

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 20-1329.01 Ed DeCecco x4216

**HOUSE BILL 20-1427**

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**A BILL FOR AN ACT**

101       **CONCERNING THE TAXATION OF PRODUCTS THAT CONTAIN NICOTINE,**  
102               **AND, IN CONNECTION THEREWITH, INCREMENTALLY INCREASING**  
103               **THE CIGARETTE TAX AND THE TOBACCO PRODUCTS TAX;**  
104               **EXPANDING BOTH OF THESE TAXES TO APPLY TO SALES TO**  
105               **CONSUMERS FROM OUTSIDE OF THE STATE; CREATING AN**  
106               **INVENTORY TAX THAT APPLIES WHEN THE CIGARETTE TAX**  
107               **INCREASES; CREATING A MINIMUM TAX AMOUNT FOR MOIST**  
108               **SNUFF TOBACCO PRODUCTS; CREATING A TAX ON NICOTINE**  
109               **PRODUCTS THAT IS EQUAL TO THE TOTAL TAX ON TOBACCO**  
110               **PRODUCTS; ESTABLISHING NEW RATES FOR CIGARETTES,**  
111               **TOBACCO PRODUCTS, AND NICOTINE PRODUCTS THAT ARE**  
112               **MODIFIED RISK TOBACCO PRODUCTS THAT ARE HALF OF THE**  
113               **STATUTORY TAX; REFERRING A BALLOT ISSUE FOR PRIOR VOTER**

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
Amended 3rd Reading  
June 12, 2020

HOUSE  
Amended 2nd Reading  
June 11, 2020

### Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill refers a ballot issue to the voters at the November 2020 general election for the following incremental tax changes beginning January 1, 2021:

- ! To increase the statutory per cigarette tax from one cent to 6.5 cents until July 1, 2024, then to 8 cents until July 1, 2027, and thereafter to 10 cents;
- ! To increase the statutory tobacco products tax from 20% of the manufacturer's list price (MLP) to 30% of MLP until July 1, 2024, then to 36% of MLP until July 1, 2027, and to 42% thereafter of MLP for tobacco products;
- ! To create a tax on nicotine products that is equal to 50% of MLP until July 1, 2024, then 56% of MLP until July 1, 2027, and thereafter 62% of MLP, which is the same tax as the total tax levied on tobacco products, including the tax from Amendment 35, with the increase; and
- ! To establish a tax rate for cigarettes, tobacco products, and nicotine products that are modified risk tobacco products approved by the United States department of health and human services that is 50% of the statutory tax rate.

The bill establishes a minimum tax for tobacco products that are moist snuff that is based on a combined minimum tax between the statutory tobacco tax and the tax imposed under Amendment 35. If voters approve the tax, then the state will have the authority to impose these taxes beginning January 1, 2021, and retain and spend the revenue as a voter-approved revenue change, and the remainder of the bill takes effect upon approval.

The cigarette and tobacco products taxes are expanded to include delivery sales made by a seller outside of the state directly to a consumer, and the delivery sellers are defined to be wholesalers or distributors. For any tax increase that takes place after January 1, 2022, an inventory tax is created on cigarettes that is imposed on all stamped cigarettes and unaffixed stamps in a wholesaler or wholesale subcontractor's possession or control at the time of a tax increase.

The bill also establishes a minimum price for cigarettes that is equal to:

- ! \$7 for a pack and \$70 for a carton until July 1, 2024; and
- ! \$7.50 for a pack and \$75 for a carton on and after July 1, 2024.

There are civil penalties imposed for any person who sells cigarettes for less than the minimum amount. As part of its annual June forecast, legislative council staff is required to include an estimate for the current state fiscal year of the additional sales tax revenue that is attributable to the minimum price requirement. On June 30 of the fiscal year, the state treasurer is required to transfer an amount equal to 73% of the estimate from the general fund to the newly created preschool programs cash fund, with the other 27% remaining in the general fund for the distribution to local governments, as required under current law.

The new nicotine products tax is modeled after the tobacco products tax. Nicotine products are products that contain nicotine and that are ingested into the body, which at this time is typically through vaping with an electronic cigarette. The excise tax is levied on the sale, use, consumption, handling, or distribution of all nicotine products in the state, and it is imposed on a distributor at the time the product is brought into the state, made here, or shipped or transported to retailers in the state, or the wholesaler or distributor makes a delivery sale. If a distributor fails to pay the tax, then any person or entity in possession of the nicotine products is liable for the tax.

To be a distributor of nicotine products, a person must have a license. The license costs \$10 per year and requires that the distributor must have a tax license and comply with all of the laws relating to the collection of the tax. Distributors are required to file quarterly returns, and the department of revenue may require electronic fund transfers of the taxes paid. Licensees are required to maintain certain records, and retailers are likewise required to maintain records about nicotine products they purchase from a licensed distributor. The department may share the names and addresses of persons who purchased nicotine products for resale with the department of public health and environment and county and district public health agencies.

To account for the fully phased-in increased taxes per cigarette, the discount percentage on cigarette stamps that a cigarette wholesaler may retain for its collection costs is reduced from 4% to .4% and the similar discount for a tobacco products distributor is reduced from 3.33% to 1.6%. A nicotine products distributor will be permitted to retain 1.1% of the taxes collected.

The revenue from the new nicotine products tax, the inventory tax, and the additional cigarette and tobacco products taxes is deposited in the old age pension fund and then credited to the general fund in accordance with the state constitution. For fiscal years prior to July 1, 2023, most of

the tax revenue will stay in the general fund, except for an amount the state treasurer transfers to the 2020 tax holding fund to offset the decreased revenue from the existing taxes that may result from the voter-approved rate increases for the tobacco tax cash fund and to reimburse local governments. Thereafter, the state treasurer will transfer an amount equal to the total tax revenue from the general fund to the 2020 tax holding fund and then transfer specified amounts to the tobacco tax cash fund, the tobacco education programs fund, and the general fund and the remainder after those amounts to the newly created preschool programs cash fund, from which the general assembly may appropriate money to a designated department to be used for an array of preschool education purposes.

The state auditor is required to annually conduct a financial audit of the use of the new tax revenue.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article  
3 28 of title 39 as follows:

4 **PART 4**

5 **SUBMISSION OF BALLOT ISSUE - CIGARETTES,**  
6 **TOBACCO PRODUCTS, AND NICOTINE PRODUCTS TAXES**

7 **39-28-401. Submission of ballot issue - increased tax cigarettes**  
8 **and tobacco products - new tax on nicotine products - definition -**  
9 **repeal.** (1) AS USED IN THIS SECTION, "BALLOT ISSUE" MEANS THE  
10 QUESTION REFERRED TO VOTERS IN SUBSECTION (2) OF THIS SECTION.

11 (2) AT THE ELECTION HELD ON NOVEMBER 3, 2020, THE  
12 SECRETARY OF STATE SHALL SUBMIT TO THE REGISTERED ELECTORS OF  
13 THE STATE FOR THEIR APPROVAL OR REJECTION THE FOLLOWING BALLOT  
14 ISSUE: "SHALL STATE TAXES BE INCREASED BY \$294,000,000 ANNUALLY  
15 IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED  
16 ANNUALLY THEREAFTER BY IMPOSING A TAX ON NICOTINE LIQUIDS USED  
17 IN E-CIGARETTES AND OTHER VAPING PRODUCTS THAT IS EQUAL TO THE

1 TOTAL STATE TAX ON TOBACCO PRODUCTS WHEN FULLY PHASED IN,  
2 INCREMENTALLY INCREASING THE TOBACCO PRODUCTS TAX BY UP TO 22%  
3 OF THE MANUFACTURER'S LIST PRICE, INCREMENTALLY INCREASING THE  
4 CIGARETTE TAX BY UP TO 9 CENTS PER CIGARETTE, EXPANDING THE  
5 EXISTING CIGARETTE AND TOBACCO TAXES TO APPLY TO SALES TO  
6 CONSUMERS FROM OUTSIDE OF THE STATE, ESTABLISHING A MINIMUM TAX  
7 FOR MOIST SNUFF TOBACCO PRODUCTS, CREATING AN INVENTORY TAX  
8 THAT APPLIES WHEN THE CIGARETTE TAX INCREASES, AND INITIALLY  
9 USING THE TAX REVENUE FOR PUBLIC SCHOOLS FUNDING TO HELP  
10 OFFSET REVENUE THAT HAS BEEN LOST AS A RESULT OF THE ECONOMIC  
11 IMPACTS RELATED TO COVID-19 AND THEN FOR PROGRAMS THAT REDUCE  
12 THE USE OF TOBACCO AND NICOTINE PRODUCTS, ENHANCE THE  
13 VOLUNTARY COLORADO PRESCHOOL PROGRAM AND MAKE IT WIDELY  
14 AVAILABLE FOR FREE, AND MAINTAIN THE FUNDING FOR PROGRAMS THAT  
15 CURRENTLY RECEIVE REVENUE FROM TOBACCO TAXES, WITH THE STATE  
16 KEEPING AND SPENDING THE NEW TAX REVENUE NOTWITHSTANDING ANY  
17 LIMITATIONS PROVIDED BY LAW?"

18 (3) FOR PURPOSES OF SECTION 1-5-407, THE BALLOT ISSUE IS A  
19 PROPOSITION. SECTION 1-40-106 (3)(d) DOES NOT APPLY TO THE BALLOT  
20 ISSUE.

21 (4) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT  
22 ISSUE VOTE "NO/AGAINST", THEN THIS SECTION IS REPEALED, EFFECTIVE  
23 JULY 1, 2021.

24 (b) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE  
25 VOTE "YES/FOR", THEN THIS SUBSECTION (4) IS REPEALED, EFFECTIVE  
26 JULY 1, 2021.

27 **SECTION 2.** In Colorado Revised Statutes, 39-28-101, **amend**

1 the introductory portion, (3), and (4); and **add** (1.3), (1.7), and (2.7) as  
2 follows:

3 **39-28-101. Definitions.** As used in this ~~article~~ ARTICLE 28, unless  
4 the context otherwise requires:

5 (1.3) "DELIVERY SALE" MEANS A SALE OF CIGARETTES TO A  
6 CONSUMER IN THIS STATE WHEN:

7 (a) THE CONSUMER SUBMITS AN ORDER FOR CIGARETTES TO A  
8 DELIVERY SELLER FOR SALE BY MEANS OTHER THAN AN  
9 OVER-THE-COUNTER SALE ON THE DELIVERY SELLER'S PREMISES,  
10 INCLUDING, BUT NOT LIMITED TO, TELEPHONE OR OTHER VOICE  
11 TRANSMISSION, THE MAIL OR OTHER DELIVERY SERVICE, OR THE INTERNET  
12 OR OTHER ONLINE SERVICE; AND

13 (b) THE CIGARETTES ARE DELIVERED WHEN THE SELLER IS NOT IN  
14 THE PHYSICAL PRESENCE OF THE CONSUMER WHEN THE CONSUMER  
15 OBTAINS POSSESSION OF THE CIGARETTES BY USE OF A COMMON CARRIER,  
16 PRIVATE DELIVERY SERVICE, MAIL, OR ANY OTHER MEANS.

17 (1.7) "DELIVERY SELLER" MEANS A PERSON LOCATED OUTSIDE OF  
18 THIS STATE WHO MAKES DELIVERY SALES.

19 (2.7) "MODIFIED RISK TOBACCO PRODUCT" MEANS ANY TOBACCO  
20 PRODUCT FOR WHICH THE SECRETARY OF THE UNITED STATES  
21 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS ISSUED AN ORDER  
22 AUTHORIZING THE PRODUCT TO BE COMMERCIALY MARKETED AS A  
23 MODIFIED RISK TOBACCO PRODUCT IN ACCORDANCE WITH 21 U.S.C. SEC.  
24 387k, OR ANY SUCCESSOR SECTION.

25 (3) "Sale" or "resale" includes installment, credit, and conditional  
26 sales and means any exchange, barter, or transfer of title or possession,  
27 or both, for a consideration to any other person, firm, partnership, limited

1 liability company, or corporation within this state. It includes:

2 (a) A gift by a person engaged in the business of selling cigarettes,  
3 for advertising, as a means of evading provisions of this ~~article~~ ARTICLE  
4 28 or for any other purpose whatsoever; AND

5 (b) DELIVERY SALES.

6 (4) "Wholesaler" means any person, firm, limited liability  
7 company, partnership, or corporation who imports cigarettes into this  
8 state for sale or resale. THE TERM ALSO INCLUDES A DELIVERY SELLER.

9 **SECTION 3.** In Colorado Revised Statutes, **amend** 39-28-103 as  
10 follows:

11 **39-28-103. Tax levied.** (1) (a) PRIOR TO JANUARY 1, 2021, there  
12 is levied and shall be collected and paid to the department a tax upon the  
13 sale of cigarettes by wholesalers of ten mills on each cigarette.

14 (b) A TAX IS LEVIED UPON THE SALE OF CIGARETTES BY  
15 WHOLESALERS, EXCLUDING CIGARETTES THAT ARE MODIFIED RISK  
16 TOBACCO PRODUCTS, THAT IS EQUAL TO:

17 (I) SIX AND ONE-HALF CENTS PER CIGARETTE FOR SALES ON AND  
18 AFTER JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

19 (II) EIGHT CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY  
20 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

21 (III) TEN CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY 1,  
22 2027.

23 (c) A TAX IS LEVIED ON THE SALE OF CIGARETTES THAT ARE  
24 MODIFIED RISK TOBACCO PRODUCTS THAT IS EQUAL TO:

25 (I) THREE AND ONE-QUARTER CENTS PER CIGARETTE FOR SALES ON  
26 AND AFTER JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

27 (II) FOUR CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY

1 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

2 (III) FIVE CENTS PER CIGARETTE FOR SALES ON AND AFTER JULY  
3 1, 2027.

4 (d) THE WHOLESALER SHALL PAY THE TAX SET FORTH IN THIS  
5 SECTION TO THE DEPARTMENT, WHICH SHALL COLLECT THE TAX.

6 SECTION 4. In Colorado Revised Statutes, add 39-28-103.3 as  
7 follows:

8 39-28-103.3. Inventory tax - definition. (1) AS USED IN THIS  
9 SECTION, "COLORADO TAX STAMP" MEANS A STAMP THAT IS AFFIXED TO,  
10 OR AN IMPRINT OR IMPRESSION BY A SUITABLE METERING MACHINE  
11 APPROVED BY THE DEPARTMENT ON A PACKAGE CONTAINING CIGARETTES  
12 AS EVIDENCE OF THE PAYMENT OF TAX IMPOSED BY THIS ARTICLE 28,  
13 EXCLUDING THE TAX SET FORTH IN THIS SECTION.

14 (2) AFTER JANUARY 1, 2022, IN ADDITION TO ANY OTHER TAX  
15 IMPOSED UNDER THIS ARTICLE 28 OR SECTION 21 OF ARTICLE X OF THE  
16 STATE CONSTITUTION, THERE IS LEVIED A TAX ON CIGARETTES IN A  
17 WHOLESALER'S OR WHOLESALE SUBCONTRACTOR'S POSSESSION OR  
18 CONTROL THAT HAVE A COLORADO TAX STAMP THAT APPLIES ANY TIME  
19 THAT THE CIGARETTE TAX IS INCREASED. THE TAX IS EQUAL TO THE  
20 DIFFERENCE BETWEEN THE TAX PAID FOR THE COLORADO TAX STAMP  
21 CURRENTLY AFFIXED TO A PACKAGE OF CIGARETTES AND THE TAX THAT  
22 WILL BE OWED FOR THE SAME COLORADO TAX STAMP AFTER THE INCREASE  
23 OR ADJUSTMENT IN THE TAX IMPOSED PER CIGARETTE. IT IS UNLAWFUL FOR  
24 ANY PERSON TO AFFIX A COLORADO TAX STAMP ON OR AFTER 12:01 A.M.  
25 ON THE DAY THAT A RATE INCREASE WILL TAKE EFFECT, TO A PACKAGE OF  
26 CIGARETTES THAT REFLECTS PAYMENT OF THE TAX IMPOSED PRIOR TO THE  
27 INCREASE. ANY UNAFFIXED STAMPS MAY BE REDEEMED FOR CREDIT



1 PURSUANT TO SECTION 39-28-104 (3).

2 (3) (a) AFTER JANUARY 1, 2022, A WHOLESALER SHALL TAKE AN  
3 INVENTORY OF ALL PACKAGES OF CIGARETTES WITH A COLORADO TAX  
4 STAMP AFFIXED THERETO AND OF ALL UNAFFIXED COLORADO TAX STAMPS  
5 IN THE WHOLESALER'S POSSESSION OR CONTROL AS OF 12:01 A.M. ON THE  
6 DAY THAT A RATE INCREASE WILL TAKE EFFECT.

7 (b) AFTER JANUARY 1, 2022, A WHOLESALE SUBCONTRACTOR  
8 SHALL TAKE AN INVENTORY OF ALL PACKAGES OF CIGARETTES WITH A  
9 COLORADO TAX STAMP AFFIXED THERETO IN THE WHOLESALE  
10 SUBCONTRACTOR'S POSSESSION OR CONTROL AS OF 12:01 A.M. ON THE DAY  
11 THAT A RATE INCREASE WILL TAKE EFFECT.

12 (4) EVERY WHOLESALER AND WHOLESALE SUBCONTRACTOR SHALL  
13 FILE A REPORT, ON A FORM CREATED BY THE DEPARTMENT, OF THE  
14 INVENTORY IDENTIFIED IN ACCORDANCE WITH SUBSECTION (3) OF THIS  
15 SECTION AND PAY THE TAX IMPOSED UNDER THIS SECTION FOR THE  
16 INVENTORY. A WHOLESALER SHALL SEPARATELY IDENTIFY THE NUMBER  
17 OF PACKAGES WITH A COLORADO TAX STAMP AND THE UNAFFIXED  
18 COLORADO TAX STAMPS. THE WHOLESALER OR WHOLESALE  
19 SUBCONTRACTOR SHALL REMIT THE TAX PAYMENT ON OR BEFORE THE  
20 TENTH DAY OF THE MONTH FOLLOWING THE REQUIRED INVENTORY. IF  
21 PAYMENT IS MADE ON OR BEFORE THE DUE DATE, THE WHOLESALER OR  
22 WHOLESALE SUBCONTRACTOR MAY DEDUCT THREE PERCENT OF THE TAX  
23 IMPOSED UNDER THIS SECTION, BUT, IF ANY WHOLESALER OR WHOLESALE  
24 SUBCONTRACTOR IS DELINQUENT IN REMITTING SUCH PAYMENT, OTHER  
25 THAN IN UNUSUAL CIRCUMSTANCES SHOWN TO THE SATISFACTION OF THE  
26 EXECUTIVE DIRECTOR OF THE DEPARTMENT, THE WHOLESALER OR  
27 WHOLESALE SUBCONTRACTOR SHALL NOT BE ALLOWED TO RETAIN ANY

1 AMOUNTS TO COVER THE EXPENSE IN COLLECTING AND REMITTING THE  
2 TAX AND THE PENALTY IMPOSED UNDER SECTION 39-28-108 (2) APPLIES.

3 (5) THE DEPARTMENT MAY REQUIRE WHOLESALERS AND  
4 WHOLESALE SUBCONTRACTORS TO USE ELECTRONIC FUNDS TRANSFERS TO  
5 REMIT TAX PAYMENTS DUE UNDER THIS SECTION AND MAY REQUIRE  
6 WHOLESALERS AND WHOLESALE SUBCONTRACTORS TO FILE TAX RETURNS  
7 ELECTRONICALLY. THE DEPARTMENT MAY PROMULGATE RULES  
8 GOVERNING ELECTRONIC PAYMENT AND FILING.

9 **SECTION 5.** In Colorado Revised Statutes, 39-28-104, **amend**  
10 (1)(a) and (3) as follows:

11 **39-28-104. Evidence of payment of tax - credits - redemptions.**

12 (1) (a) (I) Payment of the taxes imposed by ~~the provisions of this article~~  
13 SECTIONS 39-28-103 AND 39-28-103.5 and section 21 of article X of the  
14 state constitution shall be evidenced by the affixing of stamps to, or by an  
15 imprint or impression by suitable metering machines approved by the  
16 department on, packages containing cigarettes. The department shall  
17 procure stamps of such design and legend as it deems necessary and  
18 suitable for the purpose. Except as provided in ~~paragraph (b) of this~~  
19 ~~subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, the department shall  
20 sell such stamps for cash to licensed wholesalers at a discount of four  
21 percent of their face value for sales occurring ~~prior to July 1, 2003, or on~~  
22 ~~or after July 1, 2005, and three percent of their face value for sales~~  
23 ~~occurring on or after July 1, 2003, but before July 1, 2005~~ BUT BEFORE  
24 JANUARY 1, 2021, AND FOUR-TENTHS PERCENT OF THEIR FACE VALUE FOR  
25 SALES OCCURRING ON AND AFTER JANUARY 1, 2021, if payment is made  
26 on or before the tenth day of the month following the month in which the  
27 purchase is made to cover the licensed wholesaler's expense in the

1 collection and remittance of such tax; but, if any licensed wholesaler is  
2 delinquent in remitting such payment, other than in unusual circumstances  
3 shown to the satisfaction of the executive director of the department, the  
4 licensed wholesaler shall not be allowed to retain any amounts to cover  
5 his or her expense in collecting and remitting said tax, and, in addition,  
6 the penalty imposed under section 39-28-108 (2) shall apply. The  
7 department shall keep accurate records of all stamps sold to each  
8 wholesaler. No wholesaler shall sell or transfer any stamps purchased  
9 pursuant to ~~the provisions of this article~~ ARTICLE 28.

10 (II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY ENTER  
11 INTO CONTRACTS WITH THIRD PARTIES TO ACT AS THE DEPARTMENT'S  
12 AGENTS FOR THE SALE OF STAMPS AND MATTERS RELATING TO THE SALE  
13 OF STAMPS.

14 (3) Credit shall be given by the department for all taxes levied  
15 pursuant to ~~the provisions of this article~~ ARTICLE 28 on unsalable  
16 merchandise when the department is satisfied that the same has been  
17 returned to the manufacturer or has been destroyed by the wholesaler OR  
18 WHEN THE STAMPS ARE UNUSABLE BECAUSE THE TAX RATE HAS CHANGED.  
19 The department shall redeem any unused and uncanceled stamps  
20 presented by any wholesaler within one year after the date of issue of said  
21 stamps at the price paid therefor by such wholesaler.

22 **SECTION 6.** In Colorado Revised Statutes, 39-28-107, **amend**  
23 (1)(b) as follows:

24 **39-28-107. Unstamped packages - tax collected - fines - subject**  
25 **to confiscation - tobacco tax enforcement cash fund - creation.**

26 (1) (b) There is hereby created in the state treasury the tobacco tax  
27 enforcement cash fund. The fund ~~shall consist of moneys~~ CONSISTS OF

1 MONEY deposited therein pursuant to ~~paragraph (a) of this subsection (1)~~  
2 ~~SUBSECTION (1)(a) OF THIS SECTION and section 39-28.5-106 (4)~~ SECTIONS  
3 39-28-116 (5), 39-28.5-106 (4) AND 39-28.6-107 (4). The ~~moneys~~ MONEY  
4 in the fund ~~shall be~~ IS subject to annual appropriation by the general  
5 assembly to the department for the purpose of enforcing ~~the provisions of~~  
6 ~~this article~~ ARTICLE 28 and ~~article 28.5~~ ARTICLES 28.5 AND 28.6 of this  
7 ~~title~~ TITLE 39. Any ~~moneys~~ MONEY not appropriated by the general  
8 assembly ~~shall remain~~ REMAINS in the fund and shall not be transferred  
9 or revert to the general fund at the end of any fiscal year.

10 **SECTION 7.** In Colorado Revised Statutes, 39-28-108, **amend**  
11 (2)(b) as follows:

12 **39-28-108. Penalty.** (2) (b) If a person fails to pay the tax in the  
13 time allowed for the discount in section 39-28-104 (1) OR 39-28-103.3,  
14 a penalty equal to ten percent thereof plus one-half of one percent per  
15 month from the date when due, not to exceed eighteen percent in the  
16 aggregate, together with interest on such delinquent taxes at the rate  
17 computed under section 39-21-110.5, shall apply.

18 **SECTION 8.** In Colorado Revised Statutes, 39-28-110, **amend**  
19 (1) as follows:

20 **39-28-110. Distribution of tax collected.** (1) (a) All ~~sums of~~  
21 money received and collected in payment of the tax imposed by ~~the~~  
22 ~~provisions of this article~~ ARTICLE 28, except license fees received under  
23 section 39-28-102 and the ~~moneys~~ MONEY collected pursuant to section  
24 39-28-103.5, shall be transmitted to the state treasurer who shall distribute  
25 the money as follows: Fifteen percent to the general fund and eighty-five  
26 percent to the old age pension fund.

27 (b) [REDACTED] THE NET REVENUE THAT IS CREDITED TO THE OLD AGE

1 PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE  
2 CONSTITUTION IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION  
3 AND SECTION 2 (a) OF ARTICLE XXIV OF THE STATE CONSTITUTION IS  
4 TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE WITH SECTION 7 (c)  
5 OF ARTICLE XXIV OF THE STATE CONSTITUTION. OF THIS MONEY OR THE  
6 FIFTEEN PERCENT THAT IS DIRECTLY CREDITED TO THE GENERAL FUND,  
7 THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE  
8 TOTAL REVENUE THAT IS ATTRIBUTABLE TO THE TAX IMPOSED UNDER  
9 SECTION 39-28-103.3 AND THE TAX INCREASE SET FORTH IN SECTION  
10 39-28-103 ■ APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN  
11 NOVEMBER 2020 TO THE 2020 TAX HOLDING FUND CREATED IN SECTION  
12 24-22-118 (1).

13 **SECTION 9.** In Colorado Revised Statutes, **add** 39-28-110.5 as  
14 follows:

15 **39-28-110.5. Revenue and spending limitations.**  
16 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR  
17 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE  
18 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE  
19 GENERATED BY THE INVENTORY TAX IMPOSED UNDER SECTION  
20 39-28-103.3 AND THE PER CIGARETTE TAX INCREASE SET FORTH IN  
21 SECTION 39-28-103 ■ APPROVED BY THE VOTERS AT THE STATEWIDE  
22 ELECTION IN NOVEMBER 2020, MAY BE COLLECTED AND SPENT AS A  
23 VOTER-APPROVED REVENUE CHANGE.

24 **SECTION 10.** In Colorado Revised Statutes, **add** 39-28-116 as  
25 follows:

26 **39-28-116. Minimum price for cigarettes.** (1) ON AND AFTER  
27 JANUARY 1, 2021, BUT BEFORE JULY 1, 2024, NO PERSON SHALL SELL OR

1 OFFER FOR SALE CIGARETTES TO A CONSUMER FOR LESS THAN SEVEN  
2 DOLLARS PER PACKAGE OF TWENTY CIGARETTES OR SEVENTY DOLLARS  
3 PER CARTON OF TWO HUNDRED CIGARETTES, INCLUDING ALL APPLICABLE  
4 TAXES.

5 (2) ON AND AFTER JULY 1, 2024, NO PERSON SHALL SELL OR OFFER  
6 FOR SALE CIGARETTES TO A CONSUMER FOR LESS THAN SEVEN DOLLARS  
7 AND FIFTY CENTS PER PACKAGE OF TWENTY CIGARETTES OR SEVENTY-FIVE  
8 DOLLARS PER CARTON OF TWO HUNDRED CIGARETTES, INCLUDING ALL  
9 APPLICABLE TAXES.

10 (3) A PERSON WHO VIOLATES SUBSECTION (1) OR (2) OF THIS  
11 SECTION, IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, SHALL BE  
12 LIABLE FOR A CIVIL PENALTY IN THE FOLLOWING AMOUNTS:

13 (a) FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION WITHIN A  
14 FIVE-YEAR PERIOD;

15 (b) ONE THOUSAND DOLLARS FOR A SECOND VIOLATION WITHIN A  
16 FIVE-YEAR PERIOD; AND

17 (c) ONE THOUSAND FIVE HUNDRED DOLLARS FOR A THIRD  
18 VIOLATION WITHIN A FIVE-YEAR PERIOD.

19 (4) NO PERSON SHALL BE LIABLE UNDER THIS SECTION FOR MORE  
20 THAN ONE VIOLATION OF THIS SECTION DURING A SINGLE DAY.

21 (5) THE DEPARTMENT OF REVENUE SHALL REMIT ANY CIVIL  
22 PENALTIES RECEIVED PURSUANT TO THIS SECTION TO THE STATE  
23 TREASURER FOR DEPOSIT IN THE TOBACCO TAX ENFORCEMENT CASH FUND  
24 CREATED SECTION 39-28-107 (1)(b).

25 (6) IN ITS ANNUAL JUNE FORECAST, LEGISLATIVE COUNCIL STAFF  
26 SHALL REPORT AN ESTIMATE FOR THE CURRENT STATE FISCAL YEAR OF THE  
27 ADDITIONAL SALES TAX REVENUE THAT IS ATTRIBUTABLE TO THE

1 APPLICABLE MINIMUM PRICE SET FORTH IN THIS SECTION. ON JUNE 30 OF  
2 THE FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER AN AMOUNT  
3 EQUAL TO SEVENTY-THREE PERCENT OF THE LEGISLATIVE COUNCIL STAFF  
4 ESTIMATE FROM THE GENERAL FUND TO THE PRESCHOOL PROGRAMS CASH  
5 FUND CREATED IN SECTION 24-22-118 (3)(a).

6 **SECTION 11.** In Colorado Revised Statutes, 39-28.5-101,  
7 **amend** the introductory portion, (1), (2), and (4); and **add** (1.2), (1.4),  
8 (3.3), and (3.7) as follows:

9 **39-28.5-101. Definitions.** As used in this ~~article~~ ARTICLE 28.5,  
10 unless the context otherwise requires:

11 (1) ~~"Department" means the department of revenue~~ "DELIVERY  
12 SALE" MEANS THE SALE OF TOBACCO PRODUCTS TO A CONSUMER IN THIS  
13 STATE WHEN:

14 (a) THE CONSUMER SUBMITS AN ORDER FOR THE TOBACCO  
15 PRODUCTS TO A DELIVERY SELLER FOR SALE BY MEANS OTHER THAN AN  
16 OVER-THE-COUNTER SALE ON THE DELIVERY SELLER'S PREMISES,  
17 INCLUDING, BUT NOT LIMITED TO, TELEPHONE OR OTHER VOICE  
18 TRANSMISSION, THE MAIL OR OTHER DELIVERY SERVICE, OR THE INTERNET  
19 OR OTHER ONLINE SERVICE; AND

20 (b) THE TOBACCO PRODUCTS ARE DELIVERED WHEN THE SELLER IS  
21 NOT IN THE PHYSICAL PRESENCE OF THE CONSUMER WHEN THE CONSUMER  
22 OBTAINS POSSESSION OF THE TOBACCO PRODUCTS BY USE OF A COMMON  
23 CARRIER, PRIVATE DELIVERY SERVICE, MAIL, OR ANY OTHER MEANS.

24 (1.2) "DELIVERY SELLER" MEANS A PERSON LOCATED OUTSIDE OF  
25 THIS STATE WHO MAKES DELIVERY SALES.

26 (1.4) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

27 (2) "Distributor" means every person who:

- 1 (a) First receives tobacco products in this state;
- 2 (b) ~~every person who~~ Sells tobacco products in this state ~~who~~ AND
- 3 is primarily liable for the tobacco products tax on such products;
- 4 (c) ~~and every person who~~ First sells or offers for sale in this state
- 5 tobacco products imported into this state from any other state or country;
- 6 OR
- 7 (d) IS A DELIVERY SELLER.

8 (3.3) "MODIFIED RISK TOBACCO PRODUCT" MEANS ANY TOBACCO  
9 PRODUCT FOR WHICH THE SECRETARY OF THE UNITED STATES  
10 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS ISSUED AN ORDER  
11 AUTHORIZING THE PRODUCT TO BE COMMERCIALY MARKETED AS A  
12 MODIFIED RISK TOBACCO PRODUCT IN ACCORDANCE WITH 21 U.S.C. SEC.  
13 387k, OR ANY SUCCESSOR SECTION.

14 (3.7) "MOIST SNUFF" MEANS ANY FINELY CUT, GROUND, OR  
15 POWDERED TOBACCO THAT IS NOT INTENDED TO BE SMOKED BUT DOES NOT  
16 INCLUDE ANY FINELY CUT, GROUND, OR POWDERED TOBACCO THAT IS  
17 INTENDED TO BE PLACED IN THE NASAL CAVITY.

18 (4) "Sale" means any transfer, exchange, or barter, in any manner  
19 or by any means whatsoever, for a consideration, including all sales made  
20 by any person. The term includes:

- 21 (a) A gift by a person engaged in the business of selling tobacco
- 22 products, for advertising, as a means of evading the provisions of this
- 23 article or for any other purposes whatsoever; AND
- 24 (b) A DELIVERY SALE.

25 **SECTION 12.** In Colorado Revised Statutes, **repeal and reenact,**  
26 **with amendments,** 39-28.5-102 as follows:

27 **39-28.5-102. Tax levied.** (1) EXCEPT AS SET FORTH IN



1 SUBSECTION (3) OF THIS SECTION, THERE IS LEVIED A TAX UPON THE SALE,  
2 USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF ALL TOBACCO  
3 PRODUCTS IN THIS STATE, EXCLUDING MODIFIED RISK TOBACCO PRODUCTS,  
4 AT THE RATE OF:

5 (a) TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE  
6 TOBACCO PRODUCTS FOR THE TAX LEVIED PRIOR TO JANUARY 1, 2021;

7 (b) THIRTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE  
8 TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,  
9 2021, BUT PRIOR TO JULY 1, 2024;

10 (c) THIRTY-SIX PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
11 THE TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,  
12 2024, BUT PRIOR TO JULY 1, 2027; AND

13 (d) FORTY-TWO PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
14 THE TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,  
15 2027.

16 (2) THERE IS LEVIED A TAX UPON THE SALE, USE, CONSUMPTION,  
17 HANDLING, OR DISTRIBUTION OF MODIFIED RISK TOBACCO PRODUCTS IN  
18 THIS STATE AT THE RATE OF:

19 [REDACTED]

20 (a) FIFTEEN PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE  
21 MODIFIED RISK TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND AFTER  
22 JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

23 (b) EIGHTEEN PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
24 THE MODIFIED RISK TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND  
25 AFTER JULY 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

26 (c) TWENTY-ONE PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
27 THE MODIFIED RISK TOBACCO PRODUCTS FOR THE TAX LEVIED ON AND

1 AFTER JULY 1, 2027.

2 (3) (a) IF THE TOTAL OF THE TAX IMPOSED UPON THE SALE, USE,  
3 CONSUMPTION, HANDLING, OR DISTRIBUTION OF MOIST SNUFF UNDER  
4 SUBSECTION (2) OF THIS SECTION AND SECTION 39-28.5-102.5 IS LESS  
5 THAN THE MINIMUM MOIST SNUFF TAX SPECIFIED IN SUBSECTION (3)(b) OF  
6 THIS SECTION, THEN THE TAX IMPOSED UPON THE SALE, USE,  
7 CONSUMPTION, HANDLING, OR DISTRIBUTION OF MOIST SNUFF UNDER THIS  
8 SECTION IS EQUAL TO THE MINIMUM MOIST SNUFF TAX MINUS THE TAX  
9 IMPOSED UNDER SECTION 39-28.5-102.5.

10 (b) (I) THE MINIMUM MOIST SNUFF TAX IS EQUAL TO:

11 (A) ONE DOLLAR FORTY-EIGHT CENTS FOR EACH ONE AND  
12 TWO-TENTH OUNCE CONTAINER FOR THE TAX LEVIED ON AND AFTER  
13 JANUARY 1, 2021, BUT PRIOR TO JULY 1, 2024;

14 (B) ONE DOLLAR EIGHTY-FOUR CENTS FOR EACH ONE AND  
15 TWO-TENTH OUNCE CONTAINER FOR THE TAX LEVIED ON AND AFTER JULY  
16 1, 2024, BUT PRIOR TO JULY 1, 2027; AND

17 (C) TWO DOLLARS TWENTY-SIX CENTS FOR EACH ONE AND  
18 TWO-TENTH OUNCE CONTAINER FOR THE TAX LEVIED ON AND AFTER JULY  
19 1, 2027.

20 (II) THE AMOUNT SPECIFIED IN SUBSECTION (3)(b)(I) OF THIS  
21 SECTION IS PROPORTIONALLY INCREASED FOR ANY CONTAINER LARGER  
22 THAN ONE AND TWO-TENTHS OUNCES.

23 (4) THE TAX SET FORTH IN THIS SECTION IS COLLECTED BY THE  
24 DEPARTMENT AND IS IMPOSED AT THE TIME THE DISTRIBUTOR:

25 (a) BRINGS, OR CAUSES TO BE BROUGHT, INTO THIS STATE FROM  
26 WITHOUT THE STATE TOBACCO PRODUCTS FOR SALE;

27 (b) MAKES, MANUFACTURES, OR FABRICATES TOBACCO PRODUCTS

1 IN THIS STATE FOR SALE IN THIS STATE;

2 (c) SHIPS OR TRANSPORTS TOBACCO PRODUCTS TO RETAILERS IN  
3 THIS STATE TO BE SOLD BY THOSE RETAILERS; OR

4 (d) MAKES A DELIVERY SALE.

5 **SECTION 13.** In Colorado Revised Statutes, 39-28.5-105,  
6 **amend** (1) and (3) as follows:

7 **39-28.5-105. Books and records to be preserved.** (1) Every  
8 distributor shall keep at each licensed place of business complete and  
9 accurate records for that place of business, including itemized invoices of  
10 tobacco products held, purchased, manufactured, brought in or caused to  
11 be brought in from without the state, or shipped or transported to retailers  
12 in this state, and of all sales of tobacco products made, except sales to the  
13 ultimate consumer WITHIN THE STATE.

14 (3) When a licensed distributor sells tobacco products exclusively  
15 to the ultimate consumer WITHIN THE STATE at the address given in the  
16 license, no invoice of those sales shall be required, but itemized invoices  
17 shall be made of all tobacco products transferred to other retail outlets  
18 owned or controlled by that licensed distributor. All books, records, and  
19 other papers and documents required by this section to be kept shall be  
20 preserved for a period of at least three years after the date of the  
21 documents, unless the department, in writing, authorizes their destruction  
22 or disposal at an earlier date.

23 **SECTION 14.** In Colorado Revised Statutes, 39-28.5-106,  
24 **amend** (2) as follows:

25 **39-28.5-106. Returns and remittance of tax - civil penalty.**  
26 (2) Every distributor shall file a return with the department by the  
27 twentieth day of the month following the month reported and shall

1     therewith remit the amount of tax due, less three and one-third percent of  
2     any sum so remitted that consists of tax collected ~~before July 1, 2003, or~~  
3     ~~on or after July 1, 2005, and less two and one-third percent of any sum so~~  
4     ~~remitted that consists of tax collected on or after July 1, 2003, but before~~  
5     ~~July 1, 2005~~ BUT BEFORE JANUARY 1, 2021, AND LESS ONE AND  
6     SIX-TENTHS PERCENT OF ANY SUM SO REMITTED THAT CONSISTS OF TAX  
7     COLLECTED ON OR AFTER JANUARY 1, 2021, to cover the distributor's  
8     expense in the collection and remittance of said tax; except that no part  
9     of the tax imposed pursuant to section 39-28.5-102.5 and section 21 of  
10    article X of the state constitution shall be subject to the discount provided  
11    for in this subsection (2). If any distributor is delinquent in remitting said  
12    tax, other than in unusual circumstances shown to the satisfaction of the  
13    executive director of the department, the distributor shall not be allowed  
14    to retain any amounts to cover his or her expense in collecting and  
15    remitting said tax, and in addition the penalty imposed under section  
16    39-28.5-110 (2)(b) shall apply.

17           **SECTION 15.** In Colorado Revised Statutes, 39-28.5-107,  
18    **amend** (1) as follows:

19           **39-28.5-107. When credit may be obtained for tax paid.**

20    (1) Where tobacco products, upon which the tax imposed by this ~~article~~  
21    ARTICLE 28.5 has been reported and paid, are shipped or transported by  
22    the distributor to retailers without the state to be sold by those retailers,  
23    are shipped or transported by the distributor to a consumer without the  
24    state on or after ~~September 1, 2015, but prior to September 1, 2018~~  
25    JANUARY 1, 2021, or are returned to the manufacturer by the distributor  
26    or destroyed by the distributor, credit of such tax may be made to the  
27    distributor in accordance with regulations prescribed by the department.

1           **SECTION 16.** In Colorado Revised Statutes, 39-28.5-108,  
2 **amend** (1) as follows:

3           **39-28.5-108. Distribution of tax collected.** (1) (a) All ~~sums of~~  
4 money received and collected in payment of the tax imposed by ~~the~~  
5 ~~provisions of this article~~ ARTICLE 28.5, except license fees received under  
6 section 39-28.5-104 and the ~~moneys~~ MONEY collected pursuant to section  
7 39-28.5-102.5, shall be transmitted to the state treasurer, who shall  
8 distribute such money as follows: Fifteen percent to the general fund and  
9 eighty-five percent to the old age pension fund.

10           (b)   THE NET REVENUE THAT IS CREDITED TO THE OLD AGE  
11 PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE  
12 CONSTITUTION IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION  
13 AND SECTION 2 (a) OF ARTICLE XXIV OF THE STATE CONSTITUTION IS  
14 TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE WITH SECTION 7 (c)  
15 OF ARTICLE XXIV OF THE STATE CONSTITUTION. OF THIS MONEY OR THE  
16 FIFTEEN PERCENT THAT IS DIRECTLY CREDITED TO THE GENERAL FUND,  
17 THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE  
18 TOTAL REVENUE THAT IS ATTRIBUTABLE TO THE TAX INCREASE SET FORTH  
19 IN SECTION 39-28.5-102, APPROVED BY THE VOTERS AT THE STATEWIDE  
20 ELECTION IN NOVEMBER 2020, TO THE 2020 TAX HOLDING FUND CREATED  
21 IN SECTION 24-22-118 (1).

22           **SECTION 17.** In Colorado Revised Statutes, **add** 39-28.5-108.5  
23 as follows:

24           **39-28.5-108.5. Revenue and spending limitations.**  
25 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR  
26 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE  
27 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE

1 GENERATED BY THE TAX INCREASE SET FORTH IN SECTION 39-28.5-102,  
2 APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER  
3 2020, MAY BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE  
4 CHANGE.

5 **SECTION 18.** In Colorado Revised Statutes, **add** article 28.6 to  
6 title 39 as follows:

7 **ARTICLE 28.6**

8 **Nicotine Products Tax**

9 **39-28.6-101. Legislative declaration.** (1) THE GENERAL  
10 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

- 11 (a) NICOTINE IS A HIGHLY ADDICTIVE AND TOXIC SUBSTANCE;
- 12 (b) THERE HAS BEEN A SIGNIFICANT INCREASE IN THE USE OF  
13 ELECTRONIC CIGARETTES, WHICH HEAT NICOTINE, FLAVORINGS, AND  
14 OTHER CHEMICALS TO CREATE AN AEROSOL THAT IS INHALED;
- 15 (c) CHILDREN IN MIDDLE SCHOOL AND HIGH SCHOOL HAVE  
16 REPORTED USING ELECTRONIC CIGARETTES AT ALARMING RATES, AND  
17 STUDIES HAVE LINKED ELECTRONIC CIGARETTE USE AMONG YOUTH TO  
18 NICOTINE ADDICTION AND CIGARETTE SMOKING;
- 19 (d) THE LONG-TERM HEALTH RISKS OF THIS USE ARE UNKNOWN,  
20 BUT ELECTRONIC CIGARETTE AEROSOL CAN CONTAIN HARMFUL AND  
21 POTENTIALLY HARMFUL SUBSTANCES INCLUDING NICOTINE,  
22 CANCER-CAUSING CHEMICALS, HEAVY METALS, FLAVORING CHEMICALS,  
23 ULTRAFINE PARTICLES, AND VOLATILE ORGANIC COMPOUNDS;
- 24 (e) YET NICOTINE PRODUCTS ARE NOT SUBJECT TO THE SAME  
25 EXCISE TAX AS CIGARETTES AND TOBACCO PRODUCTS;
- 26 (f) TAXING NICOTINE PRODUCTS AT THE WHOLESALE LEVEL WILL  
27 INCREASE THE TOTAL COST, WHICH MAY SERVE AS A DETERRENT TO

1 CHILDREN AND ADOLESCENTS AND IN TURN PREVENT AND REDUCE  
2 CONSUMPTION; AND

3 (g) REVENUE FROM THE TAX CAN BE USED TOWARD POSITIVE  
4 OUTCOMES IN CHILDREN'S LIVES.

5 (2) THEREFORE, THE GENERAL ASSEMBLY INTENDS TO CREATE A  
6 TAX ON NICOTINE PRODUCTS SO THAT THEY ARE TAXED IN THE SAME  
7 MANNER AS TOBACCO PRODUCTS, INCLUDING THE LICENSING  
8 REQUIREMENTS THAT FACILITATE THE COLLECTION OF THE TAX.

9 **39-28.6-102. Definitions.** AS USED IN THIS ARTICLE 28.6, UNLESS  
10 THE CONTEXT OTHERWISE REQUIRES:

11 (1) "DELIVERY SALE" MEANS A SALE OF NICOTINE PRODUCTS TO A  
12 CONSUMER IN THIS STATE WHEN:

13 (a) THE CONSUMER SUBMITS AN ORDER FOR THE NICOTINE  
14 PRODUCTS TO A DELIVERY SELLER FOR SALE BY MEANS OTHER THAN AN  
15 OVER-THE-COUNTER SALE ON THE DELIVERY SELLER'S PREMISES,  
16 INCLUDING, BUT NOT LIMITED TO, TELEPHONE OR OTHER VOICE  
17 TRANSMISSION, THE MAIL OR OTHER DELIVERY SERVICE, OR THE INTERNET  
18 OR OTHER ONLINE SERVICE; AND

19 (b) THE NICOTINE PRODUCTS ARE DELIVERED WHEN THE SELLER IS  
20 NOT IN THE PHYSICAL PRESENCE OF THE CONSUMER WHEN THE CONSUMER  
21 OBTAINS POSSESSION OF THE NICOTINE PRODUCTS BY USE OF A COMMON  
22 CARRIER, PRIVATE DELIVERY SERVICE, MAIL, OR ANY OTHER MEANS.

23 (2) "DELIVERY SELLER" MEANS A PERSON LOCATED OUTSIDE OF  
24 THIS STATE WHO MAKES DELIVERY SALES.

25 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

26 (4) "DISTRIBUTOR" MEANS EVERY PERSON WHO:

27 (a) FIRST RECEIVES NICOTINE PRODUCTS IN THIS STATE;

1 (b) SELLS NICOTINE PRODUCTS IN THIS STATE AND IS PRIMARILY  
2 LIABLE FOR THE NICOTINE PRODUCTS TAX ON THE NICOTINE PRODUCTS;

3 (c) FIRST SELLS OR OFFERS FOR SALE IN THIS STATE NICOTINE  
4 PRODUCTS IMPORTED INTO THIS STATE FROM ANY OTHER STATE OR  
5 COUNTRY; OR

6 (d) MAKES A DELIVERY SALE.

7 (5) "MANUFACTURER'S LIST PRICE" MEANS THE INVOICE PRICE FOR  
8 WHICH A MANUFACTURER OR SUPPLIER SELLS A NICOTINE PRODUCT TO A  
9 DISTRIBUTOR EXCLUSIVE OF ANY DISCOUNT OR OTHER REDUCTION.

10 (6) "MODIFIED RISK TOBACCO PRODUCT" MEANS ANY TOBACCO  
11 PRODUCT FOR WHICH THE SECRETARY OF THE UNITED STATES  
12 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS ISSUED AN ORDER  
13 AUTHORIZING THE PRODUCT TO BE COMMERCIALY MARKETED AS A  
14 MODIFIED RISK TOBACCO PRODUCT IN ACCORDANCE WITH 21 U.S.C. SEC.  
15 387k, OR ANY SUCCESSOR SECTION; EXCEPT THAT THE TERM DOES NOT  
16 INCLUDE A NONCOMBUSTIBLE PRODUCT THAT PRODUCES VAPOR OR  
17 AEROSOL FOR INHALATION FROM THE APPLICATION OF A HEATING  
18 ELEMENT TO A LIQUID SUBSTANCE CONTAINING TOBACCO-DERIVED  
19 NICOTINE.

20 (7) "NICOTINE PRODUCT" MEANS A PRODUCT THAT CONTAINS  
21 NICOTINE DERIVED FROM TOBACCO OR CREATED SYNTHETICALLY THAT IS  
22 INTENDED FOR HUMAN CONSUMPTION, WHETHER BY VAPORIZING,  
23 CHEWING, SMOKING, ABSORBING, DISSOLVING, INHALING, SNORTING,  
24 SNIFFING, AEROSOLIZING, OR BY ANY OTHER MEANS, AND THAT IS NOT:

25 (a) A CIGARETTE;

26 (b) TOBACCO PRODUCTS, AS DEFINED IN SECTION 39-28.5-101 (5);

27 OR



1 (c) A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR  
2 SALE BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN  
3 SERVICES, AS THOSE TERMS ARE DEFINED IN THE "FEDERAL FOOD, DRUG,  
4 AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET SEQ.

5 (8) "SALE" MEANS ANY TRANSFER, EXCHANGE, OR BARTER, IN ANY  
6 MANNER OR BY ANY MEANS WHATSOEVER, FOR A CONSIDERATION,  
7 INCLUDING ALL SALES MADE BY ANY PERSON. THE TERM INCLUDES:

8 (a) A GIFT BY A PERSON ENGAGED IN THE BUSINESS OF SELLING  
9 NICOTINE PRODUCTS, FOR ADVERTISING, AS A MEANS OF EVADING THE  
10 PROVISIONS OF THIS ARTICLE 28.6, OR FOR ANY OTHER PURPOSES  
11 WHATSOEVER; AND

12 (b) A DELIVERY SALE.

13 **39-28.6-103. Tax levied.** (1) THERE IS LEVIED A TAX UPON THE  
14 SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF ALL NICOTINE  
15 PRODUCTS IN THIS STATE, EXCLUDING NICOTINE PRODUCTS THAT ARE  
16 MODIFIED RISK TOBACCO PRODUCTS, AT THE RATE OF:

17 (a) THIRTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE  
18 NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,  
19 2021, BUT PRIOR TO JANUARY 1, 2022;

20 (b) THIRTY-FIVE PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
21 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,  
22 2022, BUT PRIOR TO JANUARY 1, 2023;

23 (c) FIFTY PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE  
24 NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,  
25 2023, BUT PRIOR TO JULY 1, 2024;

26 (d) FIFTY-SIX PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
27 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,

1 2024, BUT PRIOR TO JULY 1, 2027; AND

2 (e) SIXTY-TWO PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
3 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,  
4 2027.

5 (2) THERE IS LEVIED A TAX UPON THE SALE, USE, CONSUMPTION,  
6 HANDLING, OR DISTRIBUTION OF NICOTINE PRODUCTS THAT ARE MODIFIED  
7 RISK TOBACCO PRODUCTS IN THIS STATE AT THE RATE OF:

8 (a) FIFTEEN PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE  
9 NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY 1,  
10 2021, BUT PRIOR TO JANUARY 1, 2022;

11 (b) SEVENTEEN AND ONE-HALF PERCENT OF THE MANUFACTURER'S  
12 LIST PRICE OF THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND  
13 AFTER JANUARY 1, 2022, BUT PRIOR TO JANUARY 1, 2023;

14 (c) TWENTY-FIVE PERCENT OF THE MANUFACTURER'S LIST PRICE  
15 OF THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JANUARY  
16 1, 2023, BUT PRIOR TO JULY 1, 2024;

17 (d) TWENTY-EIGHT PERCENT OF THE MANUFACTURER'S LIST PRICE  
18 OF THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,  
19 2024, BUT PRIOR TO JULY 1, 2027; AND

20 (e) THIRTY-ONE PERCENT OF THE MANUFACTURER'S LIST PRICE OF  
21 THE NICOTINE PRODUCTS FOR THE TAX LEVIED ON AND AFTER JULY 1,  
22 2027.

23 (3) THE TAX SET FORTH IN THIS SECTION IS COLLECTED BY THE  
24 DEPARTMENT AND IS IMPOSED AT THE TIME THE DISTRIBUTOR:

25 (a) BRINGS, OR CAUSES TO BE BROUGHT, INTO THIS STATE FROM  
26 WITHOUT THE STATE NICOTINE PRODUCTS FOR SALE;

27 (b) MAKES, MANUFACTURES, OR FABRICATES NICOTINE PRODUCTS

1 IN THIS STATE FOR SALE IN THIS STATE;

2 (c) SHIPS OR TRANSPORTS NICOTINE PRODUCTS TO RETAILERS IN  
3 THIS STATE TO BE SOLD BY THOSE RETAILERS; OR

4 (d) MAKES A DELIVERY SALE.

5 **39-28.6-104. Exempt sales.** THE TAX IMPOSED BY SECTION  
6 39-28.6-103 SHALL NOT APPLY WITH RESPECT TO ANY NICOTINE PRODUCTS  
7 THAT, UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES, MAY  
8 NOT BE MADE THE SUBJECT OF TAXATION BY THIS STATE. A PERSON SHALL  
9 REPORT THE EXEMPT SALES TO THE DEPARTMENT, AS REQUIRED BY THE  
10 DEPARTMENT.

11 **39-28.6-105. Licensing required - rules - fines.** BEGINNING  
12 JANUARY 1, 2021, IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN THE  
13 BUSINESS OF A DISTRIBUTOR OF NICOTINE PRODUCTS AT ANY PLACE OF  
14 BUSINESS WITHOUT FIRST OBTAINING A LICENSE GRANTED AND ISSUED BY  
15 THE DEPARTMENT, WHICH LICENSE IS IN EFFECT UNTIL JUNE 30 FOLLOWING  
16 THE DATE OF ISSUE, UNLESS SOONER REVOKED. THE DEPARTMENT SHALL  
17 GRANT A LICENSE ONLY TO A PERSON WHO OWNS OR OPERATES THE PLACE  
18 FROM WHICH THE PERSON ENGAGES IN THE BUSINESS OF A DISTRIBUTOR OF  
19 NICOTINE PRODUCTS, AND, IF THE BUSINESS IS OPERATED IN TWO OR MORE  
20 SEPARATE PLACES BY THE PERSON, A SEPARATE LICENSE FOR EACH PLACE  
21 OF BUSINESS IS REQUIRED. A LICENSE MAY BE RENEWED ONLY UPON  
22 TIMELY APPLICATION AND PAYMENT OF THE REQUIRED FEE PRIOR TO  
23 EXPIRATION. A LICENSE MAY BE TRANSFERRED IN THE DISCRETION OF AND  
24 PURSUANT TO THE RULES ADOPTED BY THE DEPARTMENT. THE FEE FOR A  
25 LICENSE IS TEN DOLLARS PER YEAR, AND THE FEE IS CREDITED TO THE  
26 GENERAL FUND. THE FEE IS REDUCED AT THE RATE OF TWO DOLLARS AND  
27 FIFTY CENTS FOR EACH EXPIRED QUARTER OF THE LICENSE YEAR. THE

1 DEPARTMENT SHALL, ON REASONABLE NOTICE AND AFTER A HEARING,  
2 SUSPEND OR REVOKE THE LICENSE OF ANY PERSON VIOLATING ANY  
3 PROVISION OF THIS ARTICLE 28.6, AND THE DEPARTMENT SHALL NOT ISSUE  
4 A LICENSE TO THE SAME PERSON WITHIN A PERIOD OF TWO YEARS  
5 THEREAFTER. THE DEPARTMENT MAY SHARE INFORMATION ON THE NAMES  
6 AND ADDRESSES OF PERSONS WHO PURCHASED NICOTINE PRODUCTS FOR  
7 RESALE WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
8 AND COUNTY AND DISTRICT PUBLIC HEALTH AGENCIES. THE DEPARTMENT  
9 SHALL REFUSE TO ISSUE A NEW OR RENEWAL DISTRIBUTOR LICENSE, AND  
10 SHALL REVOKE A DISTRIBUTOR'S LICENSE, IF THE DISTRIBUTOR OWES THE  
11 STATE ANY DELINQUENT TAXES ADMINISTERED BY THE DEPARTMENT OR  
12 INTEREST THEREON PURSUANT TO THIS TITLE 39 THAT HAVE BEEN  
13 DETERMINED BY LAW TO BE DUE AND UNPAID, UNLESS THE DISTRIBUTOR  
14 HAS ENTERED INTO AN AGREEMENT APPROVED BY THE DEPARTMENT TO  
15 PAY THE AMOUNT DUE. THE DEPARTMENT SHALL ONLY ISSUE A NEW OR  
16 RENEWAL DISTRIBUTOR LICENSE TO A DISTRIBUTOR THAT HAS A CURRENT  
17 LICENSE ISSUED PURSUANT TO SECTION 39-26-103.

18 **39-28.6-106. Books and records to be preserved.** (1) EVERY  
19 DISTRIBUTOR SHALL KEEP AT EACH LICENSED PLACE OF BUSINESS  
20 COMPLETE AND ACCURATE RECORDS FOR THAT PLACE OF BUSINESS,  
21 INCLUDING ITEMIZED INVOICES OF NICOTINE PRODUCTS HELD, PURCHASED,  
22 MANUFACTURED, BROUGHT IN OR CAUSED TO BE BROUGHT IN FROM  
23 WITHOUT THE STATE, OR SHIPPED OR TRANSPORTED TO RETAILERS IN THIS  
24 STATE, AND OF ALL SALES OF NICOTINE PRODUCTS MADE, EXCEPT SALES TO  
25 THE ULTIMATE CONSUMER WITHIN THE STATE.

26 (2) THE DISTRIBUTOR'S RECORDS MUST SHOW THE NAMES AND  
27 ADDRESSES OF PURCHASERS, THE INVENTORY OF ALL NICOTINE PRODUCTS

1 ON HAND, AND OTHER PERTINENT PAPERS AND DOCUMENTS RELATING TO  
2 THE PURCHASE, SALE, OR DISPOSITION OF NICOTINE PRODUCTS.

3 (3) WHEN A LICENSED DISTRIBUTOR SELLS NICOTINE PRODUCTS  
4 EXCLUSIVELY TO THE ULTIMATE CONSUMER WITHIN THE STATE AT THE  
5 ADDRESS GIVEN IN THE LICENSE, NO INVOICE OF THOSE SALES IS REQUIRED,  
6 BUT THE LICENSED DISTRIBUTOR SHALL MAKE ITEMIZED INVOICES OF ALL  
7 NICOTINE PRODUCTS TRANSFERRED TO OTHER RETAIL OUTLETS OWNED OR  
8 CONTROLLED BY THAT LICENSED DISTRIBUTOR. A DISTRIBUTOR SHALL  
9 PRESERVE ALL BOOKS, RECORDS, AND OTHER PAPERS AND DOCUMENTS  
10 REQUIRED BY THIS SECTION TO BE KEPT FOR A PERIOD OF AT LEAST THREE  
11 YEARS AFTER THE DATE OF THE DOCUMENTS, UNLESS THE DEPARTMENT,  
12 IN WRITING, AUTHORIZES THEIR DESTRUCTION OR DISPOSAL AT AN EARLIER  
13 DATE.

14 (4) (a) EVERY RETAILER THAT IS NOT ALSO A LICENSED  
15 DISTRIBUTOR SHALL KEEP AT ITS PLACE OF BUSINESS COMPLETE AND  
16 ACCURATE RECORDS TO SHOW THAT ALL NICOTINE PRODUCTS RECEIVED  
17 BY THE RETAILER WERE PURCHASED FROM A LICENSED DISTRIBUTOR. THE  
18 RETAILER SHALL PROVIDE A COPY OF SUCH RECORDS TO THE DEPARTMENT  
19 IF SO REQUESTED. THE DEPARTMENT MAY ESTABLISH THE ACCEPTABLE  
20 FORM OF SUCH RECORDS.

21 (b) THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FOR ANY  
22 EXPENSES INCURRED BY THE DEPARTMENT RELATED TO ENFORCING  
23 SUBSECTION (4)(a) OF THIS SECTION FROM THE TOBACCO TAX  
24 ENFORCEMENT CASH FUND CREATED IN SECTION 39-28-107 (1)(b).

25 **39-28.6-107. Returns and remittance of tax - civil penalty -**  
26 **rules.** (1) EVERY DISTRIBUTOR SHALL FILE A RETURN WITH THE  
27 DEPARTMENT EACH QUARTER. THE RETURN, WHICH MUST BE UPON FORMS

1     PRESCRIBED AND FURNISHED BY THE DEPARTMENT, MUST CONTAIN,  
2     AMONG OTHER THINGS, THE TOTAL AMOUNT OF NICOTINE PRODUCTS  
3     PURCHASED BY THE DISTRIBUTOR DURING THE PRECEDING QUARTER AND  
4     THE TAX DUE THEREON.

5             (2) EVERY DISTRIBUTOR SHALL FILE A RETURN WITH THE  
6     DEPARTMENT BY THE TWENTIETH DAY OF THE MONTH FOLLOWING THE  
7     MONTH REPORTED AND SHALL THEREWITH REMIT THE AMOUNT OF TAX  
8     DUE, LESS ONE AND ONE-TENTH PERCENT OF ANY AMOUNT REMITTED TO  
9     COVER THE DISTRIBUTOR'S EXPENSE IN THE COLLECTION AND REMITTANCE  
10    OF THE TAX. IF ANY DISTRIBUTOR IS DELINQUENT IN REMITTING THE TAX,  
11    OTHER THAN IN UNUSUAL CIRCUMSTANCES SHOWN TO THE SATISFACTION  
12    OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, THE DISTRIBUTOR IS  
13    NOT ALLOWED TO RETAIN ANY AMOUNTS TO COVER HIS OR HER EXPENSE  
14    IN COLLECTING AND REMITTING THE TAX AND, IN ADDITION, THE PENALTY  
15    IMPOSED UNDER SECTION 39-28.6-111 (2)(b) APPLIES.

16            (3) THE DEPARTMENT MAY REQUIRE DISTRIBUTORS TO USE  
17    ELECTRONIC FUNDS TRANSFERS TO REMIT TAX PAYMENTS DUE PURSUANT  
18    TO THIS ARTICLE 28.6 TO THE DEPARTMENT AND MAY REQUIRE  
19    DISTRIBUTORS TO FILE TAX RETURNS ELECTRONICALLY. THE DEPARTMENT  
20    MAY PROMULGATE RULES GOVERNING ELECTRONIC PAYMENT AND FILING.

21            (4) (a) ANY PERSON, FIRM, LIMITED LIABILITY COMPANY,  
22    PARTNERSHIP, OR CORPORATION, OTHER THAN A DISTRIBUTOR, IN  
23    POSSESSION OF NICOTINE PRODUCTS FOR WHICH TAXES HAVE NOT  
24    OTHERWISE BEEN REMITTED PURSUANT TO THIS SECTION IS LIABLE AND  
25    RESPONSIBLE FOR THE UNCOLLECTED TAX THAT IS LEVIED PURSUANT TO  
26    SECTION 39-28.6-103 ON BEHALF OF THE DISTRIBUTOR WHO FAILED TO PAY  
27    THE TAX. THE PERSON OR ENTITY SHALL MAKE THE PAYMENT TO THE

1 DEPARTMENT WITHIN THIRTY DAYS OF FIRST TAKING POSSESSION OF THE  
2 NICOTINE PRODUCT. THE DEPARTMENT SHALL ESTABLISH A FORM TO BE  
3 USED FOR REMITTANCE OF THE PAYMENT. THE DEPARTMENT SHALL REMIT  
4 THE PROCEEDS IT RECEIVES PURSUANT TO THIS SUBSECTION (4)(a) TO THE  
5 STATE TREASURER, AND THE STATE TREASURER SHALL CREDIT FIFTEEN  
6 PERCENT OF THE PROCEEDS TO THE TOBACCO TAX ENFORCEMENT CASH  
7 FUND CREATED IN SECTION 39-28-107 (1)(b) AND EIGHTY-FIVE PERCENT  
8 TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV  
9 OF THE STATE CONSTITUTION.

10 (b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY IMPOSE  
11 A CIVIL PENALTY ON ANY PERSON, FIRM, LIMITED LIABILITY COMPANY,  
12 PARTNERSHIP, OR CORPORATION IN POSSESSION OF NICOTINE PRODUCTS  
13 THAT FAILS TO MAKE A PAYMENT REQUIRED PURSUANT TO SUBSECTION  
14 (4)(a) OF THIS SECTION OR WHO IS A DISTRIBUTOR BY VIRTUE OF BEING THE  
15 FIRST PERSON WHO RECEIVES THE NICOTINE PRODUCTS IN THE STATE AND  
16 WHO FAILS TO MAKE A PAYMENT REQUIRED PURSUANT TO THIS SECTION IN  
17 AN AMOUNT THAT DOES NOT EXCEED FIVE HUNDRED PERCENT OF SUCH  
18 PAYMENT. THE DEPARTMENT SHALL REMIT ANY MONEY RECEIVED  
19 PURSUANT TO THIS SUBSECTION (4)(b) TO THE STATE TREASURER FOR  
20 DEPOSIT IN THE TOBACCO TAX ENFORCEMENT CASH FUND CREATED IN  
21 SECTION 39-28-107 (1)(b).

22 **39-28.6-108. When credit may be obtained for tax paid.**  
23 WHERE NICOTINE PRODUCTS, UPON WHICH THE TAX IMPOSED BY THIS  
24 ARTICLE 28.6 HAS BEEN REPORTED AND PAID, ARE SHIPPED OR  
25 TRANSPORTED BY THE DISTRIBUTOR TO RETAILERS WITHOUT THE STATE TO  
26 BE SOLD BY THOSE RETAILERS, ARE SHIPPED OR TRANSPORTED BY THE  
27 DISTRIBUTOR TO A CONSUMER WITHOUT THE STATE ON OR AFTER JANUARY

1 1, 2021, OR ARE RETURNED TO THE MANUFACTURER BY THE DISTRIBUTOR  
2 OR DESTROYED BY THE DISTRIBUTOR, CREDIT OF SUCH TAX MAY BE MADE  
3 TO THE DISTRIBUTOR IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY  
4 THE DEPARTMENT.

5 **39-28.6-109. Distribution of tax collected.** (1) THE STATE  
6 TREASURER SHALL CREDIT THE MONEY COLLECTED FOR PAYMENT OF THE  
7 TAX IMPOSED UNDER THIS ARTICLE 28.6 TO THE OLD AGE PENSION FUND  
8 CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE CONSTITUTION IN  
9 ACCORDANCE WITH SECTION 2 (a) AND (f) OF ARTICLE XXIV OF THE  
10 STATE CONSTITUTION AND SHALL FURTHER TRANSFER AN AMOUNT EQUAL  
11 TO THIS AMOUNT TO THE GENERAL FUND IN ACCORDANCE WITH SECTION  
12 7 (c) OF ARTICLE XXIV OF THE STATE CONSTITUTION.

13 (2) [REDACTED] THE STATE TREASURER SHALL TRANSFER AN AMOUNT  
14 EQUAL TO THE TAX IMPOSED UNDER THIS ARTICLE 28.6 FROM THE  
15 GENERAL FUND TO THE 2020 TAX HOLDING FUND CREATED IN SECTION  
16 24-22-118 (1).

17 **39-28.6-110. Taxation by cities and towns.** THIS ARTICLE 28.6  
18 DOES NOT PREVENT A STATUTORY OR HOME RULE MUNICIPALITY, COUNTY,  
19 OR CITY AND COUNTY FROM IMPOSING, LEVYING, AND COLLECTING ANY  
20 SPECIAL SALES TAX UPON SALES OF CIGARETTES, TOBACCO PRODUCTS, OR  
21 NICOTINE PRODUCTS, AS THAT TERM IS DEFINED IN SECTION 18-13-121 (5),  
22 OR UPON THE OCCUPATION OR PRIVILEGE OF SELLING CIGARETTES,  
23 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS. THIS ARTICLE 28.6 DOES  
24 NOT AFFECT ANY EXISTING AUTHORITY OF LOCAL GOVERNMENTS TO  
25 IMPOSE A SPECIAL SALES TAX ON CIGARETTES, TOBACCO PRODUCTS, OR  
26 NICOTINE PRODUCTS, IN ACCORDANCE WITH SECTION 39-28-112, TO BE  
27 USED FOR LOCAL AND GOVERNMENTAL PURPOSES.



1           **39-28.6-111. Prohibited acts - penalties.** (1) BEGINNING  
2 JANUARY 1, 2021, IT IS UNLAWFUL FOR ANY DISTRIBUTOR TO SELL AND  
3 DISTRIBUTE ANY NICOTINE PRODUCTS IN THIS STATE WITHOUT A LICENSE  
4 AS REQUIRED IN SECTION 39-28.6-105, OR TO WILLFULLY MAKE ANY FALSE  
5 OR FRAUDULENT RETURN OR FALSE STATEMENT ON ANY RETURN, OR TO  
6 WILLFULLY EVADE THE PAYMENT OF THE TAX, OR ANY PART THEREOF, AS  
7 IMPOSED BY THIS ARTICLE 28.6. ANY DISTRIBUTOR OR AGENT THEREOF  
8 WHO WILLFULLY VIOLATES ANY PROVISION OF THIS ARTICLE 28.6 IS  
9 SUBJECT TO PUNISHMENT AS PROVIDED BY SECTION 39-21-118.

10           (2) (a) IF A PERSON NEGLECTS OR REFUSES TO MAKE A RETURN AS  
11 REQUIRED BY THIS ARTICLE 28.6 AND NO AMOUNT OF TAX IS DUE, THE  
12 EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL IMPOSE A PENALTY IN  
13 THE AMOUNT OF TWENTY-FIVE DOLLARS.

14           (b) IF A PERSON FAILS TO PAY THE TAX IN THE TIME ALLOWED IN  
15 SECTION 39-28.6-107, A PENALTY EQUAL TO TEN PERCENT OF THE TAX  
16 PLUS ONE-HALF OF ONE PERCENT PER MONTH FROM THE DATE WHEN DUE,  
17 TOGETHER WITH INTEREST ON SUCH DELINQUENT TAXES AT THE RATE  
18 COMPUTED UNDER SECTION 39-21-110.5, APPLIES.

19           (c) IN COMPUTING AND ASSESSING THE PENALTY, PENALTY  
20 INTEREST, AND INTEREST PURSUANT TO SUBSECTION (2)(b) OF THIS  
21 SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY MAKE AN  
22 ESTIMATE, BASED UPON INFORMATION AS MAY BE AVAILABLE, OF THE  
23 AMOUNT OF TAXES DUE FOR THE PERIOD FOR WHICH THE TAXPAYER IS  
24 DELINQUENT.

25           **39-28.6-112. Revenue and spending limitations.**  
26 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR  
27 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE

1 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE  
2 GENERATED BY THE TAX IMPOSED BY THIS ARTICLE 28.6 APPROVED BY THE  
3 VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER 2020 MAY BE  
4 COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE.

5 **SECTION 19.** In Colorado Revised Statutes, **add 22-54-142** as  
6 follows:

7 **22-54-142. Rural school funding - rural schools cash fund -**  
8 **created - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE  
9 CONTEXT OTHERWISE REQUIRES:

10 (a) "DISTRIBUTION YEAR" MEANS THE BUDGET YEAR IN WHICH  
11 RURAL SCHOOL FUNDING IS DISTRIBUTED PURSUANT TO THIS SECTION.

12 (b) "ELIGIBLE INSTITUTE CHARTER SCHOOL" MEANS AN INSTITUTE  
13 CHARTER SCHOOL THAT HAS A SMALL RURAL DISTRICT OR A LARGE RURAL  
14 DISTRICT AS ITS ACCOUNTING DISTRICT.

15 (c) "FUND" MEANS THE RURAL SCHOOLS CASH FUND CREATED IN  
16 SUBSECTION (5) OF THIS SECTION.

17 (d) "LARGE RURAL DISTRICT" MEANS A DISTRICT THAT THE  
18 DEPARTMENT OF EDUCATION DETERMINES IS A RURAL DISTRICT, BASED ON  
19 THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE  
20 DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A  
21 FUNDED PUPIL COUNT FOR THE BUDGET YEAR IMMEDIATELY PRECEDING  
22 THE DISTRIBUTION YEAR OF AT LEAST ONE THOUSAND BUT FEWER THAN  
23 SIX THOUSAND FIVE HUNDRED PUPILS IN KINDERGARTEN THROUGH  
24 TWELFTH GRADE.

25 (e) "PER PUPIL DISTRIBUTION AMOUNT" MEANS:

26 (I) FOR A LARGE RURAL DISTRICT, AN AMOUNT EQUAL TO THE  
27 AMOUNT APPROPRIATED PURSUANT TO SUBSECTION (6) OF THIS SECTION

1 FOR THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE  
2 PERCENTAGE SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION AND THEN  
3 DIVIDED BY THE SUM OF THE TOTAL FUNDED PUPIL COUNT FOR THE  
4 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL  
5 LARGE RURAL DISTRICTS AND THE TOTAL STUDENT ENROLLMENT FOR THE  
6 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL  
7 ELIGIBLE INSTITUTE CHARTER SCHOOLS THAT HAVE A LARGE RURAL  
8 DISTRICT AS THE ACCOUNTING DISTRICT; OR

9 (II) FOR A SMALL RURAL DISTRICT, AN AMOUNT EQUAL TO THE  
10 AMOUNT APPROPRIATED PURSUANT TO SUBSECTION (6) OF THIS SECTION  
11 FOR THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE  
12 PERCENTAGE SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION AND THEN  
13 DIVIDED BY THE SUM OF THE TOTAL FUNDED PUPIL COUNT FOR THE  
14 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL  
15 SMALL RURAL DISTRICTS AND THE TOTAL STUDENT ENROLLMENT FOR THE  
16 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR OF ALL  
17 ELIGIBLE INSTITUTE CHARTER SCHOOLS THAT HAVE A SMALL RURAL  
18 DISTRICT AS THE ACCOUNTING DISTRICT.

19 (f) "SMALL RURAL DISTRICT" MEANS A DISTRICT THAT THE  
20 DEPARTMENT OF EDUCATION DETERMINES IS A RURAL DISTRICT, BASED ON  
21 THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE  
22 DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A  
23 FUNDED PUPIL COUNT FOR THE BUDGET YEAR IMMEDIATELY PRECEDING  
24 THE DISTRIBUTION YEAR OF FEWER THAN ONE THOUSAND PUPILS IN  
25 KINDERGARTEN THROUGH TWELFTH GRADE.

26 (2) FOR THE 2020-21, 2021-22, AND 2022-23 BUDGET YEARS, THE  
27 DEPARTMENT OF EDUCATION SHALL DISTRIBUTE THE AMOUNT

1 APPROPRIATED PURSUANT TO SUBSECTION (6) OF THIS SECTION FOR THE  
2 APPLICABLE DISTRIBUTION YEAR TO LARGE RURAL DISTRICTS, SMALL  
3 RURAL DISTRICTS, AND ELIGIBLE INSTITUTE CHARTER SCHOOLS. THE  
4 DEPARTMENT OF EDUCATION SHALL DISTRIBUTE:

5 (a) FIFTY-FIVE PERCENT OF THE MONEY APPROPRIATED FOR THE  
6 APPLICABLE DISTRIBUTION YEAR TO LARGE RURAL DISTRICTS AND TO  
7 ELIGIBLE INSTITUTE CHARTER SCHOOLS IN LARGE RURAL DISTRICTS, AS  
8 PROVIDED IN THIS SECTION; AND

9 (b) FORTY-FIVE PERCENT OF THE MONEY APPROPRIATED FOR THE  
10 APPLICABLE DISTRIBUTION YEAR TO SMALL RURAL DISTRICTS AND TO  
11 ELIGIBLE INSTITUTE CHARTER SCHOOLS IN SMALL RURAL DISTRICTS, AS  
12 PROVIDED IN THIS SECTION.

13 (3) (a) THE DEPARTMENT OF EDUCATION SHALL DISTRIBUTE TO  
14 EACH LARGE RURAL DISTRICT AND EACH SMALL RURAL DISTRICT AN  
15 AMOUNT EQUAL TO THE APPLICABLE PER PUPIL DISTRIBUTION AMOUNT FOR  
16 THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE LARGE RURAL  
17 DISTRICT'S OR SMALL RURAL DISTRICT'S FUNDED PUPIL COUNT FOR THE  
18 BUDGET YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR.

19 (b) EACH LARGE RURAL DISTRICT AND EACH SMALL RURAL  
20 DISTRICT THAT IS THE AUTHORIZER FOR A CHARTER SCHOOL SHALL  
21 DISTRIBUTE TO THE CHARTER SCHOOL ONE HUNDRED PERCENT OF AN  
22 AMOUNT EQUAL TO THE APPLICABLE PER PUPIL DISTRIBUTION AMOUNT FOR  
23 THE APPLICABLE DISTRIBUTION YEAR MULTIPLIED BY THE NUMBER OF  
24 STUDENTS ENROLLED IN THE CHARTER SCHOOL FOR THE BUDGET YEAR  
25 IMMEDIATELY PRECEDING THE DISTRIBUTION YEAR.

26 (4) THE DEPARTMENT OF EDUCATION SHALL CALCULATE FOR EACH  
27 ELIGIBLE INSTITUTE CHARTER SCHOOL AND DISTRIBUTE TO THE STATE

1 CHARTER SCHOOL INSTITUTE AN AMOUNT EQUAL TO THE APPLICABLE PER  
2 PUPIL DISTRIBUTION AMOUNT FOR THE APPLICABLE DISTRIBUTION YEAR  
3 MULTIPLIED BY THE NUMBER OF STUDENTS ENROLLED IN THE ELIGIBLE  
4 INSTITUTE CHARTER SCHOOL FOR THE BUDGET YEAR IMMEDIATELY  
5 PRECEDING THE DISTRIBUTION YEAR. THE STATE CHARTER SCHOOL  
6 INSTITUTE SHALL DISTRIBUTE TO EACH ELIGIBLE INSTITUTE CHARTER  
7 SCHOOL ONE HUNDRED PERCENT OF THE AMOUNT RECEIVED FOR THE  
8 ELIGIBLE INSTITUTE CHARTER SCHOOL PURSUANT TO THIS SUBSECTION (4).

9 (5) THE RURAL SCHOOLS CASH FUND IS HEREBY CREATED IN THE  
10 STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE  
11 FUND PURSUANT TO SECTION 24-22-118 (2). THE STATE TREASURER SHALL  
12 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND  
13 INVESTMENT OF MONEY IN THE RURAL SCHOOLS CASH FUND TO THE FUND.

14 (6) (a) FOR THE 2020-21 BUDGET YEAR, THE GENERAL ASSEMBLY  
15 SHALL APPROPRIATE TWENTY-FIVE MILLION DOLLARS FROM THE FUND TO  
16 THE DEPARTMENT OF EDUCATION TO PROVIDE ADDITIONAL FUNDING FOR  
17 LARGE RURAL DISTRICTS, SMALL RURAL DISTRICTS, AND ELIGIBLE  
18 INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS SECTION.

19 (b) FOR THE 2021-22 BUDGET YEAR, THE GENERAL ASSEMBLY  
20 SHALL APPROPRIATE THIRTY MILLION DOLLARS FROM THE FUND TO THE  
21 DEPARTMENT OF EDUCATION TO PROVIDE ADDITIONAL FUNDING FOR  
22 LARGE RURAL DISTRICTS, SMALL RURAL DISTRICTS, AND ELIGIBLE  
23 INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS SECTION.

24 (c) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY  
25 SHALL APPROPRIATE THIRTY-FIVE MILLION DOLLARS FROM THE FUND TO  
26 THE DEPARTMENT OF EDUCATION TO PROVIDE ADDITIONAL FUNDING FOR  
27 LARGE RURAL DISTRICTS, SMALL RURAL DISTRICTS, AND ELIGIBLE

1 INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS SECTION.

2 (7) EACH DISTRICT, DISTRICT CHARTER SCHOOL AND ELIGIBLE  
3 INSTITUTE CHARTER SCHOOL THAT RECEIVES MONEY PURSUANT TO THIS  
4 SECTION SHALL REPORT TO THE DEPARTMENT OF EDUCATION, BY A DATE  
5 DETERMINED BY THE DEPARTMENT, THE SPECIFIC EXPENDITURES FOR  
6 WHICH THE DISTRICT OR CHARTER SCHOOL USED THE MONEY RECEIVED  
7 PURSUANT TO THIS SECTION.

8 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

9 **SECTION 20.** In Colorado Revised Statutes, 24-22-117, **amend**  
10 (1)(a) and (2)(c)(I) as follows:

11 **24-22-117. Tobacco tax cash fund - accounts - creation -**  
12 **legislative declaration.** (1) (a) There is hereby created in the state  
13 treasury the tobacco tax cash fund, which fund is referred to in this  
14 section as the "cash fund". The cash fund ~~shall consist~~ CONSISTS of  
15 ~~moneys~~ MONEY collected from the cigarette and tobacco taxes imposed  
16 pursuant to section 21 of article X of the state constitution AND MONEY  
17 TRANSFERRED IN ACCORDANCE WITH SECTION 24-22-118 (2). All interest  
18 and income derived from the deposit and investment of ~~moneys~~ MONEY  
19 in the cash fund shall be credited to the cash fund; except that all interest  
20 and income derived from the deposit and investment of ~~moneys~~ MONEY  
21 in the cash fund during the 2008-09, 2009-10, 2010-11, and 2011-12  
22 fiscal years shall be credited to the general fund. Any unexpended and  
23 unencumbered ~~moneys~~ MONEY remaining in the cash fund at the end of  
24 a fiscal year shall remain in the cash fund and shall not be credited or  
25 transferred to the general fund or any other fund, except as otherwise  
26 provided in this section.

27 (2) There are hereby created in the state treasury the following

1 funds:

2 (c) (I) The tobacco education programs fund IS to be administered  
3 by the department of public health and environment. The state treasurer  
4 and the controller shall transfer an amount equal to sixteen percent of the  
5 ~~moneys~~ MONEY deposited into the cash fund, plus sixteen percent of the  
6 interest and income earned on the deposit and investment of ~~those moneys~~  
7 SUCH MONEY AND THE AMOUNTS SPECIFIED IN SECTION 24-22-118 (2)(a),  
8 to the tobacco education programs fund; except that, for the 2008-09,  
9 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the  
10 controller shall transfer to the tobacco education programs fund only an  
11 amount equal to sixteen percent of the ~~moneys~~ MONEY deposited into the  
12 cash fund. All interest and income derived from the deposit and  
13 investment of ~~moneys~~ MONEY in the tobacco education programs fund  
14 shall be credited to the tobacco education programs fund; except that all  
15 interest and income derived from the deposit and investment of ~~moneys~~  
16 MONEY in the tobacco education programs fund during the 2008-09,  
17 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the  
18 general fund. Any unexpended and unencumbered ~~moneys~~ MONEY  
19 remaining in the tobacco education programs fund at the end of a fiscal  
20 year shall remain in the fund and shall not be credited or transferred to the  
21 general fund or any other fund.

22 **SECTION 21.** In Colorado Revised Statutes, **add** 24-22-118 as  
23 follows:

24 **24-22-118. Revenue from nicotine products and additional**  
25 **tobacco taxes - 2020 tax holding fund - preschool programs cash fund**  
26 **- creation - definitions.** (1) THE 2020 TAX HOLDING FUND IS HEREBY  
27 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY

1 CREDITED TO THE FUND PURSUANT TO SECTIONS 39-28-110 (1)(b),  
2 39-28.5-108 (1)(b), AND 39-28.6-109 (2).

3 (2) THE STATE TREASURER SHALL TRANSFER THE MONEY IN THE  
4 2020 TAX HOLDING FUND AS FOLLOWS:

5 (a) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2020:

6 (I) FIVE MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND  
7 DOLLARS TO THE TOBACCO TAX CASH FUND CREATED IN SECTION  
8 24-22-117 (1);

9 (II) TWO MILLION TWO HUNDRED THOUSAND DOLLARS TO THE  
10 GENERAL FUND;

11 (III) TWENTY-FIVE MILLION DOLLARS TO THE RURAL SCHOOLS  
12 FUND CREATED IN SECTION 22-54-142; AND

13 (IV) THE REMAINDER TO THE STATE EDUCATION FUND CREATED IN  
14 SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

15 (b) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2021:

16 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE  
17 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);

18 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL  
19 FUND;

20 (III) THIRTY MILLION DOLLARS TO THE RURAL SCHOOLS FUND  
21 CREATED IN SECTION 22-54-142; AND

22 (IV) THE REMAINDER TO THE STATE EDUCATION FUND CREATED IN  
23 SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION;

24 (c) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2022:

25 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE  
26 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);

27 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL



1 FUND;

2 (III) THIRTY-FIVE MILLION DOLLARS TO THE RURAL SCHOOLS FUND

3 CREATED IN SECTION 22-54-142; AND

4 (IV) THE REMAINDER TO THE STATE EDUCATION FUND CREATED IN

5 SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION;

6 (d) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2023:

7 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE

8 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);

9 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL

10 FUND; AND

11 (III) THE REMAINDER TO THE PRESCHOOL PROGRAMS CASH FUND

12 CREATED IN SUBSECTION (3) OF THIS SECTION;

13 (e) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1,

14 2024, BUT BEFORE JULY 1, 2027:

15 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE

16 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);

17 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL

18 FUND;

19 (III) TWENTY MILLION DOLLARS TO THE TOBACCO EDUCATION

20 PROGRAMS FUND CREATED IN SECTION 24-22-117 (2)(c)(I); AND

21 (IV) THE REMAINDER TO THE PRESCHOOL PROGRAMS CASH FUND

22 CREATED IN SUBSECTION (3) OF THIS SECTION;

23 (f) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1,

24 2027:

25 (I) TEN MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE

26 TOBACCO TAX CASH FUND CREATED IN SECTION 24-22-117 (1);

27 (II) FOUR MILLION FIFTY THOUSAND DOLLARS TO THE GENERAL

1 FUND;

2 (III) THIRTY MILLION DOLLARS TO THE TOBACCO EDUCATION  
3 PROGRAMS FUND CREATED IN SECTION 24-22-117 (2)(c)(I); AND

4 (IV) THE REMAINDER TO THE PRESCHOOL PROGRAMS CASH FUND  
5 CREATED IN SUBSECTION (3) OF THIS SECTION.

6 (g) THE STATE TREASURER SHALL MAKE THE TRANSFERS REQUIRED  
7 BY THIS SUBSECTION (2) ON AN ONGOING BASIS THROUGHOUT THE FISCAL  
8 YEAR. IF THERE IS INSUFFICIENT REVENUE TO TRANSFER THE SPECIFIC  
9 AMOUNTS REQUIRED BY THIS SUBSECTION (2) FOR A FISCAL YEAR, THEN  
10 THE STATE TREASURER SHALL PROPORTIONALLY REDUCE EACH OF THE  
11 TRANSFERS.

12 (3) (a) THE PRESCHOOL PROGRAMS CASH FUND IS HEREBY  
13 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY  
14 CREDITED TO THE FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION  
15 AND MONEY TRANSFERRED TO THE FUND PURSUANT TO SECTION 39-28-116  
16 (6). THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME  
17 DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
18 PRESCHOOL PROGRAMS CASH FUND TO THE FUND. THE GENERAL  
19 ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEY IN THE PRESCHOOL  
20 PROGRAMS CASH FUND TO A DESIGNATED DEPARTMENT FOR THE PURPOSES  
21 SET FORTH IN THIS SUBSECTION (3).

22 (b) (I) A DESIGNATED DEPARTMENT SHALL PRIORITIZE ITS USE OF  
23 MONEY FROM THE PRESCHOOL PROGRAMS CASH FUND TO EXPAND AND  
24 ENHANCE THE COLORADO PRESCHOOL PROGRAM OR ANY SUCCESSOR  
25 PROGRAM IN ORDER TO OFFER AT LEAST TEN HOURS PER WEEK OF  
26 VOLUNTARY PRESCHOOL FREE OF CHARGE TO EVERY CHILD IN COLORADO  
27 DURING THE LAST YEAR OF PRESCHOOL BEFORE HIS OR HER ENTRY TO

1 KINDERGARTEN.

2 (II) THE DESIGNATED DEPARTMENT SHALL USE THE MONEY  
3 REMAINING IN THE PRESCHOOL PROGRAMS CASH FUND AFTER THE USE  
4 IDENTIFIED IN SUBSECTION (3)(b)(I) OF THIS SECTION TO PROVIDE  
5 ADDITIONAL PRESCHOOL PROGRAMMING FOR LOW-INCOME FAMILIES AND  
6 CHILDREN AT RISK OF ENTERING KINDERGARTEN WITHOUT BEING SCHOOL  
7 READY.

8 (c) IN DESIGNING A PROGRAM THAT IS FUNDED THROUGH THIS  
9 SUBSECTION (3), A DESIGNATED DEPARTMENT MUST ENSURE THAT THE  
10 PROGRAM ADDRESSES THE FOLLOWING:

11 (I) PROGRAMMATIC ADMINISTRATION THAT ALLOWS FOR PARENT  
12 CHOICE, ENSURES SCHOOL-BASED AND COMMUNITY-BASED PROGRAMS  
13 THAT MEET QUALITY AND PROGRAM STANDARDS ARE ABLE TO  
14 PARTICIPATE, PRIORITIZES COMMUNITY NEEDS IN A MANNER THAT WILL  
15 SUPPORT AND STRENGTHEN THE DIVERSITY OF BIRTH THROUGH  
16 KINDERGARTEN ENTRY SERVICE PROVIDERS, AND WILL HELP TO ACHIEVE  
17 STATE AND LOCAL MIXED DELIVERY GOALS;

18 (II) HIGH-QUALITY PROGRAMMING THAT HELPS PREPARE CHILDREN  
19 FOR KINDERGARTEN;

20 (III) COORDINATION WITH EXISTING EARLY CHILDHOOD SYSTEMS  
21 AND INITIATIVES, FUNDING STREAMS, AND ADVANCING ALIGNMENT WITH  
22 KINDERGARTEN THROUGH TWELFTH GRADE SYSTEMS TO SUPPORT  
23 CHILDREN'S TRANSITIONS TO SCHOOL;

24 (IV) OPPORTUNITIES FOR EVIDENCE-BASED PARENT, FAMILY, AND  
25 COMMUNITY ENGAGEMENT; AND

26 (V) AN EVALUATION OF EARLY CHILDHOOD EDUCATION PROGRAM  
27 EFFECTIVENESS, INCLUDING THE IMPACT OF PRESCHOOL ON CHILD AND

1 FAMILY OUTCOMES.

2 (d) IN FURTHERANCE OF THE PURPOSES SET FORTH IN SUBSECTION  
3 (3)(b) OF THIS SECTION AND IN ORDER TO MEET AN EXPANSION OF  
4 CURRENT PRESCHOOL POPULATIONS, A DESIGNATED DEPARTMENT MAY  
5 USE MONEY IN THE FUND TO ENSURE THE AVAILABILITY OF QUALITY,  
6 VOLUNTARY, MIXED-DELIVERY PRESCHOOL BY MEANS THE DEPARTMENT  
7 DEEMS APPROPRIATE INCLUDING:

8 (I) RECRUITING, TRAINING, AND RETAINING EARLY CHILDHOOD  
9 EDUCATION PROFESSIONALS;

10 (II) EXPANDING OR IMPROVING THE STAFF, FACILITIES, EQUIPMENT,  
11 TECHNOLOGY, AND PHYSICAL INFRASTRUCTURE OF PRESCHOOL PROGRAMS  
12 OFFERED BY LICENSED PROVIDERS SO AS TO INCREASE PRESCHOOL ACCESS;

13 (III) PARENT AND FAMILY OUTREACH TO FACILITATE TIMELY AND  
14 EFFECTIVE ENROLLMENT; AND

15 (IV) SUCH OTHER USES AS ARE CONSISTENT WITH AND FURTHER  
16 THE PURPOSE OF THIS SECTION.

17 (e) THE DESIGNATED DEPARTMENT MAY USE MONEY  
18 APPROPRIATED FROM THE PRESCHOOL PROGRAMS CASH FUND FOR THE  
19 COSTS OF A THIRD-PARTY ENTITY THAT ADMINISTERS THE PROGRAM  
20 ESTABLISHED ON BEHALF OF THE DESIGNATED DEPARTMENT IN  
21 ACCORDANCE WITH THIS SUBSECTION (3).

22 (f) AS USED IN THIS SUBSECTION (3), "DESIGNATED DEPARTMENT"  
23 MEANS ONE OR MORE DEPARTMENTS THAT THE GENERAL ASSEMBLY HAS  
24 DETERMINED TO BE BEST QUALIFIED TO ADMINISTER THE COLORADO  
25 PRESCHOOL PROGRAM OR ANY SUCCESSOR PROGRAM TO ENSURE THE  
26 AVAILABILITY OF QUALITY, VOLUNTARY, MIXED-DELIVERY PRESCHOOL BY  
27 APPROPRIATING MONEY FROM THE PRESCHOOL PROGRAMS CASH FUND TO

1 THE DEPARTMENT OR DEPARTMENTS.

2 (4) THE STATE AUDITOR SHALL ANNUALLY CONDUCT A FINANCIAL  
3 AUDIT OF THE USE OF THE MONEY ALLOCATED AND APPROPRIATED UNDER  
4 THIS SECTION.

5 **SECTION 22.** In Colorado Revised Statutes, **add** 25-3.5-810 as  
6 follows:

7 **25-3.5-810. Nicotine products education, prevention, and**  
8 **cessation programs.** THE EDUCATION, PREVENTION, AND CESSATION  
9 PROGRAMS THAT ARE FUNDED WITH MONEY TRANSFERRED TO THE  
10 TOBACCO EDUCATION PROGRAMS FUND IN ACCORDANCE WITH SECTION  
11 24-22-118 (2) MAY ALSO APPLY TO NICOTINE PRODUCTS.

12 **SECTION 23.** In Colorado Revised Statutes, 39-21-119.5,  
13 **amend** (1), (4)(e), and (4)(f); and **add** (4)(g) as follows:

14 **39-21-119.5. Mandatory electronic filing of returns -**  
15 **mandatory electronic payment - penalty - waiver - definitions.**

16 (1) For purposes of this section, "return" means any report, claim, tax  
17 return statement, or other document required or authorized under articles  
18 11 and 25 of title 29, article 11 of title 30, articles 22, 26, 27, 28, 28.5,  
19 **28.6**, 28.8, and 29 of this title 39, article 2 of title 40, article 3 of title 42,  
20 article 4 of title 43, and title 44, and any form, statement report, or other  
21 document prescribed by the executive director for reporting a tax liability,  
22 a fee liability, or other information required to be returned to the  
23 executive director, including the reporting of changes or amendments  
24 thereto, and any schedule certification, worksheet, or other document  
25 required to accompany the return.

26 (4) Except as provided in subsection (6) of this section, on and  
27 after August 2, 2019, electronic filing of returns and the payment of any

1 tax or fee by electronic funds transfer is required for the following:

2 (e) Any retail marijuana excise tax return required to be filed and  
3 payment required to be made pursuant to section 39-28.8-304; and

4 (f) Any retail marijuana sales tax return required to be filed and  
5 payment required to be paid pursuant to section 39-28.8-202; AND

6 (g) ANY NICOTINE PRODUCTS TAX RETURN REQUIRED TO BE FILED  
7 AND PAYMENT REQUIRED TO BE PAID PURSUANT TO ARTICLE 28.6 OF THIS  
8 TITLE 39.

9 **SECTION 24.** In Colorado Revised Statutes, 39-22-623, **amend**  
10 (1)(a)(II)(A) as follows:

11 **39-22-623. Disposition of collections - definition.** (1) The  
12 proceeds of all money collected under this article 22, less the reserve  
13 retained for refunds, shall be credited as follows:

14 (a) (II) (A) Effective July 1, 1987, an amount equal to  
15 twenty-seven percent of the gross state cigarette tax shall be apportioned  
16 to incorporated cities and incorporated towns that levy taxes and adopt  
17 formal budgets and to counties. For the purposes of this section, a city  
18 and county is considered a city. The city or town share shall be  
19 apportioned according to the percentage of state sales tax revenues  
20 collected by the department of revenue in an incorporated city or town as  
21 compared to the total state sales tax collections that may be allocated to  
22 all political subdivisions in the state; the county share shall be the same  
23 as that which the percentage of state sales tax revenues collected in the  
24 unincorporated area of the county bears to total state sales tax revenues  
25 that may be allocated to all political subdivisions in the state. The  
26 department of revenue shall certify to the state treasurer, at least annually,  
27 the percentage for allocation to each city, town, and county, and the

1 department shall apply the percentage for allocation certified in all  
2 distributions to cities, towns, and counties until changed by certification  
3 to the state treasurer. In order to qualify for distributions of state income  
4 tax money, units of local government are prohibited from imposing taxes  
5 on any person as a condition for engaging in the business of selling  
6 cigarettes. For purposes of this subsection (1)(a)(II), the "gross state  
7 cigarette tax" means the total tax FROM TEN MILLS ON EACH CIGARETTE  
8 before the discount provided for in section 39-28-104 (1), PLUS AN  
9 AMOUNT EQUAL TO THE AMOUNT TRANSFERRED TO THE GENERAL FUND  
10 FOR THE STATE FISCAL YEAR IN ACCORDANCE WITH SECTION 24-22-118  
11 (2). For any city, town, or county that was previously disqualified from  
12 the apportionment set forth in this subsection (1)(a)(II)(A) by reason of  
13 imposing a fee or license related to the sale of cigarettes, the city, town,  
14 or county is eligible for any allocation of money that is based on an  
15 apportionment made on or after July 1, 2019, but not for an allocation of  
16 money that is based on an apportionment made before July 1, 2019.

17 **SECTION 25. Effective date.** (1) Except as otherwise provided  
18 in subsection (2) of this section, this act takes effect upon passage.

19 (2) Sections 2 to 24 of this act take effect only if, at the November  
20 2020 statewide election, a majority of voters approve the ballot issue  
21 referred in accordance with section 39-28-401, Colorado Revised  
22 Statutes, created in section 1 of this act. If the voters approve the ballot  
23 issue, then sections 2 to 24 of this act take effect on the date of the  
24 governor's proclamation or January 1, 2021, whichever is later.

25 **SECTION 26. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, or safety.