

Amendment 69 Statewide Health Care System

1 **Amendment 69 proposes amending the Colorado Constitution to:**

- 2 ♦ establish ColoradoCare, a statewide system to finance health care
3 services for Colorado residents;
- 4 ♦ create new taxes on most sources of income, redirect existing state and
5 federal health funding to pay for the services and administration of
6 ColoradoCare, exempt ColoradoCare from constitutional limits on
7 revenue, and require approval by Colorado residents for future tax
8 increases;
- 9 ♦ establish a board of trustees, initially appointed and then elected, to
10 oversee the operations of ColoradoCare; and
- 11 ♦ allow the board to terminate ColoradoCare if the waivers, exemptions,
12 and agreements from the federal government are not sufficient for its
13 fiscally sound operation.

14 **Summary and Analysis**

15 **Background.** Health care in Colorado is currently paid for by a variety of public
16 and private sources, including private health insurance and government programs
17 such as Medicaid and Medicare. Under the federal Patient Protection and Affordable
18 Care Act, all people, with limited exceptions, are required to have health insurance
19 coverage of some kind or pay a tax penalty. The majority of Coloradans receive
20 health insurance through an employer. If employer-based health insurance is not
21 available or is declined, a person may purchase private insurance through an
22 insurance broker, the state health insurance exchange, or directly from an insurer.
23 Persons meeting age, income, or other eligibility criteria may qualify for health care
24 coverage through a publicly funded program such as Medicare, Medicaid, or military
25 and veterans' health care programs.

26 **Persons eligible for ColoradoCare coverage.** If Amendment 69 is passed and
27 fully implemented, Colorado residents will be eligible for health coverage through
28 ColoradoCare, a new statewide system to finance health care services. ColoradoCare
29 will pay for covered health care services for Coloradans who do not have other forms
30 of health coverage and will provide supplemental coverage to persons who have other
31 coverage. ColoradoCare could replace the current health coverage for many people.
32 However, some people may still choose to purchase private health insurance, and
33 certain government health programs will continue to provide health coverage.
34 Persons with these alternate forms of coverage will still be required to pay the new
35 taxes that fund ColoradoCare.

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1 ColoradoCare, when fully implemented, will affect government health programs
2 and the workers' compensation system. Medicaid and the Children's Basic Health
3 Plan will be administered by ColoradoCare, and the state and federal funds for these
4 programs will be redirected to ColoradoCare. Medicare, military and veterans' health
5 care programs, and certain federally operated health care programs will continue to
6 operate, and persons receiving coverage through these programs will be eligible for
7 supplemental coverage through ColoradoCare. ColoradoCare will also pay the
8 medical portion of workers' compensation benefits, which is currently covered by
9 workers' compensation insurance policies that are purchased by employers.

10 **Initial implementation.** If Amendment 69 is passed by voters, several steps must
11 be taken before ColoradoCare may begin paying for health care services. The
12 ColoradoCare board of trustees, together with various state agencies, must seek
13 federal approval to transfer administration of the Medicaid program to ColoradoCare
14 and waive various requirements of the federal Patient Protection and Affordable Care
15 Act. The federal act allows states to develop alternative ways to pay for health care
16 services, provided that certain federal requirements are met. Amendment 69 allows
17 the board to terminate ColoradoCare if the waivers, exemptions, and agreements from
18 the federal government are not sufficient for its fiscally sound operation.

19 During the 2017 legislative session, the state legislature must pass laws to
20 implement Amendment 69. This includes laws that implement the new taxes, allocate
21 state and federal funds, eliminate the state health insurance exchange, transfer the
22 responsibility for administering various state health care programs to ColoradoCare,
23 and amend workers' compensation laws.

24 During the initial implementation phase, ColoradoCare will not pay for health care
25 services. Individuals will be responsible for maintaining health insurance coverage
26 and paying any necessary premiums until ColoradoCare is fully implemented and
27 begins making payments for health care services. During this phase, taxpayers will
28 pay the taxes that fund ColoradoCare at the initial, lower tax rates. Both the initial and
29 full tax rates are detailed in the "Taxpayer impacts" section below.

30 **Health care benefits and delivery of services.** Amendment 69 outlines the
31 types of health services that ColoradoCare must cover, which are the same services
32 as those that are currently required to be covered by private health insurance under
33 federal law. These services include primary and specialty care, hospitalization,
34 prescription drugs, medical equipment, and emergency and urgent care. The
35 ColoradoCare board of trustees may also specify additional covered health care
36 services. ColoradoCare will contract with health care providers to pay for covered
37 health care services. The ColoradoCare board will determine the rates paid to
38 participating providers. Persons accessing health care services through
39 ColoradoCare may choose a primary care provider from among those participating in
40 ColoradoCare.

41 ColoradoCare is prohibited from charging deductibles, but may require
42 copayments for some health care services. A deductible is the amount of medical
43 costs a patient must pay before an insurance plan starts to cover medical costs.

1 Typically, a copayment is a fixed amount that a patient must pay at the time of service.
2 Consistent with current federal law, ColoradoCare may not charge copayments for
3 primary and preventative care services, such as annual doctor visits. Under
4 Amendment 69, copayments for other services may be waived if the copayment would
5 cause financial hardship for the patient.

6 **ColoradoCare elections.** ColoradoCare will be governed by a board of trustees.
7 Initially, a 15-member interim board of trustees will be appointed by state legislative
8 leadership and the Governor. The interim board will determine procedures for electing
9 a 21-member board of trustees. The first board of trustees election must be
10 scheduled within three years of the effective date of the measure. Amendment 69
11 outlines the length of terms of the elected trustees, term limits, and procedures for
12 filling vacancies. ColoradoCare trustees are not subject to recall elections, but may be
13 removed by a majority vote of the board.

14 ColoradoCare elections will be conducted independently from other Colorado
15 elections in a manner determined by the board of trustees. Existing voter registration
16 requirements do not apply to ColoradoCare elections. For ColoradoCare elections, all
17 Coloradans who are at least 18 years of age and have continuously resided in the
18 state for at least one year are eligible to vote. The interim board must establish seven
19 voter districts in Colorado with substantially the same number of residents prior to the
20 first election of the 21-member board. Three nonpartisan trustees will be elected from
21 each of the seven districts. The trustees must live in the district they seek to
22 represent. The interim board must promulgate rules regarding the selection and
23 eligibility of trustee candidates, the regulation of campaign contributions and spending,
24 and the certification of election results.

25 **Administration.** In addition to determining the procedures for electing a
26 21-member board of trustees, the interim board must establish rules and procedures,
27 approve an operating budget, and hire employees and consultants for ColoradoCare.
28 Once the elected board assumes responsibility for the operations of ColoradoCare, its
29 duties will include:

- 30 • establishing rules and procedures for the operation of ColoradoCare,
31 determining benefits for Coloradans, and setting payment rates for
32 providers;
- 33 • hiring an executive team to administer the operations of ColoradoCare;
- 34 • administering all state funds for health care services provided to
35 Coloradans;
- 36 • facilitating the creation of medical records and billing records systems
37 and ensuring the confidentiality of patient records;
- 38 • establishing an internal office for fraud investigation;
- 39 • funding external offices in the Division of Insurance to respond to
40 inquiries and complaints from the public and health care providers and
41 make recommendations to the board; and
- 42 • ensuring the financial stability and transparent operations of
43 ColoradoCare and approving a publicly available annual budget.

Table 2
New Taxes Owed Under Amendment 69 for
Representative Households Under the Full Tax Rates

Taxable Household Income		Annual Taxes	
		Household	Employer
A	Wage: \$25,000	\$833	\$1,667
B	Non-wage: \$25,000	\$2,500	\$0
C	Wage: \$50,000 Non-wage: \$1,000	\$1,865	\$3,335
D	Wage: \$100,000 Non-wage: \$5,000	\$3,830	\$6,670
E	Wage: \$250,000 Non-wage \$10,000	\$9,325	\$16,675

Potential taxpayer savings. Individuals and employers who discontinue private health insurance once ColoradoCare is fully implemented may have savings that offset the new taxes they are required to pay under Amendment 69. Potential savings will differ for each individual based on their health care costs, level of coverage, and tax liability. Key factors in determining potential savings include:

- the cost of health insurance premiums that the individual would no longer pay; and
- annual deductibles and out-of-pocket health care costs that would be eliminated or reduced under ColoradoCare.

About half of the Colorado population receives health insurance coverage through an employer, with the costs typically shared between the employee and employer. For employers who provide health insurance benefits to their employees, savings considerations include: health insurance premium costs, administrative costs, and allowable tax deductions for providing employee health insurance.

The net taxpayer impact of Amendment 69 for persons with Medicare, Medicaid, and other types of health coverage will depend on the plan type and taxable income of each person. For instance, persons not currently required to pay health insurance premiums, such as Medicaid recipients, may have higher costs under the measure to the extent that they have taxable income. Costs will increase for Medicare recipients if their income exceeds the maximum allowable deduction for retirement income. Medicare recipients may have savings if they choose to use ColoradoCare instead of private supplemental insurance.

Persons who are uninsured do not pay insurance premiums, but may have high out-of-pocket costs and be subject to a tax penalty under federal law. The new taxes may offset these out-of-pocket costs and the tax penalty for persons without health insurance.

1 **Voter approval for tax increases.** The measure exempts ColoradoCare from the
2 existing constitutional requirement to seek approval of tax increases at a regularly
3 scheduled November election. Instead, tax increases for ColoradoCare must be
4 approved at a ColoradoCare election scheduled by the board of trustees. The board
5 of trustees may request a tax increase no more than once per year.

6 **Constitutional limits on revenue.** Under current law, if the state or a district of
7 the state collects revenue in excess of constitutional limits, the revenue must be
8 refunded to taxpayers. ColoradoCare revenue is exempt from these limits under
9 Amendment 69.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 8, 2016**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

10 **Arguments For**

11 1) Amendment 69 creates a more equitable health care payment system that
12 provides coverage for all Coloradans. All people should have access to affordable
13 health care regardless of their ability to pay. The current health care system leaves
14 many people uninsured or unable to access care due to insurance denials or high
15 deductibles. ColoradoCare prohibits deductibles and may reduce financial barriers to
16 needed care. The measure helps ensure that individuals and families will not face
17 financial ruin when accessing needed health care services.

18 2) Amendment 69 offers a means to control health care costs and improve patient
19 outcomes. In the United States, health care costs are higher than in any other
20 industrialized country. Under Amendment 69, health care costs could be controlled by
21 lowering administrative costs, adjusting payment rates to health care providers, and
22 reducing the amount of unpaid care provided by health care providers. By creating a
23 centralized system for health care records, ColoradoCare may improve the
24 coordination of care and create cost savings by more efficiently sharing information
25 between providers, monitoring medical conditions, and reducing diagnostic testing.

26 3) ColoradoCare provides a more transparent system that serves the interests of
27 Coloradans, instead of the interests of private corporations. The current private health
28 insurance system is profit-motivated, which contributes to rising health care costs.
29 ColoradoCare offers an alternative that shifts incentives toward improving patient care
30 by allowing Coloradans to elect health care decision-makers. Under Amendment 69,
31 Coloradans also have control over tax increases for ColoradoCare, increasing local
32 control over health care costs. Unlike private insurance companies, ColoradoCare
33 board meetings are subject to open meetings laws, which allows Coloradans to
34 monitor decisions made by the board.

1 **Arguments Against**

2 1) Amendment 69 imposes new taxes, which may harm the Colorado economy by
3 burdening taxpayers and eliminating jobs. The tax increases under this measure will
4 nearly double state government spending, which currently totals \$27 billion for the
5 entire state budget. In the initial years, taxpayers will pay about \$2 billion a year into a
6 system without receiving any direct benefits. Many individuals and businesses will pay
7 more with the new taxes than they currently pay for health care. Additionally,
8 taxpayers must pay the new taxes even if they do not utilize the services offered
9 through ColoradoCare. Under Amendment 69, higher taxes and an uncertain
10 economic climate could discourage businesses from operating in Colorado. Finally,
11 ColoradoCare may cause private health insurance businesses to downsize or leave
12 the state, leaving many people unemployed.

13 2) Amendment 69 offers no guarantee that ColoradoCare will improve patient
14 care, expand access, or reduce health care costs. Coloradans may never receive the
15 benefits promised under ColoradoCare if federal approval is not granted or revenues
16 are not sufficient. The measure does not specify critical details of how ColoradoCare
17 will be implemented, and has no required implementation date. The measure
18 concentrates control for making important decisions and spending billions of taxpayer
19 dollars in a 21-member board with limited accountability and no required health
20 industry experience. ColoradoCare may not solve fundamental problems of rising
21 health care costs and limited access. If the state fully transitions to ColoradoCare and
22 it fails, it could take years to re-establish a private health insurance market and
23 government programs, and taxpayers will have paid billions of dollars for a failed
24 system.

25 3) ColoradoCare may limit consumer choice and strain the health care system.
26 Health care providers may be unwilling to serve ColoradoCare patients if
27 reimbursements are too low, or they may choose to leave Colorado due to
28 uncertainties in the health care market. This could reduce options for patients and
29 increase wait times to receive services. Also, the health care system could be further
30 burdened by people coming to the state to receive health care without adequately
31 contributing to the taxes that pay for their care. If the system fails to control costs,
32 health services covered by ColoradoCare may be reduced. Additionally, private health
33 insurance may not be available or affordable if Amendment 69 passes. This could
34 leave people with limited options for accessing alternative coverage or needed care,
35 forcing some people to leave the state.

36 **Estimate of Fiscal Impact**

37 **ColoradoCare revenue.** Amendment 69 creates ColoradoCare, a new
38 subdivision of the state that will be the recipient of tax revenue from new taxes on
39 employers and individuals and transfers of state and federal funds that are currently
40 used to operate state health programs, such as Medicaid. New tax revenue to
41 ColoradoCare is estimated to be \$2.0 billion in budget year 2017-18 and subsequent

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1 years until ColoradoCare assumes responsibility for health care payments in Colorado
2 or, if federal approval is not received, until the board of trustees acts to terminate
3 ColoradoCare. When fully implemented, ColoradoCare is expected to receive total
4 revenue of up to \$36.2 billion, including \$25 billion in new tax revenue and up to
5 \$11.2 billion in transferred state and federal funds, assuming implementation in
6 budget year 2019-20. Additional detail on the new taxes created by the measure to
7 fund ColoradoCare, including the initial and full tax rates on individuals and employers,
8 is provided in the "Taxpayer impacts" section above.

9 **ColoradoCare spending.** Based on available revenue, ColoradoCare will spend
10 up to \$2.0 billion per year beginning in budget year 2017-18 until fully implemented.
11 However, initial spending is expected to be less than this amount, with most revenue
12 to ColoradoCare placed in capital and operating reserves, rather than spent, prior to
13 full implementation of ColoradoCare. During the initial years, the exact spending
14 levels will depend on decisions by the ColoradoCare board of trustees and will likely
15 include costs for seeking federal approval to fully implement ColoradoCare, procuring
16 information technology systems, developing operating procedures, hiring staff, leasing
17 office space, and conducting board elections.

18 Based on anticipated tax revenue and state and federal funds transferred to
19 ColoradoCare, it is estimated that ColoradoCare will spend up to \$36.2 billion per year
20 on health care payments and administrative expenses once fully implemented. The
21 amount of spending by ColoradoCare will depend on numerous factors, including the
22 terms and conditions of federal waivers, the availability of funds, and the payment
23 rates to health care providers set by the ColoradoCare board of trustees. In the event
24 revenue is not sufficient to meet its spending obligations, ColoradoCare will be
25 required to reduce its expenditures or increase tax revenue. Reductions in
26 expenditures could be achieved by limiting benefits, increasing the share of health
27 care costs paid by covered individuals, or lowering payments to health care providers.

28 While the exact date of ColoradoCare's full implementation is not known, the
29 revenue and spending figures for full implementation included in this analysis are
30 based on the assumption that ColoradoCare will assume responsibility for health care
31 payments on August 1, 2019.

32 **State revenue.** Amendment 69 may reduce state tax revenue, most of which is
33 deposited into the state General Fund; however, the exact impact cannot be estimated
34 at this time. This potential reduction comes from two sources. First, assuming most
35 people covered by private health insurance discontinue private coverage when
36 ColoradoCare coverage becomes available, insurance premium and corporate income
37 taxes paid by health insurance carriers will decrease by at least \$100 million per year
38 once ColoradoCare is fully implemented. Based on the assumed start of date of
39 ColoradoCare, this impact would occur beginning in budget year 2019-20.

40 Second, Amendment 69 may affect the amount of individual and corporate income
41 subject to the existing 4.63 percent state income tax in several ways, which could both
42 increase and decrease state tax revenue. For individuals and businesses, the amount

1 of ColoradoCare taxes paid may be claimed as a tax deduction, which could reduce
2 state tax revenue. However, a shift away from employer-based health insurance
3 following implementation of ColoradoCare may increase taxable income for both
4 individuals and businesses by eliminating health insurance premium payments that
5 currently do not count as taxable income for individuals and that may be claimed as a
6 business expense deduction by employers. Additionally, the changes to health
7 benefits under the measure could affect employee wages, which could increase or
8 decrease income tax revenue. The net change from these various impacts to
9 individual and corporate income tax revenue will depend on several factors, including
10 the amount of ColoradoCare taxes and health care premiums paid, the amount of tax
11 deductions claimed in any given year, and the net change in employee wages.

12 **State spending.** Amendment 69 is estimated to increase state spending by
13 \$4.3 million in budget year 2016-17, \$19.5 million in budget year 2017-18, and
14 \$24.6 million in budget year 2018-19. This new spending includes:

- 15 • administration of the new payroll and income tax;
- 16 • planning and implementation activities to assist in establishing
17 ColoradoCare;
- 18 • payment of the new payroll tax; and
- 19 • information technology costs.

20 Unless future implementing legislation for Amendment 69 specifically allows for the
21 new tax revenue to be used to pay state agency costs or the ColoradoCare board
22 agrees to pay these costs, it is assumed that these costs will be paid from existing
23 state resources, including the General Fund, cash funds, and federal funds.

24 **State agency savings.** When ColoradoCare is fully implemented, spending by
25 state agencies will decrease by \$147.3 million in budget year 2019-20. These savings
26 will result from state agencies discontinuing payments for private health insurance for
27 state employees beginning August 1, 2019. The estimated savings reflect the net
28 impact after accounting for other ongoing costs under the measure for tax
29 administration and payment of payroll taxes.

30 **Termination of health insurance exchange.** When ColoradoCare becomes fully
31 operational, the state's health insurance exchange, Connect for Health Colorado, will
32 no longer operate. This will result in savings of approximately \$40 million per year.
33 Connect for Health Colorado is funded through fees assessed on health insurance
34 carriers, tax-deductible donations by insurance carriers, and grants. Connect for
35 Health Colorado will have costs between \$5 million and \$10 million over a two-year
36 period to wind down operations and fulfill various contractual obligations.

37 **Local government impacts.** Spending by cities and counties in Colorado will
38 initially increase under the measure due to the new payroll tax created under
39 Amendment 69. If ColoradoCare is fully implemented and local governments choose
40 to discontinue payments for employee health insurance through private insurance
41 carriers, net savings may result.

1 **ColoradoCare Spending and Tax Increases**

2 Article X, Section 20 of the Colorado Constitution requires that the following fiscal
3 information be provided when a tax increase question is on the ballot:

- 4 • estimates or actual amounts of ColoradoCare fiscal year spending for
5 the current year and each of the past four years with the overall
6 percentage and dollar change; and
- 7 • for the first full year of the proposed tax increase, an estimate of the
8 maximum dollar amount of the tax increase and of ColoradoCare fiscal
9 year spending without the increase.

10 "Fiscal year spending" is a legal term in the Colorado Constitution. It equals the
11 amount of revenue subject to the constitutional spending limit that the state or a
12 district is permitted to keep and either spend or save for a single year.

13 Because ColoradoCare is a newly created district, ColoradoCare has no spending
14 history, as shown in Table 3.

15 **Table 3**
16 **ColoradoCare Fiscal Year Spending**

	Actual FY 2012-13	Actual FY 2013-14	Actual FY 2014-15	Actual FY 2015-16	Estimated FY 2016-17
ColoradoCare Spending	\$0	\$0	\$0	\$0	\$0
Four-Year Dollar Change in State Spending: \$0					
Four-Year Percent Change in State Spending: Not applicable.					

23 *FY = fiscal year. The state's fiscal (or budget) year runs from July through June.*

24 In FY 2017-18, ColoradoCare is expected to collect \$2.0 billion from the new
25 taxes, as shown in Table 4. This amount reflects estimated revenue in the first full
26 fiscal year and differs from the \$25.0 billion amount shown in the ballot title of this
27 measure, which represents revenue in FY 2019-20, the final full year of the fully
28 phased-in new taxes.

29 **Table 4**
30 **Estimated ColoradoCare Fiscal Year Spending**
31 **and the Proposed New Taxes**

	FY 2017-18 Estimate
Fiscal Year Spending without the New Taxes	\$0
Revenue from the New Taxes	\$2.0 billion