

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

**TO:** Anna Haynes and James Garcia  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** January 22, 2020  
**SUBJECT:** Proposed initiative measure 2019-2020 ## 225-229, 231-235, 237-241,  
concerning the creation of a nicotine products tax

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives including proposed initiatives 2019-2020 #224 to 241. All of the questions and comments that apply to these initiatives have been addressed in the memoranda for proposed initiatives 2019-2020 ##224, 230, and 236, and those questions and comments are hereby incorporated by reference in this memorandum for the proposed initiatives included in this memorandum.

## **Purposes for Proposed Initiative 2019-20 #225**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to nine cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that equals the total sales tax levied on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #226**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to nine and one-half cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that equals the total sales tax levied on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #227**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to ten cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that equals the total sales tax levied on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #228**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to eleven cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that equals the total sales tax levied on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #229**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to thirteen cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that equals the total sales tax levied on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #231**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to nine cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that is determined by the department of revenue to be equal to the total state tax on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #232**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to nine and one-half cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that is determined by the department of revenue to be equal to the total state tax on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #233**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to ten cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that is determined by the department of revenue to be equal to the total state tax on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #234**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to eleven cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that is determined by the department of revenue to be equal to the total state tax on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #235**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to thirteen cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado that is determined by the department of revenue to be equal to the total state tax on tobacco products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #237**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to nine cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado at the rate of thirty-one percent of the retail sale price of such nicotine products and to collect such tax from the retailers of nicotine products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #238**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to nine and one-half cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado at the rate of thirty-two percent of the retail sale price of such nicotine products and to collect such tax from the retailers of nicotine products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #239**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to ten cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado at the rate of thirty-three percent of the retail sale price of such nicotine products and to collect such tax from the retailers of nicotine products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #240**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to eleven cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado at the rate of thirty-four percent of the retail sale price of such nicotine products and to collect such tax from the retailers of nicotine products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.

## **Purposes for Proposed Initiative 2019-20 #241**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To increase the cigarette tax to thirteen cents per cigarette;
2. To allow the cigarette tax to be adjusted for inflation;
3. To remove the discount on the sale of cigarette stamps;
4. To increase the tobacco products tax to forty-two percent of the manufacturer's list price;
5. To remove the tobacco products distributor tax reduction;
6. To create a tax on the sale, use, consumption, handling, or distribution of all nicotine products in Colorado at the rate of thirty-six percent of the retail sale price of such nicotine products and to collect such tax from the retailers of nicotine products;
7. To require that, if a distributor of nicotine products fails to pay the nicotine products tax, then any person or entity in possession of the nicotine products is liable for the tax;
8. To require distributors of nicotine products to obtain a license and file quarterly returns;
9. To create the preschool programs cash fund for expanding the number of children in preschool and to require the general assembly to enact legislation for the administration of the cash fund;
10. To allow the programs funded by the tobacco education programs fund to also apply to nicotine products;
11. To create a tobacco products inventory tax;
12. To create a presumption that all charges included on an invoice of a tobacco product manufacturer or supplies are for the sale of tobacco products;
13. To define "delivery sale" for purposes of the cigarette tax; and
14. To distribute the additional total revenue collected from the increased cigarette and tobacco products tax and the new nicotine products tax to the preschool programs cash fund, the tobacco tax cash fund, and the tobacco education programs fund.