

**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 ♦ require that federal approval be obtained before ColoradoCare is fully
5 implemented and terminate ColoradoCare operations if federal approval
6 is not received for its fiscally sound operation;
- 7 ♦ create new taxes on most sources of income, redirect existing state and
8 federal health funding to pay for the services and administration of
9 ColoradoCare, and exempt ColoradoCare from constitutional limits on
10 revenue; and
- 11 ♦ establish a board of trustees, initially appointed and then elected, to
12 oversee the operations of ColoradoCare.

13 **Summary and Analysis**

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

24 **Persons served by ColoradoCare.** If Amendment 69 is passed and fully
25 implemented, Colorado residents will be eligible for health coverage through
26 ColoradoCare, a new statewide system to finance health care services. ColoradoCare
27 will pay for covered health care services for Coloradans who do not have other forms
28 of health coverage and will provide supplemental coverage to persons who have other
29 coverage. Amendment 69 does not prohibit private health insurance, and certain
30 government health programs will continue to provide health coverage. Persons with
31 these alternate forms of coverage will still be required to pay the new taxes that fund
32 ColoradoCare.

33 ColoradoCare, when fully implemented, will affect government health programs
34 and the workers' compensation system. Medicaid and the Children's Basic Health
35 Plan will be administered by ColoradoCare, and the state and federal funds for these

1 programs will be redirected to ColoradoCare. Medicare, military and veterans' health
2 care programs, and certain federally operated health care programs will continue to
3 operate, and persons receiving coverage through these programs will be eligible for
4 supplemental coverage through ColoradoCare. ColoradoCare will also pay the
5 medical portion of workers' compensation benefits, which is currently covered by
6 workers' compensation insurance policies obtained by employers.

7 **Initial implementation.** If Amendment 69 is passed by voters, several steps must
8 be taken before ColoradoCare may begin paying for health care services. The
9 ColoradoCare board of trustees, together with various state agencies, must seek and
10 receive federal approval to implement ColoradoCare since it will modify the
11 administration of the Medicaid program and supersede various requirements of the
12 federal Patient Protection and Affordable Care Act. If federal approval is not received,
13 ColoradoCare will not be implemented and any unused funds will be returned.

14 During the 2017 legislative session, the state legislature must pass laws to
15 implement Amendment 69. This includes laws that implement the new taxes, allocate
16 state and federal funds, eliminate the state health insurance exchange, and transfer
17 the responsibility for administering various state health care programs to
18 ColoradoCare.

19 During the initial implementation phase, ColoradoCare will not pay for health care
20 services. Individuals will be responsible for maintaining health insurance coverage
21 and paying any necessary premiums until ColoradoCare is fully implemented and
22 begins making payments for health care services.

23 **Health care benefits and delivery of services.** Amendment 69 outlines the
24 health services that ColoradoCare must cover. These services include primary and
25 specialty care, hospitalization, prescription drugs, medical equipment, and emergency
26 and urgent care. The ColoradoCare board of trustees will determine the exact
27 services that will be covered and the rates paid to providers. Coloradans may select a
28 primary care provider of their choice under Amendment 69. Health care providers
29 must contract with ColoradoCare to be reimbursed for health care services provided.

30 ColoradoCare is prohibited from charging deductibles, but may require
31 copayments for some health care services. A deductible is the amount of medical
32 costs a patient must pay before an insurance plan starts to cover medical costs.
33 Typically, a copayment is a fixed amount that a patient must pay at the time of service.
34 Consistent with current federal law, ColoradoCare may not charge copayments for
35 primary and preventative care services, such as annual doctor visits. Under
36 Amendment 69, copayments for other services may be waived if a patient faces
37 financial hardship.

38 **ColoradoCare elections.** ColoradoCare will be governed by a board of trustees.
39 Initially, a 15-member interim board of trustees will be appointed by state legislative
40 leadership and the Governor. The interim board will determine procedures for electing
41 a 21-member board of trustees and seeking approval for tax rate increases to fund
42 ColoradoCare. The first board of trustees election must be scheduled within three

1 years of the effective date of the measure. Amendment 69 outlines the length of
2 terms of the elected trustees, term limits, and procedures for filling vacancies.
3 ColoradoCare trustees are not subject to recall elections, but may be removed by a
4 majority vote of the board.

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

16 **Administration.** In addition to determining the procedures for electing a
17 21-member board of trustees, the interim board must establish rules and procedures,
18 approve an operating budget, and hire employees and consultants for ColoradoCare.
19 Once the elected board assumes responsibility for the operations of ColoradoCare, its
20 duties will include:

- 21 • establishing rules and procedures for the operation of ColoradoCare,
22 determining benefits for Coloradans, and setting payment rates for
23 providers;
- 24 • hiring an executive team to administer the operations of ColoradoCare;
- 25 • administering all state funds for health care services provided to
26 Coloradans;
- 27 • facilitating the creation of medical records and billing records systems;
- 28 • establishing an internal office for fraud investigation;
- 29 • funding external offices in the Division of Insurance to respond to
30 inquiries and complaints from the public and health care providers and
31 make recommendations to the board; and
- 32 • ensuring financial stability of ColoradoCare and approving a publicly
33 available annual budget.

34 **Taxpayer impacts.** To fund ColoradoCare, Amendment 69 creates new taxes on
35 wages paid by employers and income received by individuals. The new taxes will be
36 in addition to the state's current 4.63 percent income tax. Table 1 highlights the initial
37 and full tax rates under the measure and the tax rates paid by employers and
38 individuals. While all employers and individuals will be required to pay the new taxes,
39 the taxes paid may be offset by savings that result from no longer having to pay for
40 private health insurance.

41 The initial taxes are expected to generate approximately \$2 billion per year. The
42 full taxes are projected to generate more than \$25 billion in revenue each year. The
43 initial taxes will be collected starting July 1, 2017, and tax rates will increase to their

1 full amounts 30 days before ColoradoCare assumes responsibility for health care
2 payments in Colorado.

3 For employees, the new taxes are assessed on wages earned. For employers,
4 the taxes are based on the total wages for all employees. For individuals earning
5 other non-wage sources of income, the taxes are paid solely by the income earner.
6 Wage income includes wages, salaries, tips, and other income reported on an
7 employee W-2 form. Non-wage income includes capital gains, dividends, interest,
8 rental income, non-corporate business income, and retirement income, including
9 Social Security income, as reported on a taxpayer's federal income tax form.

10 **Table 1**
11 **New Taxes and Tax Rates Under Amendment 69**

	Initial Tax Rates	Full Tax Rates
Wage Income		
<i>Employee Tax Rate</i>	<i>0.3%</i>	<i>3.33%</i>
<i>Employer Tax Rate</i>	<i>0.6%</i>	<i>6.67%</i>
Total	0.9%	10.0%
Non-wage Income	0.9%	10.0%

18 The new taxes apply to the first \$350,000 in taxable income for single filer
19 taxpayers and the first \$450,000 in taxable income for joint filers. These amounts are
20 increased by inflation each year. Retirement income up to \$20,000 for those aged 55
21 to 64, and up to \$24,000 for those 65 and older, is not taxed. Joint filers may claim up
22 to double these amounts. Certain types of income are excluded from the new taxes,
23 including unemployment compensation and alimony. Additionally, depending on how
24 the new taxes are administered, Social Security income may also be excluded to the
25 extent it is excluded from federal taxable income. Table 2 shows the amount of taxes
26 owed under the full tax rates by representative households and the employers of
27 persons in those households.

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

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

9 For comparison, the average cost for employer-based health insurance coverage
10 in Colorado in 2014 was \$5,888 for single coverage and \$16,318 for family coverage.
11 These amounts are typically split between the employee and employer, as outlined in
12 Table 3. These amounts do not include deductibles, co-payments, or other
13 non-covered medical costs. Non-employer based health insurance premiums may
14 vary from these amounts.

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Table 3
Average Annual Colorado Health Insurance Premium Costs, 2014

Health Insurance Plan	Household	Employer
Employer-based Coverage		
Single Coverage	\$1,165	\$4,723
Family Coverage	\$5,228	\$11,090

21 *Source: U.S. Department of Health and Human Services with Legislative Council Staff calculations.*

22 **Constitutional limits on revenue.** Amendment 69 exempts ColoradoCare from
23 the constitutional limits on revenue and the existing election requirements for voter
24 approval of tax increases. Under current law, if the state collects revenue in excess of
25 constitutional limits, the revenue must be refunded to the taxpayers; ColoradoCare
26 revenue will be exempt from these limits. For approval of tax increases, ColoradoCare
27 is not required to seek approval at a regularly scheduled November election. Instead,
28 tax increases for ColoradoCare must be approved at a ColoradoCare election
29 scheduled by the board of trustees. The board of trustees may request a tax increase
30 no more than once per year.

*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>

1 **Arguments For**

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

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

17 3) ColoradoCare provides a more transparent system that serves the interests of
18 Coloradans, instead of the interests of corporate shareholders. The current private
19 health insurance system is profit-motivated, which contributes to rising health care
20 costs. ColoradoCare offers an alternative that shifts incentives toward improving
21 patient care by allowing Coloradans to elect health care decision-makers. Under
22 Amendment 69, Coloradans also have control over tax increases for ColoradoCare,
23 increasing local control over health care costs. Unlike private insurance companies,
24 ColoradoCare board meetings are subject to open meetings laws, which allows
25 Coloradans to be aware of the decisions made by the board.

26 **Arguments Against**

27 1) Amendment 69 imposes new taxes, which may harm the Colorado economy by
28 burdening taxpayers and eliminating jobs. The tax increases under this measure will
29 nearly double state government spending, which currently totals \$27 billion for the
30 entire state budget. Many individuals and businesses will pay more with the new taxes
31 than they currently pay for health insurance premiums. In the initial years, taxpayers
32 will pay about \$2 billion a year into a system without receiving any direct benefits.
33 Under Amendment 69, higher taxes and an uncertain economic climate could

1 discourage businesses from operating in Colorado. Additionally, ColoradoCare may
2 cause private health insurance businesses to downsize or leave the state, leaving
3 many people unemployed.

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

15 3) ColoradoCare may limit consumer choice and strain the health care system.
16 Health care providers may be unwilling to serve ColoradoCare patients if
17 reimbursement rates are too low. This could reduce options for patients and increase
18 wait times to receive services. Also, the health care system could be further burdened
19 by people coming to the state to receive health care without adequately contributing to
20 the taxes that pay for their care. If the system fails to control costs, health services
21 covered by ColoradoCare may be reduced. Additionally, private health insurance may
22 not be available or affordable if Amendment 69 passes. This could leave people with
23 limited options for accessing alternative coverage or needed care, forcing some
24 people to leave the state.

25 **Estimate of Fiscal Impact**

26 **ColoradoCare revenue.** Amendment 69 creates ColoradoCare, a new
27 subdivision of the state that will be the recipient of tax revenue from new taxes on
28 employers and individuals. New tax revenue to ColoradoCare is estimated to be
29 \$1.0 billion in budget year 2017-18 and \$2.0 billion per year in subsequent years until
30 ColoradoCare assumes responsibility for health care payments in Colorado or, if
31 federal approval is not received, until the board of trustees acts to terminate
32 ColoradoCare. When fully implemented, ColoradoCare is expected to receive
33 \$25 billion in new tax revenue each year. Additional detail on the new taxes created
34 by the measure to fund ColoradoCare, including the initial and full tax rates on
35 individuals and employers, is provided in the "Taxpayer impacts" section above.

36 **ColoradoCare spending.** Based on available revenue, spending by
37 ColoradoCare may increase by up to \$1.0 billion in budget year 2017-18 and up to
38 \$2.0 billion per year until fully implemented. However, initial spending is expected to
39 be less than these amounts, with most revenue to ColoradoCare placed in capital and
40 operating reserves, rather than spent, prior to full implementation of ColoradoCare.
41 During the initial years, the exact spending levels will depend on decisions by the

1 ColoradoCare board of trustees and will likely include costs for seeking federal
2 approval to fully implement ColoradoCare, procuring information technology systems,
3 developing operating procedures, hiring staff, and conducting board elections. Based
4 on anticipated tax revenue and state funds transferred to ColoradoCare, it is estimated
5 that ColoradoCare will spend approximately \$37.5 billion per year on health care
6 payments and administrative expenses once fully implemented. The amount of
7 spending by ColoradoCare will depend on numerous factors, including the terms and
8 conditions of federal waivers, the availability of funds, and the payment rates to health
9 care providers set by the ColoradoCare board of trustees.

10 While the exact date of ColoradoCare's full implementation is not known, the
11 revenue and spending figures for full implementation included in this analysis are
12 based on the assumption that ColoradoCare will assume responsibility for health care
13 payments on July 1, 2019.

14 **State revenue.** Amendment 69 may reduce state tax revenue, most of which is
15 deposited into the state General Fund; however, the exact impact cannot be estimated
16 at this time. This potential reduction comes from two sources. First, assuming most
17 people covered by private health insurance discontinue private coverage when
18 ColoradoCare coverage becomes available, insurance premium taxes paid by health
19 insurance carriers will decrease by approximately \$100 million per year once
20 ColoradoCare is fully implemented. Based on the assumed start of date of
21 ColoradoCare, this impact would occur beginning in budget year 2019-20.

22 Second, Amendment 69 may affect the amount of individual and corporate income
23 subject to the existing 4.63 percent state income tax in several ways, which could both
24 increase and decrease state tax revenue. For individuals and businesses, the amount
25 of ColoradoCare taxes paid may be claimed as a tax deduction, which could reduce
26 state tax revenue. However, a shift away from employer-based health insurance
27 following implementation of ColoradoCare may increase taxable income for both
28 individuals and businesses by eliminating health insurance premium payments that
29 currently do not count as taxable income for individuals and that may be claimed as a
30 business expense deduction by employers. Additionally, the changes to health
31 benefits under the measure could affect employee wages, which could increase or
32 decrease income tax revenue. The net change from these various impacts to
33 individual and corporate income tax revenue will depend on several factors, including
34 the amount of ColoradoCare taxes and health care premiums paid, the amount of tax
35 deductions claimed in any given year, and the net change in employee wages.

36 **State spending.** Amendment 69 is estimated to increase state spending by
37 \$4.2 million in budget year 2016-17, \$11.3 million in budget year 2017-18, and
38 \$22.8 million in budget year 2018-19. This new spending includes:

- 39 • administration of the new payroll and income tax;
- 40 • planning and implementation activities to assist in establishing
41 ColoradoCare;
- 42 • payment of the new payroll tax on behalf of state employees; and

- 1 • information technology costs.

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

6 **State agency savings.** When ColoradoCare is fully implemented, spending by
7 state agencies will decrease by approximately \$10.5 billion per year. This figure
8 assumes that ColoradoCare will be implemented on July 1, 2019, and therefore
9 represents savings in budget year 2019-20. These savings will primarily result from
10 transferring funding for, and administration of, various health programs operated by
11 state agencies to ColoradoCare. In addition, state agencies will experience savings
12 by discontinuing payments for private health insurance for state employees. The
13 estimated savings reflect the net impact after accounting for other ongoing costs
14 under the measure for tax administration and payment of state employee payroll
15 taxes.

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

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