

**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 the federal
6 government does not grant approval sufficient for its fiscally sound
7 operation;
- 8 ♦ create new taxes on most sources of income, redirect existing state and
9 federal health funding to pay for the services and administration of
10 ColoradoCare, exempt ColoradoCare from constitutional limits on
11 revenue, and require approval by Colorado residents for future tax
12 increases; and
- 13 ♦ establish a board of trustees, initially appointed and then elected, to
14 oversee the operations of ColoradoCare.

15 **Summary and Analysis**

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

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

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 obtained 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 and
13 receive federal approval to implement ColoradoCare since it will modify the
14 administration of the Medicaid program and supersede various requirements of the
15 federal Patient Protection and Affordable Care Act. The federal act allows states to
16 develop alternative ways to pay for health care services, provided that certain federal
17 requirements are met. If federal approval is not received, ColoradoCare will not be
18 implemented and any unused funds will be returned.

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 rates, which are detailed in the
29 "Taxpayer impacts" section below.

30 **Health care benefits and delivery of services.** Amendment 69 outlines the
31 general health services that ColoradoCare must cover. These services include
32 primary and specialty care, hospitalization, prescription drugs, medical equipment, and
33 emergency and urgent care. The ColoradoCare board of trustees will determine the
34 exact services that will be covered and the rates paid to providers. Coloradans may
35 select a primary care provider of their choice under Amendment 69. Health care
36 providers must contract with ColoradoCare to be reimbursed for health care services
37 provided.

38 ColoradoCare is prohibited from charging deductibles, but may require
39 copayments for some health care services. A deductible is the amount of medical
40 costs a patient must pay before an insurance plan starts to cover medical costs.
41 Typically, a copayment is a fixed amount that a patient must pay at the time of service.
42 Consistent with current federal law, ColoradoCare may not charge copayments for
43 primary and preventative care services, such as annual doctor visits. Under

1 Amendment 69, copayments for other services may be waived if a patient faces
2 financial hardship.

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

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

23 **Administration.** In addition to determining the procedures for electing a
24 21-member board of trustees, the interim board must establish rules and procedures,
25 approve an operating budget, and hire employees and consultants for ColoradoCare.
26 Once the elected board assumes responsibility for the operations of ColoradoCare, its
27 duties will include:

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

Current health insurance costs and potential taxpayer savings. Once ColoradoCare is fully implemented, the taxes paid may be offset by savings that result from no longer having to pay for private health insurance. However, any potential savings depend on an individual's tax liability, the portion of the health insurance premiums paid by the individual, and out-of-pocket health care costs. Table 3 summarizes the estimated average annual cost of insurance premiums per person across several common types of health care plans. These amounts do not include deductibles, co-payments, or other non-covered medical costs.

About half of the Colorado population receives health insurance coverage through an employer, with the costs typically split between the employee and employer. Individuals may purchase private health insurance coverage for themselves and their families if employer-based health insurance is not available or is declined. Premiums for individual coverage are paid solely by the person purchasing the coverage, but may be offset by federal tax credits if the plans are purchased through the health insurance exchange.

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, will 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.

1 Persons who receive coverage through other means pay significantly different
 2 amounts depending on a variety of circumstances. Persons who are uninsured do not
 3 pay insurance premiums, but may have high out-of-pocket costs and be subject to a
 4 tax penalty under federal law. The new taxes may offset these out-of-pocket costs and
 5 the tax penalty for persons without health insurance.

6 **Table 3**
 7 **Estimated Average Annual Health Insurance Premium Costs**
 8 **Per Person in Colorado, 2015**

Health Care Coverage	Household	Employer
Employer-based Health Insurance	\$1,275	\$3,826
Individual Health Insurance	\$3,799	\$0
Medicaid	\$0	\$0
Medicare	Varies by plan	\$0
Uninsured	\$0	\$0

15 *Source: Colorado Division of Insurance with Legislative Council Staff calculations based*
 16 *on premium costs per covered life for state regulated health plans.*

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

22 **Constitutional limits on revenue.** Under current law, if the state collects
 23 revenue in excess of constitutional limits, the revenue must be refunded to taxpayers.
 24 ColoradoCare revenue will be exempt from these limits.

*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>

25 **Arguments For**

26 1) Amendment 69 creates a more equitable health care payment system that
 27 provides coverage for all Coloradans. All people should have access to affordable
 28 health care regardless of their ability to pay. The current health care system leaves
 29 many people uninsured or unable to access care due to insurance denials or high

1 deductibles. ColoradoCare prohibits deductibles and may reduce financial barriers to
2 needed care. The measure helps ensure that individuals and families will not face
3 financial ruin when accessing needed health care services.

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

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

21 **Arguments Against**

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

33 2) Amendment 69 offers no guarantee that ColoradoCare will improve patient
34 care, expand access, or reduce health care costs. Coloradans may never receive the
35 benefits promised under ColoradoCare if federal approval is not granted or revenues
36 are not sufficient. The measure does not specify critical details of how ColoradoCare
37 will be implemented, and has no required implementation date. The measure
38 concentrates control for making important decisions and spending billions of taxpayers
39 dollars in a 21-member board with limited accountability and no required health
40 industry experience. ColoradoCare may not solve fundamental problems of rising
41 health care costs and limited access. If the state fully transitions to ColoradoCare and

1 it fails, it could take years to re-establish a private health insurance market and
2 government programs, and taxpayers will have paid billions of dollars for a failed
3 system.

4 3) ColoradoCare may limit consumer choice and strain the health care system.
5 Health care providers may be unwilling to serve ColoradoCare patients if
6 reimbursements are too low, or they may choose to leave Colorado due to
7 uncertainties in the health care market. This could reduce options for patients and
8 increase wait times to receive services. Also, the health care system could be further
9 burdened by people coming to the state to receive health care without adequately
10 contributing to the taxes that pay for their care. If the system fails to control costs,
11 health services covered by ColoradoCare may be reduced. Additionally, private health
12 insurance may not be available or affordable if Amendment 69 passes. This could
13 leave people with limited options for accessing alternative coverage or needed care,
14 forcing some people to leave the state.

15 **Estimate of Fiscal Impact**

16 **ColoradoCare revenue.** Amendment 69 creates ColoradoCare, a new
17 subdivision of the state that will be the recipient of tax revenue from new taxes on
18 employers and individuals. New tax revenue to ColoradoCare is estimated to be
19 \$1.0 billion in budget year 2017-18 and \$2.0 billion per year in subsequent years until
20 ColoradoCare assumes responsibility for health care payments in Colorado or, if
21 federal approval is not received, until the board of trustees acts to terminate
22 ColoradoCare. When fully implemented, ColoradoCare is expected to receive
23 \$25 billion in new tax revenue each year. Additional detail on the new taxes created
24 by the measure to fund ColoradoCare, including the initial and full tax rates on
25 individuals and employers, is provided in the "Taxpayer impacts" section above.

26 **ColoradoCare spending.** Based on available revenue, spending by
27 ColoradoCare may increase by up to \$1.0 billion in budget year 2017-18 and up to
28 \$2.0 billion per year until fully implemented. However, initial spending is expected to
29 be less than these amounts, with most revenue to ColoradoCare placed in capital and
30 operating reserves, rather than spent, prior to full implementation of ColoradoCare.
31 During the initial years, the exact spending levels will depend on decisions by the
32 ColoradoCare board of trustees and will likely include costs for seeking federal
33 approval to fully implement ColoradoCare, procuring information technology systems,
34 developing operating procedures, hiring staff, leasing office space, and conducting
35 board elections. Based on anticipated tax revenue and state funds transferred to
36 ColoradoCare, it is estimated that ColoradoCare will spend approximately \$37.5 billion
37 per year on health care payments and administrative expenses once fully
38 implemented. The amount of spending by ColoradoCare will depend on numerous
39 factors, including the terms and conditions of federal waivers, the availability of funds,
40 and the payment rates to health care providers set by the ColoradoCare board of
41 trustees.

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

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

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

27 **State spending.** Amendment 69 is estimated to increase state spending by
28 \$4.2 million in budget year 2016-17, \$11.3 million in budget year 2017-18, and
29 \$22.8 million in budget year 2018-19. This new spending includes:

- 30 • administration of the new payroll and income tax;
- 31 • planning and implementation activities to assist in establishing
32 ColoradoCare;
- 33 • payment of the new payroll tax on behalf of state employees; and
- 34 • information technology costs.

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

39 **State agency savings.** When ColoradoCare is fully implemented, spending by
40 state agencies will decrease by approximately \$10.5 billion per year. This figure
41 assumes that ColoradoCare will be implemented on July 1, 2019, and therefore

1 represents savings in budget year 2019-20. These savings will primarily result from
2 transferring funding for, and administration of, various health programs operated by
3 state agencies to ColoradoCare. In addition, state agencies will experience savings
4 by discontinuing payments for private health insurance for state employees. The
5 estimated savings reflect the net impact after accounting for other ongoing costs
6 under the measure for tax administration and payment of state employee payroll
7 taxes.

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

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