill of Rights](#) (TABOR) spending requirements and Amendment 23, which protects and boosts education spending.

Romanoff said it is important that the state set aside money, as this measure would do, during good economic times in preparation for the inevitable bad times. "If times are good," he said, "we don't need to spend every dime we're taking in.

Romanoff said the State Education Fund is like a "bucket" of money for public education, but the bucket is getting emptied out faster than it can be refilled. "It doesn't do any good to have the State Education Fund if there's no money in it," he said. **This measure would eliminate the requirement that state education spending increase at a set rate.**

CON Amendment 59: Taxpayer advocates have long supported Colorado's Taxpayer Bill of Rights as the strongest taxpayer protection measure in the nation. **While they concur that Amendment 23's funding requirements are problematic, reforms should focus on addressing its minimum-spending requirement rather than scrapping TABOR and related tax refund checks altogether.**

Numerous Republican lawmakers have expressed opposition to the measure, including Douglas Bruce, who helped write TABOR. Bruce said the measure "would mean unlimited state funding forever."^[2] Bruce says the main objective of the measure is to get rid of TABOR and make unfettered spending easier.

Critics claim that Amendment 59 is a vehicle for special interests to receive taxpayers dollars under the guise of education. "Although it is nominally designed to provide money for P-12 (formerly K-12) education, and the Colorado Education Association has kicked in \$85,000, the ballot issue is drawing support from a wide variety of groups."

Amendment 59 would also allow for significant government expansion into our lives. As Peter Blake notes: "Although 59's proponents are eager to point out that TABOR's prohibition against tax hikes without voter approval would remain in place, passage would effectively eliminate TABOR's other major goal: Limiting, even shrinking, the role of government in the state's economic life."

Campaign Financing:

Colorado Safe raised more than \$500,000 in the first two weeks of September, according to campaign finance reports. Donors included the National Education Association (\$250,000), the Denver Foundation (\$225,000). The committee's total donations as of Sept. 15, 2008, were \$1.3 million. The group had \$374,000 on hand.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

As _____ said in her opening comments, referenda are referred by the Colorado General Assembly for a vote by the people rather than amendments that are on the ballot by citizens' initiative. There are four referenda on the November ballot.

REFERENDUM L

Qualifications for Serving in the State Legislature

Amend the Colorado Constitution

Pg 40 of Ballot Issue Pamphlet p 52 of Blue Book

Summary

Referendum L would lower the age requirement for serving in the Colorado General Assembly from 25 to 21.

Background

Since its adoption in 1876, the state constitution has required a person to be at least 25 years of age to be eligible to serve in either the Colorado House of Representatives or the Colorado Senate. Additional continuing requirements are U.S. citizenship and at least 12 months residency prior to the election in the district to be represented.

All 50 states have age requirements for legislative service, ranging from 18 to 30 years. Twenty-six states require senators to be at least 25 years with 7 states having a higher age requirement.

A Yes vote would lower the age requirement to 21

A No vote would leave the age requirement at 25

Those in favor say:

1. Twenty-one is considered an adult under the law. Voters can judge the merits and qualifications of a candidate for public office.
2. Younger candidates can provide a different perspective and offer legislation that pertains to their age group.

Those opposed say:

1. Younger candidates may lack the maturity and life experience to be an effective legislator.
2. Twenty-five years has been the state standard since 1876 and strikes a balance between age and experience. It is also the same age requirement as for the U.S. House of Representatives.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

Referenda M&N

At every general election, six articles of the Colorado constitution may be amended for the purpose of removing provisions that are outdated or expired. Referenda M and N are this year's steps in cleaning unnecessary language out of the Constitution. Yes votes would remove these provisions. No votes would leave them in the Constitution.

REFERENDUM M

REPEAL OBSOLETE PROVISIONS CONCERNING LAND VALUES

Amendment to the Colorado Constitution

Ballot Issues Pamphlet Pg 41 Blue Book pg 53

Summary

Referendum M removes a no longer used property tax exemption for planting orchards, hedges, or forest.

Background

This provision, part of the 1876 constitution, was meant to encourage private landowners to grow more forests. Subsequent constitutional language has limited the types of property tax exemptions that the legislature can adopt, not including an exemption for planting trees.

Those in favor say that this provision is no longer a consideration in the way property is evaluated for property taxes. Removing it eliminates unnecessary and obsolete constitutional language.

Those opposed say removing this provision could eliminate the legislature's future ability to offer a tax incentive for planting trees on private land.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

REFERENDUM N

REPEAL OF OBSOLETE PROVISIONS CONCERNING REGULATION OF ALCOHOLIC BEVERAGES

Amendment to the Colorado Constitution

Ballot Issues Pamphlet Pg 42

Blue Book pg 54

Summary

Referendum N removes obsolete provisions regarding the sale, distribution, manufacture, and purity of alcoholic beverages in Colorado. It also removes prohibitions on the establishment of saloons in Colorado.

Background

The referendum repeals two old parts of the constitution dealing with alcohol – a prohibition on making or selling “impure alcohol,” and a ban on saloons or drinking-only establishments that do not serve food. The federal government has regulated alcohol quality for about 100 years. The state legislature could pass a law permitting saloons if this referendum is approved.

Those in favor say this proposal removes outdated restrictions that will not affect the ability of the Legislature to regulate alcoholic beverages within Colorado. The quality of alcoholic beverages is also regulated by the federal government.

Those opposed say that all provisions in the Colorado constitution have historical value. Removing them may diminish the historical character of the constitution and make future research of the constitution more difficult.

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LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

REFERENDUM O

CITIZEN INITIATED STATE LAWS

Amendment to the Colorado Constitution

Ballot Issues Pamphlet Pg 44

Blue Book pg 56

Summary

This ballot issue is a referred amendment to Section 1, Article V of the Colorado Constitution which will amend the initiative process for placing statutory and constitutional issues on the ballot.

Citizen initiated ballot initiatives may either be proposed as statutory, or as changes the Constitution. Statutes are more easily changed because they may be amended by the legislature, amended by the legislature and referred to voters, or amended by an initiative proposed by the voters. A change to the Constitution, however, must only be referred back to voters, and is therefore is a more permanent set of laws.

Major Provisions of this ballot issue:

- Changes the number of signatures required to place a statutory initiative on the ballot from 5% of the vote for Secretary of State in the last election to 4% of the vote for Governor in the last election.
- Changes the number of signatures required to place a constitutional amendment on the ballot from 5% of the vote for Secretary of State in the last election to 6% of the vote for Governor in the last election.
- Requires that 8% of signatures for constitutional initiatives be gathered from each of the seven congressional districts
- Requires that drafts of proposed constitutional initiatives be submitted for review earlier in the year, specifically no later than 60th day of the legislative session of the election year (early March).
- Extends the time period for collecting signatures on statutory initiatives.
- Allows the public and state legislators to comment on a proposed initiative at a public meeting prior to signature collection.
- Increases the legislative vote required to 2/3 of each house to amend a voter-approved statutory initiative for the first five years after the statute takes effect.

Background

The reason that our legislators have referred this issue to voters is because over the last fifteen years, a number of initiatives have passed, adding numerous categories to the Colorado Constitution, and making it a large document which is very difficult to change. As you have seen, this year Colorado is faced with 10 initiatives, 8 of which propose yet another change to the Constitution. It is recognized that citizen initiatives are more likely to be constitutional because there has been concern that statutory initiatives are too easily changed by the legislature. Nevertheless, issues being addressed by initiatives have become more complex, proposals can be contradictory, and conflicting changes have led to unintended consequences. A good example is Amendment 23, an initiative that was passed several years ago, and when

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

combined with the TABOR initiative , has led to a fiscal nightmare in this state. This referendum is attempting to correct several deficiencies in the process.

A yes vote would keep the Constitution from having so many changes and make it harder to change. It would protect the changes in Colorado law from being changed by the Legislature for 5 years.

A no vote would keep the system we have now.

Those in favor say:

1. The constitution should be protected from massive changes. It should be concise and pertain to policy, not every day law. Placing detailed provisions in the Constitution limits the ability of the legislature to address policy and fiscal matters. By making it more difficult to change, the constitution will become a more enduring framework for state government.
2. Requiring a geographic distribution for the collection of signatures ensures that citizens across the state support measures before they are placed on the ballot. Due to the relative ease of collecting signatures in urban areas, rural citizens currently have a limited voice in determining issues to appear on the ballot.
3. Allowing the public and state legislators to comment early in the process helps citizens gain a better understanding of the measure, and helps avoid unintended consequences.
4. Statutory initiatives preserve the right for citizens to initiate laws while giving the legislature the flexibility to react to unforeseen circumstances or when laws require more clarification. This proposal protects voter-approved statutes by requiring a 2/3 vote in the legislature for the first five years to change an initiated statute.

Those opposed say:

1. This is an attack on the petition process and undermines people's right to petition. It is a betrayal of public trust and could potentially muzzle citizens and their ability to amend the constitution. Even with a two-thirds majority in the legislature to change a statute, this proposal may not be sufficient to preserve voter-approved statutes from change by the legislature.
2. By requiring signatures from each of the congressional districts, this proposal would make it harder for grassroots groups to get an initiative onto the ballot. This measure could make it mathematically impossible for citizens to place constitutional initiatives on the ballot if the state's population grows larger.
3. Requiring constitutional initiatives to be filed half-way through the legislative session, limits the ability of citizens to respond to action or inaction by the legislature on issues of importance to the voters. This change puts citizens at a disadvantage because the legislature can still propose competing alternatives or bills that weaken an initiative after it has been filed.

See next page for sample calculation

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

Calculation of Number of Signatures Required to Put an Initiative on the Colorado State Ballot

2006 General Election results*

Votes for Governor	
Bob Beauprez (REP)	625886
Bill Ritter Jr. (DEM)	888096
Clyde J. Harkins (ACP)	9716
Dawn Winkler (LIB)	23323
Paul Noel Fiorino (UNA)	10996
Charles Walter Sylvester Jr. (Write In) (REP)	370
Total	1558387

Votes for Secretary of State(SOS)	
Ken Gordon (DEM)	748532
Mike Coffman (REP)	772403
Total	1520935

Example of Number of Signatures Required for Petition Based on 2006 Election Results

	Current	Referendum O proposal
	5% of SOS votes	
Change to State Statute	76047	62335
Change to Constitution	76047	93503

In addition, based on these numbers, a minimum of 7480 votes must be collected from each of the 7 Congressional districts in order to forward a constitutional amendment, representing 8% of the total signatures required. La Plata County is in Congressional District 3, which includes 33 counties and portions of 3 others. For Colorado's Congressional districts, click on <http://192.70.175.79/State/map.asp>

*For 2006 election results click on:
<http://www.sos.state.co.us/pubs/electionresults/COLORADO-CUMULATIVE.htm>

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

LOCAL BALLOT ISSUES

Five areas of La Plata County will see local issues on their ballots: City of Durango, Edgemont Ranch, Los Pinos Fire District, El Rancho Florida Metro District and Durango West Metro District No. 2; however, very few voters will see more than one of these issues and some will see none. Four* of these issues affect taxes and are written up in the white booklet called 'Notice of a General Election to Increase Taxes and Increase Debt on Referred Measures' mailed out to all voters in La Plata County by the county clerk a few weeks ago. The other two are measures to eliminate term limits for directors.

***Measure 2A – City of Durango only – Bonding issue to fund improvements to Florida Road**

Summary: The ballot issue asks whether the City's debt should be increased by \$17,585,000, without imposing a new tax or a tax increase, for construction of improvements of Florida Road between Third Avenue and East Animas Road, a.k.a. C.R. 250. The City would repay the debt with sales and use taxes, investment income, and other revenue as determined by Council. A maximum repayment amount of \$30,338,000 is specified in the measure and refinancing would be authorized.

The City currently has outstanding debt of \$25,655,000. The City's budget has grown by 44% since 2004.

Improvements will correct structural defects and repair ongoing maintenance problems. The new design will be safe for pedestrians and bicyclists and will provide for additional traffic. Traffic signals and safe crossing opportunities will be added. At this point there is no commitment from the county to contribute to the project despite non-city traffic being a large component of all vehicular traffic on Florida Road; however, in the past the county has contributed to some road improvements. No organized opposition has come forward.

A yes vote allows the City to go forward and offer the bonds. If the bond market is such that bonds that meet the parameters of the approved measure cannot be sold, the project will be staged.

A no vote would not allow the City to sell bonds to pay for the project. City Council will then make a decision as to the next step.

Measure 5A – Edgemont Ranch Metro District (east on Florida Road, several miles beyond city limits) – Elimination of term limits for board of directors

Article XVIII, Section 11 sets term limits for all offices of all political subdivisions in CO: two consecutive terms or if terms are 2 years or less, then 3 consecutive terms and allows the voters to remove term limits.

A yes vote would eliminate term limits for the board of directors.

A no vote would preserve term limits presently in effect.

LEAGUE OF WOMEN VOTERS OF LA PLATA COUNTY
2008 BALLOT ISSUES FORUMS

***Measure 5B – Los Pinos Fire Protection District only (southeast portion of the county, headquarters in Ignacio) – deBrucing measure**

The Los Pinos Fire District board of directors seeks approval to collect, retain and spend the full amount of revenue received annually from 2008 on and be exempt from requirements of the Taxpayer Bill of Rights (TABOR) which requires a return to the taxpayers of any amounts above a calculated formula of inflation plus population growth over the previous year. It's called 'deBrucing' because Douglas Bruce was the point person behind the creation and passage of the TABOR legislation in the early 1990s. This is the same concept as applies in Amendment 59.

A yes vote would exempt the district from having to rebate excess revenues over TABOR limits, allowing it to retain all its revenues.

A no vote would keep the district subject to TABOR limitation on revenue growth.

***Measure 5C – El Rancho Florida Metro District only (southeast of Durango, south of U.S. 160 off C.R. 222, [where Pat Chatfield lives], covering about 400 households) – Bonding measure and tax increase to fund improvements to the districts water system**

The subdivision board of directors seeks to increase the district debt up to \$2,000,000 and raise the taxes up to a maximum of \$188,786 annually to repay the bonds for the costs of improvements to the district's water system, such as

- Construction of additional water storage tanks
- Addressing low pressure issues
- Performing required repairs to storage tank and water lines
- Replacing water meters
- Adding fire hydrants and addressing County's fire code requirements
- Etc.

A yes vote would allow the bonding and taxing to go forward

A no vote would not allow the measure to go forward.

Durango West Metro District No. 2 (west of Durango, along north side of U.S. 160) – Two measures

***Measure 5D -- DeBrucing (exempt district from the requirement to rebate excess revenue over TABOR limits)**

[same logic as presented under Los Pinos Fire District]

Measure 5E – Elimination of term limits for board of directors

[same logic as presented under Edgemont Ranch Metro District]