

**NOTICE OF ELECTION TO INCREASE TAXES
ON A CITIZEN PETITION**

**STATEWIDE ELECTION DAY IS
Tuesday, November 8, 2016**

Voter service and polling centers open 7 a.m. to 7 p.m.

This election is a mail ballot election.
For information about voter service and polling centers, please contact
your county election office. Contact information for county election
offices appears inside the back cover of this booklet.



**2016 STATE BALLOT
INFORMATION BOOKLET**

and

**Recommendations on
Retention of Judges**

Legislative Council of the
Colorado General Assembly

Research Publication No. 669-6

Amendment 69 Statewide Health Care System

ANALYSIS

Amendment 69 proposes amending the Colorado Constitution to:

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

Summary and Analysis

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

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

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

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

During the 2017 legislative session, the state legislature must pass laws to implement Amendment 69. This includes laws that implement the new taxes, allocate state and federal funds, eliminate the state health insurance

exchange, transfer the responsibility for administering various state health care programs to ColoradoCare, and amend workers' compensation laws.

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

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

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

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

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

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

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

Taxpayer impacts. To fund ColoradoCare, Amendment 69 creates new taxes on wages paid by employers and income received by individuals. The new taxes will be in addition to the state's current 4.63 percent income

tax. Table 1 highlights the initial and full tax rates under the measure and the tax rates paid by employers and individuals. While all employers and individuals will be required to pay the new taxes, the taxes paid may be offset by savings that result from no longer having to pay for private health insurance once ColoradoCare is fully implemented.

The initial taxes are expected to generate approximately \$2 billion per year. The full taxes are projected to generate more than \$25 billion in revenue each year. The initial taxes will be collected starting July 1, 2017, and tax rates will increase to their full amounts 30 days before ColoradoCare assumes responsibility for health care payments in Colorado.

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

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

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

The new taxes apply to the first \$350,000 in taxable income for single filer taxpayers and the first \$450,000 in taxable income for joint filers. These amounts are increased by inflation each year. The measure applies an existing state income tax exemption for retirement income to the new taxes. Under this exemption, retirement income up to \$20,000 for those aged 55 to 64, and up to \$24,000 for those 65 and older, is not taxed. Joint filers may claim up to double these amounts. Certain types of income are excluded from the new taxes, including unemployment compensation and alimony. Table 2 shows the amount of taxes owed under the full tax rates by representative households and the employers of persons in those households.

**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.

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

Constitutional limits on revenue. Under current law, if the state or a district of the state collects revenue in excess of constitutional limits, the revenue must be refunded to taxpayers. ColoradoCare revenue is exempt from these limits under 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>

Arguments For

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

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

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

Arguments Against

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

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

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

Estimate of Fiscal Impact

ColoradoCare revenue. Amendment 69 creates ColoradoCare, a new subdivision of the state that will be the recipient of tax revenue from new taxes on employers and individuals and transfers of state and federal funds that are currently used to operate state health programs, such as Medicaid. New tax revenue to ColoradoCare is estimated to be \$2.0 billion in budget year 2017-18 and subsequent years until ColoradoCare assumes responsibility for health care payments in Colorado or, if federal approval is not received, until the board of trustees acts to terminate ColoradoCare. When fully implemented, ColoradoCare is expected to receive total revenue of up to \$36.2 billion, including \$25.0 billion in new tax revenue and up to \$11.2 billion in transferred state and federal funds, assuming implementation in budget year 2019-20. Additional detail on the new taxes created by the measure to fund ColoradoCare, including the initial and full tax rates on individuals and employers, is provided in the "Taxpayer impacts" section above.

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

Based on anticipated tax revenue and state and federal funds transferred to ColoradoCare, it is estimated that ColoradoCare will spend up to \$36.2 billion per year on health care payments and administrative expenses once fully implemented. The amount of spending by ColoradoCare will depend on numerous factors, including the terms and conditions of federal waivers, the availability of funds, and the payment rates to health care providers set by the ColoradoCare board of trustees. In the event revenue is not sufficient to meet its spending obligations, ColoradoCare will be required to reduce its expenditures or increase tax revenue. Reductions in expenditures

could be achieved by limiting benefits, increasing the share of health care costs paid by covered individuals, or lowering payments to health care providers.

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

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

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

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

- administration of the new payroll and income tax;
- planning and implementation activities to assist in establishing ColoradoCare;
- payment of the new payroll tax; and
- information technology costs.

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

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

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

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

ColoradoCare Spending and Tax Increases

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

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

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

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

**Table 3
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.					

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

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

**Table 4
Estimated ColoradoCare Fiscal Year Spending 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

**Amendment 69
Statewide Health Care System**

TITLE AND TEXT

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

Ballot Title:

SHALL STATE TAXES BE INCREASED \$25 BILLION ANNUALLY IN THE FIRST FULL FISCAL YEAR, AND BY SUCH AMOUNTS THAT ARE RAISED THEREAFTER, BY AN AMENDMENT TO THE COLORADO CONSTITUTION ESTABLISHING A HEALTH CARE PAYMENT SYSTEM TO FUND HEALTH CARE FOR ALL INDIVIDUALS WHOSE PRIMARY RESIDENCE IS IN COLORADO, AND, IN CONNECTION THEREWITH, CREATING A GOVERNMENTAL ENTITY CALLED COLORADOCARE TO ADMINISTER THE HEALTH CARE PAYMENT SYSTEM; PROVIDING FOR THE GOVERNANCE OF COLORADOCARE BY AN INTERIM APPOINTED BOARD OF TRUSTEES UNTIL AN ELECTED BOARD OF TRUSTEES TAKES RESPONSIBILITY; EXEMPTING COLORADOCARE FROM THE TAXPAYER'S BILL OF RIGHTS; ASSESSING AN INITIAL TAX ON THE TOTAL PAYROLL FROM EMPLOYERS, PAYROLL INCOME FROM EMPLOYEES, AND NONPAYROLL INCOME AT VARYING RATES; INCREASING THESE TAX RATES WHEN COLORADOCARE BEGINS MAKING HEALTH CARE PAYMENTS FOR BENEFICIARIES; CAPPING THE TOTAL AMOUNT OF INCOME SUBJECT TO TAXATION; AUTHORIZING THE BOARD TO INCREASE THE TAXES IN SPECIFIED CIRCUMSTANCES UPON APPROVAL OF THE MEMBERS OF COLORADOCARE; REQUIRING COLORADOCARE TO CONTRACT WITH HEALTH CARE PROVIDERS TO PAY FOR SPECIFIC HEALTH CARE BENEFITS; TRANSFERRING ADMINISTRATION OF THE MEDICAID AND CHILDREN'S BASIC HEALTH PROGRAMS AND ALL OTHER STATE AND FEDERAL HEALTH CARE FUNDS FOR COLORADO TO COLORADOCARE; TRANSFERRING RESPONSIBILITY TO COLORADOCARE FOR MEDICAL CARE THAT WOULD OTHERWISE BE PAID FOR BY WORKERS' COMPENSATION INSURANCE; REQUIRING COLORADOCARE TO APPLY FOR A WAIVER FROM THE AFFORDABLE CARE ACT TO ESTABLISH A COLORADO HEALTH CARE PAYMENT SYSTEM; AND SUSPENDING THE OPERATIONS OF THE COLORADO HEALTH BENEFIT EXCHANGE AND TRANSFERRING ITS RESOURCES TO COLORADOCARE?

Text of Measure:

Be it Enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, **add** article XXX as follows:

**ARTICLE XXX
ColoradoCare**

Section 1. Purpose and findings.

(1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(a) COLORADANS NEED THE SECURITY OF KNOWING THAT THEY CAN AFFORD HEALTH CARE FOR THEMSELVES AND THEIR FAMILIES;

(b) BUSINESSES NEED RELIEF FROM THE UNSUSTAINABLE FINANCIAL AND ADMINISTRATIVE BURDENS OF PROVIDING HEALTH INSURANCE FOR THEIR EMPLOYEES;

(c) ANNUAL INSURANCE CHANGES DISRUPT COORDINATED LIFETIME HEALTH CARE;

(d) HEALTH CARE COSTS HAVE BEEN INCREASING AT UNSUSTAINABLE RATES AND MUST BE STABILIZED;

(e) COLORADO NEEDS A HEALTH CARE DELIVERY SYSTEM THAT PRIORITIZES VALUE OVER VOLUME AND THAT ENCOURAGES QUALITY, EFFICIENT, AND ACCESSIBLE HEALTH CARE;

(f) COLORADO HEALTH CARE PROVIDERS NEED RELIEF FROM THE ADMINISTRATIVE BURDENS THAT INTERFERE WITH QUALITY HEALTH CARE;

(g) SECTION 1332 OF THE AFFORDABLE CARE ACT ALLOWS COLORADO TO OBTAIN WAIVERS FROM THE INSURANCE EXCHANGE PROGRAM IN ORDER TO CREATE A UNIQUE COLORADO HEALTH CARE SYSTEM; AND THEREFORE, THAT

(2) COLORADO WILL FINANCE HEALTH CARE THROUGH COLORADOCARE, A POLITICAL SUBDIVISION OF THE STATE GOVERNED BY A TWENTY-ONE MEMBER BOARD OF TRUSTEES THAT WILL ADMINISTER A COORDINATED PAYMENT SYSTEM FOR HEALTH CARE SERVICES AND CONTROL THE PER CAPITA COST OF HEALTH CARE, THEREBY IMPROVING ACCESS TO HEALTH CARE FOR ALL COLORADANS, ENHANCING THEIR HEALTH CARE EXPERIENCES, GIVING COLORADANS THE RIGHT TO CHOOSE THEIR PRIMARY HEALTH CARE PROVIDERS, AND IMPROVING THE WORKING LIVES OF PROVIDERS.

Section 2. Definitions. FOR THE PURPOSE OF THIS ARTICLE:

(1) "AFFORDABLE CARE ACT" MEANS THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", PUB.L. 111-148, AS AMENDED BY THE FEDERAL "HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010", PUB.L. 111-152, AND AS MAY BE FURTHER AMENDED, INCLUDING ANY FEDERAL REGULATIONS ADOPTED UNDER THE ACT.

(2) "BENEFICIARY" MEANS AN INDIVIDUAL WHOSE PRIMARY RESIDENCE IS IN COLORADO.

(3) "BOARD" MEANS THE ELECTED BOARD OF TRUSTEES ESTABLISHED IN SECTION 5 OF THIS ARTICLE UNLESS THE CONTEXT INDICATES THAT "BOARD" MEANS THE INTERIM BOARD DEFINED IN SUBSECTION (9) OF THIS SECTION.

(4) "CHILDREN'S BASIC HEALTH PLAN" MEANS THE HEALTH BENEFIT PLAN ESTABLISHED IN ARTICLE 8 OF TITLE 25.5, COLORADO REVISED STATUTES.

(5) "COLORADO HEALTH BENEFIT EXCHANGE" MEANS THE COLORADO HEALTH BENEFIT EXCHANGE CREATED IN ARTICLE 22 OF TITLE 10, COLORADO REVISED STATUTES, OR ITS SUCCESSOR ENTITY.

(6) "EFFECTIVE DATE" MEANS THE EFFECTIVE DATE OF THIS ARTICLE AS SPECIFIED IN SECTION 14 OF THIS ARTICLE.

(7) "EMPLOYEE" MEANS AN INDIVIDUAL WHO WORKS OR RESIDES IN COLORADO AND WHO RECEIVES WAGES, SALARIES, TIPS, OR ANY OTHER INCOME WHICH MUST BE REPORTED ON INTERNAL REVENUE SERVICE FORM W-2.

(8) "EMPLOYER" MEANS AN INDIVIDUAL, A GOVERNMENTAL ENTITY, AND ANY ORGANIZATION DEFINED IN TITLE 7, COLORADO REVISED STATUTES, THAT:

(a) PAYS COMPENSATION TO ONE OR MORE INDIVIDUALS FOR WORK PERFORMED; AND

(b) IS REQUIRED BY COLORADO LAW TO WITHHOLD A PORTION OF THE COMPENSATION FOR THE PAYMENT OF COLORADO INCOME TAXES, OR TO REPORT THOSE EARNINGS TO THE COLORADO DEPARTMENT OF REVENUE.

(9) "INTERIM BOARD" MEANS THE BOARD OF TRUSTEES APPOINTED PURSUANT TO SECTION 4 OF THIS ARTICLE.

(10) "MEDICAID PROGRAM" MEANS THE MEDICAL ASSISTANCE PROGRAM AUTHORIZED IN TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SECTIONS 1305 ET SEQ., AS AMENDED, AND UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5, COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTES.

(11) "MEMBER" MEANS A BENEFICIARY WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHOSE PRIMARY RESIDENCE HAS BEEN IN COLORADO FOR AT LEAST ONE CONTINUOUS YEAR.

(12) "NONPAYROLL INCOME" MEANS TOTAL INCOME FROM ALL SOURCES SPECIFIED ON LINES 8 THROUGH 10, 12 THROUGH 18, AND 20 THROUGH 21 OF THE INTERNAL REVENUE SERVICE FORM 1040 FOR THE TAX YEAR 2014 OR THE CORRESPONDING LINES OF ANY SUCCESSOR FORM. "NONPAYROLL INCOME" DOES NOT INCLUDE ANY PENSION OR ANNUITY INCOME WHICH IS NOT SUBJECT TO COLORADO INCOME TAXES PURSUANT TO SECTION 39-22-104(f)(4), COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTE.

(13) "PAYROLL INCOME" MEANS WAGES, TIPS, SALARIES, AND ALL OTHER INCOME THAT MUST BE REPORTED ON INTERNAL REVENUE SERVICE FORM W-2.

(14) "PREMIUM TAX" MEANS THE TAX SPECIFIED IN SECTION 9(2) OF THIS ARTICLE.

(15) "PROVIDER" MEANS A HEALTH CARE PROFESSIONAL LICENSED BY THE STATE OF COLORADO AND INCLUDES INDIVIDUALS, HOSPITALS, AND OTHER HEALTH CARE FACILITIES LICENSED OR CERTIFIED BY THE STATE. "PROVIDER" INCLUDES AN INDIVIDUAL OR ENTITY THAT PROVIDES SERVICES, MEDICAL INTERVENTIONS, PHARMACEUTICALS, OR EQUIPMENT USED TO TREAT BENEFICIARIES.

(16) "TRANSITIONAL OPERATING FUND TAX" MEANS THE TAX SPECIFIED IN SECTION 9 (1) OF THIS ARTICLE.

(17) "TRUSTEE" MEANS AN INDIVIDUAL APPOINTED OR ELECTED TO SERVE ON THE INTERIM OR ELECTED BOARD OF TRUSTEES.

Section 3. ColoradoCare - establishment. (1) THERE IS HEREBY ESTABLISHED A POLITICAL SUBDIVISION OF THE STATE CALLED COLORADOCARE. COLORADOCARE IS NOT AN AGENCY OF THE STATE AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION OR CONTROL BY ANY STATE EXECUTIVE, DEPARTMENT, COMMISSION, BOARD, BUREAU, OR AGENCY.

(2) THE PURPOSE OF COLORADOCARE IS TO FINANCE HEALTH CARE SERVICES FOR ALL COLORADO RESIDENTS, TO ADMINISTER STATE AND FEDERAL HEALTH CARE FUNDS, AND TO INSTITUTE FISCALLY SOUND PAYMENT POLICIES THAT IMPROVE AND MAINTAIN HIGH STANDARDS FOR VALUE, QUALITY, AND HEALTHY OUTCOMES FOR ALL BENEFICIARIES.

Section 4. Interim board - governance and responsibilities. (1) (a) WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE PRESIDENT OF THE COLORADO SENATE, THE MINORITY LEADER OF THE COLORADO SENATE, THE SPEAKER OF THE COLORADO HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF THE COLORADO HOUSE OF REPRESENTATIVES, AND THE GOVERNOR OF THE STATE OF COLORADO SHALL EACH APPOINT THREE TRUSTEES TO SERVE ON THE INTERIM BOARD. IN MAKING THE APPOINTMENTS TO THE INTERIM BOARD, THE APPOINTING AUTHORITIES SHALL MAKE GOOD- FAITH EFFORTS TO ENSURE THAT:

- (I) EACH TRUSTEE WILL STRIVE TO REPRESENT THE INTERESTS OF ALL COLORADANS;
- (II) THEIR APPOINTMENTS REFLECT THE SOCIAL, DEMOGRAPHIC, AND GEOGRAPHIC DIVERSITY OF THE STATE; AND
- (III) THEIR APPOINTEES ARE COMMITTED TO SUCCESSFULLY IMPLEMENTING THIS ARTICLE.

(b) AN INTERIM TRUSTEE MAY BE REMOVED FOR CAUSE BY A MAJORITY VOTE OF THE OTHER TRUSTEES.

(c) IF A VACANCY OCCURS ON THE INTERIM BOARD, THE APPOINTING AUTHORITY SHALL APPOINT A NEW TRUSTEE TO FILL THE VACANCY WITHIN THIRTY DAYS AFTER THE VACANCY OCCURS.

(2)(a) THE INTERIM BOARD SHALL CARRY OUT ALL DUTIES AND RESPONSIBILITIES OF THE BOARD UNTIL THE ELECTED BOARD ASSUMES RESPONSIBILITY FOR THE OPERATION OF COLORADOCARE ON THE DATE SPECIFIED IN PARAGRAPH (i) OF THIS SUBSECTION.

(b) THE INTERIM BOARD SHALL:

(I) PROMULGATE BYLAWS, PROCEDURES, RULES, AND POLICIES. THE BYLAWS, PROCEDURES, RULES, AND POLICIES OF THE INTERIM BOARD SHALL EXPIRE ONE HUNDRED TWENTY DAYS AFTER THE ELECTED BOARD TAKES OFFICE UNLESS THE ELECTED BOARD RATIFIES THEM.

(II) APPROVE AN OPERATING BUDGET;

(III) HIRE EMPLOYEES AND CONSULTANTS; AND

(IV) PROMULGATE RULES TO ENSURE TRANSPARENCY IN ITS OPERATIONS AND DECISIONMAKING, WHICH RULES MUST BE AT LEAST AS STRICT AS THE REQUIREMENTS IN THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ITS SUCCESSOR ACT.

(c) AS SOON AS IT IS ALLOWED UNDER FEDERAL LAW, THE INTERIM BOARD SHALL SEEK A WAIVER TO ALLOW THE STATE TO SUSPEND OPERATION OF THE COLORADO HEALTH BENEFIT EXCHANGE AND TRANSFER ITS RESOURCES TO

COLORADOCARE NO LATER THAN THE DATE ON WHICH COLORADOCARE ASSUMES RESPONSIBILITY FOR HEALTH CARE PAYMENTS.

(d) NO LATER THAN NINETY DAYS PRIOR TO THE DATE COLORADOCARE IS TO ASSUME RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE BOARD SHALL PROVIDE WRITTEN CERTIFICATION TO THE GOVERNOR AND THE COLORADO DEPARTMENT OF REVENUE OF THE DATE COLORADOCARE INTENDS TO ASSUME THIS RESPONSIBILITY.

(e) FOR PURPOSES OF ELECTING THE BOARD OF TRUSTEES, THE INTERIM BOARD SHALL USE THE MOST RECENT UNITED STATES DECENNIAL CENSUS FIGURES TO DIVIDE THE STATE INTO SEVEN COMPACT CONTIGUOUS DISTRICTS WITH SUBSTANTIALLY THE SAME NUMBER OF RESIDENTS IN EACH DISTRICT.

(f) ELECTIONS SHALL BE NONPARTISAN.

(g) THE INTERIM BOARD SHALL PROMULGATE RULES GOVERNING THE SELECTION OF TRUSTEE CANDIDATES AND THE CONDUCT OF ELECTIONS, INCLUDING RULES THAT REGULATE CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, AND THE CERTIFICATION OF ELECTION RESULTS.

(h) TRUSTEE CANDIDATES MUST BE MEMBERS OF COLORADOCARE WHO LIVE IN THE DISTRICT FROM WHICH THEY ARE SEEKING ELECTION.

(i) THE INTERIM BOARD SHALL SCHEDULE THE FIRST ELECTION WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS ARTICLE. THE ELECTED BOARD SHALL ASSUME RESPONSIBILITY FOR THE OPERATION OF COLORADOCARE WITHIN FORTY-FIVE DAYS AFTER THE INTERIM BOARD CERTIFIES THE ELECTION RESULTS. INTERIM TRUSTEES SHALL CONTINUE TO SERVE AS EX OFFICIO, NONVOTING TRUSTEES FOR NINETY DAYS AFTER THE ELECTED BOARD ASSUMES RESPONSIBILITY FOR THE OPERATION OF COLORADOCARE.

Section 5. Elected board of trustees - duties and responsibilities. (1) A MEMBER-ELECTED BOARD OF TWENTY-ONE TRUSTEES SHALL GOVERN COLORADOCARE. THREE TRUSTEES SHALL BE ELECTED FROM AMONG THE MEMBERS RESIDING IN EACH DISTRICT.

(2) (a) ELECTED TRUSTEES SHALL SERVE FOUR YEAR TERMS OF OFFICE, EXCEPT THAT, OF THE TRUSTEES FIRST ELECTED TO THE BOARD, ONE TRUSTEE FROM EACH DISTRICT SHALL SERVE AN INITIAL TWO YEAR TERM AND TWO TRUSTEES FROM EACH DISTRICT SHALL SERVE INITIAL FOUR YEAR TERMS. THE CHAIRPERSON OF THE INTERIM BOARD SHALL DETERMINE BY LOT WHICH TRUSTEES-ELECT WILL SERVE INITIAL TWO YEAR TERMS AND WHICH WILL SERVE INITIAL FOUR YEAR TERMS. TRUSTEES WHO SERVE INITIAL TWO YEAR TERMS ARE ELIGIBLE TO SERVE TWO CONSECUTIVE FOUR YEAR TERMS AFTER COMPLETING THEIR INITIAL TERMS. TRUSTEES ELECTED TO SERVE AN INITIAL TERM OF FOUR YEARS MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(b) A TRUSTEE MAY BE REMOVED FOR CAUSE BY A MAJORITY VOTE OF THE OTHER TRUSTEES.

(c) TRUSTEES ARE NOT SUBJECT TO RECALL ELECTIONS.

(d) IF A VACANCY OCCURS ON THE BOARD, THE BOARD, BY MAJORITY VOTE, SHALL APPOINT A TRUSTEE FROM THE DEPARTING TRUSTEE'S DISTRICT TO COMPLETE THE REMAINDER OF THE DEPARTING TRUSTEE'S TERM OF OFFICE.

(3) NOT MORE OFTEN THAN ONCE PER DECENNIUM, THE ELECTED BOARD MAY MODIFY THE BOUNDARIES OF THE SEVEN DISTRICTS, BUT ONLY IF IT DOES SO WITHIN ONE YEAR AFTER DECENNIAL CENSUS FIGURES ARE PUBLISHED BY THE UNITED STATES CENSUS BUREAU. EACH NEW DISTRICT SHALL BE COMPACT AND CONTIGUOUS AND ALL DISTRICTS SHALL HAVE SUBSTANTIALLY THE SAME NUMBER OF RESIDENTS.

(4) THE BOARD SHALL:

(a) PROMULGATE BYLAWS, PROCEDURES, RULES, AND POLICIES, AND RATIFY, AMEND, OR REJECT THOSE BYLAWS, PROCEDURES, RULES AND POLICIES PROMULGATED BY THE INTERIM BOARD;

(b) HIRE AN EXECUTIVE TEAM TO ADMINISTER THE OPERATIONS OF COLORADOCARE. THE EXECUTIVE TEAM SHALL INCLUDE A CHIEF EXECUTIVE OFFICER, A CHIEF FINANCIAL OFFICER, AND A CHIEF MEDICAL OFFICER.

(c) ESTABLISH A CENTRAL PURCHASING AUTHORITY RESPONSIBLE FOR NEGOTIATING FAVORABLE PRICES FOR PRESCRIPTION DRUGS, MEDICAL EQUIPMENT AND OTHER PRODUCTS AND SERVICES REQUIRED BY COLORADOCARE;

(d) PROVIDE FUNDS TO THE COMMISSIONER OF INSURANCE FOR THE OPERATION OF SEPARATE OMBUDSMAN OFFICES FOR BENEFICIARIES AND PROVIDERS. FUNDING SHALL BE SUFFICIENT TO ALLOW THE TIMELY COMPLETION OF ALL INVESTIGATIONS. EACH OFFICE SHALL HAVE THE CAPACITY TO INVESTIGATE AND RESPOND TO INQUIRIES AND COMPLAINTS AND MAKE RECOMMENDATIONS TO THE BOARD.

(e) ESTABLISH AND FUND AN OFFICE FOR THE INVESTIGATION AND PREVENTION OF FRAUD. THE OFFICE SHALL HAVE THE POWER TO BRING CIVIL ACTIONS IN THE NAME OF COLORADOCARE TO RECOVER ANY MONIES OR THE VALUE OF ANY BENEFITS OBTAINED BY FRAUD OR MISTAKE AND MAY REFER FRAUDULENT CONDUCT TO A DISTRICT ATTORNEY FOR CRIMINAL PROSECUTION.

(f) ESTABLISH PROCEDURES FOR MANAGING SURPLUS FUNDING BY MAINTAINING NECESSARY OPERATING RESERVES, INCREASING BENEFITS, OR ISSUING REFUNDS TO MEMBERS;

(g) ESTABLISH PROCEDURES FOR ENSURING FINANCIAL SUSTAINABILITY BY ADJUSTING PAYMENTS AND BENEFITS;

(h) PROMULGATE RULES FOR INDEPENDENT ANNUAL PERFORMANCE AND FINANCIAL AUDITS;

(i) PROMULGATE RULES THAT PROTECT BENEFICIARY CONFIDENTIALITY WHILE ALLOWING FOR PUBLICLY AVAILABLE RESEARCH OF COLORADOCARE'S DATABASES;

(j) PROMULGATE RULES TO ENSURE TRANSPARENCY IN ITS OPERATIONS AND DECISIONMAKING, WHICH RULES MUST BE AT LEAST AS STRICT AS THE REQUIREMENTS IN THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES, OR ITS SUCCESSOR ACT;

(k) APPROVE AND MAKE PUBLICLY AVAILABLE AN ANNUAL BUDGET;

(l) FACILITATE CREATION OF EFFICIENT MEDICAL RECORDS AND BILLING RECORDS SYSTEMS THAT:

(I) CAN BE EASILY ACCESSED BY PROVIDERS AND BENEFICIARIES;

(II) ALLOW COLORADOCARE TO MAINTAIN A CENTRAL DATABASE OF MEDICAL RECORDS FOR MANAGEMENT AND RESEARCH PURPOSES; AND

(III) ENSURE THE CONFIDENTIALITY OF BENEFICIARIES' MEDICAL RECORDS IN COMPLIANCE WITH ALL FEDERAL AND STATE HEALTH CARE LAWS, REGULATIONS, AND RULES CONCERNING THE CONFIDENTIALITY OF PATIENT MEDICAL RECORDS.

(m) ADMINISTER ALL STATE FUNDS FOR HEALTH CARE SERVICES PROVIDED TO BENEFICIARIES;

(n) ESTABLISH POLICIES AND PROCEDURES TO PAY BENEFITS FOR HEALTH CARE SERVICES RENDERED TO A BENEFICIARY WHO IS TEMPORARILY LIVING OR TRAVELING IN ANOTHER STATE; AND

(o) ESTABLISH AN APPEALS PROCEDURE THAT ALLOWS BENEFICIARIES AND PROVIDERS TO CHALLENGE COVERAGE AND PAYMENT DECISIONS. FINAL ACTION ON AN APPEAL SHALL BE SUBJECT TO JUDICIAL REVIEW ACCORDING TO COLORADO LAW AND THE COLORADO RULES OF CIVIL AND APPELLATE PROCEDURE FOR THE REVIEW OF FINAL AGENCY ACTIONS.

(5) THE BOARD MAY:

(a) AUTHORIZE REASONABLE COMPENSATION AND EXPENSE REIMBURSEMENT FOR THE TRUSTEES;

(b) SEEK WAIVERS FROM STATE AND FEDERAL LAWS, RULES, AND REGULATIONS; AND

(c) SEEK AND ACCEPT GIFTS, GRANTS, AND DONATIONS ON BEHALF OF COLORADOCARE.

(6) THE BOARD IS GRANTED ALL POWERS NECESSARY AND PROPER TO FULFILL COLORADOCARE'S RESPONSIBILITIES, INCLUDING THE POWER TO PROMULGATE SUCH RULES AS THE BOARD FINDS NECESSARY FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE.

Section 6. Health care benefits paid by ColoradoCare. (1) (a) COLORADOCARE SHALL CONTRACT WITH PROVIDERS TO PAY FOR HEALTH CARE SERVICES TO BENEFICIARIES THAT MUST INCLUDE:

- (I) AMBULATORY PATIENT SERVICES, INCLUDING PRIMARY AND SPECIALTY CARE;
- (II) HOSPITALIZATION;
- (III) PRESCRIPTION DRUGS AND DURABLE MEDICAL EQUIPMENT;
- (IV) MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES, INCLUDING BEHAVIORAL HEALTH TREATMENT;
- (V) EMERGENCY AND URGENT CARE;
- (VI) PREVENTIVE AND WELLNESS SERVICES AND CHRONIC DISEASE MANAGEMENT;
- (VII) REHABILITATIVE AND HABILITATIVE SERVICES AND DEVICES;
- (VIII) PEDIATRIC SERVICES, INCLUDING ORAL, VISION, AND HEARING CARE;
- (IX) LABORATORY SERVICES;
- (X) MATERNITY AND NEWBORN CARE; AND
- (XI) PALLIATIVE AND END-OF-LIFE CARE.

(b) THE BOARD MAY AUTHORIZE PAYMENT FOR BENEFITS NOT SPECIFIED IN PARAGRAPH (a) OF SUBSECTION 1 OF THIS SECTION.

(2) (a) COLORADOCARE SHALL PAY FOR HEALTH CARE SERVICES TO BENEFICIARIES REGARDLESS OF THE CAUSE OF THEIR INJURIES OR ILLNESSES.

(b) COLORADOCARE SHALL ASSUME RESPONSIBILITY FOR PAYMENT OF ALL REASONABLE AND NECESSARY MEDICAL EXPENSES INCURRED BY WORKERS WHO SUFFER INJURIES OR ILLNESSES ARISING OUT OF AND IN THE COURSE OF THEIR EMPLOYMENT ON AND AFTER THE DATE COLORADOCARE ASSUMES RESPONSIBILITY FOR HEALTH CARE PAYMENTS. COLORADOCARE'S RESPONSIBILITY EXTENDS ONLY TO EMPLOYEES WHOSE EMPLOYERS ARE REQUIRED BY THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, COLORADO REVISED STATUTES, TO PROVIDE WORKERS' COMPENSATION INSURANCE FOR THEIR EMPLOYEES. WORKERS SUFFERING FROM INJURIES OR ILLNESSES ARISING OUT OF AND IN THE COURSE OF THEIR EMPLOYMENT ARE ENTITLED TO THE SAME BENEFITS AND HAVE THE SAME RIGHTS AND RESPONSIBILITIES AS OTHER BENEFICIARIES.

(c) FOR INDIVIDUALS ELIGIBLE FOR THE MEDICAID PROGRAM, THE CHILDREN'S BASIC HEALTH PLAN, AND ANY OTHER FEDERAL HEALTH CARE PROGRAMS TO BE ADMINISTERED BY COLORADOCARE, THE BENEFIT PACKAGE UNDER COLORADOCARE MUST INCLUDE:

(I) THE BENEFITS REQUIRED BY FEDERAL LAW;

(II) ANY OPTIONAL MEDICAID PROGRAM BENEFITS AUTHORIZED UNDER 42 U.S.C. SEC. 1396d OR THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, COLORADO REVISED STATUTES, OR SERVICES COVERED UNDER THE STATE PLAN FOR THE CHILDREN'S BASIC HEALTH PLAN AS PROVIDED IN 42 U.S.C. SEC. 1397cc, FOR WHICH THESE INDIVIDUALS ARE ELIGIBLE; AND

(III) ANY ADDITIONAL BENEFITS PROVIDED IN COLORADOCARE'S BENEFIT PACKAGE.

(d) AN INDIVIDUAL WHO LOSES ELIGIBILITY FOR STATE OR FEDERAL BENEFITS UNDER THE MEDICAID PROGRAM OR THE CHILDREN'S BASIC HEALTH PLAN SHALL RECEIVE THE SAME BENEFITS AS ANY OTHER BENEFICIARY OF COLORADOCARE.

(3) COLORADOCARE SHALL NOT CHARGE BENEFICIARIES ANY DEDUCTIBLES.

(4) THE BOARD SHALL PROMULGATE RULES FOR WAIVING COPAYMENTS WHEN THEY WILL CAUSE FINANCIAL HARDSHIP

FOR A BENEFICIARY. THE BOARD SHALL NOT REQUIRE COPAYMENTS FOR DESIGNATED PRIMARY AND PREVENTIVE CARE SERVICES.

(5) A PROVIDER MAY NOT REQUIRE A BENEFICIARY TO MAKE A COPAYMENT OR SUBMIT TO ANY OTHER COST-SHARING ARRANGEMENT WITHOUT COLORADOCARE'S APPROVAL.

(6) COLORADOCARE SHALL ALLOW BENEFICIARIES TO CHOOSE THEIR OWN PRIMARY CARE PROVIDERS.

(7) COLORADOCARE MAY PROVIDE FUNDING AND OTHER SUPPORT TO IMPROVE ACCESS TO HEALTH CARE SERVICES FOR ALL BENEFICIARIES REGARDLESS OF WHERE THEY LIVE IN COLORADO.

(8) COLORADOCARE MAY PROVIDE FUNDING AND OTHER SUPPORT FOR STATEWIDE ACCESS TO EMERGENCY AND TRAUMA CARE SERVICES.

Section 7. Delivery of service models. (1) COLORADOCARE SHALL BEGIN OPERATION BY ASSUMING PAYMENT FOR HEALTH CARE SERVICES IN A MANNER DESIGNED TO MINIMIZE DISRUPTIONS TO CURRENT DELIVERY AND PAYMENT SYSTEMS.

(2) COLORADOCARE SHALL PHASE IN PAYMENT REFORMS AND A UNIFIED BILLING SYSTEM.

(3) COLORADOCARE SHALL USE PAYMENT MODELS THAT OPTIMIZE QUALITY, VALUE, AND HEALTHY OUTCOMES FOR BENEFICIARIES.

Section 8. Transition to ColoradoCare. (1) (a) THE COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE COLORADO HEALTH BENEFIT EXCHANGE, AND ANY OTHER NECESSARY STATE DEPARTMENT OR AGENCY SHALL ASSIST THE INTERIM AND ELECTED BOARDS IN SEEKING ALL WAIVERS, EXEMPTIONS, AND AGREEMENTS FROM THE STATE AND FEDERAL GOVERNMENTS THAT ARE NECESSARY TO TRANSFER HEALTH CARE FUNDING FROM THE FEDERAL GOVERNMENT AND FROM ANY STATE DEPARTMENTS AND AGENCIES TO COLORADOCARE.

(b) TO THE EXTENT ALLOWABLE UNDER FEDERAL LAW, COLORADOCARE AND ALL INVOLVED STATE DEPARTMENTS AND AGENCIES SHALL ARRANGE FOR FEDERAL FUNDS TO BE DELIVERED DIRECTLY TO COLORADOCARE. IF THESE FUNDS CANNOT BE DELIVERED DIRECTLY TO COLORADOCARE, THE STATE SHALL TRANSFER THEM TO COLORADOCARE WITHIN TEN DAYS AFTER IT RECEIVES THEM.

(2) NO LATER THAN THE DATE COLORADOCARE IS TO ASSUME RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE STATE SHALL TRANSFER TO COLORADOCARE ALL STATE AND FEDERAL FUNDS FOR THE MEDICAID, CHILDREN'S BASIC HEALTH PLAN, AND ANY OTHER PROGRAM TO BE ADMINISTERED BY COLORADOCARE. THE STATE MAY RETAIN ANY FUNDS NECESSARY TO MEET PAYMENT OBLIGATIONS WHICH EXIST AS OF THE DATE OF TRANSFER. UPON RECEIPT OF THIS FUNDING, COLORADOCARE SHALL BE RESPONSIBLE FOR PAYING FOR ALL BENEFITS AND SERVICES PREVIOUSLY PAID BY THE STATE AND FEDERAL GOVERNMENT WITH THOSE FUNDS.

(3) COLORADOCARE SHALL ASSUME RESPONSIBILITY FOR THE PROPER ADMINISTRATION AND DISTRIBUTION OF STATE AND FEDERAL FUNDS PURSUANT TO STATE AND FEDERAL LAW.

(4) THE BOARD MAY APPLY FOR COLORADOCARE TO BECOME A MEDICARE ADVANTAGE PROGRAM, A MEDICARE SUPPLEMENTAL PROGRAM, OR ANY SUCCESSOR PROGRAM.

(5) THE BOARD IS AUTHORIZED TO APPLY FOR FUNDS AND ENROLL IN ANY PROGRAM THAT DOES NOT ALTER THE PURPOSE OF COLORADOCARE AS SET FORTH IN SECTION 3(2) OF THIS ARTICLE.

Section 9. Funding of ColoradoCare - collection of premiums. (1) ON AND AFTER JULY 1 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, AND UNTIL THIRTY DAYS BEFORE COLORADOCARE ASSUMES RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE COLORADO DEPARTMENT OF REVENUE SHALL COLLECT A TRANSITIONAL OPERATING FUND TAX OF:

(a) SIX-TENTHS PERCENT OF TOTAL PAYROLL FROM EACH EMPLOYER;

(b) THREE-TENTHS PERCENT OF ALL PAYROLL INCOME FROM EACH EMPLOYEE; AND

(c) NINE-TENTHS PERCENT OF ALL NONPAYROLL INCOME FROM ALL BENEFICIARIES.

(d) FROM JULY 1 UNTIL DECEMBER 31 OF THE FIRST YEAR IN WHICH THE TAXES IN THIS SUBSECTION (1) ARE LEVIED, THEY SHALL BE LEVIED ON FIFTY PERCENT OF THE BENEFICIARY'S TOTAL NONPAYROLL INCOME.

(2) THIRTY DAYS BEFORE COLORADOCARE IS TO ASSUME RESPONSIBILITY FOR HEALTH CARE PAYMENTS, THE COLORADO DEPARTMENT OF REVENUE SHALL CEASE COLLECTING TRANSITIONAL OPERATING FUND TAXES AND SHALL BEGIN COLLECTING A PREMIUM TAX OF:

(a) SIX AND SIXTY-SEVEN-ONE-HUNDREDTHS PERCENT OF TOTAL PAYROLL FROM ALL EMPLOYERS, WHICH SATISFIES THEIR OBLIGATION TO PROVIDE HEALTH CARE INSURANCE FOR THEIR EMPLOYEES;

(b) THREE AND THIRTY-THREE-ONE-HUNDREDTHS PERCENT OF ALL PAYROLL INCOME FROM EACH EMPLOYEE; AND

(c) TEN PERCENT OF ALL NON-PAYROLL INCOME FROM ALL BENEFICIARIES.

(d) IF THE PREMIUM TAX LEVIED PURSUANT TO THIS SUBSECTION (2) IS FIRST LEVIED ON A DATE OTHER THAN JANUARY 1, IT SHALL BE LEVIED ON THE BENEFICIARY'S TOTAL NONPAYROLL INCOME MULTIPLIED BY THE PERCENTAGE OF THE CALENDAR YEAR IN WHICH THE TAX IS FIRST LEVIED.

(3) PAYMENT OF THE PREMIUM TAX DOES NOT CONSTITUTE THE PURCHASE OF A HEALTH INSURANCE POLICY BY AN EMPLOYER OR TAXPAYER.

(4) THE TAXES LEVIED PURSUANT TO THIS SECTION 9 SHALL BE LEVIED AGAINST THE INCOME OF NONRESIDENT INDIVIDUALS IN THE MANNER SPECIFIED IN SECTION 39-22-109, COLORADO REVISED STATUTES OR ANY SUCCESSOR STATUTE, AND AGAINST THE INCOME OF PART-YEAR RESIDENTS IN THE MANNER SPECIFIED IN SECTION 39-22-110, COLORADO REVISED STATUTES OR ANY SUCCESSOR STATUTE.

(5) AN EMPLOYER MAY PAY ALL OR PART OF AN EMPLOYEE'S SHARE OF THE TAXES LEVIED PURSUANT TO THIS SECTION.

(6) THE TOTAL AMOUNT OF PAYROLL EARNINGS BY EMPLOYEES AND OF NONPAYROLL INCOME SUBJECT TO THE TAXES LEVIED PURSUANT TO THIS SECTION SHALL NOT EXCEED THREE HUNDRED FIFTY THOUSAND DOLLARS FOR THOSE FILING INDIVIDUAL INCOME TAX RETURNS AND FOUR HUNDRED FIFTY THOUSAND DOLLARS FOR COUPLES FILING JOINTLY. THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THESE LIMITS FOR INFLATION USING THE CONSUMER PRICE INDEX PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR FOR THE BOULDER-GREELEY-DENVER METROPOLITAN STATISTICAL AREA. ADJUSTMENTS SHALL BE EFFECTIVE ON JANUARY 1 OF EACH YEAR, BEGINNING WITH THE CALENDAR YEAR 2018 AND USING THE CALENDAR YEAR 2017 AS THE BASE YEAR.

(7) THE BOARD SHALL CONDUCT AN ANNUAL ASSESSMENT OF REVENUES AND COSTS AND PREPARE A PUBLIC REPORT REGARDING THE FINANCIAL STATUS OF COLORADOCARE AND OPTIONS CONSIDERED FOR ECONOMIES, BENEFITS, REFUNDS, BUILDING NECESSARY RESERVES, AND PREMIUM ADJUSTMENTS.

(8) IF THE BOARD DETERMINES THAT A PREMIUM INCREASE IS NECESSARY TO MAINTAIN THE FISCAL STABILITY OF COLORADOCARE, THE BOARD MAY INCREASE THE PREMIUM TAXES SPECIFIED IN SUBSECTION (2) OF THIS SECTION NOT MORE OFTEN THAN ONCE PER FISCAL YEAR, BUT ONLY IF A MAJORITY OF THE MEMBERS OF COLORADOCARE WHO CAST VOTES ON THE PROPOSED INCREASE APPROVE IT.

Section 10. Exemption. COLORADOCARE AND THIS ARTICLE ARE EXEMPT FROM SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION.

Section 11. ColoradoCare secondary payor - subrogation rights. (1) COLORADOCARE SERVES AS A SECONDARY PAYOR TO ANY HEALTH INSURANCE PLAN IN WHICH A BENEFICIARY IS ENROLLED OR WHICH MAY BE RESPONSIBLE FOR A BENEFICIARY'S HEALTH CARE EXPENSES. THE TOTAL OF COLORADOCARE'S PAYMENT AND ALL OTHER PAYMENTS SHALL NOT EXCEED THE AMOUNT THAT COLORADOCARE WOULD PAY IF IT WERE THE ONLY PAYOR.

(2) COLORADOCARE SHALL SERVE AS A STATE HEALTH PLAN THAT PAYS FOR DESIGNATED SUPPLEMENTAL HEALTH CARE SERVICES FOR MEDICARE BENEFICIARIES; EXCEPT THAT COLORADOCARE SHALL NOT PAY FOR SERVICES:

(a) COVERED BY MEDICARE PARTS A, B AND D; OR

(b) COVERED BY A MEDICARE ADVANTAGE PLAN THAT A BENEFICIARY HAS WITH AN ENTITY OTHER THAN COLORADOCARE; OR

(c) THAT WOULD HAVE BEEN PAID BY MEDICARE PARTS B OR D HAD THE BENEFICIARY PURCHASED THOSE OPTIONAL MEDICARE COVERAGES, UNLESS:

(I) COLORADOCARE HAS AN AGREEMENT WITH THE CENTER FOR MEDICARE AND MEDICAID SERVICES THAT REQUIRES IT TO PAY FOR SERVICES THAT WOULD HAVE BEEN PAID UNDER PARTS B AND D; OR

(II) COLORADOCARE OFFERS A MEDICARE ADVANTAGE PLAN AND THE BENEFICIARY VOLUNTARILY ENROLLS IN THIS PLAN.

(3)(a) COLORADOCARE HAS FULL RIGHTS OF SUBROGATION, AHEAD OF THE RIGHTS OF A WORKERS' COMPENSATION OR OTHER INSURER OR HEALTH CARE PLAN, INCLUDING THE RIGHT TO BRING AN INDEPENDENT LAWSUIT OR TO INTERVENE IN A LAWSUIT FILED BY A BENEFICIARY, IN ORDER TO RECOVER HEALTH CARE COSTS FROM COLLATERAL SOURCES FOR WHICH THE BENEFICIARY HAS A RIGHT OF ACTION FOR COMPENSATION AGAINST THE PERSON OR ENTITY THAT CAUSED HIS OR HER ILLNESS OR INJURY. COLORADOCARE MAY ASSERT A LIEN AGAINST ANY PROCEEDS RECOVERED BY THE BENEFICIARY.

(b) COLORADOCARE MAY RECOVER HEALTH CARE PAYMENTS FROM ANY OTHER COLLATERAL SOURCE, SUCH AS A HEALTH INSURANCE PLAN, HEALTH BENEFIT PLAN, OR OTHER PAYOR THAT IS PRIMARY TO COLORADOCARE.

Section 12. Legislation. (1) IN THE FIRST REGULAR SESSION OF THE GENERAL ASSEMBLY THAT CONVENES AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION:

(a) TO ENABLE THE COLORADO DEPARTMENT OF REVENUE TO COLLECT AND TRANSFER TO COLORADOCARE THE TAXES LEVIED PURSUANT TO SECTION 9 OF THIS ARTICLE. THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS TO THE DEPARTMENT OF REVENUE TO ENSURE THAT IT CAN BEGIN COLLECTING THESE TAXES ON AND AFTER JULY 1 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, AND TO ENSURE THAT FUNDS ARE TRANSFERRED TO COLORADOCARE WITHIN TEN DAYS OF COLLECTION;

(b) TO SUSPEND OPERATIONS OF THE COLORADO HEALTH BENEFIT EXCHANGE, TRANSFER ITS RESOURCES TO COLORADOCARE PURSUANT TO SECTION 8 OF THIS ARTICLE, AND REPEAL ARTICLE 22 OF TITLE 10, COLORADO REVISED STATUTES;

(c) TO TRANSFER RESPONSIBILITY FOR ADMINISTERING THE MEDICAID PROGRAM AND THE CHILDREN'S BASIC HEALTH PLAN TO COLORADOCARE;

(d) TO TRANSFER RESPONSIBILITY FOR ADMINISTERING ANY OTHER STATE AND FEDERAL HEALTH CARE PROGRAMS TO COLORADOCARE;

(e) TO ENABLE COLORADOCARE TO RECEIVE THE APPROPRIATE FEDERAL FUND CONTRIBUTION IN LIEU OF THE FEDERAL PREMIUM TAX CREDITS, COST-SHARING SUBSIDIES, AND SMALL BUSINESS TAX CREDITS PROVIDED IN THE AFFORDABLE CARE ACT;

(f) TO REPEAL OR AMEND, AS APPROPRIATE, THOSE PROVISIONS OF THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, COLORADO REVISED STATUTES, AND ANY OTHER PROVISIONS OF LAW THAT CONCERN THE PROVISION OF MEDICAL CARE FOR WORKERS WHO SUFFER INJURIES OR ILLNESSES ARISING OUT OF AND IN THE COURSE OF THEIR EMPLOYMENT AND FOR THE PAYMENT OF PREMIUMS FOR MEDICAL BENEFITS, WHETHER BY EMPLOYERS OR INSURERS COVERED UNDER THE WORKERS' COMPENSATION ACT, OR THAT OTHERWISE CONFLICT WITH THIS ARTICLE;

(g) TO ENSURE THAT THE STATE'S EXPENDITURES FOR HEALTH CARE SERVICES, INCLUDING THE STATE'S RESPONSIBILITY FOR PROVIDING MATCHING FUNDS FOR MEDICAID AND OTHER FEDERALLY SUPPORTED HEALTH CARE PROGRAMS, DO NOT FALL BELOW THE EXPENDITURE LEVELS FOR HEALTH CARE SERVICES IN THE YEAR PRECEDING THE EFFECTIVE DATE OF THIS ARTICLE. THE BASE YEAR EXPENDITURE LEVELS SHALL BE ADJUSTED ANNUALLY FOR CHANGES IN THE CONSUMER PRICE INDEX FOR THE DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL AREA AND IN THE STATE'S POPULATION; AND

(h) NECESSARY TO IMPLEMENT THIS ARTICLE.

(2) THE LEGISLATION SPECIFIED IN PARAGRAPHS (b), (c) AND (d) OF SUBSECTION (1) OF THIS SECTION SHALL INCLUDE THE TRANSFER OF ALL STATE AND FEDERAL FUNDS FOR THESE PROGRAMS TO COLORADOCARE.

(3) THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS TO ENSURE A SMOOTH AND EFFICIENT TRANSFER OF THE PROGRAMS SPECIFIED IN PARAGRAPHS (b), (c) AND (d) OF SUBSECTION (1) OF THIS SECTION AND TO ENABLE THE AGENCIES SPECIFIED IN SECTION 8(1) OF THIS ARTICLE TO ASSIST COLORADOCARE IN THE MANNER SPECIFIED BY THAT SECTION.

Section 13. Subject to Colorado sunshine laws. THE MEETINGS OF THE BOARD AND THE INTERIM BOARD ARE SUBJECT TO ARTICLE 6 OF TITLE 24, COLORADO REVISED STATUTES, THE "COLORADO SUNSHINE ACT OF 1972", OR ITS SUCCESSOR ACT.

Section 14. Effective Date. THIS ARTICLE SHALL TAKE FULL FORCE AND EFFECT UPON THE GOVERNOR'S PROCLAMATION PURSUANT TO SECTION 1, ARTICLE V OF THIS CONSTITUTION.

Section 15. Severability. IF THE COURTS OF THIS STATE OR OF THE UNITED STATES DECLARE ANY SECTION, PROVISION, PARAGRAPH, CLAUSE, OR PART OF THIS ARTICLE UNCONSTITUTIONAL OR INVALID, THE DECISION OF THE COURT AFFECTS ONLY THE SECTION, PROVISION, PARAGRAPH, CLAUSE, OR PART DECLARED UNCONSTITUTIONAL OR INVALID AND DOES NOT AFFECT ANY OTHER PART OF THIS ARTICLE.

Section 16. Termination of ColoradoCare's Operations. (1) IF THE BOARD DETERMINES THAT COLORADOCARE HAS NOT RECEIVED THE WAIVERS, EXEMPTIONS, AND AGREEMENTS FROM THE FEDERAL GOVERNMENT SUFFICIENT FOR ITS FISCALLY SOUND OPERATION, THE BOARD SHALL:

- (a) SHUT DOWN OPERATIONS AND RETURN UNUSED FUNDS;
- (b) NOTIFY THE GOVERNOR OF THE STATE OF COLORADO OF COLORADOCARE'S INABILITY TO FUNCTION; AND
- (c) NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE THE OPERATIONS ARE SHUT DOWN.

Amendment 70 State Minimum Wage

ANALYSIS

Amendment 70 proposes amending the Colorado Constitution to:

- ◆ increase the state minimum wage from \$8.31 to \$9.30 per hour beginning January 1, 2017;
- ◆ increase the minimum wage annually by \$0.90 per hour beginning January 1, 2018, until it reaches \$12.00 per hour on January 1, 2020; and
- ◆ on January 1, 2021, and thereafter, adjust the minimum wage each year based on cost-of-living increases.

Summary and Analysis

What is the minimum wage? The minimum wage is the lowest wage that can be paid to most workers. The federal minimum wage is currently set at \$7.25 per hour for most workers and \$2.13 per hour for workers who receive tips. It was last increased in 2009. Federal law allows states and cities to set a higher minimum wage than the federal government.

What is Colorado's current minimum wage law? In 2006, Colorado voters adopted an amendment to the state constitution that raised the minimum wage to \$6.85 per hour on January 1, 2007, and required that the minimum wage be adjusted each year up or down for changes in inflation, as measured by the Colorado consumer price index (CPI). The CPI is a common measure for changes in the prices of goods and services, such as food, housing, gasoline, and medical care. The Colorado Department of Labor and Employment sets the state's minimum wage each January. It is currently set at \$8.31 per hour for most workers. Colorado law does not allow cities to set a higher minimum wage than the state.

The 2006 amendment also set the minimum wage for tipped workers at \$3.02 less than the state minimum wage. The minimum wage for tipped workers is currently \$5.29 per hour plus tips. Some tipped workers, such as servers and bartenders, may earn enough in tips to bring their hourly earnings above the state minimum wage, while some may not earn enough in tips to reach it. When tipped workers do not earn enough, employers must supplement their wages to ensure that they receive at least the state minimum wage.

The occupations of workers most likely to be paid minimum wage include retail salespeople, food service workers, child care workers, janitors, and home health aides.

How does Amendment 70 change state law? Amendment 70 increases the state minimum wage to \$9.30 per hour on January 1, 2017, after which it increases annually by \$0.90 per hour until it reaches \$12.00 per hour in 2020. Because the minimum wage for tipped workers remains at \$3.02 less than the state minimum wage, Amendment 70 increases the tipped minimum wage to \$8.98 per hour plus tips by 2020. Beginning in 2021, the minimum wage is adjusted annually for increases in the CPI. Although Amendment 70 and current law both use the CPI to adjust the minimum wage, Amendment 70 prevents a decrease in the minimum wage if the cost of living falls.

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>

Arguments For

1) Colorado's current minimum wage is too low to provide a basic standard of living for some workers. Full-time workers making the minimum wage in Colorado earn approximately \$17,285 annually, or about \$300 per week after taxes, and some rely on public assistance to make ends meet. While the minimum wage has increased only 21 percent since 2007 (when the last voter-approved increase in the minimum wage went into effect), prices for basic necessities such as health care and housing have increased more steeply. For example, the overall average monthly rent price in the Denver metro area has increased about 37 percent, from approximately \$946 in 2007 to about \$1,292 in 2015.

2) Raising the minimum wage may help businesses. Higher wages may improve employee productivity and morale and reduce turnover. This is especially important for businesses that pay the minimum wage, as they tend to have very high turnover. Hiring and training new employees can be very costly for businesses. Lower turnover translates into more experienced, more productive workers and significant cost savings.

Arguments Against

1) Increasing the state minimum wage may actually hurt the very employees that the higher wage is meant to help. If Amendment 70 passes, some workers earning the minimum wage may face lay-offs, reduced hours, or fewer benefits. Also, workers seeking minimum wage employment may have a harder time finding work if businesses make fewer minimum wage jobs available. Finally, businesses may choose to raise prices. Because low-wage workers spend a higher percentage of their income on basic necessities like food, they are particularly vulnerable to rising prices.

2) Increasing the state minimum wage may hurt small and family-owned businesses, particularly in rural communities where the cost of living is lower and economic recovery has been slow compared with urban areas. Businesses in rural communities have a harder time absorbing increases in costs and may struggle to pay higher costs if the minimum wage increases, which may further distress the economy in rural Colorado.

Estimate of Fiscal Impact

State government spending. Amendment 70 will affect costs for several state government agencies. Any state agency that pays an employee an hourly wage less than that required by Amendment 70 will experience an incremental increase in staffing costs if Amendment 70 passes. The actual increase in state costs for each of these agencies will depend on how the agencies, universities, and the legislature manage the increase. Their options may include increasing state funding, increasing fees, raising prices, reducing workers' hours, or some combination of these choices.

Local government impact. The fiscal impact of the measure on local governments has not been estimated. Costs will increase for any local governments that currently pay workers at or near the minimum wage.

**Amendment 70
State Minimum Wage**

TITLE AND TEXT

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

Ballot Title:

Shall there be an amendment to the Colorado constitution increasing the minimum wage to \$9.30 per hour with annual increases of \$0.90 each January 1 until it reaches \$12 per hour effective January 2020, and annually adjusting it thereafter for cost-of-living increases?

Text of Measure:

Be it Enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, **amend** section 15 of article XVIII as follows:

Section 15. State minimum wage rate. Effective January 1, 2007~~17~~, Colorado's minimum wage ~~shall be~~ is increased to ~~\$6.85~~ \$9.30 per hour and ~~shall be adjusted~~ IS ADJUSTED INCREASED annually BY \$0.90 EACH JANUARY 1 UNTIL IT REACHES \$12 PER HOUR EFFECTIVE JANUARY 2020, AND THEREAFTER IS ADJUSTED ANNUALLY for inflation COST OF LIVING INCREASES, as measured by the Consumer Price Index used for Colorado. This minimum wage shall be paid to employees who receive the state or federal minimum wage. No more than \$3.02 per hour in tip income may be used to offset the minimum wage of employees who regularly receive tips.

Amendment 71 Requirements for Constitutional Amendments

ANALYSIS

Amendment 71 proposes amending the Colorado Constitution to:

- ◆ require that a certain number of signatures be gathered from each state senate district to place a constitutional initiative on the ballot; and
- ◆ increase the percentage of votes required to adopt a constitutional amendment, except for proposals that only repeal part of the state constitution.

Summary and Analysis

Background. In Colorado, citizens have the power to propose changes to the state constitution and statutes through the citizen-initiative process. Under this process, proponents must collect a certain number of signatures to place an initiative on the ballot. The state legislature may refer constitutional changes to the voters with a two-thirds vote of both houses. State statutes can be changed by the legislature without a vote of the people, but amending the constitution, whether by citizen initiative or legislative referendum, requires a majority of the votes cast in an election.

In order to place a citizen initiative on the ballot to change the constitution or state statutes, proponents must collect enough signatures to equal at least 5 percent of the votes cast in the most recent election for Secretary of State. In 2016, this requirement is 98,492 signatures. Proponents have up to six months to gather and submit signatures to the Secretary of State's Office for verification.

Changes under Amendment 71. Amendment 71 adds a requirement that signatures be collected statewide for the citizen-initiative process and increases the percentage of votes required to adopt changes to the constitution in most situations. Amendment 71 does not alter the process or requirements for citizen initiatives that propose changes to state statutes.

Signature requirements. Amendment 71 creates an additional signature-gathering requirement to place a constitutional initiative on the ballot. Of the total required signatures, some must be collected from each of the state's 35 senate districts in an amount of at least 2 percent of the registered voters in each district.

Table 1 shows a sample of state senate districts and the minimum number of signatures that would be needed to place a measure on the ballot under Amendment 71, based on the 2 percent requirement and the number of registered voters in these districts.

**Table 1
Sample Signature Collection Requirements
Under Amendment 71, as of May 1, 2016**

State Senate District	Location	Number of Registered Voters	2 Percent of Registered Voters
District 1	11 counties in northeast Colorado	90,983	1,820
District 7	Mesa County	110,167	2,203
District 20	a portion of Jefferson County	118,644	2,373
District 29	a portion of Arapahoe County	82,963	1,659
District 35	16 counties in south and southeast Colorado	88,962	1,779

Source: Colorado Secretary of State's Office with Legislative Council Staff calculations.

Percent of vote required to adopt changes to the constitution. Under current law, changes to the constitution require a simple majority of all votes cast, or 50 percent plus one vote. Amendment 71 changes this requirement to 55 percent of all votes cast, except when a proposed amendment repeals rather than changes part of the constitution, in which case a simple majority of votes is required.

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>

Arguments For

1) It should be difficult to change the constitution because it is a foundational document for the state. Because the current requirements for proposing and adopting constitutional and statutory amendments are the same, the constitution has seen the addition of detailed provisions that cannot be changed without an election. Amendment 71 is expected to encourage citizen-initiated changes to law in statute by making it harder to amend the constitution. Statutory changes allow the legislature to react when laws require clarification or when problems or unforeseen circumstances arise.

2) Requiring that signatures for constitutional initiatives be gathered from each state senate district ensures that citizens from across the state have a say in which measures are placed on the ballot. Due to the relative ease of collecting signatures in heavily populated urban areas compared to sparsely populated rural areas, rural citizens currently have a limited voice in determining which issues appear on the ballot.

Arguments Against

1) Amendment 71 makes it too difficult for citizens to exercise their right to initiate constitutional changes. Sometimes the will of the people or issues of broad public interest are not adequately addressed by the political process. While statutory changes may be amended or repealed without the approval of the voters, the power to amend the Colorado constitution lies solely with its citizens. It is critical to preserve the current process and to protect the rights of citizens to change the constitution.

2) Requiring proponents to collect signatures statewide for proposed constitutional changes makes the process of placing an amendment on the ballot even more difficult and costly. Amendment 71 unduly restricts ballot access for average Coloradans, leaving an important democratic tool accessible only to those able to bear the higher costs associated with a complicated signature-gathering process.

Estimate of Fiscal Impact

State government spending. Amendment 71 will increase costs for the Secretary of State's Office to implement the changes.

Amendment 71 Requirements for Constitutional Amendments

TITLE AND TEXT

The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the Colorado constitution. The text of the measure that will appear in the Colorado constitution below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures.

Ballot Title:

Shall there be an amendment to the Colorado constitution making it more difficult to amend the Colorado constitution by requiring that any petition for a citizen-initiated constitutional amendment be signed by at least two percent of the registered electors who reside in each state senate district for the amendment to be placed on the ballot and increasing the percentage of votes needed to pass any proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only repeals, in whole or in part, any provision of the constitution?

Text of Measure:

Be it Enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, Section 1(4) of article V is amended and said section 1 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

Section 1. General assembly - initiative and referendum.

(2.5) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, A PETITION FOR AN INITIATED CONSTITUTIONAL AMENDMENT SHALL BE SIGNED BY REGISTERED ELECTORS WHO RESIDE IN EACH STATE SENATE DISTRICT IN COLORADO IN AN AMOUNT EQUAL TO AT LEAST TWO PERCENT OF THE TOTAL REGISTERED ELECTORS IN THE SENATE DISTRICT PROVIDED THAT THE TOTAL NUMBER OF SIGNATURES OF REGISTERED ELECTORS ON THE PETITION SHALL AT LEAST EQUAL THE NUMBER OF SIGNATURES REQUIRED BY SUBSECTION (2) OF THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (2.5), THE NUMBER AND BOUNDARIES OF THE SENATE DISTRICTS AND THE NUMBER OF REGISTERED ELECTORS IN THE SENATE DISTRICTS SHALL BE THOSE IN EFFECT AT THE TIME THE FORM OF THE PETITION HAS BEEN APPROVED FOR CIRCULATION AS PROVIDED BY LAW.

(4) (a) The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures initiated by or referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the power to enact any measure.

(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, AN INITIATED CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO AN INITIATED CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

SECTION 2. In the constitution of the state of Colorado, Section 2(1) of article XIX is amended to read:

Section 2. Amendments to constitution - how adopted. (1) (a) Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and, if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment or amendments, together

with the ayes and noes of each house thereon, shall be entered in full on their respective journals. The proposed amendment or amendments shall be published with the laws of that session of the general assembly. At the next general election for members of the general assembly, the said amendment or amendments shall be submitted to the registered electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon OR, IF APPLICABLE THE NUMBER OF VOTES REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1), shall become part of this constitution.

(b) IN ORDER TO MAKE IT MORE DIFFICULT TO AMEND THIS CONSTITUTION, A CONSTITUTIONAL AMENDMENT SHALL NOT BECOME PART OF THIS CONSTITUTION UNLESS THE AMENDMENT IS APPROVED BY AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST THEREON; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO A CONSTITUTIONAL AMENDMENT THAT IS LIMITED TO REPEALING, IN WHOLE OR IN PART, ANY PROVISION OF THIS CONSTITUTION.

Amendment 72 Increase Cigarette and Tobacco Taxes

ANALYSIS

Amendment 72 proposes amending the Colorado Constitution to:

- ◆ increase the state tax on a pack of cigarettes from \$0.84 to \$2.59;
- ◆ increase the state tax on other tobacco products from 40 percent to 62 percent of the price; and
- ◆ distribute the new tax money for medical research, tobacco-use prevention, doctors and clinics in rural or low-income areas, veterans' services, and other health-related programs.

Summary and Analysis

Existing taxes on cigarettes. The federal government collects a tax of \$1.01 on each pack of 20 cigarettes. Additionally, every state collects a cigarette tax. Colorado's cigarette tax is 84 cents per pack. Of this amount, 64 cents is required to be spent on health-related programs identified in the Colorado Constitution, including Medicaid, children's health care, tobacco education programs, and disease prevention and treatment. The remaining 20 cents is spent on various state government programs. Local governments may choose not to collect a cigarette tax in order to receive a share of state revenue. Since 1973, no local government has collected a cigarette tax.

Existing taxes on other tobacco products. Both the federal and state government collect taxes on non-cigarette tobacco products, including cigars, pipe tobacco, snuff, dip, and chewing tobacco. Existing taxes do not apply to e-cigarettes. The federal tax is calculated according to the product's weight or price. Colorado's state tax is equal to 40 percent of the manufacturer's list price of the product. Of this amount, half is spent on the same health programs as the cigarette tax, and half is spent on other state government programs. Some local governments collect sales taxes on tobacco products.

Existing cigarette and other tobacco taxes. Colorado collected about \$200.3 million from cigarette and tobacco taxes in state budget year 2015-16. Of this amount, \$143.7 million was spent on health-related programs as required in the Colorado Constitution, and \$56.6 million was spent on other state and local government programs.

State sales taxes are collected on some services and most goods, including cigarettes and tobacco products. Sales taxes are spent on the state's general operating budget.

Additional taxes on cigarettes and tobacco products in Amendment 72. The measure increases the cigarette tax by \$1.75 per pack of 20 cigarettes and the tax on other tobacco products by 22 percent of the manufacturer's list price. The tax increase will take effect on January 1, 2017. Neither the existing taxes nor the additional taxes in Amendment 72 apply to e-cigarettes. Revenue from the new taxes is exempt from the state's constitutional revenue limit.

Distribution of new tax revenue in Amendment 72. The distribution of the money generated from the additional taxes is shown in Table 1.

Table 1
Distribution of Money Generated From Additional Taxes Under Amendment 72

Purpose	Distribution
Spending on health-related programs funded by previously approved tobacco taxes, including Medicaid, children's health care, tobacco education programs, and disease prevention and treatment	18%, up to \$36 million annually. Any amount over \$36 million will be distributed proportionally to the other uses
Research grants to study tobacco-related health issues	27%
Education and prevention, and other programs encouraging people to stop using tobacco	16%
Grants to improve health, find employment, and prevent homelessness for veterans	14%
Grants for child and adolescent mental health and substance abuse prevention and treatment	10%
Construction or improvements to community health centers or providers that serve predominantly low income patients	10%
Student loan repayment and training for health care professionals working in rural or underserved areas of the state	5%

Amendment 72 requires the state legislature to maintain 2016 funding levels for existing health-related programs in Table 1 and use the new tax revenue to expand the existing programs.

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>

Arguments For

1) Higher prices for cigarettes and tobacco products have been shown to deter smoking and tobacco use, especially among children and young adults. When cigarette taxes were last increased in 2005, the number of cigarettes consumed per person in Colorado fell by 12.6 percent. Tobacco use is a leading cause of preventable diseases like cancer, and heart and lung disease, contributing to 5,100 deaths in Colorado per year. Reducing smoking and tobacco use will improve the health of Colorado residents.

2) Dedicating cigarette and tobacco tax revenue to health care and research is an important way to offset the health care burden and cost tobacco use places on the state. Tobacco use increases direct health care costs in Colorado by an estimated \$1.9 billion annually, with additional health care costs related to secondhand smoke. The revenue from the proposed tax increase will fund health programs, research, and benefits for Colorado veterans, people with mental health diagnoses, and rural health care providers.

Arguments Against

1) Amendment 72 is a \$315.7 million tax increase. The measure creates a constitutional requirement that revenue from the new taxes be spent on specific programs, even if these programs are ineffective at reducing the cost of tobacco use. Unless voters approve another constitutional change, the spending priorities in the measure will receive taxpayer funding indefinitely. As tobacco use declines, Amendment 72 will lock in state spending on unnecessary programs even when new needs are identified in the state budget.