

AMENDMENT 35
TOBACCO TAX INCREASE FOR HEALTH-RELATED PURPOSES

1 **Ballot Title:** State taxes shall be increased \$175 million annually through additional
2 tobacco taxes imposed for health related purposes, and, in connection therewith,
3 amending the Colorado constitution to increase statewide taxes on the sale of cigarettes
4 by wholesalers of three and two-tenths cents per cigarette and on the sale, use,
5 consumption, handling, or distribution of other tobacco products by distributors at the
6 rate of twenty percent of the manufacturer's list price; increasing such tobacco taxes
7 effective January 1, 2005; requiring annual appropriations of specified percentages of the
8 additional tobacco tax revenues to expand eligibility for and increase enrollment in the
9 children's basic health plan, to fund comprehensive primary medical care through certain
10 Colorado qualified providers, tobacco education programs, and prevention, early
11 detection, and treatment of cancer and cardiovascular and pulmonary diseases, to
12 compensate the state general fund, the old age pension fund, and local governments for
13 tobacco tax losses resulting from reduced sales of cigarettes and tobacco products;
14 specifying that the appropriations of additional tobacco tax revenues shall be in addition
15 to and not substituted for appropriations for such programs on January 1, 2005; allowing
16 the use of additional tobacco tax revenues for any health related purpose and to serve
17 populations enrolled in the children's basic health plan and the Colorado medical
18 assistance program as of January 1, 2005, upon a declaration of a state fiscal emergency
19 by two-thirds of the members of each house of the general assembly and the governor;
20 prohibiting the repeal or reduction of existing taxes imposed on cigarettes and other
21 tobacco products; excluding all additional tobacco tax revenues from fiscal year spending
22 for purposes of section 20 of article X of the Colorado constitution; and exempting
23 appropriations of additional tobacco tax revenues from the statutory limitation on general
24 fund appropriations growth or any other existing spending limitation.

25 **Text of Proposal:**

26 *Be it enacted by the People of the State of Colorado:*

27 Article X of the Constitution of the State of Colorado is hereby amended BY THE
28 ADDITION OF A NEW SECTION to read:

29 **Section 21. Tobacco Taxes for Health Related Purposes.**

30 (1) THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND THAT TOBACCO ADDICTION IS
31 THE LEADING CAUSE OF PREVENTABLE DEATH IN COLORADO, THAT COLORADO SHOULD
32 DETER CHILDREN AND YOUTH FROM STARTING SMOKING, THAT CIGARETTE AND TOBACCO
33 TAXES ARE EFFECTIVE AT PREVENTING AND REDUCING TOBACCO USE AMONG CHILDREN

1 AND YOUTH, AND THAT TOBACCO TAX REVENUES WILL BE USED TO EXPAND HEALTH CARE
2 FOR CHILDREN AND LOW INCOME POPULATIONS, TOBACCO EDUCATION PROGRAMS AND
3 THE PREVENTION AND TREATMENT OF CANCER AND HEART AND LUNG DISEASE.

4 (2) THERE ARE HEREBY IMPOSED THE FOLLOWING ADDITIONAL CIGARETTE AND TOBACCO
5 TAXES:

6 (a) STATEWIDE CIGARETTE TAX, ON THE SALE OF CIGARETTES BY WHOLESALERS,
7 AT THE RATE OF THREE AND TWO-TENTHS CENTS PER CIGARETTE (64 CENTS PER
8 PACK OF TWENTY); AND

9 (b) A STATEWIDE TOBACCO PRODUCTS TAX, ON THE SALE, USE, CONSUMPTION,
10 HANDLING, OR DISTRIBUTION OF TOBACCO PRODUCTS BY DISTRIBUTORS, AT THE
11 RATE OF TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE.

12 (3) THE CIGARETTE AND TOBACCO TAXES IMPOSED BY THIS SECTION SHALL BE IN
13 ADDITION TO ANY OTHER CIGARETTE AND TOBACCO TAXES EXISTING AS OF THE EFFECTIVE
14 DATE OF THIS SECTION ON THE SALE OR USE OF CIGARETTES BY WHOLESALERS AND ON THE
15 SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF TOBACCO PRODUCTS BY
16 DISTRIBUTORS. SUCH EXISTING TAXES AND THEIR DISTRIBUTION SHALL NOT BE REPEALED
17 OR REDUCED BY THE GENERAL ASSEMBLY.

18 (4) ALL REVENUES RECEIVED BY OPERATION OF SUBSECTION (2) SHALL BE EXCLUDED
19 FROM FISCAL YEAR SPENDING, AS THAT TERM IS DEFINED IN SECTION 20 OF ARTICLE X OF
20 THIS CONSTITUTION, AND THE CORRESPONDING SPENDING LIMITS UPON STATE
21 GOVERNMENT AND ALL LOCAL GOVERNMENTS RECEIVING SUCH REVENUES.

22 (5) THE REVENUES GENERATED BY OPERATION OF SUBSECTION (2) SHALL BE
23 APPROPRIATED ANNUALLY BY THE GENERAL ASSEMBLY ONLY IN THE FOLLOWING
24 PROPORTIONS AND FOR THE FOLLOWING HEALTH RELATED PURPOSES:

25 (a) FORTY-SIX PERCENT (46%) OF SUCH REVENUES SHALL BE APPROPRIATED TO
26 INCREASE THE NUMBER OF CHILDREN AND PREGNANT WOMEN ENROLLED IN THE
27 CHILDREN'S BASIC HEALTH PLAN ABOVE THE AVERAGE ENROLLMENT FOR STATE
28 FISCAL YEAR 2004, ADD THE PARENTS OF ENROLLED CHILDREN, AND EXPAND
29 ELIGIBILITY OF LOW INCOME ADULTS AND CHILDREN WHO RECEIVE MEDICAL CARE
30 THROUGH THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 19 OF TITLE 26,
31 COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, OR THROUGH THE
32 "COLORADO MEDICAL ASSISTANCE ACT", ARTICLE 4 OF TITLE 26, COLORADO
33 REVISED STATUTES, OR ANY SUCCESSOR ACT.

34 (b) NINETEEN PERCENT (19%) OF SUCH REVENUES SHALL BE APPROPRIATED TO
35 FUND COMPREHENSIVE PRIMARY CARE THROUGH ANY COLORADO QUALIFIED

1 PROVIDER, AS DEFINED IN THE "COLORADO MEDICAL ASSISTANCE ACT," ARTICLE
2 4 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, THAT
3 MEETS EITHER OF THE FOLLOWING CRITERIA:

4 (I) IS A COMMUNITY HEALTH CENTER AS DEFINED IN SECTION 330 OF THE
5 U.S. PUBLIC HEALTH SERVICES ACT, OR ANY SUCCESSOR ACT; OR

6 (II) AT LEAST 50% OF THE PATIENTS SERVED BY THE QUALIFIED PROVIDER
7 ARE UNINSURED OR MEDICALLY INDIGENT AS DEFINED IN THE "COLORADO
8 MEDICAL ASSISTANCE ACT," ARTICLE 4 OF TITLE 26, COLORADO REVISED
9 STATUTES, OR ANY SUCCESSOR ACT, OR ARE ENROLLED IN THE CHILDREN'S
10 BASIC HEALTH PLAN OR THE COLORADO MEDICAL ASSISTANCE PROGRAM,
11 OR SUCCESSOR PROGRAMS.

12 SUCH REVENUES SHALL BE APPROPRIATED TO THE COLORADO DEPARTMENT OF HEALTH
13 CARE POLICY AND FINANCING, OR SUCCESSOR AGENCY, AND SHALL BE DISTRIBUTED
14 ANNUALLY TO ALL ELIGIBLE QUALIFIED PROVIDERS THROUGHOUT THE STATE
15 PROPORTIONATE TO THE NUMBER OF UNINSURED OR MEDICALLY INDIGENT PATIENTS
16 SERVED.

17 (c) SIXTEEN PERCENT (16%) OF SUCH REVENUES SHALL BE APPROPRIATED FOR
18 SCHOOL AND COMMUNITY-BASED AND STATEWIDE TOBACCO EDUCATION PROGRAMS
19 DESIGNED TO REDUCE INITIATION OF TOBACCO USE BY CHILDREN AND YOUTH, PROMOTE
20 CESSATION OF TOBACCO USE AMONG YOUTH AND ADULTS, AND REDUCE EXPOSURE TO
21 SECOND-HAND SMOKE. SUCH REVENUES SHALL BE APPROPRIATED THROUGH THE
22 "TOBACCO EDUCATION, PREVENTION AND CESSATION ACT", PART 8 OF ARTICLE 3.5 OF
23 TITLE 25, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT.

24 (d) SIXTEEN PERCENT (16%) OF SUCH REVENUES SHALL BE APPROPRIATED FOR
25 THE PREVENTION, EARLY DETECTION, AND TREATMENT OF CANCER AND
26 CARDIOVASCULAR AND PULMONARY DISEASES. SUCH REVENUES SHALL BE
27 APPROPRIATED TO THE PREVENTION SERVICES DIVISION OF THE COLORADO DEPARTMENT
28 OF PUBLIC HEALTH AND ENVIRONMENT, OR SUCCESSOR AGENCY, AND SHALL BE
29 DISTRIBUTED STATEWIDE WITH OVERSIGHT AND ACCOUNTABILITY BY THE COLORADO
30 STATE BOARD OF HEALTH CREATED BY ARTICLE 1 OF TITLE 25, COLORADO REVISED
31 STATUTES.

32 (e) THREE PERCENT (3%) OF SUCH REVENUES SHALL BE APPROPRIATED FOR
33 HEALTH RELATED PURPOSES TO PROVIDE REVENUE FOR THE STATE'S GENERAL FUND, OLD
34 AGE PENSION FUND, AND MUNICIPAL AND COUNTY GOVERNMENTS TO COMPENSATE
35 PROPORTIONATELY FOR TAX REVENUE REDUCTIONS ATTRIBUTABLE TO LOWER CIGARETTE
36 AND TOBACCO SALES RESULTING FROM THE IMPLEMENTATION OF THIS TAX.

1 (6) REVENUES APPROPRIATED PURSUANT TO PARAGRAPHS (a), (b), AND (d) OF
2 SUBSECTION (5) SHALL BE USED TO SUPPLEMENT REVENUES THAT ARE APPROPRIATED BY
3 THE GENERAL ASSEMBLY FOR HEALTH RELATED PURPOSES ON THE EFFECTIVE DATE OF
4 THIS SECTION, AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED REVENUES.

5 (7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY MAY
6 USE REVENUE GENERATED UNDER THIS SECTION FOR ANY HEALTH RELATED PURPOSE AND
7 TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE
8 COLORADO MEDICAL ASSISTANCE PROGRAM AT THEIR RESPECTIVE LEVELS OF
9 ENROLLMENT ON THE EFFECTIVE DATE OF THIS SECTION. SUCH USE OF REVENUE MUST BE
10 PRECEDED BY A DECLARATION OF A STATE FISCAL EMERGENCY, WHICH SHALL BE
11 ADOPTED ONLY BY A JOINT RESOLUTION, APPROVED BY A TWO-THIRDS MAJORITY VOTE
12 OF THE MEMBERS OF BOTH HOUSES OF THE GENERAL ASSEMBLY AND THE GOVERNOR.
13 SUCH DECLARATION SHALL APPLY ONLY TO A SINGLE FISCAL YEAR.

14 (8) REVENUES APPROPRIATED PURSUANT TO SUBSECTIONS (5) AND (7) OF THIS SECTION
15 SHALL NOT BE SUBJECT TO THE STATUTORY LIMITATION ON GENERAL FUND
16 APPROPRIATIONS GROWTH OR ANY OTHER SPENDING LIMITATION EXISTING IN LAW.

17 (9) THIS SECTION IS EFFECTIVE JANUARY 1, 2005.