

<p>SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203</p> <hr/> <p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board</p> <hr/> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015-2016 #143 (“New Cigarette and Tobacco Taxes”)</p> <p>Petitioners: Keith Pearson and Wilson Buckley Croom v. Respondents: Jacob Williams and Frank McCurdy</p> <p>and</p> <p>Title Board: SUZANNE STAIERT; DAVID BLAKE; and JASON GELENDER</p>	<p>DATE FILED: June 2, 2016 4:56 PM</p> <p>▲ COURT USE ONLY ▲</p>
<p>Attorney for Respondents: Mark G. Grueskin, #14621 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1000 Denver, CO 80202 Phone: 303-573-1900 Facsimile: 303-446-9400 Email: mark@rklawpc.com</p>	<p>Case No. 2016SA155</p>
<p>RESPONDENTS’ ANSWER BRIEF ON PROPOSED INITIATIVE 2015-2016 #143 (“NEW CIGARETTE AND TOBACCO TAXES”)</p>	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

Choose one:

☒ It contains 2,831 words.

☐ It does not exceed 30 pages.

The brief complies with C.A.R. 28(k).

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

s/ Mark G. Grueskin

Mark G. Grueskin

Attorney for Respondents

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SUMMARY

The Petitioners' arguments about alleged ballot title deficiencies are not supported by case law or by the requirements of either the Constitution or statute. They propose language that would either confuse matters or about which the Title Board, in the exercise of its time-honored discretion, simply disagreed. As such, there is no cause for reversing the Board's decision regarding the ballot title for Initiative #143, an increase to cigarette and tobacco products taxes.

LEGAL ARGUMENT

I. The title set for Initiative #143 is fair and accurate.

A. This ballot title states the specific amounts of the proposed tobacco tax increases and thus was sufficient without stating "existing or total tax rates."

Petitioners contend that voters can only appreciate the gravity of a "yes" vote to increase taxes if they know the impact of the proposed tax on the existing tax rates for all tobacco products. Petitioners suggest the title could have referred to "the existing tax rates, the total tax imposed under the initiative, or the percentage increases" in the two taxes, "any one of which would provide necessary context." Pet. Op. Br. at 9.

Petitioners' argument is inconsistent with the Board's responsibilities. "The Title Board... is not required to draw a 'before and after' picture of the law in the ballot title." *In re Title, Ballot Title, & Submission Clause for 2007–2008*

Initiative #62, 184 P.3d 52, 58 (Colo. 2008). The purpose of the title is to describe a legal change that is “new” and “likely to be controversial.” *In re Constitutional Amendment Concerning the Fair Treatment of Injured Workers*, 873 P.2d 718, 721 (Colo. 1994). This requirement is not the then-and-now description, sought by Petitioner. In fact, “there is no requirement that the title, ballot title and submission clause... state the effect an initiative may have on other constitutional and statutory provisions.” *Id.* at 720.

What Petitioners seek is an argument about the measure, embedded in the title. The specific argument – the tax will be a meaningful increase over existing rates – is addressed in the legislative analysis sent to voters (“Blue Book”). For instance, when Amendment 35 was passed by voters, as reflected by Colo. Const., art. X, sec. 21, the Blue Book described its effect in the way that Petitioner seeks for Initiative #143. “Colorado smokers and tobacco users will pay 320 percent more in state cigarette taxes and 100 percent more in state taxes on other tobacco products.” Legislative Council of the General Assembly, Res. Pub. No. 527-8, *Analysis of the 2004 Ballot Proposals* at 8 (attached as **Exhibit A**, hereto). This information will be included where it belongs as to Initiative #143 – in the arguments in support of or against the measure.

A detailed description of the new taxes was not necessary when Amendment 35 was enacted. The 2004 ballot title described the additional rates as follows:

INCREASE STATEWIDE TAXES ON THE SALE OF CIGARETTES BY WHOLESALERS OF THREE AND TWO-TENTHS CENTS PER CIGARETTE AND ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF OTHER TOBACCO PROUCTS BY DISTRIBUTORS AT THE RATE OF TWENTY PERCENT OF MANUFACTURER’S LIST PRICE.

Id. at 28.

The ballot title set for Initiative #143 includes more detail than the 2004 ballot title. At the behest of Petitioners, this year’s title refers to the tax increase on a pack of cigarettes as well:

INCREASING TAXES ON CIGARETTES BY 8.75 CENTS PER CIGARETTE (\$1.75 PER PACK OF 20 CIGARETTES) AND ON OTHER TOBACCO PRODUCTS BY 22 PERCENT OF THE MANUFACTURER'S LIST PRICE.

Thus, this title provides additional context for these tax increases – just not as much as Petitioners argue for here. The Board properly determined to provide at least as much information about tobacco products taxes as it did in 2004 and to provide more information about cigarette taxes than it did in 2004.

Petitioners’ citation to *In re 2015-2016 #73*, 2016 CO 24 (Colo. 2016) (slip op.) does not compel a different result. There, the Court held that a title for an initiative that changed the minimum threshold for recall election petition signatures did not adequately describe this aspect of the measure. The title stated only that the initiative “specif[ied] recall and successor election procedures for state and local elective officials.” *Id.* at 17. In other words, it gave no notice to voters that

the petition signature provisions were even at issue in that measure, much less that they would be radically changed. *Id.* at 8, ¶28. If there was no reference to the taxes being increased here, perhaps that decision would apply to the title set for #143. But there is no suggestion that voters will be unaware that this measure deals with cigarette and tobacco products taxes or that the taxes will increase. Thus, the factual underpinnings of #73 and this matter could not be more different.

The Title Board's decision should be upheld.

B. The title was sufficient without a statement concerning the General Assembly's general authority concerning appropriations of state funds.

Citing case law that addresses the legislature's plenary power over appropriations, Petitioners argue that the title is misleading because it does not describe the measure's provision to ensure that new revenues do not merely supplant the existing funding for the affected programs. Pet. Op. Br. at 12-15.

Where an initiative changes the parameters on the General Assembly's appropriation authority from the then-existing law, the Court yields to the "deference to be given to the board in its resolution of the interrelated problems of length, complexity and clarity" and allows the Board to determine if this matter is central to the measure. *In re Proposed Initiative Concerning State Personnel System*, 691 P.2d 1121, 1125 (Colo. 1984) (initiative repealed requirement for adequate appropriations for designated program).

In this regard, it is simply true that some provisions could be, but are not required to be, described in a title. The Court regularly recognizes as much. “While the Board could have elected to include language in the title and the ballot title and submission clause summarizing the precise language of subsection (2)(b) of the proposed amendment, its decision not to do so does not render the documents unfair or misleading.” *In re Proposed Initiative on School Pilot Program*, 874 P.2d 1066, 1071 (Colo. 1994). As a result, some title references – because they do not represent the “essential features of a proposed initiative” – can be included or excluded, depending on the Board’s experience and insight, gained from its drafting of so many ballot titles on a broad array of subjects.

Petitioners’ construct – that voters might think programmatic funding is being increased for the purpose of making no change in services – is just not realistic. Petitioners do not describe why voters would ever contemplate the possibility that an initiative would increase taxes for specific programs in order to make no change at all to those programs or service delivery. The making of the Petitioners’ argument undermines that argument.

Regardless, as noted in Respondents’ Opening Brief, this Court has rejected this very contention. Even where an initiative limits the General Assembly’s ability to change historic funding levels, this matter is not a central feature of the initiative. *In re Proposed Tobacco Tax Amendment*, 872 P.2d 689, 693

(Colo.1994). This Court's precedent does not require ballot titles to address funding mandates in the manner that Petitioner advocates here and, in fact, authorizes the Board to act just as it did. Thus, the Board's decision was soundly made and legally justified.

C. The title was sufficient without percentages placed on each allocation of revenue to each named program.

The Petitioners point to several ballot titles that included an initiative's allocation, by percentage and program, of the revenue by a new tax. Pet. Op. Br. at 15-18. In so doing, the Petitioners imply the Board departed in this title setting from its traditional practice.

Petitioners' citation of such titles is quite thorough but not complete. The Petitioners' Opening Brief (pp. 14, 19) refers to the title set for the tobacco tax measure adopted by voters in 2004, Amendment 35, when it is addressing other aspects of Initiative #143's title. Amendment 35 enacted the very section of the Constitution that Initiative #143 seeks to amend.

Petitioners do not, however, reference the language in the Amendment 35 ballot title addressing this issue of revenue allocations by percentage. That title dealt with this issue in this manner:

STATE TAXES SHALL BE INCREASED \$175 MILLION
ANNUALLY THROUGH ADDITIONAL TOBACCO TAXES
IMPOSED FOR HEALTH RELATED PURPOSES, AND, IN
CONNECTION THEREWITH, AMENDING THE COLORADO

CONSTITUTION TO INCREASE STATEWIDE TAXES ON THE SALE OF CIGARETTES BY WHOLESALERS OF THREE AND TWO-TENTHS CENTS PER CIGARETTE AND ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF OTHER TOBACCO PRODUCTS BY DISTRIBUTORS AT THE RATE OF TWENTY PERCENT OF MANUFACTURER'S LIST PRICE; INCREASE SUCH TAXES EFFECTIVE JANUARY 1, 2005; REQUIRING ANNUAL APPROPRIATIONS **OF SPECIFIED PERCENTAGES** OF THE ADDITIONAL TOBACCO TAX REVENUES TO EXPAND ELIGIBILITY FOR AND INCREASE ENROLLMENT IN THE CHILDREN'S BASIC HEALTH PLAN, TO FUND COMPREHENSIVE PRIMARY MEDICAL CARE THROUGH CERTAIN COLORADO QUALIFIED PROVIDERS, TOBACCO EDUCATION PROGRAMS, AND PREVENTION, EARLY DETECTION, AND TREATMENT OF CANCER AND CARDIOVASCULAR AND PULMONARY DISEASES, TO COMPENSATE THE STATE GENERAL FUND, THE OLD AGE PENSION FUND, AND LOCAL GOVERNMENTS FOR TOBACCO TAX LOSSES RESULTING FROM REDUCED SALES OF CIGARETTES AND TOBACCO PRODUCTS....

Analysis of the 2004 Ballot Proposals, supra, at 28 (emphasis added).

The “specified percentages” language also is the operative phrase for #143’s ballot title. In both instances, then, the recitation of tobacco tax funding programs has been described in this manner. There was nothing erroneous about the ballot title set 12 years ago, and there is nothing erroneous about the ballot title set for Initiative #143.

Petition signers have easy access to an initiative’s details that are not required to be included in a ballot title. In reserving the right of initiative to the state’s voters, the Constitution mandates, “every such petition shall include the full

text of the measure so proposed.” Colo. Const., art. V, § 1(2). Thus, petition signers can easily know what the “specified percentages” are in this measure.¹

In casting their mail ballots, *see* C.R.S. § 1-7.5-101, *et seq.*, voters have immediate access to these initiative details. The Constitution requires the text and the title to be included in the pre-election legislative analysis (i.e., “Blue Book”) that is sent to each registered elector. Colo. Const., art. V, § 1(7.5)(I). The Constitution also mandates that the text and the title be published in a newspaper of general circulation in each county of the state. Colo. Const., art. V, § 1(7.3).

It is inaccurate to contend that this change to the title would add “only seven **words** to the title.” Pet. Op. Br. at 17 (emphasis in original). As the Title Board Chair noted, addressing specific segmentation of the funding scheme is “not going to be as simple as saying 15 percent for this, you know, and it’s 27 percent to tobacco related research....” Pet. Op. Br. at App. 17a (33:10-12). The Court is aware that, under the terms of #143, there can be a shifting percentage of total revenue, depending on whether the supplementation of the funding for existing

¹ When objecting to the title before the Title Board, Petitioners were evidently unaware of the constitutional requirement that the initiative text be included in the petition sections circulated. *See* Pet. Op. Br. at App. 11a (11:15-25) (“the **registered voter on the street presented with a request to sign a petition** for this measure **will not have** the benefit of the [B]lue [B]ook or **any context**, unless that’s provided by the circulator, which frankly seems – seems unlikely.”) (emphasis added). Petitioners’ opening brief is likewise devoid of any recognition that a measure’s details are easily known by a petition signer who reads the ballot title’s signaling phrase, “of specified percentages.”

programs exceeds \$36 million. Resp. Op. Br. at 8-9. It is likely that, had Petitioner's seven words been added, the Court would now be considering a claim by Petitioner that the title lacked accuracy in describing those percentages. Thus, the Board acted within its discretion to determine that differing levels of funding were adequately highlighted by the reference to "of specified percentages."

D. The title was sufficient without reference to the measure's TABOR exemption.

Petitioners assert that voters will be misled because, without boilerplate language about an exemption from TABOR spending limits in the title, they "could reasonably conclude that the new \$315 million in government spending required by Initiative 143 would necessarily **decrease** existing government expenditures in other areas." Pet. Op. Br. at 20 (emphasis in original).

First, it will come as no great surprise to the Court that the use of de-Brucing language in the title is a defensive step by initiative advocates before the Title Board. It is included in ballot titles to avoid challenges (such as the one here), because that provision, standing alone or even in the context of an entire measure, is not a "central feature" of the initiative. The Title Board knew as much, referring to the possible inclusion of such language as "insurance." See Pet. Op. Br. at App. 16a (31:2-6). As counsel to the proponents of Amendment 35, the undersigned sought inclusion of the spending limit exemption language precisely for that

purpose. And based upon this challenge, it evidently was a well-placed concern, even if it seems at odds with the requirement that the ballot title “unambiguously state the **principle of the provision sought to be added**, amended, or repealed.” C.R.S. § 1-40-106(3)(b) (emphasis added). An exemption from TABOR spending limits is simply not this measure’s “principle”; it is an implementation detail.

Over the years, the Title Board’s inclusion of de-Brucing language has been uneven. Petitioners cite several instances in which it was included. Pet. Op. Br. at 19-20. At hearing, however, the Board was aware of at least one other recent proposed initiative, the title of which excluded this de-Brucing language. Pet. Op. Br. at App. 16a (30:8-13) (referring to title set for Amendment 50 addressing the generation of gaming tax revenues); *see* Legislative Council of the General Assembly, Res. Pub. No. 576-1, *Analysis of the 2008 Ballot Proposals* at 40 (setting forth the ballot title set by the Board and approved by this Court); 42 (proposed Art. XVIII, sec. 9(7)(f) specifically exempted new gaming tax revenues “collected and spent as a voter-approved change without regard to” TABOR or any other law). It was in this context that Proponents did not object to the inclusion of this language but also did not see that its exclusion would affect voter understanding of Initiative #143’s central features. *Id.* (30:14-18).

Regardless, voters can be assured that Initiative #143 does not, as Petitioners hold out, “necessarily decrease existing government expenditures in other areas.”

Such a purpose would violate the single subject requirement found in Colo. Const., art. V, § 1(5.5). *In re Title, Ballot Title & Submission Clause, & Summary for 1997-98 Initiative #30*, 959 P.2d 822, 827 (Colo. 1998) (holding that a proposed initiative’s mandatory reduction in state funding, in addition to its tax policy change, is a second subject).² An automatic decrease in funding of unrelated programs would be “buried” within the initiative and result in “voter surprise or fraud.” *Id.* As a result, “voters could be enticed to vote for the measure... while not realizing that passage of the measure would simultaneously achieve a purpose not necessarily related” to the tobacco tax increase. *Id.* The law on this point is thus unquestioned. Therefore, the electorate, with full appreciation for the roles of the Board and the Court in denying places on the ballot for initiatives comprised of multiple subjects, would have no reason to assume Initiative #143 could be placed before them with this hypothetical constitutional flaw.

Finally, Petitioners’ analysis ignores the ballot title language itself which refers to “**allocating** specified percentages of the **new** tobacco tax **revenue**.” (Emphasis added.) Even without using the de-Brucing boilerplate, this ballot title specifically states the measure will generate and distribute new revenue that the

² Petitioners cite to this opinion of the Court without referring to the holding that an indirect decrease of state program funding comprises a second subject and cannot be placed before voters. Pet. Op. Br. at 18. Petitioners’ references to this opinion are limited to the Court’s general observations about TABOR, not about title setting or the requirements for an accurate title as they might pertain to TABOR.

state has not previously expended. Thus, voters are on notice that Initiative #143 will not be increasing taxes to generate tax rebates under TABOR but, instead, will be doing so for the purpose of increasing revenue that is dedicated to identified programs.

Therefore, the Board correctly exercised its discretion to exclude the de-Brucing boilerplate language that is far from a “central feature” of this initiative.

CONCLUSION

The Title Board’s decision was considered and balanced, granting Petitioners some of their points but not all. It was correct in drawing the lines that it drew, and its decision should be expeditiously affirmed.

Respectfully submitted this 2rd day of June, 2016.

/s/ Mark Grueskin

Mark G. Grueskin, #14621
RECHT KORNFELD, P.C.
1600 Stout Street, Suite 1000
Denver, CO 80202
Phone: 303-573-1900
Facsimile: 303-446-9400
Email: mark@rklawpc.com

ATTORNEY FOR RESPONDENTS

CERTIFICATE OF SERVICE

I, Erin Holweger, hereby affirm that a true and accurate copy of the **RESPONDENTS' ANSWER BRIEF ON PROPOSED INITIATIVE 2015-2016 #143 ("NEW CIGARETTE AND TOBACCO TAXES")** was sent this day, June 2, 2016 via ICCES to counsel for the Title Board and counsel for the Objectors:

LeeAnn Morrill
Matthew Grove
Grant Sullivan
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203

Thomas Rogers III, Esq.
Hermine Kallman, Esq.
Lewis Roca Rothgerber
1200 Seventeenth Street, Suite 3000
Denver, CO 80202

Timothy MacDonald
Arnold & Porter
370 Seventeenth Street
Suite 4400
Denver, CO 80202

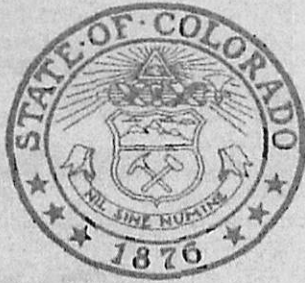
s/ Erin Holweger
Erin Holweger

**NOTICE OF ELECTION
TO INCREASE TAXES
ON A CITIZEN PETITION**

DATE FILED: June 2, 2016 4:56 PM

STATEWIDE ELECTION DAY IS
Tuesday, November 2, 2004
Polling places open from 7 a.m. to 7 p.m.
(*Early Voting Begins October 18, 2004*)

**ANALYSIS OF THE
2004 BALLOT PROPOSALS**



**NOTIFICACIÓN DE ELECCIÓN PARA AUMENTAR LOS
IMPUESTOS SOBRE UNA PETICIÓN CIUDADANA**

El día de la elección estatal es
el martes 2 de noviembre de 2004
Los puestos de votación abren de las 7 a.m. a las 7 p.m.
(*La votación temprana comienza el 18 de octubre de 2004*)

**UN ANÁLISIS DE LAS PROPUESTAS
DE LA BALOTA DE 2004**

Legislative Council of the
Colorado General Assembly
Research Publication No. 527-8

EXHIBIT

A

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Arguments For

ANALYSIS

1) Tobacco use is the leading cause of preventable death in Colorado, killing 4,200 Coloradans each year. Annual health care costs in Colorado directly related to smoking are more than \$1.0 billion. Under this proposal, funds will be provided to prevent, detect, and treat cancer and heart and lung disease, ailments that affect many Coloradans. The new taxes will also help low-income children and adults receive health care that they could not otherwise afford. The proposal will provide money to treat individuals who have tobacco-related illnesses and will lower future tobacco-related health care costs by reducing tobacco use throughout the state.

2) Colorado is currently 50th among the states in the level of cigarette taxes. Raising tobacco taxes will deter many youth from becoming addicted to tobacco products. Almost all adult smokers started smoking when they were teenagers. In Colorado, one in every four high school students smokes and over a third use tobacco of some sort. Youth tobacco consumption in Colorado is higher than the national average. Studies have shown that as the price of tobacco products rises, an increasing number of youth will stop, or never start, using tobacco. Funding programs that educate children about the dangers of tobacco use will also discourage youth from using tobacco and will help smokers to quit.

3) This proposal will not decrease revenue to state and local governments. In every state that has raised cigarette taxes, revenue has increased despite reduced cigarette pack sales and use of the internet to purchase cigarettes. This proposal ensures that local governments will receive funds to make up for any revenue loss due to lower tobacco sales because it guarantees that local governments will receive a portion of the new tax moneys.

Arguments Against

1) The proposal puts a tax increase in the state constitution and increases the size and cost of government. Colorado smokers and tobacco users will pay 320 percent more in state cigarette taxes and 100 percent more in state taxes on other tobacco products to fund state health care programs. Taxes for a one-pack-a-day smoker would increase by \$234 each year. Existing constitutional spending requirements have limited the ability of the legislature to react to changes in the state budget and economic conditions. This proposal adds yet another inflexible spending mandate. Further, reductions in sales and consumption due to this proposal will reduce funding to local governments that depend upon current cigarette tax revenues to fund essential government functions like fire and police protection.

2) The tax increase may cause additional hardship to low-income families in Colorado. People living in poverty are 48 percent more likely to smoke than those not living in poverty. The tax takes a much larger bite out of the budgets of low-income individuals than wealthy individuals. There is no guarantee that smokers will benefit from the new health care programs. If this is the case, smokers would be paying much higher taxes, but few would receive additional health care services.

3) The proposal allocates \$28 million in badly needed state revenue to tobacco education programs which may not be needed in future years if tobacco use continues to decline. Nationally, demand is decreasing 2 percent per year, but in Colorado demand is falling even more rapidly and will decrease further if consumers turn to other sources, such as the internet, for their purchases. The new tax money may be inadequate over time to maintain some of the proposal's programs while others may have more money than they require. The legislature will not be able to fix these problems because it will have no control over the distribution of this money.

Amendment 35
Tobacco Tax Increase for Health-Related Purposes

Ballot Title: STATE TAXES SHALL BE INCREASED \$175 MILLION ANNUALLY THROUGH ADDITIONAL TOBACCO TAXES IMPOSED FOR HEALTH RELATED PURPOSES, AND, IN CONNECTION THEREWITH, AMENDING THE COLORADO CONSTITUTION TO INCREASE STATEWIDE TAXES ON THE SALE OF CIGARETTES BY WHOLESALERS OF THREE AND TWO-TENTHS CENTS PER CIGARETTE AND ON THE SALE, USE, CONSUMPTION, HANDLING, OR DISTRIBUTION OF OTHER TOBACCO PRODUCTS BY DISTRIBUTORS AT THE RATE OF TWENTY PERCENT OF THE MANUFACTURER'S LIST PRICE; INCREASING SUCH TOBACCO TAXES EFFECTIVE JANUARY 1, 2005; REQUIRING ANNUAL APPROPRIATIONS OF SPECIFIED PERCENTAGES OF THE ADDITIONAL TOBACCO TAX REVENUES TO EXPAND ELIGIBILITY FOR AND INCREASE ENROLLMENT IN THE CHILDREN'S BASIC HEALTH PLAN, TO FUND COMPREHENSIVE PRIMARY MEDICAL CARE THROUGH CERTAIN COLORADO QUALIFIED PROVIDERS, TOBACCO EDUCATION PROGRAMS, AND PREVENTION, EARLY DETECTION, AND TREATMENT OF CANCER AND CARDIOVASCULAR AND PULMONARY DISEASES, TO COMPENSATE THE STATE GENERAL FUND, THE OLD AGE PENSION FUND, AND LOCAL GOVERNMENTS FOR TOBACCO TAX LOSSES RESULTING FROM REDUCED SALES OF CIGARETTES AND TOBACCO PRODUCTS; SPECIFYING THAT THE APPROPRIATIONS OF ADDITIONAL TOBACCO TAX REVENUES SHALL BE IN ADDITION TO AND NOT SUBSTITUTED FOR APPROPRIATIONS FOR SUCH PROGRAMS ON JANUARY 1, 2005; ALLOWING THE USE OF ADDITIONAL TOBACCO TAX REVENUES FOR ANY HEALTH RELATED PURPOSE AND TO SERVE POPULATIONS ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN AND THE COLORADO MEDICAL ASSISTANCE PROGRAM AS OF JANUARY 1, 2005, UPON A DECLARATION OF A STATE FISCAL EMERGENCY BY TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE GENERAL ASSEMBLY AND THE GOVERNOR; PROHIBITING THE REPEAL OR REDUCTION OF EXISTING TAXES IMPOSED ON CIGARETTES AND OTHER TOBACCO PRODUCTS; EXCLUDING ALL ADDITIONAL TOBACCO TAX REVENUES FROM FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION; AND EXEMPTING APPROPRIATIONS OF ADDITIONAL TOBACCO TAX REVENUES FROM THE STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH OR ANY OTHER EXISTING SPENDING LIMITATION.