

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

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**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.

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**2016 STATE BALLOT  
INFORMATION BOOKLET**

*and*

**Recommendations on  
Retention of Judges**

Legislative Council of the  
Colorado General Assembly

*Research Publication No. 669-6*

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## Amendment T No Exception to Involuntary Servitude Prohibition

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### ANALYSIS

**Amendment T proposes amending the Colorado Constitution to:**

- ◆ remove language that currently allows slavery and involuntary servitude to be used as punishment for the conviction of a crime.

### **Summary and Analysis**

**Definitions.** "Slavery," as defined by Black's Law Dictionary, is a situation in which one person has absolute power over the life, fortune, and liberty of another person. The U.S. Supreme Court has defined "involuntary servitude" as a condition of servitude in which one person is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

**U.S. and Colorado Constitutions.** The 13th Amendment to the U.S. Constitution was passed in 1865 to prohibit slavery and involuntary servitude, except as punishment for a crime for which a person has been found guilty. The amendment gives the U.S. Congress the power to enforce the amendment through legislation.

Similar to the U.S. Constitution, under Article II, Section 26 of the Colorado Constitution, slavery and involuntary servitude are prohibited, except as punishment for the conviction of a crime. Amendment T removes this exception.

**Offender work requirements in the criminal justice system.** The courts have ruled that work requirements resulting from a conviction of a crime are allowable under the above provisions of the U.S. and Colorado Constitutions. Offender work requirements currently used in the Colorado criminal justice system may take the following forms:

- **Prison work requirements.** All eligible offenders are expected to work unless assigned to an approved education or training program. Offenders are not required to work, but those who refuse to participate may face a reduction in or loss of privileges or a delayed parole eligibility date.
- **Community service.** A judge may sentence certain offenders to work a specific number of hours providing community service. These programs emphasize individual restitution for offenses through contributions to the community. In some cases, community service is a condition of probation.
- **Probation.** The courts require that an offender sentenced to probation maintain suitable employment and/or pursue employment-related education or vocational training.

*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>

### **Argument For**

1) The section of the Colorado Constitution that allows slavery and involuntary servitude as punishment for a crime should be updated because it represents a time in the United States when not all people were seen as human beings or treated with dignity. Removing the language reflects fundamental values of freedom and equality, and makes an important symbolic statement. There are 25 other states that do not have any language related to slavery and involuntary servitude in their constitutions, and both prison work and community service programs are able to operate within those states.

## Argument Against

1) Amendment T may result in legal uncertainty around current offender work practices in the state. Prison work requirements provide structure and purpose for offenders, while enabling skill building and helping to reduce recidivism. Community service programs allow offenders to engage with the community and make amends for their crimes.

## Estimate of Fiscal Impact

**State revenue and spending.** Amendment T may impact both state revenue and spending. Should Amendment T be interpreted as prohibiting community service sentences, more fines may be imposed in place of community service and fewer probation fees may be collected from those currently sentenced to community service as the sole condition of probation. Amendment T may also impact costs and workload for the Department of Law, Department of Corrections, and Judicial Department due to potential legal challenges.

**Local government impact.** Amendment T may increase jail and county court costs for local governments and impact revenue and workload for the City and County of Denver due to potential legal challenges.

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**Amendment T  
No Exception to Involuntary  
Servitude Prohibition**

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**TITLE AND TEXT**

The ballot title below is a summary drafted by the professional 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 referred to the voters because it passed by a two-thirds majority vote of the state senate and the state house of representatives.

***Ballot Title:***

Shall there be an amendment to the Colorado constitution concerning the removal of the exception to the prohibition of slavery and involuntary servitude when used as punishment for persons duly convicted of a crime?

***Text of Measure:***

*Be It Resolved by the Senate of the Seventieth General Assembly of the State of Colorado, the House of Representatives concurring herein:*

**SECTION 1.** At the election held on November 8, 2016, the secretary of state shall submit to the registered electors of the state the ballot title set forth in section 2 for the following amendment to the state constitution:

In the constitution of the state of Colorado, **amend** section 26 of article II as follows:

**Section 26. Slavery prohibited.** There shall never be in this state either slavery or involuntary servitude. ~~except as a punishment for crime, whereof the party shall have been duly convicted.~~

**SECTION 2.** Each elector voting at the election may cast a vote either "Yes/For" or "No/Against" on the following ballot title: "Shall there be an amendment to the Colorado constitution concerning the removal of the exception to the prohibition of slavery and involuntary servitude when used as punishment for persons duly convicted of a crime?"

**SECTION 3.** Except as otherwise provided in section 1-40-123, Colorado Revised Statutes, if a majority of the electors voting on the ballot title vote "Yes/For", then the amendment will become part of the state constitution.

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**Amendment U  
Exempt Certain Possessory Interests  
from Property Taxes**

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**ANALYSIS**

**Amendment U proposes amending the Colorado Constitution to:**

- ◆ beginning with tax year 2018, eliminate property taxes for individuals or businesses that use government-owned property for a private benefit worth \$6,000 or less in market value; and
- ◆ beginning with tax year 2019, and every two years thereafter, adjust the \$6,000 exemption threshold to account for inflation.

**Summary and Analysis**

***Property taxes and possessory interests.*** Property taxes are primarily based on the value of land, houses, other buildings, and business equipment. Individuals and businesses pay property taxes to various local governments, such as cities, counties, school districts, and special districts, each of which imposes its own tax rate on property. Property taxes pay for a variety of local government services, including public education, police and fire services, roads and bridges, parks and recreation facilities, hospitals, and libraries.

When an individual or business uses government-owned land or equipment for private purposes, a possessory interest is created. Although government-owned property is exempt from taxes, the financial benefit that a business or individual obtains from using that land or equipment is not. For example, some ranchers lease land from the federal government for cattle grazing. Other businesses lease land to provide a recreational activity, such as skiing or river rafting, or are given a contract to provide a specific service on public land, such as operating a snack bar at a national park. Under current law, the value of a private financial benefit is considered a possessory interest and is subject to property taxes. Typically, the value assigned to a possessory interest is equal to the cost of the lease to use the government-owned land; however, county assessors may use other methods to determine the actual value of a possessory interest prior to determining the tax owed.

There are about 7,000 total possessory interests in Colorado. In 2015, the market value of all possessory interests is about \$315.0 million, which is 0.04 percent of the total market value of all taxable property in the state. At this value, total property tax payments for all possessory interests of any value are approximately \$7.0 million annually.

***How does Amendment U change the taxation of possessory interests?*** Starting in 2018, Amendment U exempts a possessory interest from property taxation if the market value of the interest is \$6,000 or less. Beginning in tax year 2019, and every two years thereafter, the \$6,000 threshold is adjusted to account for inflation. Amendment U exempts approximately 5,100 of the 7,000 possessory interests in the state. In total, these possessory interests pay about \$125,000 in property taxes annually, or about \$24, on average, for each possessory interest.

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## **Argument For**

1) Amendment U reduces the administrative burden of collecting a tax that in many cases costs more to collect than it brings in to local governments. For example, the majority of possessory interests in the state are for agricultural leases, many of which are charged less than \$10 in property taxes. The cost of administering this tax — mailing notices, maintaining tax rolls, and collecting and enforcing the tax — often exceeds this amount.

## **Argument Against**

1) Amendment U provides an unfair tax break for businesses and individuals who use government-owned land for their private financial benefit, and puts a greater tax burden on others to pay for local government services. These property taxes should continue being collected uniformly from all taxpayers. A small tax bill does not justify exempting businesses or individuals from paying the tax on the private benefit they enjoy on government land.

## **Estimate of Fiscal Impact**

**Local government impact.** Amendment U is expected to reduce property taxes for all local governments statewide by up to \$125,000 per year, beginning in budget year 2018-19. Some county governments may experience minor cost savings as a result of fewer properties to assess and fewer tax notifications to mail and process. Costs will only be saved in those counties that assess property taxes on possessory interests with an actual value of \$6,000 or less.

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**Amendment U  
Exempt Certain Possessory Interests  
from Property Taxes**

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**TITLE AND TEXT**

The ballot title below is a summary drafted by the professional 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 referred to the voters because it passed by a two-thirds majority vote of the state senate and the state house of representatives.

***Ballot Title:***

Shall there be an amendment to the Colorado constitution concerning an exemption from property taxation for a possessory interest in real property if the actual value of the interest is less than or equal to six thousand dollars or such amount adjusted for inflation?

***Text of Measure:***

*Be It Resolved by the Senate of the Seventieth General Assembly of the State of Colorado, the House of Representatives concurring herein:*

**SECTION 1.** At the election held on November 8, 2016, the secretary of state shall submit to the registered electors of the state the ballot title set forth in section 2 for the following amendment to the state constitution:

In the constitution of the state of Colorado, section 3 of article X, **amend** (1) (b) as follows:

**Section 3. Uniform taxation - exemptions.** (1) (b) (I) Residential real property, which shall include all residential dwelling units and the land, as defined by law, on which such units are located, and mobile home parks, but shall not include hotels and motels, shall be valued for assessment at twenty-one percent of its actual value. For the property tax year commencing January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property. For each subsequent year, the general assembly shall again determine the percentage of the aggregate statewide valuation for assessment which is attributable to each class of taxable property, after adding in the increased valuation for assessment attributable to new construction and to increased volume of mineral and oil and gas production. For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential real property for those years for which such new level of value is used. In determining the adjustment to be made in the ratio of valuation for assessment for residential real property, the aggregate statewide valuation for assessment that is attributable to residential real property shall be calculated as if the full actual value of all owner-occupied primary residences that are partially exempt from taxation pursuant to section 3.5 of this article was subject to taxation. All other taxable property shall be valued for assessment at twenty-nine percent of its actual value. However, the valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals. Non-producing unpatented mining claims, which are possessory interests in real property by virtue of leases from the United States of America, shall be exempt from property taxation. OTHER POSSESSORY INTERESTS IN REAL PROPERTY SHALL BE EXEMPT FROM PROPERTY TAXATION AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b).

(II) (A) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2018, A POSSESSORY INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX IF THE ACTUAL VALUE OF SUCH POSSESSORY INTEREST IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX THOUSAND DOLLARS.

(B) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, A POSSESSORY INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX IF THE ACTUAL VALUE OF SUCH POSSESSORY INTEREST IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX THOUSAND DOLLARS ADJUSTED BIENNIALY TO ACCOUNT FOR INFLATION AS DEFINED IN SECTION 20 (2) (f) OF ARTICLE X OF THIS CONSTITUTION. ON OR BEFORE NOVEMBER 1, 2018, AND ON OR BEFORE NOVEMBER 1 OF EACH EVEN-NUMBERED YEAR THEREAFTER, THE PROPERTY TAX ADMINISTRATOR SHALL CALCULATE THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE USING INFLATION FOR THE PRIOR TWO CALENDAR YEARS AS OF THE DATE OF THE CALCULATION. THE ADJUSTED EXEMPTION SHALL BE ROUNDED UPWARD TO THE NEAREST ONE-HUNDRED-DOLLAR INCREMENT. THE ADMINISTRATOR SHALL CERTIFY THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND PUBLISH THE AMOUNT IN A MANNER PROVIDED BY LAW.

**SECTION 2.** Each elector voting at the election may cast a vote either "Yes/For" or "No/Against" on the following ballot title: "Shall there be an amendment to the Colorado constitution concerning an exemption from property taxation for a possessory interest in real property if the actual value of the interest is less than or equal to six thousand dollars or such amount adjusted for inflation?"

**SECTION 3.** Except as otherwise provided in section 1-40-123, Colorado Revised Statutes, if a majority of the electors voting on the ballot title vote "Yes/For", then the amendment will become part of the state constitution.



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## Amendment 69 Statewide Health Care System

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

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.

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## 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

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**Amendment 69  
Statewide Health Care System**

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**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 DECENNUIUM, 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.

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## Amendment 70 State Minimum Wage

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### 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.