

*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 A NEW SECTION 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 AND HEART AND LUNG DISEASE.

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

(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 THE EFFECTIVE DATE OF THIS SECTION 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 SUCH EXISTING TAXES AND THEIR DISTRIBUTION SHALL NOT BE REPEALED OR REDUCED BY THE GENERAL ASSEMBLY.

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

(5) THE REVENUES GENERATED BY OPERATION OF SUBSECTION (2) 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 IN THE CHILDREN'S BASIC HEALTH PLAN ABOVE THE AVERAGE ENROLLMENT FOR STATE FISCAL YEAR 2004, 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 ACT", ARTICLE 19 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, OR THROUGH THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLE 4 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT.

(b) NINETEEN PERCENT (19%) OF SUCH REVENUES SHALL BE APPROPRIATED TO FUND COMPREHENSIVE PRIMARY CARE THROUGH ANY COLORADO QUALIFIED PROVIDER, AS DEFINED IN THE "COLORADO MEDICAL ASSISTANCE ACT," ARTICLE 4 OF TITLE 26, COLORADO REVISED STATUTES, OR ANY SUCCESSOR ACT, THAT MEETS 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 ANY SUCCESSOR ACT; OR

(II) AT LEAST 50% OF THE PATIENTS SERVED BY THE QUALIFIED PROVIDER ARE UNINSURED OR MEDICALLY INDIGENT AS DEFINED IN THE "COLORADO MEDICAL ASSISTANCE ACT," ARTICLE 4 OF TITLE 26, 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 REVENUES 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 REVENUES SHALL BE APPROPRIATED THROUGH THE "TOBACCO EDUCATION, PREVENTION AND CESSATION ACT", PART 8 OF

ARTICLE 3.5 OF TITLE 25, 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 AND CARDIOVASCULAR AND PULMONARY DISEASES. SUCH REVENUES 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, 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) REVENUES APPROPRIATED PURSUANT TO PARAGRAPHS (A), (B) AND (D) OF SUBSECTION (5) SHALL BE USED TO SUPPLEMENT REVENUES THAT ARE APPROPRIATED BY THE GENERAL ASSEMBLY FOR HEALTH RELATED PURPOSES ON THE EFFECTIVE DATE OF THIS SECTION, AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED REVENUES.

(7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GENERAL ASSEMBLY MAY USE REVENUE GENERATED UNDER THIS SECTION FOR ANY HEALTH RELATED PURPOSE, TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN ABOVE THE AVERAGE ENROLLMENT FOR STATE FISCAL YEAR 2004, AND TO SERVE POPULATIONS ENROLLED IN THE COLORADO MEDICAL ASSISTANCE PROGRAM AT THE LEVEL OF ENROLLMENT ON THE EFFECTIVE DATE OF THIS SECTION. SUCH USE OF REVENUE MUST BE PRECEDED BY A DECLARATION OF A STATE FISCAL EMERGENCY, WHICH SHALL BE ADOPTED ONLY BY A JOINT RESOLUTION, APPROVED BY A TWO-THIRDS MAJORITY VOTE OF THE MEMBERS OF BOTH HOUSES OF THE GENERAL ASSEMBLY AND THE GOVERNOR. SUCH DECLARATION SHALL APPLY ONLY TO A SINGLE FISCAL YEAR.

(8) REVENUES APPROPRIATED PURSUANT TO SUBSECTIONS (5) AND (7) OF THIS SECTION 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.