



## Position on Proposed Colorado State Constitutional Amendment 69

Executive Summary  
April 2016

This document was prepared by the board of the Northern Colorado Legislative Alliance to provide background information on Amendment 69 and convey NCLA's position on the measure and the rationale for that recommendation to its sponsoring partner organizations.

Amendment 69 would create a single payer health care financing system in Colorado called ColoradoCare. Anyone residing in the state (1 year residency requirement, aged 18+) would be a 'member' of the plan unless covered by Medicare, Veteran Affairs or other government programs and entitled to a comprehensive list of benefits.

ColoradoCare would be governed by an elected board and it would be financed by a 10 percent income tax.

Proponents decry the current state of affairs regarding health care coverage, in particular citing lack of universal coverage and the high cost of co-pays, deductibles and insurance premiums.

Opponents note that Amendment 69 would more than double the cost of state government, the governance structure has significant accountability issues and the tax burden would fall unfairly on farmers and small business owners with devastating effects on the Colorado economy. And, this is a state constitutional amendment and will be hard to change.

The information that follows explains all of this in more detail.

The NCLA Board of Directors, after considering the views of both sides, voted unanimously to **recommend opposition to Amendment 69** to its partner organizations.



## Briefing Paper on Amendment 69 April 2016

### **Background: Access to Comprehensive Health Care and Amendment 69**

A group of citizens have petitioned an item onto the November 2016 state ballot that would replace the current health care financing system with a single-payer, universal care system paid for with a 10 percent income tax. They gathered over 100,000 valid signatures.

The issue. The topic of health care in America revolves around the three issues of access, cost and quality. There are great philosophical differences of opinion about how to balance those three imperatives and the best models for doing so. Generally, the models include employer-based private insurance, portable patient-centered private coverage and universal public coverage. As health care costs continue to rise faster than inflation and questions of access persist, some claim that the current employer-based model is broken and should be replaced by one of the other approaches. Of those the universal government model gets the most attention. Adding verve to the debate are the competing interests of insurers, hospitals, specialty hospitals, general practice physicians, specialists, employers, patients and policyholders and others. All of the attendant consternation is fertile ground for partisan politics, as the political parties vie for votes from an increasingly beleaguered public.

In Colorado, this manifested itself with a group of people petitioning a measure onto the ballot to replace the current employer-based insurance model with a government model. The measure is called Amendment 69.

### **What is ColoradoCare?**

Amendment 69 would change the state constitution to create a health care financing system called ColoradoCare to pay for the health care of most Coloradans. ColoradoCare would be a 'political subdivision' of

state government with the same status as cities, school districts and counties. It would be governed by an elected board that would hire the administrators, determine the benefits provided to ‘members’, set rates for health care providers and have fiscal oversight. The board would have unlimited taxing authority, and ColoradoCare would function outside of limits of TABOR and the control of state government.

#### How existing coverage would be impacted

ColoradoCare would replace employer-provided coverage, Medicaid, and the medical component of workers’ compensation. Currently, about 76 percent of Colorado residents get health care coverage from employers, Medicaid or individual markets, and about 7 percent have no coverage. All 83 percent would be covered by ColoradoCare, with the balance continuing to get medical benefits from Medicare, military and other government programs. In effect, ColoradoCare would displace both Medicaid and private insurance.

#### Who is eligible for benefits under Amendment 69 (ColoradoCare)?

The Colorado Health Institute estimates that 83 percent – about 4.4 million people – would be eligible for primary care under ColoradoCare. Every person living in the state would be a beneficiary. The exceptions primarily include Medicare and the Veterans Administration. Those programs would remain in place as the primary insurers for their participants.

#### How would ColoradoCare relate to the Affordable Care Act (aka ‘Obamacare’)?

Beginning January 2017, Section 1332 of the Affordable Care Act (ACA) permits states to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to “high quality, affordable health insurance while retaining the basic protections of the ACA”. The waivers “allow states to implement innovative ways to provide access to quality health care that is at least as comprehensive and affordable as would be provided absent the waiver, provides coverage to a comparable number of residents of the state as would be provided coverage absent a waiver, and does not increase the federal deficit.”

### What ColoradoCare provides.

The elected ColoradoCare board would make those decisions. Amendment 69 would authorize ColoradoCare to administer a system that promises 11 categories of coverage, from primary care to end-of-life care. The 11 categories are: primary and specialty care; hospitalization; prescription drugs and durable medical equipment; mental health and substance use treatment; emergency and urgent care; preventive and wellness services and chronic disease management; rehabilitative services and equipment; pediatric services, including oral, vision and hearing; laboratory services; maternity and newborn care; and palliative and end-of-life care.

### How ColoradoCare is governed.

If Amendment 69 passes, an interim board of 15 members would be appointed by the governor and legislative leaders. Then a permanent 21 member board would be elected from seven districts across the state. Every beneficiary ('member') of the plan at least 18 years old and a Colorado resident for at least one year would be eligible to vote in elections of the board members and on proposed tax measures to fund the program.

### How ColoradoCare is funded.

Funding for Amendment 69 will come primarily from an additional 10 percent tax on all income generated in Colorado. All employees will pay a 3.33 percent tax and their employers will pay 6.67 percent tax, regardless of employment status (full-time, part-time, seasonal, per diem, etc.) or resident status. Citizens earning non-payroll income will pay a 10 percent tax on business income, rental income, farm and ranch income, taxable pensions, taxable Social Security, taxable interest, dividends, taxable refunds and credits, capital gains, taxable IRA distributions, and other income.

## **Proponents of Amendment 69**

### **Who is behind 69?**

The most prominent backer is State Senator Irene Aguilar, a Democratic from Denver and a physician. The proponent campaign is ColoradoCareYes at [www.ColoradoCareYes.co](http://www.ColoradoCareYes.co). At this writing (April 2016) a list of supporters and supporting organizations cannot be found on the ColoradoCare website.

### **What proponents are saying.**

- The Affordable Care Act has not worked.
- The current health care insurance system is inefficient and confusing.
- The administrative costs of the current system exceed 30 percent of total spending. The new system proposed under Amendment 69 would save money. Proponents say that ColoradoCare would save \$4.5 billion per year in “health care” costs.
- It would be an efficient funding model and transparent. ColoradoCare will significantly reduce waste. They claim that nationally \$27Billion is wasted annually.
- Many people are still uninsured today. Amendment 69 would solve that by becoming Colorado’s version of “Medicare for all.” Everyone would be covered for a comprehensive list of benefits. No deductibles and no co-pays.
- International universal care models are more effective/efficient than the American system.
- The governing board would be 100 percent focused on healthcare. Their approach would be comprehensive and organized with flexible decision making. It will be just regular citizens.
- Big corporations profit off of political contributions to your congressmen and legislators to buy favorable legislation that benefits them but not necessarily the public.
- This will be completely separate from the Legislature. They don’t call the shots.
- “\$25B in defined taxes is better (and less) than \$30B in uncontrolled insurance premiums and deductibles.”
- Opponents are just fearmongering. We can learn from history. In 1965 the three strongest voices against Medicare were hospitals, pharmaceutical companies and chambers.

- ColoradoCare is a non-profit so profit motive is eliminated. It was not developed by corporations, government employees or congressmen. It is not controlled by government, congressmen, legislators, healthcare providers or insurance companies.
- It is a nonprofit sort of like a co-op. It is not big government.
- Most businesses would save money with ColoradoCare. Runaway health insurance premiums are squeezing employers today. By replacing health insurance premiums with a fixed payroll tax, ColoradoCare would make health care a reasonable and predictable business expense.

## **Opponents of Amendment 69**

### Who opposes 69?

The opposition campaign is called *Coloradans for Coloradans* ([www.ColoradoansForColoradoans.com](http://www.ColoradoansForColoradoans.com)) and the campaign organization's co-chairs include Colorado State Treasurer Walker Stapleton, a Republican, and former Democratic Governor Bill Ritter.

Join the Growing Coalition		
• Action 22	• Colorado Dairy Farmers	• Mechanical Service Contractors Association of Colorado
• Associated Governments of Northern Colorado	• Colorado Farm Bureau	• Metro Denver Assoc. of Health Underwriters
• Beta Health Association	• Colorado Hospital Association	• Metro Denver Economic Development Corporation
• Brighton Chamber of Commerce	• Colorado Mining Association	• MHIB Group
• Club 20	• Colorado Oil and Gas Association	• National Certified Pipe Welding Bureau, Colorado Chapter
• Colorado Association of Commerce and Industry	• Colorado Realtors Association	• National Federation of Independent Business
• Colorado Association of Mechanical and Plumbing Contractors	• Colorado Springs Regional Business Alliance	• Sheet Metal Workers Local 9
• Colorado Association of Plumbing-Heath-Cooling Contractors	• Colorado State Health Association of Underwriters	• SMACNA
• Colorado Bankers Association	• Columbine Health Plan	• South Metro Denver Chamber of Commerce
• Colorado Bioscience Association	• Delta Dental	• The Council of Insurance Agents & Brokers
• Colorado Black Chamber of Commerce	• Denver Metro Chamber of Commerce	• VISIT DENVER
• Colorado Business Roundtable	• Grand Junction Chamber of Commerce	
• Colorado Competitive Council	• IBEW 68	
• Colorado Concern	• IMA Financial	
	• Mechanical Contractors Association of Colorado	

The list of opponents as of April is listed nearby and is growing. The organization is backed by a coalition of business organizations, public

officials, and community and civic leaders. Governor John Hickenlooper opposes 69.

What opponents are saying.

- This is a state constitutional amendment. If it passes, it will be extremely difficult to change.
- Keep in mind that this is not health care reform; this is about the financing system for health care. Amendment 69 does nothing to address the underlying issues that drive the costs of health care such as chronic disease, cultural values around end of life care, inefficiency in delivery of care, and liability-driven costs (defensive medicine, malpractice insurance, lawsuits).
- The amendment is full of uncertainties concerning the health care benefits and limitations for residents. The ambiguous language of Amendment 69 creates uncertainty about plan coverage and limitations. The amendment states that Coloradoans would be able to choose their primary care provider, but they might not have their choice of specialists. According to ColoradoCare's website, the "selection of specialists may be limited."
- It is unclear regarding the reimbursement model for Colorado health care providers. According to Amendment 69, every health care provider in Colorado (physicians, clinics, hospitals, nursing homes, physical therapists, etc.) will be forced to enter into a contract where the terms of the contract are unknown. That is analogous to expecting employees to accept jobs not knowing how much they are going to be paid. Per the language of the amendment, providers will be reimbursed at a rate "competitive with other states." The assumption is that the negotiated rate will be no better than the current state Medicaid rates. As Colorado hospitals have experienced in recent years, public payers – such as Medicaid and Medicare – do not provide reimbursement sufficient to cover the actual costs of providing care. The fear among providers is the reimbursement would be at state Medicaid rates, forcing many providers and hospitals out of business. With fewer providers and an increase in demand, remaining physician offices and hospitals will likely be overwhelmed, causing significant shortage of access to patients. The health care industry fears that physicians would leave the state in droves.

- The ballot document to take over the entire health care sector of Colorado is only 11-pages long, but the part about redesigning our health care payment system is covered in just three pages. In other words, a massive change to the health coverage of Coloradoans is being proposed with very little detail.
- Proponents are selling this as “free” healthcare. In truth, it’s actually paid for with a huge tax on all income. It is semantical sleight of hand to say that insurance premiums, deductibles and co-pays will be replaced by a simple premium tax. And that ‘premium tax’ can be increased by the ColoradoCare board. Will the actual cost for health care coverage for Coloradoans go down? Not likely! Also, the one-size-fits-all inflexible list of benefits offered by ColoradoCare may require some people to buy additional healthcare insurance to complete the coverage they want or need. Where’s the savings in that?
- This is an unprecedented and massive tax increase. ColoradoCare will be bigger than the budget for the State of Colorado, which is \$25.7 billion. It would have \$38 billion in annual revenues. As a private company it would rank 80<sup>th</sup> on the Fortune 500, just behind New York Life Insurance. It would be larger than American Express, Twenty First Century Fox, 3M, Sears, Nike and McDonald's.
- This behemoth would launch with no business plan and a board of politicians without any health care expertise required.
- ColoradoCare will have unlimited taxing authority.
- Proponents are selling Amendment 69 as “Medicare-for-all.” With Medicare’s cost history they may want to rethink that as a selling point. In 1965, Congress said that Medicare would cost \$12 billion by 1990. Its actual cost that year was \$90 billion. A program that began at \$4 billion now costs \$618 billion. Furthermore, Medicare costs are continuing to grow. Medicare now accounts for one-fifth of medical spending (3.5 percent of GDP). Over the next 75 years the Congressional Budget Office estimates Medicare costs will be at 12.5 percent of GDP. Count on Colorado’s ‘Medicare-for-all’ i.e. ColoradoCare to eventually cost far more than we are being told.
- The argument by proponents that it’s time for the states to decide is deceptive in that 50 states are already responsible for regulating health insurance markets. They have long been laboratories for innovation. As an example of this experimentation, Vermont actually decided to provide universal care. Then, after more careful study state leaders decided not to move forward because of the economic



damage it would have caused. They could step back from the economic precipice because it was legislation and not inflexibly built into their constitution.

- The claim by supporters that this will provide an efficient funding model and will be transparent defies what we know about government entities (and this is a government entity, proponent claims notwithstanding). All of them are subject to the BARRC effect: bureaucracy, administration, rules, regulations, and compliance. Medicare is a good example: about half of its money goes toward care. The 2014 Medicare budget was \$618 billion, which means roughly \$309 healthcare dollars for seniors were spent on something other than care. Those 300 billion dollars would have allowed much needed care if they had been made available to the providers instead of the bureaucracy. Consequently, the claim that ColoradoCare will result in a \$6.2 billion reduction of administrative expenses is very dubious.
- The burden for funding this will fall disproportionately heavy on farmers and small businesses. Small businesses, such as S corporations, limited partnerships and farms could face double taxation as they would pay the payroll taxes and 10 percent of any profit they make.
- Amendment 69 will be an economic boat anchor. It will sink Colorado's economy.
- One of the claims being made is that Amendment 69 would 'repeal Obamacare' in Colorado. This is deceptive. Colorado would be able to file for a waiver under Section 1332 of the Affordable Care Act (ACA). But that does not exempt Colorado from most of the requirements of Obamacare.
- Live in Colorado for a year and you are eligible to be a 'member' of ColoradoCare. There are no other qualifications or restrictions. You do not have to be a citizen of the state or the country to qualify for benefits.
- One claim is that the current system is so broken that we need to do something radically new. Proponents point to the system as politically corrupt (an unfounded, hyperbolic, questionable assertion) with big corporations profiting by buying votes. Supporters say that ColoradoCare will operate outside the normal ineffective political structure. Proponents also talk about removing the profit motive from health care with a nonprofit. They would do all of this by...**creating a political structure**. ColoradoCare would have a small

board of elected officials running a political subdivision (not a nonprofit) that uses a massive amount tax money. And unlike the voluntary contribution you make (or choose not to make) to a nonprofit, financial support for this entity is not voluntary. It will extract 10 percent of your income every year. Even retirees on fixed income are not exempt from this.

- It is unaccountable. While supported by your tax dollars, Amendment 69 is specifically designed to operate a new governmental entity outside the oversight of state government and TABOR limitations. It would be controlled by a small group of politicians with the power to decide coverage, negotiate prices and reimbursement rates and raise taxes when the initial \$25 billion in annual revenue proves insufficient. They have no accountability to the governor or legislature. Even voters would have limited control because no provisions have been made on term limits or the ability to recall the politicians running ColoradoCare. There are no requirements of relevant experience placed on this elected board that will run the system for health care coverage.
- Claiming that most businesses would save money by replacing the cost of private insurance premiums with a fixed payroll tax that is predictable doesn't wash. First of all, many small businesses cannot afford to pay for insurance and don't so this automatically hits them in a big way. Second, what is predictable about being subjected to the edicts of an elected board of politicians with unlimited power to tax?

### **Impact of Amendment 69 on Colorado's Economy and Business**

- Tax on earned income and non-payroll income
- Includes business income to entrepreneurs and family-owned businesses that realize their business income on their personal income tax statement
- A portion of retirement income - the first \$33,000 is exempt, \$60,000 for a couple. After that it is a 10 percent tax. Proponents say they are confident that the IRS will rule it is tax deductible.
- Disproportionate impact on businesses structured for tax purposes as "pass through" entities.
- Includes sole proprietors, partnerships, S corporations, LLCs, LLPs, many trusts, and income from farms and rental property

- Schedule K-1 income, rental income, or income from a farm taxed at full 10 percent
- 82 percent of business tax returns fall into this category
  - Small businesses and sole proprietors would end up paying a disproportional amount of tax
  - Colorado's income tax rate would go from 4.63 percent to 7.96 percent, vaulting it into the top 10 states for income tax. And sole proprietors paying the full 10 percent would have an effective tax rate of 14.63, the highest in the country. These tax rates may deter companies from moving into Colorado or force companies to move out, creating a loss of jobs.
  - One concern is about who is attracted to Colorado. Will ColoradoCare attract those with high health care needs?
  - Another concern is about those who will not stay or come to the state. Will ColoradoCare dissuade entrepreneurship and new business migration?
  - The impact on health care providers is very uncertain. Will ColoradoCare impact the ability to attract health care workers?
  - Governor Shumlin of Vermont ran for office promising to bring universal healthcare to his state. Such legislation was passed by the legislature and signed into law. But Governor Shumlin suspended the law saying "the potential economic disruption and risk would be too great to small businesses, working families and the state's economy."

### **NCLA Recommendation and Rationale**

Recommendation: The NCLA Board of Directors voted unanimously to recommend **opposition** to the chamber and edc boards.

The primary reasons:

- Small businesses and farmers are hurt by the huge income tax increase and disproportionately so.
- Amendment 69 injects significant uncertainty into the Colorado economy.
- This is a state amendment. Inflexible and extremely difficult to change.
- Amendment 69 does nothing to address the underlying cost drivers in health care.
- The size of government in Colorado would double overnight.

- The governing structure has significant problems including concerns about accountability.
- Taxing the income of productive Coloradoans at 10 percent is a gross over-reach that is a disincentive to work.
- Proponents do not make their case that what they propose will provide better, more affordable health care to Coloradoans.

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