HB 19-1333

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

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Prime Sponsors:	Rep. Caraveo Sen. Fields	**Bill Status:**	House Finance
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Bill Topic: CIGARETTE, TOBACCO, AND NICOTINE PRODUCTS TAXES

Summary of Fiscal Impact:

- ☒ State Revenue *(conditional)*
- ☒ State Expenditure *(conditional)*
- ☒ State Transfer *(conditional)*
- ☐ TABOR Refund
- ☒ Local Government *(conditional)*
- ☐ Statutory Public Entity

Conditional on voter approval, this bill raises taxes on cigarettes and tobacco products and establishes a new tax on nicotine products. Revenue from the taxes is distributed to fund health care and education programs. With voter approval, the bill increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required, as components of the bill that generate expenditure impacts require voter approval in order to take effect.

Fiscal Note Status: This fiscal note is preliminary and reflects the introduced bill. While all agencies were canvassed for this fiscal note, additional time may be required to obtain information from agencies and to further review information previously submitted. This fiscal note will be updated if new or additional information becomes available.

Table 1
Conditional State Fiscal Impacts Under HB 19-1333

		FY 2019-20	FY 2020-21
Revenue	General Fund	($1.2 million)	($2.3 million)
	Cash Funds*	$161.9 million	$323.2 million
	Total	**$160.7 million**	**$320.9 million**
Expenditures	General Fund	($0.1 million)	($0.4 million)
	Cash Funds	$159.7 million	$319.1 million
	Centrally Appropriated	$0.2 million	$0.4 million
	Total	**$159.9 million**	**$319.1 million**
	Total FTE	**9.4 FTE**	**18.4 FTE**
Transfers	General Fund	$2.1 million	$4.1 million
	Cash Funds	($2.1 million)	($4.1 million)
	Total	**$0**	**$0**
TABOR Refund	General Fund	-	-

* *A portion of cash fund revenue identified in Table 1 is deposited in the General Fund and immediately transferred to cash funds; see the State Revenue section.*

Summary of Legislation

This bill refers a ballot measure to voters at the November 2019 statewide election to increase cigarette and tobacco taxes and create a new tax on nicotine products. If the ballot measure does not pass, the bill has no other effect.

Conditional on voter approval, the bill increases cigarette and tobacco tax rates beginning January 1, 2020. The bill also establishes a tax on nicotine products and establishes a regulatory regime for nicotine product distributors beginning January 1, 2020. Revenue from the new taxes is distributed for health care, preschool, and supplementary education programs. A portion of new tax revenue is allocated for the Colorado Expanded Learning Opportunities Program, which the bill creates. These components are described below.

Taxes. Colorado assesses an excise tax on each cigarette sold and on the manufacturer's list price, or invoice price, of non-cigarette tobacco products. Cigarette taxes are assessed when cigarettes are sold by wholesalers. Tobacco product taxes are assessed when the products are manufactured, brought into the state, or shipped to retailers. No tax is currently assessed on non-tobacco nicotine products.

With voter approval, the bill increases cigarette and tobacco tax rates and establishes a nicotine products tax on January 1, 2020. Table 2 presents cigarette, tobacco product, and nicotine product tax rates under current law and HB 19-1333. Revenue from the new taxes is exempt from TABOR as a voter-approved revenue change.

Table 2
Cigarette, Tobacco Product, and Nicotine Product Tax Rates Under HB 19-1333

	Cigarettes	Tobacco Products	Nicotine Products
Current Law Statutory Tax	$0.20 per pack	20% of MLP	-
Current Law Amendment 35 Tax	$0.64 per pack	20% of MLP	-
Subtotal — Current Law Taxes	$0.84 per pack	40% of MLP	-
HB 19-1333 Statutory Tax	$1.75 per pack	22% of MLP	62% of MLP
Total Taxes Under HB 19-1333	**$2.59 per pack**	**62% of MLP**	**62% of MLP**

MLP = Manufacturer's list price.

Cigarette tax increase and vendor discount decrease. The bill increases the cigarette tax by $0.0875 per cigarette or $1.75 per pack. Under current law, cigarette wholesalers receive stamps from the Department of Revenue (DOR) and are required to affix the stamps to cigarette packages to show that the excise tax was paid. If taxes are paid on time, distributors receive stamps at a 4 percent discount as a vendor allowance to cover the cost of tax collection. The bill reduces this discount from 4 percent to 0.4 percent beginning January 1, 2020. This vendor discount applies to the current law statutory tax and the statutory tax levied under the bill, but does not apply to the current law tax levied pursuant to Amendment 35.

Tobacco products tax increase and vendor allowance decrease. The bill increases the tobacco products tax by 22 percent of the manufacturer's list price, or invoice price. Under current law, tobacco distributors who file taxes on time are allowed to retain 3.33 percent of the amount of tax due as a vendor allowance to cover the cost of tax collection. The bill reduces this allowance from

3.33 percent to 1.6 percent beginning January 1, 2020. This vendor allowance applies to the current law statutory tax and the statutory tax levied under the bill, but does not apply to the current law tax levied pursuant to Amendment 35.

Nicotine products tax. The bill establishes a tax on nicotine products, defined as any ingestible product containing nicotine that is not a cigarette, a tobacco product, or a drug or device authorized for sale by the U.S. Food and Drug Administration. The tax is expected to apply to nicotine liquid used in e-cigarettes and vaporizers, but not to apply to nicotine patches or gum. The tax is assessed at a rate of 62 percent of the manufacturer's list price, or invoice price, and is modeled upon the tobacco products tax. Unlike the tobacco products tax, nicotine distributors are not permitted a vendor allowance for timely tax remittance.

Regulation of nicotine product distribution. The bill directs the DOR to license nicotine tax distributors and to administer similar regulatory requirements as those that exist for tobacco product distributors. Distributors are required to remit an annual license fee of $10 and to file taxes quarterly, regardless of whether any tax is owed for the quarter. Late payments are assessed interest and a 10 percent penalty, plus a penalty of 0.5 percentage points for each month by which the payment is late. A distributor who is willfully noncompliant with the tax regime or who falsifies a tax return is guilty of class 5 felony tax evasion, subject to the tax evasion criminal penalty statute in existing law.

Distribution of tax revenue. Via the Old Age Pension Fund, all revenue from the new and increased taxes is credited to the General Fund and immediately transferred to three cash funds created under the bill, as shown in Table 3. For the purposes of Tables 1 and 4, collections from the new tax are shown as cash fund revenue.

All of the percentages in Table 3 represent shares of the total amount of new tax revenue, and as such may not match the percentages in the bill. For example, the bill requires that 19 percent of the amount credited to the Behavioral Health and Health Care Affordability and Accessibility Cash Fund (Behavioral Health and Health Care Fund) be transferred to the Tobacco Education Programs Cash Fund; however, Table 3 shows this as 9.5 percent of the total amount of tax revenue rather than 19 percent of the 50 percent allocated to the Behavioral Health and Health Care Fund.

Table 3
Allocations of New Cigarette, Tobacco, and Nicotine Tax Revenue Under HB 19-1333
All percentages represent shares of the total amount of new tax revenue collected

	FY 2019-20 & FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24 and beyond
Behavioral Health and Health Care Fund				
Transfer to Tobacco Education Fund[1]	9.50 percent	9.50 percent	9.50 percent	9.50 percent
Transfer to Tobacco Tax Cash Fund[2]	3.47 percent	3.47 percent	3.47 percent	3.47 percent
Transfer to General Fund[2]	1.28 percent	1.28 percent	1.28 percent	1.28 percent
Allocated for health care affordability[3]	22.88 percent	22.88 percent	22.88 percent	≥7.15 percent
Allocated for behavioral health care[3]	12.87 percent	12.87 percent	12.87 percent	≥7.15 percent
Fund Subtotal	**50 percent**	**50 percent**	**50 percent**	**50 percent**
Preschool Programs Cash Fund	**35 percent**	**30 percent**	**27.5 percent**	**27.5 percent**
Expanded Learning Opportunities Fund	**15 percent**	**20 percent**	**22.5 percent**	**22.5 percent**

[1]The amount allocated to the Tobacco Education Programs Fund is capped at $30 million per year.
[2]The combined amount allocated to the Tobacco Tax Cash Fund and the General Fund is capped at $15 million per year.
[3]For FY 2023-24 and subsequent fiscal years, the bill does not specify the shares of the outstanding amount in the Behavioral Health and Health Care Fund to be allocated to health care affordability and to behavioral health care, but requires that at least 20 percent of the outstanding amount be used for each purpose.

Behavioral Health and Health Care Fund. Revenue to the Behavioral Health and Health Care Fund is transferred in part to the Tobacco Education Programs Cash Fund, the Tobacco Tax Cash Fund, and the General Fund, as shown in Table 3. The remaining amount is available to improve health care affordability and accessibility and behavioral health care services.

Subject to annual appropriation, the Tobacco Education Programs Cash Fund in the Department of Public Health and Environment (CDPHE) is primarily used to fund tobacco education, prevention, and cessation grants through CDPHE's Prevention Services Division.

Revenue credited to the Tobacco Tax Cash Fund is intended to offset reductions in Amendment 35 tax revenue expected to result from the increased after-tax prices of cigarettes and tobacco products under the bill. Revenue in the Tobacco Tax Cash Fund is allocated to the following purposes in the following shares:

- 46 percent to the Children's Basic Health Plan and Medicaid;
- 19 percent for comprehensive primary health care;
- 16 percent for tobacco education programs;
- 16 percent for cancer, cardiovascular disease, and pulmonary disease prevention programs; and
- 3 percent to compensate the state and local governments for their lost statutory cigarette and tobacco tax revenue following the adoption of Amendment 35.

Revenue credited to the General Fund is available for general government purposes at the discretion of the General Assembly.

Outstanding amounts available in the Behavioral Health and Health Care Fund are to be used to improve health care affordability and accessibility and to supplement funding for behavioral health care programs in the shares identified in Table 3. The bill lists programs for which these funds could be made available; however, amounts in the fund are to be expended subject to annual appropriation for purposes selected by the General Assembly.

Preschool Programs Cash Fund. Subject to annual appropriation, revenue credited to the preschool programs cash fund is available for use for preschool programs. The bill states the General Assembly's intent that revenue credited to the fund be used to expand and enhance the Colorado Preschool Program in the Department of Education (CDE), and lists purposes for which these funds could be made available.

Colorado Expanded Learning Opportunities Cash Fund. Revenue credited to the Colorado Expanded Learning Opportunities Cash Fund (Expanded Learning Fund) is continuously appropriated to the Colorado Expanded Learning Opportunities Agency that the bill creates in CDE, as described below.

Expanded learning opportunities program. The bill creates the Colorado Expanded Learning Opportunities Agency (agency) in CDE. The agency and an associated, selected nonprofit organization are responsible for allocating moneys from the Expanded Learning Fund to provide Coloradans between the ages of 3 and 20 with out-of-school learning experiences, defined as a program, service, or activity that provides supplemental educational or developmental support to students outside of normal school operations. Out-of-school learning experiences may be provided by a local education provider or another education provider certified by the administering nonprofit, but not by the administering nonprofit itself.

Board of directors. The agency is led by a board of eight directors, four of whom are to be appointed by the Governor and four of whom are to be appointed by the opposite party ranking member of the House of Representatives. The Governor and appointing legislator are directed to coordinate appointments such that at least two directors represent the western slope and at least two directors represent the eastern slope outside of the front range. Board members are not compensated but are entitled to reimbursement for their expenses.

Administering nonprofit. By August 1, 2020, the agency is required to select a single nonprofit organization to administer the expanded learning opportunities program. The board is authorized to set the share of Expanded Learning Fund revenue that the administering nonprofit may retain for its administrative expenses.

The administering nonprofit is required to certify providers of out-of-school learning experiences and to process applications from parents of eligible students who wish to participate in the program. If a student is enrolled, the administering nonprofit is tasked with determining the annual maximum amount that may be paid on the student's behalf and available out-of-school learning opportunities available to the student. If a student chooses to participate, the administering nonprofit pays the certified provider on the student's behalf. If the cost of the student's participation is less than the maximum annual amount available to the student, the remaining amount is set aside and used on the student's behalf in a future year.

Use of funds. The agency is allowed to retain up to 3 percent of the amount credited to the Expanded Learning Fund in FY 2020-21 for administrative expenses. The board of directors is empowered to use these funds to hire agency staff. Remaining funds are to be used to make payments for students to access out-of-school learning experiences, with funds to be allocated on behalf of eligible students based on a sliding scale of payments that prioritizes low-income families. If the board determines that there are insufficient funds available to provide a meaningful level of assistance for all eligible students, then the board may establish an income threshold above which an eligible student is not authorized to enroll in the program.

Gifts, grants, and donations. Both the board of directors and the administering nonprofit are authorized to solicit, receive, and expend gifts, grants, and donations for the purposes of administering and funding the program.

Audit. The Office of the State Auditor (OSA) is required to conduct an annual financial audit of tax revenue collected and allocated under the bill.

Assumptions

Tax compliance. This fiscal note assumes that nicotine product distributors will comply with the new tax imposed in the bill. To the extent that distributors do not comply, state revenue from taxes will be lower than estimated, but revenue from tax penalties, interest, and court fines will be greater than estimated.

State Revenue

Conditional on voter approval, the bill is expected to increase state revenue by a net of $160.7 million in FY 2019-20 and $320.9 million in FY 2020-21 and subsequent years. The estimate for FY 2019-20 represents a half-year impact based on the January 1, 2020, effective date for the new taxes in the bill. The bill is expected to generate revenue from new cigarette, tobacco, and nicotine taxes; however, the increased tax rates in the bill are expected to decrease cigarette and tobacco consumption, reducing revenue from existing taxes on these products. Revenue impacts are summarized in Table 4 and described below.

Table 4
Conditional Revenue Impacts Under HB 19-1333

	FY 2019-20	FY 2020-21
Cigarette Taxes	**$136.1 million**	**$267.2 million**
Current Law Statutory Tax - General Fund	($0.8 million)	($1.6 million)
Current Law Amendment 35 Tax - Tobacco Tax Cash Fund	($4.9 million)	($9.7 million)
HB 19-1333 - Behavioral Health and Health Care Cash Fund	$70.9 million	$139.2 million
HB 19-1333 - Preschool Programs Cash Fund	$49.6 million	$97.5 million
HB 19-1333 - Expanded Learning Opportunities Cash Fund	$21.3 million	$41.8 million
Tobacco Taxes	**$11.8 million**	**$24.4 million**
Current Law Statutory Tax - General Fund	($0.3 million)	($0.7 million)
Current Law Amendment 35 Tax - Tobacco Tax Cash Fund	($0.5 million)	($1.1 million)
HB 19-1333 - Behavioral Health and Health Care Cash Fund	$6.3 million	$13.1 million
HB 19-1333 - Preschool Programs Cash Fund	$4.4 million	$9.2 million
HB 19-1333 - Expanded Learning Opportunities Cash Fund	$1.9 million	$3.9 million
Nicotine Taxes	**$12.8 million**	**$29.3 million**
HB 19-1333 - Behavioral Health and Health Care Cash Fund	$6.4 million	$14.6 million
HB 19-1333 - Preschool Programs Cash Fund	$4.5 million	$10.2 million
HB 19-1333 - Expanded Learning Opportunities Cash Fund	$1.9 million	$4.4 million
Subtotal - General Fund	($1.2 million)	($2.3 million)
Subtotal - Tobacco Tax Cash Fund	($5.5 million)	($10.8 million)
Subtotal - Behavioral Health and Health Care Cash Fund	$83.7 million	$167.0 million
Subtotal - Preschool Programs Cash Fund	$58.6 million	$116.9 million
Subtotal - Expanded Learning Opportunities Cash Fund	$25.1 million	$50.1 million
Grand Total	**$160.7 million**	**$320.9 million**

Distribution of revenue. Table 4 presents the bill's conditional revenue impact on the General Fund, the Tobacco Tax Cash Fund, and three cash funds created in this bill consistent with the shares in Table 3.

Cigarette taxes. The cigarette tax in the bill is expected to increase cash fund revenue by $141.8 million in FY 2019-20 and $278.5 million in FY 2020-21 and subsequent years. Estimates are based on the March 2019 Legislative Council Staff (LCS) forecast for statutory and Amendment 35 cigarette tax revenue. Consistent with reductions in cigarette consumption observed following the adoption of Amendment 35, higher after-tax cigarette prices as a result of the bill are expected to decrease consumption by about 9.0 percent.

As a result of reduced consumption, statutory cigarette tax revenue credited to the General Fund is expected to decrease by $0.8 million in FY 2019-20 and $1.6 million in FY 2020-21 and subsequent years. Similarly, Amendment 35 cigarette tax revenue credited to the Tobacco Tax Cash Fund is expected to decrease by $4.9 million in FY 2019-20 and $9.7 million in FY 2020-21 and subsequent fiscal years. Revenue estimates for the new tax and the statutory tax include positive adjustments because the bill reduces the vendor allowance for collection of these taxes.

Tobacco taxes. The tax on non-cigarette tobacco products in the bill is expected to increase cash fund revenue by $12.7 million in FY 2019-20 and $26.2 million in FY 2020-21 and subsequent years. Estimates are based on the March 2019 LCS forecast for statutory and Amendment 35 tobacco tax revenue. Consistent with reductions in tobacco consumption observed following the adoption of Amendment 35, higher after-tax tobacco product prices as a result of the bill are expected to decrease consumption by about 4.4 percent.

As a result of reduced consumption, statutory tobacco tax revenue credited to the General Fund is expected to decrease by $0.3 million in FY 2019-20 and $0.7 million in FY 2020-21 and subsequent years. Similarly, Amendment 35 tobacco tax revenue credited to the Tobacco Tax Cash Fund is expected to decrease by $0.5 million in FY 2019-20 and $1.1 million in FY 2020-21 and subsequent fiscal years. Revenue estimates for the new tax and the statutory tax include positive adjustments because the bill reduces the vendor allowance for collection of these taxes.

Nicotine tax. The tax on non-tobacco nicotine products in the bill is expected to increase cash fund revenue by $12.8 million in FY 2019-20 and by $29.3 million in FY 2020-21 and subsequent years.

Estimates of nicotine tax revenue are based on 2018 retail sales data for non-tobacco nicotine products. Consumption of non-tobacco nicotine products is expected to increase by about 20 percent per year between 2018 and 2020. Additionally, modifications to available data were made to accommodate online sales, which are believed to be underrepresented in available retail sales data. The tax in the bill applies to the manufacturer's list price, which is estimated to be about 64 percent of the retail price.

Based on these assumptions, the summed value of the manufacturer's list prices of non-tobacco nicotine products sold in FY 2020-21 is estimated to be $57.8 million before accounting for the tax in the bill. Higher after-tax nicotine product prices as a result of the tax in the bill are expected to decrease consumption of these products by about 18 percent, such that the tax base in FY 2020-21 is estimated at $47.2 million.

Forecast error. Available state-level nicotine product retail sales data for 2018 are incomplete, and wholesale data are not available. Further, the market for non-tobacco nicotine products is evolving rapidly and difficult to predict. For these reasons, it is expected that revenue received from the tax on nicotine products will differ more significantly from the estimates in this fiscal note than revenue received from the taxes on cigarettes and tobacco products. Tax data from Minnesota, which imposes a 95 percent tax on the wholesale price of nicotine products, indicate that nicotine product tax collections could be lower than estimated. Conversely, tax data from Louisiana and North Carolina, which each impose a tax of $0.05 per milliliter of vaping liquid, indicate that nicotine product tax collections could be much higher than estimated.

Penalties. Nicotine tax distributors that fail to file a tax return by the quarterly deadline are assessed a penalty of 10 percent of the amount of tax due, plus 0.5 percentage points per month from the date due, plus applicable interest. If no tax was due, the penalty for a distributor's failure to file is $25. Tax penalties are subject to the same fund distribution as tax revenue, as described above. This fiscal note assumes that distributors will file taxes on time; to the extent that filings are late, revenue collected will be greater than estimated.

Fees. The bill requires that nicotine product distributors remit an annual $10 licensure fee to the General Fund. General Fund revenue from licensure fees is expected to increase by less than $10,000 per year beginning in FY 2019-20.

Gifts, grants, and donations. The bill potentially increases state revenue to the Expanded Learning Fund from gifts, grants, or donations; however, no sources have been identified at this time.

TABOR status of revenue. The bill decreases state revenue subject to TABOR by $1.2 million in FY 2019-20 and by $2.3 million in FY 2020-21 and subsequent years. These amounts represent the net impacts of the decrease in current law statutory cigarette and tobacco tax revenue and the increase in nicotine product distributor license fee revenue. These revenue streams are subject to TABOR. Amendment 35 cigarette and tobacco tax revenue and revenue generated from the taxes in the bill are exempt from TABOR as voter-approved revenue changes. Gifts, grants, and donations are likewise exempt from TABOR. The state is not expected to collect a TABOR surplus in FY 2019-20 or FY 2020-21. A forecast of state revenue subject to TABOR is not available beyond FY 2020-21.

State Transfers

Conditional on voter approval, the bill requires that a portion of new cigarette and tobacco tax revenue credited to the Behavioral Health and Health Care Cash Fund be transferred to the Tobacco Education Programs Fund, the Tobacco Tax Cash Fund, and the General Fund. Transfers are estimated at $23.8 million in FY 2019-20 and $45.0 million in FY 2020-21 and subsequent years, and are summarized in Table 5.

Table 5
Conditional Transfers Under HB 19-1333

	FY 2019-20	FY 2020-21
Behavioral Health and Health Care Cash Fund	($23.8 million)	($45.0 million)
Tobacco Education Programs Fund	$15.9 million	$30.0 million
Tobacco Tax Cash Fund	$5.8 million	$11.0 million
General Fund	$2.1 million	$4.1 million
Total	**$0**	**$0**

Revenue transferred to the Tobacco Education Programs Fund is available for tobacco education programs administered in CDPHE. Revenue transferred to the Tobacco Tax Cash Fund is expected to offset the amount by which the bill reduces Amendment 35 cigarette and tobacco tax revenue, such that the amounts expected to be available for Amendment 35-funded programs in HCPF and CDPHE will neither increase nor decrease. Revenue transferred to the General Fund is available for general government purposes at the discretion of the General Assembly.

State Expenditures

If the ballot measure is approved by voters, the bill is expected to increase state expenditures by $159.9 million and 9.4 FTE in FY 2019-20 and by $319.1 million and 18.4 FTE in FY 2020-21 and subsequent fiscal years. With the exception of revenue transferred to the General Fund as shown in Table 5, all tax revenue generated under the bill is expected to correspondingly increase state expenditures. Expenditure impacts are summarized in Table 6 and described below.

Table 6
Conditional State Expenditures Under HB 19-1333

Cost Components	FY 2019-20	FY 2020-21
Department of Revenue		
Personal Services	$12,943	$6,013
Operating Expenses and Capital Outlay Costs	$1,131	$95
Computer Programming and Testing	$135,360	-
Document Management	$1,200	-
Centrally Appropriated Costs	$2,933	$1,425
FTE – Personal Services	0.2 FTE	0.1 FTE
DOR (Subtotal) — General Fund	**$153,567**	**$7,533**
Department of Public Health and Environment		
Tobacco Education Programs	$15,494,972	$29,234,397
Cancer and Cardiopulmonary Disease Prevention	$55,877	$31,399
Personal Services	$393,039	$782,576
Operating Expenses and Capital Outlay Costs	$62,041	$14,426
Centrally Appropriated Costs	$183,532	$343,548
FTE – Personal Services	5.9 FTE	11.8 FTE
CDPHE (Subtotal) — Cash Funds	**$16,189,461**	**$30,406,346**
Department of Health Care Policy and Financing		
Children's Basic Health Plan and/or Medicaid	$160,647	$90,272
Comprehensive Primary Care via Medicaid	$66,354	$37,286
HCPF (Subtotal) — Cash Funds	**$227,001**	**$127,558**
Department of Education		
Colorado Preschool Program	$58,332,813	$116,467,656
Expanded Learning Opportunities Program	$25,021,738	$49,993,082
Personal Services	$235,831	$471,663
Operating Expenses and Capital Outlay Costs	$36,056	$6,175
Expanded Learning Board Member Reimbursements	$5,712	$11,424
Expanded Learning RFP Costs	$17,850	-
Centrally Appropriated Costs	$46,114	$91,480
FTE – Personal Services	3.3 FTE	6.5 FTE
CDE (Subtotal) — Cash Funds	**$83,696,114**	**$167,041,480**
Additional Expenditures		
Cigarette Tax Shareback	($220,640)	($426,724)
Health Care Affordability and Accessibility Programs	$39,476,112	$80,492,282
Behavioral Health Programs	$20,336,179	$41,465,721
Total	**$159,857,794**	**$319,114,196**
Total FTE	**9.4 FTE**	**18.4 FTE**

Department of Revenue. The bill increases DOR expenditures by $153,567 and 0.2 FTE in FY 2019-20 and by $7,533 and 0.1 FTE in FY 2020-21 and subsequent years. These expenditures are expected to be paid from the General Fund. Personal services expenditures are required in the Division of Taxpayer Services to administer of the new nicotine products tax. One-time expenditures in FY 2019-20 are for configuration of the new tax, tax rate changes, and vendor allowance changes in the department's GenTax software system and for changes to a tax form.

Department of Public Health and Environment. The bill increases CDPHE expenditures by at least $16.2 million and 5.9 FTE in FY 2019-20 and by at least $30.4 million and 11.8 FTE in FY 2020-21 and subsequent years. These expenditures are expected to be paid primarily from the Tobacco Education Programs Cash Fund, except that $55,877 in FY 2019-20 and $31,399 in FY 2020-21 and subsequent years is expected to be paid from the Prevention, Early Detection, and Treatment Fund.

The bill increases the amounts available for tobacco education program grants in the Tobacco Education Programs Cash Fund. CDPHE's Prevention Services Division is expected to require 11.8 FTE in FY 2020-21 and ongoing to evaluate and issue additional grants, with associated personal services, capital outlay, and operating costs to be paid from the fund. The amount credited to the fund in excess of that required for administration, $15.5 million in FY 2019-20 and $29.2 million in FY 2020-21, is expected to be used for grants.

Because the amount transferred to the Tobacco Tax Cash Fund is expected to slightly exceed the amount by which Tobacco Tax Cash Fund revenue will decrease under the bill, the amount allocated from the Tobacco Tax Cash Fund to the Prevention, Early Detection, and Treatment Fund is expected to increase by $55,877 in FY 2019-20 and $31,399 in FY 2020-21 and subsequent years. The net increase will result in additional funds available for cancer, cardiovascular disease, and chronic pulmonary disease prevention program grants in the Prevention Services Division.

The bill also requires that revenue credited to the Behavioral Health and Health Care Fund be spent for health care affordability and accessibility programs and for behavioral health programs, but does not specify the agency or program through which these funds are to be spent. To the extent that the General Assembly chooses to appropriate some or all of these funds through the CDPHE, departmental expenditures will increase accordingly.

Department of Health Care Policy and Financing. Because the amount transferred to the Tobacco Tax Cash Fund is expected to slightly exceed the amount by which revenue will decrease under the bill, the amount allocated from the fund to increase enrollment in the children's basic health plan and/or Medicaid is expected to increase by $160,647 in FY 2019-20 and $90,272 in FY 2020-21 and subsequent years, and the amount allocated from the fund to fund comprehensive primary care through Medicaid is expected to increase by $66,354 in FY 2019-20 and $37,286 in FY 2020-21 and subsequent years. These funds are expected to be expended for these purposes.

The bill also requires that revenue credited to the Behavioral Health and Health Care Fund be spent for health care affordability and accessibility programs and for behavioral health programs, but does not specify the agency or program through which these funds are to be spent. To the extent that the General Assembly chooses to appropriate some or all of these funds through HCPF, its expenditures will increase accordingly.

Department of Human Services. Expenditures for the department are expected to increase by an indeterminate amount beginning in FY 2019-20. The bill does not explicitly require the expansion of programs in the department, but requires that portions of the new tax revenue be appropriated for behavioral health and preschool programs selected at the discretion of the General Assembly. It is expected that a portion of revenue credited to the Behavioral Health and Health Care Fund will be expended for facilities administered by the department's Office of Behavioral Health, and that a portion of revenue credited to the Preschool Programs Fund will be expended by the department's Office of Early Childhood for child care licensing. The amount by which departmental expenditures will increase will be determined by future appropriations.

Department of Education. The bill increases CDE expenditures by $83.7 million and 3.3 FTE in FY 2019-20 and by $167.0 million and 6.5 FTE in FY 2020-21 and subsequent years.

Of these amounts, $58.6 million and 2.5 FTE in FY 2019-20 and $117.0 million and 5.0 FTE in FY 2020-21 and subsequent years is expected to be paid from the Preschool Programs Fund to augment the current Colorado Preschool Program. The department is expected to incur administrative costs associated with the expansion of the program. The amount credited to the fund in excess of that required for administration, $58.3 million in FY 2019-20 and $116.5 million in FY 2020-21, is expected to be used to fund preschool education through school districts and other early childhood education providers.

The remaining expenditures, estimated at $25.1 million and 0.8 FTE in FY 2019-20 and $50.0 million and 1.5 FTE in FY 2020-21 and subsequent years, are expected to be paid from the Expanded Learning Fund for the Colorado Expanded Learning Opportunities Program created in the bill. These costs assume the creation of the board of directors beginning January 2020, and include the costs of board staffing and monthly meetings to select an administering nonprofit. The amount credited to the fund in excess of that required for administration of the Expanded Learning Opportunities Agency, $25.0 million in FY 2019-20 and $50.0 million in FY 2020-21, is expected to be used to provide expanded learning opportunities and to pay for administrative costs in the administering nonprofit.

Office of the State Auditor. Beginning in FY 2020-21, the bill increases workload in the OSA to conduct a financial audit of revenue collected and allocated under the bill. This workload increase can be accomplished within the OSA's current appropriation for audit expenses.

Cigarette tax shareback. Twenty-seven percent of current statutory cigarette tax revenue is distributed to county and municipal governments according to their cigarette sales. Because the bill reduces revenue anticipated to be collected from the current statutory cigarette tax, General Fund expenditures for this purpose are expected to decrease by $0.2 million in FY 2019-20 and by $0.4 million in FY 2020-21 and subsequent years.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be $232,579 in FY 2019-20 and $436,453 in FY 2020-21.

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2019 general election. While no additional appropriation is required in this bill, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas.

First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office, estimated at $3.2 million in FY 2019-20. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost $920,000 in FY 2019-20. Publication costs increase by approximately $115,000 per measure beyond this base amount for each additional referred or initiated measures placed on the ballot.

Local Government

The bill is expected to decrease revenue for county and municipal governments and to increase revenue and expenditures for school districts as discussed below.

Counties and municipalities. Because the bill is expected to decrease current statutory cigarette tax collections, the 27 percent shareback of this revenue to county and municipal governments is likewise expected to decrease. The revenue impact across all county and municipal governments is estimated at $0.2 million in FY 2019-20 and $0.4 million in FY 2020-21 and subsequent years. The distribution of this loss across individual governments depends on each jurisdiction's volume of cigarette sales.

School districts. The bill is expected to increase school district funding via the Colorado Preschool Program. Districts that receive funding will incur increased expenses to provide preschool education and related services to preschool students.

School districts may also choose to participate as expanded learning opportunities providers in order to receive allocations from the Expanded Learning Fund and provide supplemental educational opportunities for students.

Effective Date

The portion of the bill that refers the ballot measure takes effect upon signature of the Governor, or upon becoming law without his signature. If the ballot measure is approved by voters, the remainder of the bill takes effect upon the proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State Appropriations

The bill requires appropriations if and only if the referred ballot measure is approved by voters. If the ballot measure is approved, it is assumed that appropriations will be authorized via the annual budget process. The bill would require General Fund appropriations to the Department of Revenue and cash fund appropriations to the Department of Public Health and Environment, the Department of Health Care Policy and Financing, the Department of Human Services, and the Department of Education.

Revenue credited to the Expanded Learning Fund is continuously appropriated to the Colorado Expanded Learning Opportunities Agency and does not require an appropriation.

State and Local Government Contacts

Counties	Education	Health Care Policy and Financing
Human Services	Municipalities	Public Health and Environment
Revenue	School Districts	State Auditor