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

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LLS NO. 19-0825.01 Ed DeCecco x4216

HOUSE BILL

HOUSE SPONSORSHIP

Caraveo,

SENATE SPONSORSHIP

Fields,

BILL TOPIC: "Cigarette Tobacco & Nicotine Products Tax"

A BILL FOR AN ACT

101 **CONCERNING THE TAXATION OF PRODUCTS THAT CONTAIN NICOTINE,**
102 **AND, IN CONNECTION THEREWITH, INCREASING THE CIGARETTE**
103 **TAX BY EIGHT AND SEVENTY-FIVE ONE-HUNDREDTHS CENTS PER**
104 **CIGARETTE AND THE TOBACCO PRODUCTS TAX BY TWENTY-TWO**
105 **PERCENT OF THE MANUFACTURER'S LIST PRICE; CREATING A**
106 **TAX ON NICOTINE PRODUCTS THAT IS EQUAL TO SIXTY-TWO**
107 **PERCENT OF THE MANUFACTURER'S LIST PRICE; REFERRING A**
108 **BALLOT ISSUE FOR PRIOR VOTER APPROVAL FOR THE NEW AND**
109 **INCREASED TAXES; AND DEDICATING THE NEW TAX REVENUE**
110 **FOR BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH,**
111 **HEALTH CARE AFFORDABILITY AND ACCESSIBILITY, THE**
112 **COLORADO PRESCHOOL PROGRAM EXPANSION AND**
113 **ENHANCEMENT, AND THE NEWLY CREATED COLORADO**

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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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 2019 statewide election for the following tax increases:

- To increase the cigarette tax by 8.75 cents per cigarette;
- To increase the tobacco products tax by 22% of the manufacturer's list price; and
- To create a tax on nicotine products that is equal to 62% of the manufacturer's list price, which is the same total tax as the tax levied on tobacco products with the increase.

If voters approve the tax, then the state will have the authority to impose these taxes and retain and spend the revenue as a voter-approved revenue change, and the remainder of the bill takes effect upon approval.

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. 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 (department) 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 it purchases 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 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 likewise be permitted to retain 1.1% of the taxes collected.

In general, 50% of the revenue from the new nicotine products tax and the additional cigarette and tobacco products taxes (new tax revenue) is allocated for purposes related to health care, and 50% is allocated for preschool programs and expanded learning opportunities. Specifically, the new tax revenue is deposited in the old age pension fund and then credited to the general fund in accordance with the state constitution. The state treasurer is then required to transfer 50% of the new tax revenue from the general fund to the behavioral health and health care affordability and accessibility cash fund (behavioral health fund).

The state treasurer is further required to transfer money in the behavioral health fund as follows:

- 19%, up to \$30 million, to the tobacco education programs fund, which is primarily used for tobacco education, prevention, and cessation programs, which are expanded to include nicotine products; and
- 9.5%, up to \$15 million, to offset the decreased revenue from the existing taxes that may result from the voter-approved rate increases, and of this amount, 73% is further allocated to the tobacco tax cash fund and 27% to the general fund.

For fiscal years that begin prior to July 1, 2023, the general assembly is required to appropriate the remainder of the money in the behavioral health fund as follows:

- 66% to make health care more affordable and accessible; and
- 34% to improve the provision of behavioral health services for children and youth.

Thereafter, the specific allocation no longer applies and the only limitation on appropriating for these 2 purposes is that each purpose must receive at least 20% of the fund remainder.

The state treasurer is required to transfer the other 50% of the new tax revenue to the newly created preschool programs cash fund, from which money is appropriated to the department of education to improve the availability, affordability, and quality of voluntary early childhood education, and to the Colorado expanded learning opportunities cash fund, from which money is used for the Colorado expanded learning opportunities program. The allocation of the new tax revenue between the 2 funds is as follows:

- For the 2019-20 and 2020-21 fiscal years, 35% to the preschool programs cash fund and 15% to the Colorado expanded learning opportunities cash fund;

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1 PRICE, AND INCREASING THE CIGARETTE TAX BY 8.75 CENTS PER
2 CIGARETTE, AND USING THE REVENUE TO INVEST IN COLORADANS'
3 HEALTH AND EDUCATION, SPECIFICALLY PROGRAMS THAT REDUCE THE
4 USE OF TOBACCO AND NICOTINE PRODUCTS, PROVIDE BEHAVIORAL
5 HEALTH AND SUBSTANCE USE SERVICES FOR CHILDREN AND YOUTH,
6 LOWER THE COST OF HEALTH CARE, ENHANCE THE VOLUNTARY
7 COLORADO PRESCHOOL PROGRAM AND MAKE IT WIDELY AVAILABLE,
8 PROVIDE EXPANDED LEARNING OPPORTUNITIES FOR COLORADO'S
9 CHILDREN AND YOUTH, AND MAINTAIN THE FUNDING FOR PROGRAMS
10 THAT CURRENTLY RECEIVE REVENUE FROM TOBACCO TAXES, WITH
11 ANNUAL AUDITS ON THE USE OF THE NEW TAX REVENUE AND WITH THE
12 STATE KEEPING AND SPENDING THE NEW TAX REVENUE
13 NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?"

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

17 (4) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT
18 ISSUE VOTE "NO/AGAINST", THEN THIS SECTION IS REPEALED, EFFECTIVE
19 JULY 1, 2020.

20 (b) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE
21 VOTE "YES/FOR", THEN THIS SUBSECTION (4) IS REPEALED, EFFECTIVE
22 JULY 1, 2020.

23 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-28-103 as
24 follows:

25 **39-28-103. Tax levied.** (1) PRIOR TO JANUARY 1, 2020, there is
26 levied and shall be collected and paid to the department a tax upon the
27 sale of cigarettes by wholesalers of ten mills on each cigarette.

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1 (2) ON AND AFTER JANUARY 1, 2020, A TAX OF NINE AND
2 SEVENTY-FIVE ONE HUNDREDTHS CENTS PER CIGARETTE IS LEVIED ON THE
3 SALE OF CIGARETTES BY WHOLESALERS. THE WHOLESALER SHALL PAY THE
4 TAX TO THE DEPARTMENT, WHICH SHALL COLLECT THE TAX.

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

7 **39-28-104. Evidence of payment of tax - credits - redemptions.**

8 (1) (a) Payment of the taxes imposed by ~~the provisions of this article~~
9 ARTICLE 28 and section 21 of article X of the state constitution shall be
10 evidenced by the affixing of stamps to, or by an imprint or impression by
11 suitable metering machines approved by the department on, packages
12 containing cigarettes. The department shall procure stamps of such design
13 and legend as it deems necessary and suitable for the purpose. Except as
14 provided in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF
15 THIS SECTION, the department shall sell such stamps for cash to licensed
16 wholesalers at a discount of four percent of their face value for sales
17 occurring ~~prior to July 1, 2003, or on or after July 1, 2005, and three~~
18 ~~percent of their face value for sales occurring on or after July 1, 2003, but~~
19 ~~before July 1, 2005~~ BUT BEFORE JANUARY 1, 2020, AND FOUR-TENTHS
20 PERCENT OF THEIR FACE VALUE FOR SALES OCCURRING ON AND AFTER
21 JANUARY 1, 2020, if payment is made on or before the tenth day of the
22 month following the month in which the purchase is made to cover the
23 licensed wholesaler's expense in the collection and remittance of such tax;
24 but, if any licensed wholesaler is delinquent in remitting such payment,
25 other than in unusual circumstances shown to the satisfaction of the
26 executive director of the department, the licensed wholesaler shall not be
27 allowed to retain any amounts to cover his or her expense in collecting

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1 and remitting said tax, and, in addition, the penalty imposed under section
2 39-28-108 (2) shall apply. The department shall keep accurate records of
3 all stamps sold to each wholesaler. No wholesaler shall sell or transfer
4 any stamps purchased pursuant to ~~the provisions of this article~~ ARTICLE
5 28.

6 **SECTION 4.** In Colorado Revised Statutes, 39-28-107, **amend**
7 (1)(b) as follows:

8 **39-28-107. Unstamped packages - tax collected - fines - subject**
9 **to confiscation - tobacco tax enforcement cash fund - creation.**

10 (1) (b) There is hereby created in the state treasury the tobacco tax
11 enforcement cash fund. The fund ~~shall consist of moneys~~ CONSISTS OF
12 MONEY deposited therein pursuant to ~~paragraph (a) of this subsection (1)~~
13 SUBSECTION (1)(a) OF THIS SECTION and ~~section 39-28.5-106 (4)~~ SECTIONS
14 39-28.5-106 (4) AND 39-28.6-108 (4). The ~~moneys~~ MONEY in the fund
15 ~~shall be~~ IS subject to annual appropriation by the general assembly to the
16 department for the purpose of enforcing ~~the provisions of this article~~
17 ARTICLE 28 and ~~article 28.5~~ ARTICLES 28.5 AND 28.6 of this ~~title~~ TITLE 39.
18 Any ~~moneys~~ MONEY not appropriated by the general assembly ~~shall~~
19 ~~remain~~ REMAINS in the fund and shall not be transferred or revert to the
20 general fund at the end of any fiscal year.

21 **SECTION 5.** In Colorado Revised Statutes, 39-28-110, **amend**
22 (1) as follows:

23 **39-28-110. Distribution of tax collected.** (1) (a) All ~~sums of~~
24 money received and collected in payment of the tax imposed by ~~the~~
25 ~~provisions of this article~~ ARTICLE 28, except license fees received under
26 section 39-28-102 and the ~~moneys~~ MONEY collected pursuant to section
27 39-28-103.5, shall be transmitted to the state treasurer who shall distribute

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1 the money as follows: Fifteen percent to the general fund and eighty-five
2 percent to the old age pension fund.

3 (b) THE NET REVENUE THAT IS CREDITED TO THE OLD AGE PENSION
4 FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE
5 CONSTITUTION IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION
6 AND SECTION 2 (a) OF ARTICLE XXIV OF THE STATE CONSTITUTION IS
7 TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE WITH SECTION 7 (c)
8 OF ARTICLE XXIV OF THE STATE CONSTITUTION. OF THIS MONEY OR THE
9 FIFTEEN PERCENT THAT IS DIRECTLY CREDITED TO THE GENERAL FUND,
10 THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE
11 TOTAL REVENUE THAT IS ATTRIBUTABLE TO THE TAX INCREASE SET FORTH
12 IN SECTION 39-28-103 (2) AS APPROVED BY THE VOTERS' APPROVAL OF THE
13 BALLOT ISSUE SET FORTH IN SECTION 39-28-401 AT THE STATEWIDE
14 ELECTION IN NOVEMBER 2019 TO THE BEHAVIORAL HEALTH AND HEALTH
15 CARE AFFORDABILITY AND ACCESSIBILITY CASH FUND AND THE
16 PRESCHOOL PROGRAMS CASH FUND CREATED IN SECTION 24-22-118 AND
17 THE COLORADO EXPANDED LEARNING OPPORTUNITIES CASH FUND
18 CREATED IN SECTION 22-86.5-106(1), AS REQUIRED BY SECTION 24-22-118
19 (2).

20 **SECTION 6.** In Colorado Revised Statutes, **add** 39-28-110.5 as
21 follows:

22 **39-28-110.5. Revenue and spending limitations.**
23 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR
24 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE
25 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE
26 GENERATED BY THE EIGHT AND SEVENTY-FIVE ONE-HUNDREDTHS CENTS
27 PER CIGARETTE TAX INCREASE SET FORTH IN SECTION 39-28-103 (2) AS

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1 APPROVED BY THE VOTERS' APPROVAL OF THE BALLOT ISSUE SET FORTH IN
2 SECTION 39-28-401 AT THE STATEWIDE ELECTION IN NOVEMBER 2019 MAY
3 BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE.

4 **SECTION 7.** In Colorado Revised Statutes, 39-28.5-102, **amend**
5 (1) introductory portion as follows:

6 **39-28.5-102. Tax levied.** (1) PRIOR TO JANUARY 1, 2020, there
7 is levied and shall be collected a tax upon the sale, use, consumption,
8 handling, or distribution of all tobacco products in this state at the rate of
9 twenty percent of the manufacturer's list price of such tobacco products.
10 ~~Such tax shall be~~ ON AND AFTER JANUARY 1, 2020, THERE IS LEVIED A
11 TAX UPON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF
12 ALL TOBACCO PRODUCTS IN THIS STATE AT THE RATE OF FORTY-TWO
13 PERCENT OF THE MANUFACTURER'S LIST PRICE OF SUCH TOBACCO
14 PRODUCTS. THE TAX IS COLLECTED BY THE DEPARTMENT AND IS imposed
15 at the time the distributor:

16 **SECTION 8.** In Colorado Revised Statutes, 39-28.5-106, **amend**
17 (2) as follows:

18 **39-28.5-106. Returns and remittance of tax - civil penalty.**
19 (2) Every distributor shall file a return with the department by the
20 twentieth day of the month following the month reported and shall
21 therewith remit the amount of tax due, less three and one-third percent of
22 any sum so remitted that consists of tax collected ~~before July 1, 2003, or~~
23 ~~on or after July 1, 2005, and less two and one-third percent of any sum so~~
24 ~~remitted that consists of tax collected on or after July 1, 2003, but before~~
25 ~~July 1, 2005~~ BUT BEFORE JANUARY 1, 2020, AND LESS ONE AND
26 SIX-TENTHS PERCENT OF ANY SUM SO REMITTTED THAT CONSISTS OF TAX
27 COLLECTED ON OR AFTER JANUARY 1, 2020, to cover the distributor's

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1 expense in the collection and remittance of said tax; except that no part
2 of the tax imposed pursuant to section 39-28.5-102.5 and section 21 of
3 article X of the state constitution shall be subject to the discount provided
4 for in this subsection (2). If any distributor is delinquent in remitting said
5 tax, other than in unusual circumstances shown to the satisfaction of the
6 executive director of the department, the distributor shall not be allowed
7 to retain any amounts to cover his or her expense in collecting and
8 remitting said tax, and in addition the penalty imposed under section
9 39-28.5-110 (2)(b) shall apply.

10 **SECTION 9.** In Colorado Revised Statutes, 39-28.5-108, **amend**
11 (1) as follows:

12 **39-28.5-108. Distribution of tax collected.** (1) (a) All ~~sums of~~
13 money received and collected in payment of the tax imposed by ~~the~~
14 ~~provisions of this article~~ ARTICLE 28.5, except license fees received under
15 section 39-28.5-104 and the ~~moneys~~ MONEY collected pursuant to section
16 39-28.5-102.5, shall be transmitted to the state treasurer, who shall
17 distribute such money as follows: Fifteen percent to the general fund and
18 eighty-five percent to the old age pension fund.

19 (b) THE NET REVENUE THAT IS CREDITED TO THE OLD AGE PENSION
20 FUND CREATED IN SECTION 1 OF ARTICLE XXIV OF THE STATE
21 CONSTITUTION IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION
22 AND SECTION 2 (a) OF ARTICLE XXIV OF THE STATE CONSTITUTION IS
23 TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE WITH SECTION 7 (c)
24 OF ARTICLE XXIV OF THE STATE CONSTITUTION. OF THIS MONEY OR THE
25 FIFTEEN PERCENT THAT IS DIRECTLY CREDITED TO THE GENERAL FUND,
26 THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE
27 TOTAL REVENUE THAT IS ATTRIBUTABLE TO THE TAX INCREASE SET FORTH

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1 IN SECTION 39-28.5-102 (1) AS APPROVED BY THE VOTERS' APPROVAL OF
2 THE BALLOT ISSUE SET FORTH IN SECTION 39-28-401 AT THE STATEWIDE
3 ELECTION IN NOVEMBER 2019 TO THE BEHAVIORAL HEALTH AND HEALTH
4 CARE AFFORDABILITY AND ACCESSIBILITY CASH FUND AND THE
5 PRESCHOOL PROGRAMS CASH FUND CREATED IN SECTION 24-22-118 AND
6 THE COLORADO EXPANDED LEARNING OPPORTUNITIES CASH FUND
7 CREATED IN SECTION 22-86.5-106 (1), AS REQUIRED BY SECTION 24-22-118
8 (2).

9 **SECTION 10.** In Colorado Revised Statutes, **add** 39-28.5-108.5
10 as follows:

11 **39-28.5-108.5. Revenue and spending limitations.**

12 NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR
13 APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE
14 CONSTITUTION OR ANY OTHER PROVISION OF LAW, ANY REVENUE
15 GENERATED BY THE TWENTY-TWO PERCENT TAX INCREASE IMPOSED
16 UNDER THIS ARTICLE 28.5 AS APPROVED BY THE VOTERS' APPROVAL OF
17 THE BALLOT ISSUE SET FORTH IN SECTION 39-28-401 AT THE STATEWIDE
18 ELECTION IN NOVEMBER 2019 MAY BE COLLECTED AND SPENT AS A
19 VOTER-APPROVED REVENUE CHANGE.

20 **SECTION 11.** In Colorado Revised Statutes, **add** article 28.6 to
21 title 39 as follows:

22 **ARTICLE 28.6**

23 **Nicotine Products Tax**

24 **39-28.6-101. Legislative declaration.** (1) THE GENERAL
25 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

- 26 (a) NICOTINE IS A HIGHLY ADDICTIVE AND TOXIC SUBSTANCE;
- 27 (b) THERE HAS BEEN A SIGNIFICANT INCREASE IN THE USE OF

1 ELECTRONIC CIGARETTES, WHICH HEAT NICOTINE, FLAVORINGS, AND
2 OTHER CHEMICALS TO CREATE AN AEROSOL THAT IS INHALED;

3 (c) CHILDREN IN MIDDLE SCHOOL AND HIGH SCHOOL HAVE
4 REPORTED USING E-CIGARETTES AT ALARMING RATES, AND STUDIES HAVE
5 LINKED ELECTRONIC CIGARETTE USE AMONG YOUTH TO NICOTINE
6 ADDICTION AND CIGARETTE SMOKING;

7 (d) THE LONG-TERM HEALTH RISKS OF THIS USE ARE UNKNOWN,
8 BUT ELECTRONIC CIGARETTE AEROSOL CAN CONTAIN HARMFUL AND
9 POTENTIALLY HARMFUL SUBSTANCES INCLUDING NICOTINE,
10 CANCER-CAUSING CHEMICALS, HEAVY METALS, FLAVORING CHEMICALS,
11 ULTRAFINE PARTICLES, AND VOLATILE ORGANIC COMPOUNDS;

12 (e) YET NICOTINE PRODUCTS ARE NOT SUBJECT TO THE SAME
13 EXCISE TAX AS CIGARETTES AND TOBACCO PRODUCTS;

14 (f) TAXING NICOTINE PRODUCTS AT THE WHOLESALE LEVEL WILL
15 INCREASE THE TOTAL COST, WHICH MAY SERVE AS A DETERRENT TO
16 CHILDREN AND ADOLESCENTS AND IN TURN PREVENT AND REDUCE
17 CONSUMPTION; AND

18 (g) REVENUE FROM THE TAX CAN BE USED TOWARD POSITIVE
19 OUTCOMES IN CHILDREN'S LIVES AND OTHER IMPORTANT HEALTH
20 INITIATIVES.

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

25 **39-28.6-102. Definitions.** AS USED IN THIS ARTICLE 28.6, UNLESS
26 THE CONTEXT OTHERWISE REQUIRES:

27 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

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1 (2) "DISTRIBUTOR" MEANS EVERY PERSON WHO FIRST RECEIVES
2 NICOTINE PRODUCTS IN THIS STATE, EVERY PERSON WHO SELLS NICOTINE
3 PRODUCTS IN THIS STATE WHO IS PRIMARILY LIABLE FOR THE NICOTINE
4 PRODUCTS TAX ON THE NICOTINE PRODUCTS, AND EVERY PERSON WHO
5 FIRST SELLS OR OFFERS FOR SALE IN THIS STATE NICOTINE PRODUCTS
6 IMPORTED INTO THIS STATE FROM ANY OTHER STATE OR COUNTRY.

7 (3) "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 (4) "NICOTINE PRODUCT" MEANS A PRODUCT THAT CONTAINS
11 NICOTINE INGESTED INTO THE BODY, WHETHER BY VAPORIZING, CHEWING,
12 SMOKING, ABSORBING, DISSOLVING, INHALING, SNORTING, SNIFFING,
13 AEROSOLIZING, OR BY ANY OTHER MEANS, AND THAT IS NOT:

- 14 (a) A CIGARETTE;
- 15 (b) TOBACCO PRODUCTS, AS DEFINED IN SECTION 39-28.5-101 (5);

16 OR

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

21 (5) "SALE" MEANS ANY TRANSFER, EXCHANGE, OR BARTER, IN ANY
22 MANNER OR BY ANY MEANS WHATSOEVER, FOR A CONSIDERATION,
23 INCLUDING ALL SALES MADE BY ANY PERSON. THE TERM INCLUDES A GIFT
24 BY A PERSON ENGAGED IN THE BUSINESS OF SELLING NICOTINE PRODUCTS,
25 FOR ADVERTISING, AS A MEANS OF EVADING THE PROVISIONS OF THIS
26 ARTICLE 28.6, OR FOR ANY OTHER PURPOSES WHATSOEVER.

27 **39-28.6-103. Tax levied.** (1) ON AND AFTER JANUARY 1, 2020,

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1 THERE IS LEVIED A TAX UPON THE SALE, USE, CONSUMPTION, HANDLING,
2 OR DISTRIBUTION OF ALL NICOTINE PRODUCTS IN THIS STATE AT THE RATE
3 OF SIXTY-TWO PERCENT OF THE MANUFACTURER'S LIST PRICE OF THE
4 NICOTINE PRODUCTS. THE TAX IS COLLECTED BY THE DEPARTMENT AND IS
5 IMPOSED AT THE TIME THE DISTRIBUTOR:

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

8 (b) MAKES, MANUFACTURES, OR FABRICATES NICOTINE PRODUCTS
9 IN THIS STATE FOR SALE IN THIS STATE; OR

10 (c) SHIPS OR TRANSPORTS NICOTINE PRODUCTS TO RETAILERS IN
11 THIS STATE TO BE SOLD BY THOSE RETAILERS.

12 **39-28.6-104. Exempt sales.** THE TAX IMPOSED BY SECTION
13 39-28.6-103 SHALL NOT APPLY WITH RESPECT TO ANY NICOTINE PRODUCTS
14 THAT, UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES, MAY
15 NOT BE MADE THE SUBJECT OF TAXATION BY THIS STATE. A PERSON SHALL
16 REPORT THE EXEMPT SALES TO THE DEPARTMENT, AS REQUIRED BY THE
17 DEPARTMENT.

18 **39-28.6-105. Licensing required - rules - fines.** BEGINNING
19 MARCH 1, 2020, IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN THE
20 BUSINESS OF A DISTRIBUTOR OF NICOTINE PRODUCTS AT ANY PLACE OF
21 BUSINESS WITHOUT FIRST OBTAINING A LICENSE GRANTED AND ISSUED BY
22 THE DEPARTMENT, WHICH LICENSE IS IN EFFECT UNTIL JUNE 30 FOLLOWING
23 THE DATE OF ISSUE, UNLESS SOONER REVOKED. THE DEPARTMENT SHALL
24 GRANT A LICENSE ONLY TO A PERSON WHO OWNS OR OPERATES THE PLACE
25 FROM WHICH THE PERSON ENGAGES IN THE BUSINESS OF A DISTRIBUTOR OF
26 NICOTINE PRODUCTS, AND, IF THE BUSINESS IS OPERATED IN TWO OR MORE
27 SEPARATE PLACES BY THE PERSON, A SEPARATE LICENSE FOR EACH PLACE

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1 OF BUSINESS IS REQUIRED. A LICENSE MAY BE RENEWED ONLY UPON
2 TIMELY APPLICATION AND PAYMENT OF THE REQUIRED FEE PRIOR TO
3 EXPIRATION. A LICENSE MAY BE TRANSFERRED IN THE DISCRETION OF AND
4 PURSUANT TO THE RULES ADOPTED BY THE DEPARTMENT. THE FEE FOR A
5 LICENSE IS TEN DOLLARS PER YEAR, AND THE FEE IS CREDITED TO THE
6 GENERAL FUND. THE FEE IS REDUCED AT THE RATE OF TWO DOLLARS AND
7 FIFTY CENTS FOR EACH EXPIRED QUARTER OF THE LICENSE YEAR. THE
8 DEPARTMENT SHALL, ON REASONABLE NOTICE AND AFTER A HEARING,
9 SUSPEND OR REVOKE THE LICENSE OF ANY PERSON VIOLATING ANY
10 PROVISION OF THIS ARTICLE 28.6, AND THE DEPARTMENT SHALL NOT ISSUE
11 A LICENSE TO THE SAME PERSON WITHIN A PERIOD OF TWO YEARS
12 THEREAFTER. THE DEPARTMENT MAY SHARE INFORMATION ON THE NAMES
13 AND ADDRESSES OF PERSONS WHO PURCHASED NICOTINE PRODUCTS FOR
14 RESALE WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
15 AND COUNTY AND DISTRICT PUBLIC HEALTH AGENCIES. THE DEPARTMENT
16 SHALL REFUSE TO ISSUE A NEW OR RENEWAL DISTRIBUTOR LICENSE, AND
17 SHALL REVOKE A DISTRIBUTOR'S LICENSE, IF THE DISTRIBUTOR OWES THE
18 STATE ANY DELINQUENT TAXES ADMINISTERED BY THE DEPARTMENT OR
19 INTEREST THEREON PURSUANT TO THIS TITLE 39 THAT HAVE BEEN
20 DETERMINED BY LAW TO BE DUE AND UNPAID, UNLESS THE DISTRIBUTOR
21 HAS ENTERED INTO AN AGREEMENT APPROVED BY THE DEPARTMENT TO
22 PAY THE AMOUNT DUE. THE DEPARTMENT SHALL ONLY ISSUE A NEW OR
23 RENEWAL DISTRIBUTOR LICENSE TO A DISTRIBUTOR THAT HAS A CURRENT
24 LICENSE ISSUED PURSUANT TO SECTION 39-26-103.

25 **39-28.6-106. Books and records to be preserved.** (1) EVERY
26 DISTRIBUTOR SHALL KEEP AT EACH LICENSED PLACE OF BUSINESS
27 COMPLETE AND ACCURATE RECORDS FOR THAT PLACE OF BUSINESS,

1 INCLUDING ITEMIZED INVOICES OF NICOTINE PRODUCTS HELD, PURCHASED,
2 MANUFACTURED, BROUGHT IN OR CAUSED TO BE BROUGHT IN FROM
3 WITHOUT THE STATE, OR SHIPPED OR TRANSPORTED TO RETAILERS IN THIS
4 STATE, AND OF ALL SALES OF NICOTINE PRODUCTS MADE, EXCEPT SALES TO
5 THE ULTIMATE CONSUMER.

6 (2) THE DISTRIBUTOR'S RECORDS MUST SHOW THE NAMES AND
7 ADDRESSES OF PURCHASERS, THE INVENTORY OF ALL NICOTINE PRODUCTS
8 ON HAND, AND OTHER PERTINENT PAPERS AND DOCUMENTS RELATING TO
9 THE PURCHASE, SALE, OR DISPOSITION OF NICOTINE PRODUCTS.

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

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

27 (b) THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FOR ANY

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1 EXPENSES INCURRED BY THE DEPARTMENT RELATED TO ENFORCING
2 SUBSECTION (4)(a) OF THIS SECTION FROM THE TOBACCO TAX
3 ENFORCEMENT CASH FUND CREATED IN SECTION 39-28-107 (1)(b).

4 **39-28.6-107. Returns and remittance of tax - civil penalty -**
5 **rules.** (1) EVERY DISTRIBUTOR SHALL FILE A RETURN WITH THE
6 DEPARTMENT EACH QUARTER. THE RETURN, WHICH MUST BE UPON FORMS
7 PRESCRIBED AND FURNISHED BY THE DEPARTMENT, MUST CONTAIN,
8 AMONG OTHER THINGS, THE TOTAL AMOUNT OF NICOTINE PRODUCTS
9 PURCHASED BY THE DISTRIBUTOR DURING THE PRECEDING QUARTER AND
10 THE TAX DUE THEREON.

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

22 (3) THE DEPARTMENT MAY REQUIRE DISTRIBUTORS TO USE
23 ELECTRONIC FUNDS TRANSFERS TO REMIT TAX PAYMENTS DUE PURSUANT
24 TO THIS ARTICLE 28.6 TO THE DEPARTMENT AND MAY REQUIRE
25 DISTRIBUTORS TO FILE TAX RETURNS ELECTRONICALLY. THE DEPARTMENT
26 MAY PROMULGATE RULES GOVERNING ELECTRONIC PAYMENT AND FILING.

27 (4) (a) ANY PERSON, FIRM, LIMITED LIABILITY COMPANY,

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1 PARTNERSHIP, OR CORPORATION, OTHER THAN A DISTRIBUTOR, IN
2 POSSESSION OF NICOTINE PRODUCTS FOR WHICH TAXES HAVE NOT
3 OTHERWISE BEEN REMITTED PURSUANT TO THIS SECTION IS LIABLE AND
4 RESPONSIBLE FOR THE UNCOLLECTED TAX THAT IS LEVIED PURSUANT TO
5 SECTION 39-28.6-103 ON BEHALF OF THE DISTRIBUTOR WHO FAILED TO PAY
6 THE TAX. THE PERSON OR ENTITY SHALL MAKE THE PAYMENT TO THE
7 DEPARTMENT WITHIN THIRTY DAYS OF FIRST TAKING POSSESSION OF THE
8 NICOTINE PRODUCT. THE DEPARTMENT SHALL ESTABLISH A FORM TO BE
9 USED FOR REMITTANCE OF THE PAYMENT. THE DEPARTMENT SHALL REMIT
10 THE PROCEEDS IT RECEIVES PURSUANT TO THIS SUBSECTION (4)(a) TO THE
11 STATE TREASURER, AND THE STATE TREASURER SHALL CREDIT FIFTEEN
12 PERCENT OF THE PROCEEDS TO THE TOBACCO TAX ENFORCEMENT CASH
13 FUND CREATED IN SECTION 39-28-107 (1)(b) AND EIGHTY-FIVE PERCENT
14 TO THE OLD AGE PENSION FUND CREATED IN SECTION 1 OF ARTICLE XXIV
15 OF THE STATE CONSTITUTION.

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

1 PRODUCTS, OR AFFECTS ANY EXISTING AUTHORITY OF LOCAL
2 MUNICIPALITIES TO IMPOSE A TAX ON NICOTINE PRODUCTS TO BE USED FOR
3 LOCAL AND MUNICIPAL PURPOSES.

4 **39-28.6-111. Prohibited acts - penalties.** (1) BEGINNING MARCH
5 1, 2020, IT IS UNLAWFUL FOR ANY DISTRIBUTOR TO SELL AND DISTRIBUTE
6 ANY NICOTINE PRODUCTS IN THIS STATE WITHOUT A LICENSE AS REQUIRED
7 IN SECTION 39-28.6-105, OR TO WILLFULLY MAKE ANY FALSE OR
8 FRAUDULENT RETURN OR FALSE STATEMENT ON ANY RETURN, OR TO
9 WILLFULLY EVADE THE PAYMENT OF THE TAX, OR ANY PART THEREOF, AS
10 IMPOSED BY THIS ARTICLE 28.6. ANY DISTRIBUTOR OR AGENT THEREOF
11 WHO WILLFULLY VIOLATES ANY PROVISION OF THIS ARTICLE 28.6 IS
12 SUBJECT TO PUNISHMENT AS PROVIDED BY SECTION 39-21-118.

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

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

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

1 CHILDREN AND YOUTH BECAUSE THESE OPPORTUNITIES, WHICH OCCUR
2 OUTSIDE OF THEIR REGULAR SCHOOL SCHEDULES, PROVIDE ESSENTIAL
3 ACADEMIC AND LIFE SKILLS FOR CHILDREN AND YOUTH TO THRIVE IN
4 SCHOOL AND LIFE;

5 (b) THESE OPPORTUNITIES ALLOW CHILDREN AND YOUTH TO LEARN
6 NEW SKILLS, PARTICIPATE IN OUTDOOR ACTIVITIES, BE EXPOSED TO
7 DIFFERENT AND CHALLENGING REAL WORLD EXPERIENCES, AND RECEIVE
8 EXPOSURE TO MUSIC, DANCE, ARTS, AND CAREER AND TECHNICAL
9 EDUCATION PROGRAMS _____;

10 (c) ALL CHILDREN AND YOUTH SHOULD HAVE CONSISTENT AND
11 RELIABLE ACCESS TO THESE OUT-OF-SCHOOL LEARNING EXPERIENCES; AND

12 (d) ALL COLORADANS WILL BENEFIT FROM CHILDREN AND YOUTH
13 EXPERIENCING THESE EXPANDED LEARNING OPPORTUNITIES.

14 **22-86.5-103. Definitions.** AS USED IN THIS ARTICLE 86.5, UNLESS
15 THE CONTEXT OTHERWISE REQUIRES:

16 (1) "ADMINISTERING NONPROFIT ORGANIZATION" OR
17 "ORGANIZATION" MEANS A TAX-EXEMPT NONPROFIT ORGANIZATION
18 UNDER 26 U.S.C. SEC. 501 (c) OF THE FEDERAL "INTERNAL REVENUE
19 CODE OF 1986", AS AMENDED, THAT IS SELECTED BY THE AGENCY UNDER
20 SECTION 22-86.5-105 (2) TO ADMINISTER THE PROGRAM.

21 (2) "AGENCY" MEANS THE COLORADO EXPANDED LEARNING
22 OPPORTUNITIES AGENCY CREATED IN SECTION 22-86.5-104 (1).

23 (3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE COLORADO
24 EXPANDED LEARNING OPPORTUNITIES AGENCY CREATED IN SECTION
25 22-86.5-104 (2).

26 (4) "ELIGIBLE STUDENT" MEANS A PERSON WHO IS AT LEAST FIVE
27 YEARS OLD BUT LESS THAN TWENTY-ONE YEARS OLD AND WHO IS ELIGIBLE

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1 FOR ADMISSION TO PUBLIC SCHOOL WITHIN THE STATE OR ANY THREE OR
2 FOUR YEAR OLD WHO RESIDES IN THE STATE.

3 (5) (a) "OUT-OF-SCHOOL LEARNING EXPERIENCE" MEANS ANY
4 PROGRAM, SERVICE, OR ACTIVITY THAT PROVIDES SUPPLEMENTAL
5 EDUCATIONAL OR DEVELOPMENTAL SUPPORT TO ELIGIBLE STUDENTS
6 OUTSIDE OF NORMAL SCHOOL OPERATIONS _____. "OUT-OF-SCHOOL
7 LEARNING EXPERIENCE" INCLUDES TUTORING AND SUPPLEMENTAL
8 ACADEMIC INSTRUCTION INCLUDING READING, MATHEMATICS, SCIENCE,
9 AND WRITING; TARGETED SUPPORT FOR SPECIAL NEEDS AND LEARNING
10 DISABILITIES OR ENGLISH LANGUAGE OR FOREIGN LANGUAGE
11 ACQUISITION; IN-DEPTH PROGRAMS THAT TEACH CHILDREN AND YOUTH
12 NEW SKILLS IN THE CONTEXT OF OUTDOOR ACTIVITIES; CHALLENGING REAL
13 WORLD EXPERIENCES THAT BUILD ESSENTIAL SKILL SETS; AND PROGRAMS
14 THAT PROVIDE MUSIC, DANCE, ARTS, OR CAREER AND TECHNICAL
15 EDUCATION TRAINING.

16 (b) "OUT-OF-SCHOOL LEARNING EXPERIENCE" DOES NOT INCLUDE:

17 (I) INSTRUCTION, SERVICES, MATERIALS, CURRICULA, OR
18 PROGRAMS PROVIDED AS PART OF A NORMAL COURSE OF STUDY
19 CONDUCTED IN ACCORDANCE WITH A STUDENT ATTENDING A
20 KINDERGARTEN-THROUGH-TWELFTH PUBLIC OR PRIVATE SCHOOL OR A
21 HOME SCHOOL; _____

22 (II) TUITION FOR NORMAL SCHOOL ATTENDANCE AT A PRIVATE
23 SCHOOL; _____

24 (III) ANY FORM OF RELIGIOUS INSTRUCTION; _____

25 (IV) MATERIALS THAT MAY BE USED AT HOME WITHOUT ANY
26 FURTHER INTERACTION WITH A PROVIDER, EXCEPT AS OTHERWISE
27 PROVIDED IN SECTION 22-86.5-105 (8); OR

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1 (V) CHILDCARE PROVIDED DURING NORMAL SCHOOL HOURS OR
2 PRESCHOOL.

3 (6) "PARENT" MEANS A PARENT OR LEGAL GUARDIAN OF AN
4 ELIGIBLE STUDENT.

5 (7) "PROGRAM" MEANS THE COLORADO EXPANDED LEARNING
6 OPPORTUNITIES PROGRAM CREATED AND ADMINISTERED UNDER THIS
7 ARTICLE 86.5.

8 (8) "PROVIDER" MEANS A PERSON OR ENTITY THAT PROVIDES AN
9 OUT-OF-SCHOOL LEARNING EXPERIENCE.

10 **22-86.5-104. Colorado expanded learning opportunities**
11 **agency - board - created - rules.** (1) THE COLORADO EXPANDED
12 LEARNING OPPORTUNITIES AGENCY IS ESTABLISHED AS AN INDEPENDENT
13 AGENCY IN THE DEPARTMENT OF EDUCATION. THE AGENCY EXERCISES ITS
14 POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS AS IF IT WERE
15 TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER UNDER THE
16 PROVISIONS OF THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968",
17 ARTICLE 1 OF TITLE 24.

18 (2)(a) THE AGENCY IS GOVERNED AND ADMINISTERED BY A BOARD
19 OF DIRECTORS. THE BOARD CONSISTS OF EIGHT MEMBERS, WITH THE
20 GOVERNOR AND EITHER THE SPEAKER OR MINORITY LEADER OF THE HOUSE
21 OF REPRESENTATIVES, WHOMEVER IS NOT AFFILIATED WITH THE SAME
22 POLITICAL PARTY AS THE GOVERNOR, EACH APPOINTING FOUR MEMBERS
23 _____. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2)(a).
24 LEGISLATIVE APPOINTMENTS ARE GOVERNED BY SECTION 2-2-325.
25 MEMBERS APPOINTED BY THE GOVERNOR SERVE FOR TWO-YEAR TERMS
26 AND AT THE PLEASURE OF THE GOVERNOR. THE LEGISLATIVE APPOINTING
27 AUTHORITY AND THE GOVERNOR SHALL COORDINATE THEIR SELECTIONS

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1 SO THAT AT LEAST TWO MEMBERS OF THE BOARD ARE FROM THE WESTERN
2 SLOPE AND TWO MEMBERS ARE FROM THE EASTERN SLOPE OUTSIDE OF THE
3 FRONT RANGE. INITIAL APPOINTMENTS MUST BE MADE BY FEBRUARY 1,
4 2020. BOARD MEMBERS MAY SERVE UP TO THREE CONSECUTIVE TERMS;
5 EXCEPT THAT THE INITIAL LEGISLATIVE APPOINTMENTS WHOSE TERM
6 EXPIRES UPON THE COMMENCEMENT OF THE SEVENTY-THIRD GENERAL
7 ASSEMBLY MAY SERVE UP TO FOUR CONSECUTIVE TERMS.

8 (b) BOARD MEMBERS ARE NOT ENTITLED TO COMPENSATION BUT
9 ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY
10 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR BOARD DUTIES.
11 DURING THEIR TERMS OF SERVICE, BOARD MEMBERS SHALL NOT BE
12 EMPLOYED BY, CONTRACT WITH, OR BE BOARD MEMBERS OF
13 ORGANIZATIONS, PUBLIC AGENCIES, OR INDIVIDUALS THAT PROVIDE OR
14 OFFER TO PROVIDE OUT-OF-SCHOOL LEARNING EXPERIENCES UNDER THE
15 PROGRAM.

16 (3) (a) IN ADDITION TO ALL OTHER POWERS AND DUTIES
17 CONFERRED OR IMPOSED UPON THE BOARD BY THIS ARTICLE 86.5, THE
18 BOARD SHALL:

19 (I) DEVELOP CRITERIA FOR ALLOWABLE USES OF MONEY FROM THE
20 FUND GRANTED TO THE ADMINISTERING NONPROFIT ORGANIZATION;

21 (II) _____ DEVELOP CRITERIA THAT THE ADMINISTERING
22 NONPROFIT ORGANIZATION USE TO DETERMINE WHICH PROVIDERS ARE
23 CERTIFIED TO RECEIVE A PAYMENT UNDER THE PROGRAM;

24 (III) DETERMINE THE AMOUNT OF A PAYMENT TO A PROVIDER ON
25 BEHALF OF AN ELIGIBLE STUDENT THAT IS BASED ON THE ELIGIBLE
26 STUDENT'S FAMILY INCOME;

27 (IV) ANALYZE THE EXPENSE FOR AND QUALITY OF PROGRAMS,

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1 SERVICES, OR ACTIVITIES OFFERED BY PROVIDERS THAT ARE ENGAGED IN
2 THE CERTIFICATION PROCESS AND USE SUCH ANALYSIS TO INFORM THE
3 PROVIDER CERTIFICATION PROCESS;

4 (V) DETERMINE THE AMOUNT OF MONEY THAT THE
5 ADMINISTERING NONPROFIT ORGANIZATION IS PERMITTED TO RETAIN AND
6 SPEND ON ADMINISTRATIVE EXPENSES;

7 (VI) ADOPT STANDARDS TO ENSURE THE SAFETY OF ELIGIBLE
8 STUDENTS, INCLUDING BACKGROUND CHECKS FOR PROVIDERS WHO COME
9 IN CONTACT WITH STUDENTS;

10 (VII) HIRE SUCH STAFF AS MAY BE NECESSARY TO ASSIST THE
11 BOARD IN ITS DUTIES; _____

12 (VIII) ESTABLISH PROTOCOLS TO IDENTIFY, INVESTIGATE, AND
13 TAKE ACTION ON ANY SUSPECTED FRAUD OR MISUSE OF MONEY RELATED
14 TO THE PROGRAM; AND

15 (IX) ADOPT STANDARDS TO ENSURE THAT AN ELIGIBLE STUDENT
16 IS PARTICIPATING IN AN OUT-OF-SCHOOL LEARNING EXPERIENCE THROUGH
17 THE PROGRAM THAT IS NOT PART OF A NONPUBLIC HOME-BASED
18 EDUCATIONAL PROGRAM.

19 (4) (a) THE CRITERIA CREATED BY THE BOARD UNDER SUBSECTION
20 (3)(a)(II) OF THIS SECTION MUST:

21 (I) MAXIMIZE THE NUMBER AND DIVERSITY OF PROVIDERS THAT
22 PARENTS CAN CHOOSE AND ENSURE THAT SMALL COMMUNITY-BASED
23 PROVIDERS ARE ABLE TO PARTICIPATE IN THE PROGRAM;

24 (II) GIVE CONSIDERATION TO THE QUALITY OF THE PROGRAM AND
25 THE ELIGIBLE PROVIDER'S PROPOSED COST OF OUT-OF-SCHOOL LEARNING
26 EXPERIENCES; AND

27 (III) DENY PROVIDERS WHO HAVE INFLATED THE COST OF

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1 OUT-OF-SCHOOL LEARNING EXPERIENCES BASED ON THE POTENTIAL
2 PAYMENT RECEIVED THROUGH THE PROGRAM.

3 (b) IN DETERMINING THE AMOUNT OF A PAYMENT THAT MAY BE
4 PAID FOR AN ELIGIBLE STUDENT TO PARTICIPATE IN AN OUT-OF-SCHOOL
5 LEARNING EXPERIENCE, THE BOARD SHALL CREATE A SLIDING SCALE OF
6 PAYMENTS THAT PRIORITIZES LOW-INCOME FAMILIES AND GIVES GREATER
7 ASSISTANCE TO THEM. IF THE BOARD DETERMINES THAT THERE ARE
8 INSUFFICIENT FUNDS AVAILABLE TO PROVIDE A MEANINGFUL LEVEL OF
9 ASSISTANCE FOR ALL ELIGIBLE STUDENTS, THEN IT MAY ESTABLISH AN
10 INCOME THRESHOLD ABOVE WHICH AN ELIGIBLE STUDENT IS NOT
11 AUTHORIZED TO ENROLL IN THE PROGRAM.

12 (5) THE BOARD MAY SOLICIT, ACCEPT, AND EXPEND GIFTS, GRANTS,
13 AND DONATIONS FOR THE PURPOSES OF ADMINISTERING AND FUNDING THE
14 PROGRAM, BUT THE BOARD SHALL NOT ACCEPT A GIFT, GRANT, OR
15 DONATION THAT IS EARMARKED OR RESTRICTED IN ANY MANNER FOR THE
16 BENEFIT OF OR TO EXCLUDE ANY INDIVIDUAL OR CLASS OF RECIPIENTS OR
17 ANY INDIVIDUAL OR CLASS OF PROVIDERS.

18 (6) THE BOARD SHALL ADOPT SUCH RULES AS MAY BE NECESSARY
19 TO ADMINISTER THE PROVISIONS OF THIS ARTICLE 86.5.

20 (7) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
21 BEFORE JANUARY 15, 2022, AND EACH JANUARY 15 THEREAFTER, THE
22 AGENCY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY DESCRIBING
23 THE PROGRAM ENROLLMENT, TYPES OF OUT-OF-SCHOOL LEARNING
24 EXPERIENCES, OUTCOMES DISAGGREGATED BY ELIGIBLE STUDENT GROUPS,
25 ADMINISTRATIVE COSTS, WAIVERS, AND ANY OTHER RELEVANT
26 INFORMATION ABOUT THE PROGRAM.

27 **22-86.5-105. Colorado expanded learning opportunities**

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1 **program - administering nonprofit organization - waiver.** (1) THE
2 COLORADO EXPANDED LEARNING OPPORTUNITIES PROGRAM IS
3 ESTABLISHED TO INCREASE OUT-OF-SCHOOL LEARNING OPPORTUNITIES
4 FOR ELIGIBLE STUDENTS. THE AGENCY, THROUGH AN ADMINISTERING
5 NONPROFIT ORGANIZATION, SHALL PAY CERTIFIED PROVIDERS FOR
6 ELIGIBLE STUDENTS TO PARTICIPATE IN OUT-OF-SCHOOL LEARNING
7 EXPERIENCES CHOSEN BY THE CHILDREN'S OR YOUTHS' PARENTS.

8 (2) THE AGENCY SHALL SELECT OR CREATE A NONPROFIT
9 ORGANIZATION TO ADMINISTER THE PROGRAM NO LATER THAN AUGUST 1,
10 2020. THE DUTIES OF THE ADMINISTERING NONPROFIT ORGANIZATION
11 INCLUDE:

12 (a) CERTIFYING PROVIDERS THAT PARENTS MAY CHOOSE FOR
13 AN ELIGIBLE STUDENT TO PARTICIPATE IN AN OUT-OF-SCHOOL LEARNING
14 EXPERIENCE;

15 (b) ENTERING INTO AGREEMENTS WITH APPROVED
16 PROVIDERS;

17 (c) PROVIDING SERVICES DIRECTLY OR THROUGH A THIRD-PARTY
18 CONTRACT TO ASSIST ENROLLED ELIGIBLE STUDENTS AND THEIR PARENTS
19 IN SELECTING AN OUT-OF-SCHOOL LEARNING EXPERIENCE;

20 (d) CONDUCTING OUTREACH ABOUT THE PROGRAM, INCLUDING
21 OUTREACH TO PARENTS OF CHILDREN IDENTIFIED WITH SPECIAL NEEDS;

22 (e) COMPENSATING PROVIDERS FOR PARTICIPATING ELIGIBLE
23 STUDENTS, WHICH COMPENSATION MAY INCLUDE EXPENSES FOR
24 TRANSPORTATION OF AN ELIGIBLE STUDENT TO AND FROM THE
25 OUT-OF-SCHOOL LEARNING EXPERIENCE; AND

26 (f) SUBMITTING IN A TIMELY MANNER ANY INFORMATION
27 REQUESTED BY THE AGENCY THAT RELATES TO THE PROGRAM, INCLUDING

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1 INFORMATION RELATED TO THE EVALUATION OF THE PROGRAM OR ITS
2 ADMINISTRATION.

3 (3) (a) PARENTS OF AN ELIGIBLE STUDENT MAY APPLY WITH THE
4 ADMINISTERING NONPROFIT ORGANIZATION FOR THE ELIGIBLE STUDENT TO
5 BE ENROLLED IN THE PROGRAM. IF ENROLLED, THE ORGANIZATION SHALL
6 IDENTIFY OUT-OF-SCHOOL LEARNING EXPERIENCES AVAILABLE TO THE
7 ELIGIBLE STUDENT AND THE ANNUAL MAXIMUM AMOUNT THAT MAY BE
8 PAID ON BEHALF OF THE ELIGIBLE STUDENT.

9 (b) IF THE ADMINISTERING NONPROFIT ORGANIZATION PAYS FOR AN
10 ELIGIBLE STUDENT TO PARTICIPATE IN AN OUT-OF-SCHOOL LEARNING
11 EXPERIENCE, BUT THE AMOUNT PAID IS LESS THAN THE ANNUAL MAXIMUM
12 AMOUNT THAT MAY BE PAID ON BEHALF OF THE ELIGIBLE STUDENT, THEN
13 THE ORGANIZATION SHALL SET ASIDE THE DIFFERENCE ON BEHALF OF THE
14 ELIGIBLE STUDENT AND USE THIS MONEY FOR PAYMENTS MADE TO
15 PROVIDERS ON BEHALF THE ELIGIBLE STUDENT IN A FUTURE YEAR. THESE
16 PAYMENTS ARE IN ADDITION TO THE PAYMENTS THAT WOULD OTHERWISE
17 BE MADE BASED ON THE ELIGIBLE STUDENT'S INCOME AT THE TIME. THE
18 ORGANIZATION MAY USE ANY AMOUNT THAT IS SET ASIDE FOR A PERSON
19 WHO NO LONGER QUALIFIES AS AN ELIGIBLE STUDENT FOR ANY PURPOSE OF
20 THE PROGRAM.

21 (4) THE ADMINISTERING NONPROFIT ORGANIZATION SHALL COMPLY
22 WITH ANY REQUIREMENTS ESTABLISHED BY THE BOARD BY RULE OR
23 OTHERWISE.

24 (5) THE ADMINISTERING NONPROFIT ORGANIZATION SHALL NOT
25 ADMINISTER THE PROGRAM IN A MANNER THAT DISCRIMINATES AGAINST
26 ANY ELIGIBLE STUDENT, PARENT, OR PROVIDER _____ ON THE BASIS OF
27 RACE, COLOR, RELIGIOUS AFFILIATION, NATIONAL ORIGIN, GENDER,

1 MILITARY STATUS, SEXUAL ORIENTATION, GENDER VARIANCE, MARITAL
2 STATUS, OR PHYSICAL OR MENTAL DISABILITY. A PROVIDER SHALL NOT
3 ADMINISTER AN OUT-OF-SCHOOL LEARNING EXPERIENCE FOR WHICH
4 MONEY HAS BEEN RECEIVED FROM THE PROGRAM IN A MANNER THAT
5 DISCRIMINATES AGAINST ANY ELIGIBLE STUDENT OR PARENT ON THE BASIS
6 OF RACE, COLOR, RELIGIOUS AFFILIATION, NATIONAL ORIGIN, GENDER,
7 MILITARY STATUS, SEXUAL ORIENTATION, GENDER VARIANCE, MARITAL
8 STATUS, OR PHYSICAL OR MENTAL DISABILITY.

9 (6) LOCAL SCHOOL DISTRICTS, LOCAL EDUCATION PROVIDERS, AND
10 BOARDS OF COOPERATIVE EDUCATIONAL SERVICES ARE AUTOMATICALLY
11 CERTIFIED PROVIDERS AND NEED ONLY REGISTER WITH THE ORGANIZATION
12 AS A CERTIFIED PROVIDER TO BE PART OF THE PROGRAM. NEITHER THE
13 ADMINISTERING NONPROFIT ORGANIZATION NOR ANY SUBSIDIARY THEREOF
14 IS ELIGIBLE FOR CERTIFICATION AS A PROVIDER.

15 (7) THE ADMINISTERING NONPROFIT ORGANIZATION MAY SOLICIT,
16 RECEIVE, AND EXPEND GIFTS, GRANTS, AND DONATIONS FOR THE PURPOSES
17 OF ADMINISTERING AND FUNDING THE PROGRAM, BUT THE ORGANIZATION
18 SHALL NOT ACCEPT A GIFT, GRANT, OR DONATION FOR THE PROGRAM THAT
19 IS EARMARKED OR RESTRICTED IN ANY MANNER FOR THE BENEFIT OF OR TO
20 EXCLUDE ANY INDIVIDUAL OR CLASS OF RECIPIENTS OR ANY INDIVIDUAL OR
21 CLASS OF PROVIDERS.

22 (8) BASED ON INFORMATION FROM THE ADMINISTERING NONPROFIT
23 ORGANIZATION THAT A PARTICULAR AREA HAS AN INSUFFICIENT NUMBER
24 OF CERTIFIED PROVIDERS, THE AGENCY MAY DESIGNATE ELIGIBLE
25 STUDENTS IN THE AREA TO RECEIVE A WAIVER FOR THE ORGANIZATION TO
26 PAY A CERTIFIED PROVIDER FOR OUT-OF-SCHOOL LEARNING EXPERIENCES
27 THAT ARE COLLABORATIVE MATERIALS THAT MAY BE DONE IN THE

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1 ELIGIBLE STUDENT'S HOME WITHOUT INTERACTION WITH THE PROVIDER.
2 (9) THE AGENCY SHALL CONTRACT WITH A THIRD PARTY TO
3 CONDUCT AN INDEPENDENT EVALUATION OF THE COLORADO EXPANDED
4 LEARNING OPPORTUNITIES PROGRAM AFTER THREE YEARS OF PROGRAM
5 ADMINISTRATION IN ORDER TO DETERMINE PROGRAM EFFECTIVENESS,
6 INCLUDING THE EFFECT OF THE PROGRAM ON STUDENT AND FAMILY
7 OUTCOMES, COST AND SUPPLY OF EXPANDED LEARNING OPPORTUNITIES
8 ACROSS THE STATE, AND ACCESS TO HIGH-QUALITY EXPANDED LEARNING
9 OPPORTUNITIES FOR LOW-INCOME CHILDREN.

10 **22-86.5-106. Colorado expanded learning opportunities cash**
11 **fund - created.** (1) THE COLORADO EXPANDED LEARNING OPPORTUNITIES
12 CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY
13 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY
14 CREDITED TO THE FUND PURSUANT TO SECTION 24-22-118 (2)(a). THE
15 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED
16 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE COLORADO
17 EXPANDED LEARNING OPPORTUNITIES CASH FUND TO THE FUND.

18 (2) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
19 AGENCY TO GRANT TO THE ADMINISTERING NONPROFIT ORGANIZATION FOR
20 OPERATION OF THE PROGRAM AND FOR THE AGENCY'S DIRECT AND
21 INDIRECT EXPENSES INCURRED IN THE ADMINISTRATION OF THIS ARTICLE
22 86.5, WHICH EXPENSES INCLUDE THE COSTS OF THE REPORT REQUIRED
23 UNDER SECTION 22-86.5-106 (9). FOR THE 2019-20 AND 2020-21 FISCAL
24 YEARS, THE AGENCY'S ADMINISTRATIVE EXPENSES FOR THE PROGRAM IN A
25 FISCAL YEAR SHALL NOT EXCEED THREE PERCENT OF THE MONEY
26 TRANSFERRED TO THE FUND IN THE FISCAL YEAR. FOR FISCAL YEARS
27 COMMENCING ON OR AFTER JULY 1, 2021, THE AGENCY'S ADMINISTRATIVE

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1 EXPENSES SHALL NOT EXCEED THREE PERCENT OF THE MONEY
2 TRANSFERRED TO THE FUND IN THE 2020-21 FISCAL YEAR.

3 (3) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE MONEY FROM
4 THE FUND SHALL NOT SUPPLANT EXISTING FUNDING FOR PROGRAMS OR
5 SERVICES AVAILABLE TO ELIGIBLE STUDENTS.

6 **22-86.5-107. Annual audits.** THE ADMINISTERING NONPROFIT
7 ORGANIZATION SHALL CONTRACT WITH A THIRD PARTY TO PREPARE AN
8 INDEPENDENT FINANCIAL AUDIT OF THE ADMINISTERING NONPROFIT
9 ORGANIZATION. THE ORGANIZATION SHALL FILE THE AUDIT WITH THE
10 AGENCY NO LATER THAN JULY 1 OF EACH YEAR FOR THE PREVIOUS
11 CALENDAR YEAR. THE AGENCY SHALL MAKE THE AUDIT PUBLICLY
12 AVAILABLE, BUT BEFORE DOING SO, THE AGENCY SHALL REDACT ANY
13 PRIVATE INFORMATION.

14 **SECTION 14.** In Colorado Revised Statutes, 24-22-117, amend
15 (1)(a) and (2)(c)(I) as follows:

16 **24-22-117. Tobacco tax cash fund - accounts - creation -**
17 **legislative declaration.** (1) (a) There is hereby created in the state
18 treasury the tobacco tax cash fund, which fund is referred to in this section
19 as the "cash fund". The cash fund ~~shall consist~~ CONSISTS of ~~moneys~~
20 MONEY collected from the cigarette and tobacco taxes imposed pursuant
21 to section 21 of article X of the state constitution AND MONEY
22 TRANSFERRED IN ACCORDANCE WITH SECTION 24-22-118 (3)(c)(II). All
23 interest and income derived from the deposit and investment of moneys
24 in the cash fund shall be credited to the cash fund; except that all interest
25 and income derived from the deposit and investment of moneys in the
26 cash fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years
27 shall be credited to the general fund. Any unexpended and unencumbered

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1 moneys remaining in the cash fund at the end of a fiscal year shall remain
2 in the cash fund and shall not be credited or transferred to the general fund
3 or any other fund, except as otherwise provided in this section.

4 (2) There are hereby created in the state treasury the following
5 funds:

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

25 **SECTION 15.** In Colorado Revised Statutes, **add** 24-22-118 as
26 follows:

27 **24-22-118. Revenue from nicotine products and additional**

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1 **tobacco tax - behavioral health and health care affordability and**
2 **accessibility cash fund - preschool programs cash fund - distribution**
3 **to Colorado expanded learning opportunities cash fund - creation -**
4 **definitions. (1) AS USED IN THIS SECTION:**

5 (a) "BEHAVIORAL HEALTH AND HEALTH CARE AFFORDABILITY AND
6 ACCESSIBILITY CASH FUND" MEANS THE BEHAVIORAL HEALTH AND HEALTH
7 CARE AFFORDABILITY AND ACCESSIBILITY CASH FUND CREATED IN
8 SUBSECTION (3)(a) OF THIS SECTION.

9 (b) "CHILDREN AND YOUTH" MEANS ANY PERSON WHO IS
10 TWENTY-SIX YEARS OF AGE OR YOUNGER.

11 (c) "COLORADO EXPANDED LEARNING OPPORTUNITIES CASH FUND"
12 MEANS THE COLORADO EXPANDED LEARNING OPPORTUNITIES CASH FUND
13 CREATED IN SECTION 22-86.5-106 (1).

14 (d) "PRESCHOOL PROGRAMS CASH FUND" MEANS THE PRESCHOOL
15 PROGRAMS CASH FUND CREATED IN SUBSECTION (6)(a) OF THIS SECTION.

16 (2) THE STATE TREASURER SHALL TRANSFER FROM THE GENERAL
17 FUND AN AMOUNT EQUAL TO THE TOTAL REVENUE FROM THE TAXES ON
18 CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS AS DESCRIBED
19 IN SECTIONS 39-28-110 (1)(b), 39-28.5-108 (1)(b), AND 39-28.6-109 (2) AS
20 FOLLOWS:

21 (a) FIFTY PERCENT OF THE AMOUNT TO THE BEHAVIORAL HEALTH
22 AND HEALTH CARE AFFORDABILITY AND ACCESSIBILITY CASH FUND; AND

23 (b) _____ (I) FOR THE 2019-20 AND 2020-21 FISCAL YEARS:

24 (A) THIRTY-FIVE PERCENT OF THE AMOUNT TO THE PRESCHOOL
25 PROGRAMS CASH FUND; AND

26 (B) FIFTEEN PERCENT OF THE AMOUNT TO THE COLORADO
27 EXPANDED LEARNING OPPORTUNITIES CASH FUND;

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1 (II) FOR THE 2021-22 FISCAL YEAR:

2 (A) THIRTY PERCENT OF THE AMOUNT TO THE PRESCHOOL
3 PROGRAMS CASH FUND; AND

4 (B) TWENTY PERCENT OF THE AMOUNT TO THE COLORADO
5 EXPANDED LEARNING OPPORTUNITIES CASH FUND; AND

6 (III) FOR THE 2022-23 FISCAL YEAR AND EACH FISCAL YEAR
7 THEREAFTER:

8 (A) TWENTY-SEVEN AND ONE-HALF PERCENT OF THE AMOUNT TO
9 THE PRESCHOOL PROGRAMS CASH FUND; AND

10 (B) TWENTY-TWO AND ONE-HALF PERCENT OF THE AMOUNT TO THE
11 COLORADO EXPANDED LEARNING OPPORTUNITIES CASH FUND.

12 (3) (a) THE BEHAVIORAL HEALTH AND HEALTH CARE
13 AFFORDABILITY AND ACCESSIBILITY CASH FUND IS HEREBY CREATED IN THE
14 STATE TREASURY. THE FUND CONSISTS OF MONEY CREDITED TO THE FUND
15 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION. THE STATE TREASURER
16 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
17 INVESTMENT OF MONEY IN THE BEHAVIORAL HEALTH AND HEALTH CARE
18 AFFORDABILITY AND ACCESSIBILITY CASH FUND TO THE FUND.

19 (b) THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT,
20 HUMAN SERVICES, HEALTH CARE POLICY AND FINANCING, AND EDUCATION
21 SHALL ADMINISTER THE BEHAVIORAL HEALTH AND HEALTH CARE
22 AFFORDABILITY AND ACCESSIBILITY CASH FUND.

23 (c) THE STATE TREASURER SHALL ANNUALLY TRANSFER MONEY
24 FROM THE BEHAVIORAL HEALTH AND HEALTH CARE AFFORDABILITY AND
25 ACCESSIBILITY CASH FUND AS FOLLOWS:

26 (I) NINETEEN PERCENT TO THE TOBACCO EDUCATION PROGRAMS
27 FUND CREATED IN SECTION 24-22-117 (2)(c)(I); EXCEPT THAT, THIS

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1 TRANSFER SHALL NOT EXCEED THIRTY MILLION DOLLARS IN A FISCAL YEAR;
2 AND

3 (II) NINE AND ONE-HALF PERCENT TO OFFSET THE DECREASE IN THE
4 EXISTING REVENUE DISTRIBUTION FROM THE CIGARETTE AND TOBACCO
5 PRODUCTS TAXES THAT RESULTS FROM THE INCREASE IN THOSE TAXES
6 APPROVED BY VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER 2019.

7 OF THIS ALLOCATION, THE STATE TREASURER SHALL TRANSFER
8 SEVENTY-THREE PERCENT TO THE TOBACCO TAX CASH FUND CREATED IN
9 SECTION 24-22-117 (1) AND TWENTY-SEVEN PERCENT TO THE GENERAL
10 FUND; EXCEPT THAT THE TOTAL TRANSFERRED UNDER THIS SUBSECTION
11 (3)(c)(II) SHALL NOT EXCEED FIFTEEN MILLION DOLLARS IN A FISCAL YEAR.

12 (d) (I) FOR ANY FISCAL YEAR THAT COMMENCES PRIOR TO JULY 1,
13 2023, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE NET
14 AMOUNT IN THE BEHAVIORAL HEALTH AND HEALTH CARE AFFORDABILITY
15 AND ACCESSIBILITY CASH FUND, WHICH IS THE AMOUNT AFTER THE
16 TRANSFERS REQUIRED BY SUBSECTION (2)(c) OF THIS SECTION, AS
17 FOLLOWS:

18 (A) SIXTY-SIX PERCENT TO THE MAKE HEALTH CARE MORE
19 AFFORDABLE AND ACCESSIBLE IN ACCORDANCE WITH SUBSECTION (4) OF
20 THIS SECTION; AND

21 (B) THIRTY-FOUR PERCENT TO IMPROVE THE PROVISION OF
22 BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH IN
23 ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION.

24 (II) FOR ANY FISCAL YEAR THAT COMMENCES ON OR AFTER JULY
25 1, 2023, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEY
26 FROM THE BEHAVIORAL HEALTH AND HEALTH CARE AFFORDABILITY AND
27 ACCESSIBILITY CASH FUND FOR ANY OF THE PURPOSES SET FORTH IN

1 SUBSECTIONS (4) AND (5) OF THIS SECTION, WITH AT LEAST TWENTY
2 PERCENT OF THE NET AMOUNT APPROPRIATED UNDER EACH SUBSECTION.

3 (4) (a) IT IS THE GENERAL ASSEMBLY'S INTENT THAT A PORTION OF
4 THE MONEY IN THE BEHAVIORAL HEALTH AND HEALTH CARE
5 AFFORDABILITY AND ACCESSIBILITY CASH FUND BE USED TO MAKE HEALTH
6 CARE MORE AFFORDABLE AND ACCESSIBLE.

7 (b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
8 ASSEMBLY, A DEPARTMENT MAY EXPEND MONEY FROM THE BEHAVIORAL
9 HEALTH AND HEALTH CARE AFFORDABILITY AND ACCESSIBILITY CASH
10 FUND:

11 (I) TO INCREASE ACCESS TO CARE;

12 (II) FOR HEALTH CARE WORKFORCE DEVELOPMENT;

13 (III) FOR PROGRAMS THAT REDUCE THE COST OF HEALTH CARE,
14 INCLUDING LOWER PREMIUMS AND REDUCED OUT-OF-POCKET COSTS FOR
15 CONSUMERS;

16 (IV) TO INCREASE STATE FUNDING FOR THE CHILDREN'S BASIC
17 HEALTH PLAN CREATED IN ARTICLE 8 OF TITLE 25.5; OR

18 (V) FOR ANY OTHER USE THAT IS CONSISTENT WITH THE PURPOSE
19 SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION.

20 (5) (a) IT IS THE GENERAL ASSEMBLY'S INTENT THAT A PORTION OF
21 MONEY IN THE BEHAVIORAL HEALTH AND HEALTH CARE AFFORDABILITY
22 AND ACCESSIBILITY CASH FUND BE USED TO IMPROVE THE PROVISION OF
23 BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH.

24 (b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
25 ASSEMBLY, A DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR:

26 (I) SUICIDE PREVENTION SERVICES;

27 (II) SCHOOL-BASED PROGRAMS AND SERVICES TO PROVIDE

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1 BEHAVIORAL HEALTH SERVICES;

2 (III) CRISIS RESPONSE SERVICES;

3 (IV) INTENSIVE CARE PLANNING AND CASE MANAGEMENT FOR

4 CHILDREN AND YOUTH WITH SERIOUS BEHAVIORAL NEEDS;

5 (V) BEHAVIORAL HEALTH _____ WORKFORCE DEVELOPMENT;

6 (VI) IMPROVING ACCESS TO BEHAVIORAL HEALTH SERVICES; OR

7 (VII) ANY OTHER USE THAT IS CONSISTENT WITH THE PURPOSE

8 SPECIFIED IN SUBSECTION (5)(a) OF THIS SECTION.

9 (6) (a) THE PRESCHOOL PROGRAMS CASH FUND IS HEREBY CREATED

10 IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY CREDITED TO THE

11 FUND PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION. THE STATE

12 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE

13 DEPOSIT AND INVESTMENT OF MONEY IN THE PRESCHOOL PROGRAMS CASH

14 FUND TO THE FUND.

15 (b) THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF

16 HUMAN SERVICES SHALL ADMINISTER THE PRESCHOOL PROGRAMS CASH

17 FUND.

18 (c) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE MONEY IN THE

19 PRESCHOOL PROGRAMS CASH FUND BE USED TO EXPAND AND ENHANCE THE

20 COLORADO PRESCHOOL PROGRAM IN ORDER TO IMPROVE THE

21 AVAILABILITY, AFFORDABILITY, AND QUALITY OF VOLUNTARY EARLY

22 CHILDHOOD EDUCATION WITH A GOAL, OVER TIME AND SUBJECT TO

23 ADEQUATE REVENUE, OF SERVING ALL OF COLORADO'S YOUNG CHILDREN

24 WHOSE FAMILIES CHOOSE IT.

25 (d) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL

26 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE PRESCHOOL

27 PROGRAMS CASH FUND TO:

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1 (I) PROVIDE FINANCIAL ASSISTANCE TO HELP FAMILIES AFFORD
2 EARLY CHILDHOOD EDUCATION;

3 (II) INCREASE ACCESS TO PRESCHOOL SERVICES FOR COLORADO
4 CHILDREN AND IMPROVE THE QUALITY OF PRESCHOOLS;

5 (III) PROVIDE FOR MIXED-DELIVERY OPTIONS TO SUPPORT PARENT
6 CHOICE OF EITHER SCHOOL-BASED OR COMMUNITY-BASED EARLY
7 CHILDHOOD EDUCATION OPTIONS;

8 (IV) IMPROVE THE AFFORDABILITY AND AVAILABILITY OF QUALITY
9 EARLY CHILDHOOD EDUCATION PROGRAMS AND FACILITIES, INCLUDING
10 OFFERING VOLUNTARY PRESCHOOL PROGRAMS THAT MATCH PARENTS' AND
11 CHILDREN'S NEEDS FOR LENGTH OF DAY AND LENGTH OF YEAR SO
12 CHILDREN ARE READY FOR SCHOOL;

13 (V) INCREASE THE CAPACITY OF LICENSED EARLY CHILDHOOD CARE
14 PROGRAMS SO FAMILIES THAT NEED EARLY CHILDHOOD EDUCATION AND
15 EDUCATION HAVE ACCESS;

16 (VI) RECRUIT, TRAIN, AND RETAIN EARLY CHILDHOOD EDUCATION
17 PROFESSIONALS;

18 (VII) SUPPORT THE AVAILABILITY OF QUALITY EARLY CHILDHOOD
19 EDUCATION OFFERED IN HEAD START, EARLY HEAD START, AND LICENSED
20 EARLY CHILDHOOD EDUCATION SETTINGS;

21 (VIII) IMPROVE THE QUALITY OF EARLY CHILDHOOD EDUCATION
22 PROGRAMS;

23 (IX) STRENGTHEN COORDINATION WITH EXISTING EARLY
24 CHILDHOOD SYSTEMS AND INITIATIVES AND ADVANCE ALIGNMENT WITH
25 KINDERGARTEN THROUGH TWELFTH GRADE SYSTEMS TO SUPPORT
26 CHILDREN'S TRANSITIONS TO SCHOOL;

27 (X) COLLECT, ANALYZE, AND MEASURE DATA TO EVALUATE EARLY

1 CHILDHOOD EDUCATION PROGRAM EFFECTIVENESS, INCLUDING
2 MEASUREMENT OF CHILD AND FAMILY OUTCOMES; OR

3 (XI) FUND ANY OTHER USE THAT IS CONSISTENT WITH THE PURPOSE
4 SPECIFIED IN SUBSECTION (6)(c) OF THIS SECTION.

5 (7) THE STATE AUDITOR SHALL ANNUALLY CONDUCT A FINANCIAL
6 AUDIT OF THE USE OF THE MONEY ALLOCATED AND APPROPRIATED UNDER
7 THIS SECTION.

8 **SECTION 16.** In Colorado Revised Statutes, **add** 25-3.5-810 as
9 follows:

10 **25-3.5-810. Nicotine products education, prevention, and**
11 **cessation programs.** THE EDUCATION, PREVENTION, AND CESSATION
12 PROGRAMS THAT ARE FUNDED WITH MONEY TRANSFERRED TO THE
13 TOBACCO EDUCATION PROGRAMS FUND IN ACCORDANCE WITH SECTION
14 24-22-118 (3)(c)(I) MAY ALSO APPLY TO NICOTINE PRODUCTS.

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

17 (2) Sections 2 to 16 of this act take effect only if, at the November
18 2019 statewide election, a majority of voters approve the ballot issue
19 referred in accordance with section 39-28-401, Colorado Revised Statutes,
20 created in section 1 of this act. If the voters approve the ballot issue, then
21 sections 2 to 16 of this act take effect on January 1, 2020.

22 **SECTION 18. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.