

Be It Enacted By The People Of The State Of Colorado:

Article X of the Constitution of the State of Colorado is hereby amended by the addition of the following new section 21, to read:

SECTION 21. TOBACCO TAXES FOR HEALTH RELATED PURPOSES

(1) THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND THAT TOBACCO ADDICTION IS THE LEADING CAUSE OF PREVENTABLE DEATH IN COLORADO, THAT COLORADO SHOULD DETER CHILDREN AND YOUTH FROM STARTING SMOKING, THAT CIGARETTE AND TOBACCO TAXES ARE EFFECTIVE AT PREVENTING AND REDUCING TOBACCO USE AMONG CHILDREN AND YOUTH, AND THAT TOBACCO TAX REVENUES WILL BE USED TO EXPAND HEALTH CARE FOR CHILDREN AND LOW INCOME POPULATIONS, TOBACCO EDUCATION PROGRAMS AND THE PREVENTION AND TREATMENT OF CANCER, HEART AND LUNG DISEASE.

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

- (A) A STATEWIDE CIGARETTE TAX, ON THE SALE OF CIGARETTES BY WHOLESALERS, AT THE RATE OF THREE AND TWO-TENTHS CENTS PER CIGARETTE (64 CENTS PER PACK OF TWENTY); AND
- (B) A STATEWIDE TOBACCO PRODUCTS TAX, ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF TOBACCO PRODUCTS BY DISTRIBUTORS, AT THE RATE OF TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE.

(3) THE CIGARETTE AND TOBACCO TAXES IMPOSED BY THIS SECTION SHALL BE IN ADDITION TO ANY OTHER CIGARETTE AND TOBACCO TAXES EXISTING AS OF PASSAGE OF THIS AMENDMENT ON THE SALE OR USE OF CIGARETTES BY WHOLESALERS AND ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF TOBACCO PRODUCTS BY DISTRIBUTORS. SUCH EXISTING TAXES AND ITS DISTRIBUTION SHALL NOT BE REPEALED OR REDUCED BY THE STATE GENERAL ASSEMBLY.

(4) ALL REVENUES RECEIVED BY OPERATION OF SUBSECTION (1) SHALL BE EXCLUDED FROM FISCAL YEAR SPENDING, AS THAT TERM IS DEFINED IN ARTICLE X SECTION 20 OF THE STATE CONSTITUTION, AND THE CORRESPONDING SPENDING LIMITS UPON STATE GOVERNMENT AND ALL LOCAL GOVERNMENTS RECEIVING SUCH FUNDS.

(5) THE REVENUES GENERATED BY OPERATION OF SUBSECTION (1) SHALL BE APPROPRIATED ANNUALLY BY THE GENERAL ASSEMBLY ONLY IN THE FOLLOWING PROPORTIONS AND FOR THE FOLLOWING HEALTH RELATED PURPOSES:

(A) FORTY-SIX PERCENT (46%) OF SUCH REVENUES SHALL BE APPROPRIATED TO INCREASE THE NUMBER OF CHILDREN AND PREGNANT WOMEN ENROLLED, ADD THE PARENTS OF ENROLLED CHILDREN, AND EXPAND ELIGIBILITY OF LOW INCOME ADULTS AND CHILDREN WHO RECEIVE MEDICAL CARE THROUGH THE CHILDREN'S BASIC HEALTH PLAN, ARTICLE 19 OF TITLE 26 OF THE COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, OR THROUGH THE COLORADO MEDICAL ASSISTANCE PROGRAM, OR ANY SUCCESSOR ACT.

(B) NINETEEN PERCENT (19%) OF SUCH REVENUES SHALL BE APPROPRIATED TO FUND COMPREHENSIVE PRIMARY CARE THROUGH COLORADO QUALIFIED PROVIDERS, AS DEFINED IN ARTICLE 4 OF TITLE 26 OF THE COLORADO REVISED STATUTES OR ANY SUCCESSOR ACT, THAT MEET EITHER OF THE FOLLOWING CRITERIA:

- I. IS A COMMUNITY HEALTH CENTER AS DEFINED IN SECTION 330 OF THE U.S. PUBLIC HEALTH SERVICES ACT, OR
- II. AT LEAST 50% OF THE PATIENTS SERVED BY THE QUALIFIED PROVIDER ARE UNINSURED OR MEDICALLY INDIGENT AS DEFINED IN ARTICLE 4 OF TITLE 26 OF THE COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, OR ARE ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN OR THE COLORADO MEDICAL ASSISTANCE PROGRAM, OR SUCCESSOR PROGRAMS.

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

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

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

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

(6) FUNDING APPROPRIATED PURSUANT TO SUBSECTION (5) (A), (B) AND (D) OF THIS SECTION SHALL BE USED TO SUPPLEMENT MONIES THAT ARE APPROPRIATED BY THE LEGISLATURE FOR HEALTH RELATED PURPOSES ON THE EFFECTIVE DATE OF THIS ACT, AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED MONIES.

(7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE GENERAL ASSEMBLY MAY USE REVENUES DERIVED UNDER THIS SECTION FOR ANY HEALTH RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM UPON THE DATE OF PASSAGE OF THIS AMENDMENT FOR A GIVEN FISCAL YEAR UPON THE DECLARATION OF A STATE FISCAL EMERGENCY. FOR PURPOSES OF THIS SECTION, A STATE FISCAL EMERGENCY MAY ONLY BE DECLARED BY THE PASSAGE OF A JOINT RESOLUTION WHICH IS APPROVED BY A TWO-THIRDS MAJORITY VOTE OF THE MEMBERS OF BOTH HOUSES OF THE GENERAL ASSEMBLY AND WHICH IS APPROVED BY THE GOVERNOR.

(8) FUNDING APPROPRIATED PURSUANT TO SUBSECTIONS (5) AND (7) SHALL NOT BE SUBJECT TO THE STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH OR ANY OTHER SPENDING LIMITATION EXISTING IN LAW.

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