

Proposition ? : Taxes on Nicotine Products

1 **Proposition ?, if approved, would:**

- 2 • increase taxes on cigarettes and tobacco products;
- 3 • create a new tax on nicotine products; and
- 4 • distribute the new revenue to expanded preschool programs, as well as to
- 5 K-12 education, rural schools, affordable housing, eviction assistance,
- 6 tobacco education, and health care.

7

8 **What Your Vote Means**

YES

A “yes” vote increases taxes on cigarettes and other tobacco products, and creates a new tax on nicotine products, including vaping products. The new tax revenue will be spent on education, housing, tobacco prevention, health care, and preschool.

NO

A “no” vote means taxes on cigarettes and other tobacco products will stay the same, and there will be no new taxes on nicotine or vaping products.

1 **Summary and Analysis for Proposition ?**

2 **How are cigarettes, other tobacco products, and nicotine products currently**
 3 **taxed?**

4 Cigarettes are currently taxed at 4.2¢ per cigarette, which is 84¢ per pack of
 5 20 cigarettes. Tobacco products include chewing tobacco, cigars, and snuff and are
 6 currently taxed at 40 percent of the manufacturer’s list price, which is the price at
 7 which a manufacturer sells the product to a distributor. Nicotine products, which
 8 include vaping products, are not currently subject to a cigarette or tobacco tax. All
 9 three products are currently subject to the state sales tax.

10 Cigarette and tobacco taxes are required to be paid by the distributor that first
 11 receives products in the state, which may include local manufacturers or out-of-state
 12 retailers that sell to Colorado consumers online. The business pays taxes to the
 13 state, but may keep a portion of the tax as compensation for work associated with
 14 filing taxes.

15 **Current revenue distributions.** Current cigarette and tobacco tax revenue is
 16 distributed to a variety of health care, tobacco education, and disease prevention
 17 programs, as well as for general state programs and services.

18 **How does Proposition ? change taxes on those products?**

19 Proposition ? raises taxes on cigarettes and tobacco products, and establishes a
 20 new tax on nicotine products. The new taxes increase incrementally until they are
 21 fully phased in during 2027. Table 1 lists the current tax rates and the new rates
 22 under the measure. The new revenue is exempt from constitutional spending limits.

23 **Table 1**
 24 **Changes to Cigarette and Tobacco and Nicotine Products Taxes**
 25

Product	Current Tax Rates	New Rates Under Proposition ?*							Tax Rate Increase 2021 to 2027
		2021	2022	2023	2024	2025	2026	2027	
Cigarettes <i>Tax per pack</i>	\$0.84	\$1.94	\$1.94	\$1.94	\$2.24	\$2.24	\$2.24	\$2.64	\$1.80
Tobacco Product <i>Percent of price**</i>	40%	50%	50%	50%	56%	56%	56%	62%	22%
Nicotine Products <i>Percent of price**</i>	None	30%	35%	50%	56%	56%	56%	62%	62%

26 **Rate increases begin January 1, except in 2024 and 2027, when rate increases begin July 1.*

27 ***Manufacturer’s list price.*

28 Proposition ? also:

- 29 • sets tax rates for modified risk tobacco products at half the new tax rate for
 30 regular products. A modified risk tobacco product is a federal designation for a
 31 tobacco product that poses lower health risks when compared to existing
 32 commercial products such as cigarettes. Currently, there is only one type of
 33 product that has received this designation for sale nationwide.

- establishes a minimum tax for moist snuff products at \$1.48 per 1.2 ounce container, increasing to \$2.26 by 2027-28. Moist snuff is a type of cut, smokeless tobacco that can be loose or pouched and is intended to be placed in the mouth rather than sniffed;
- sets a minimum after-tax price for cigarettes at \$7.00 per pack beginning in January 2021, and \$7.50 per pack beginning in July 2024; and
- reduces the portion of the taxes that distributors may keep as compensation for the work associated with filing taxes from 4.0 percent to 0.4 percent for cigarette distributors, from 3.33 percent to 1.6 percent for tobacco distributors, and sets this rate at 1.1 percent for nicotine distributors.

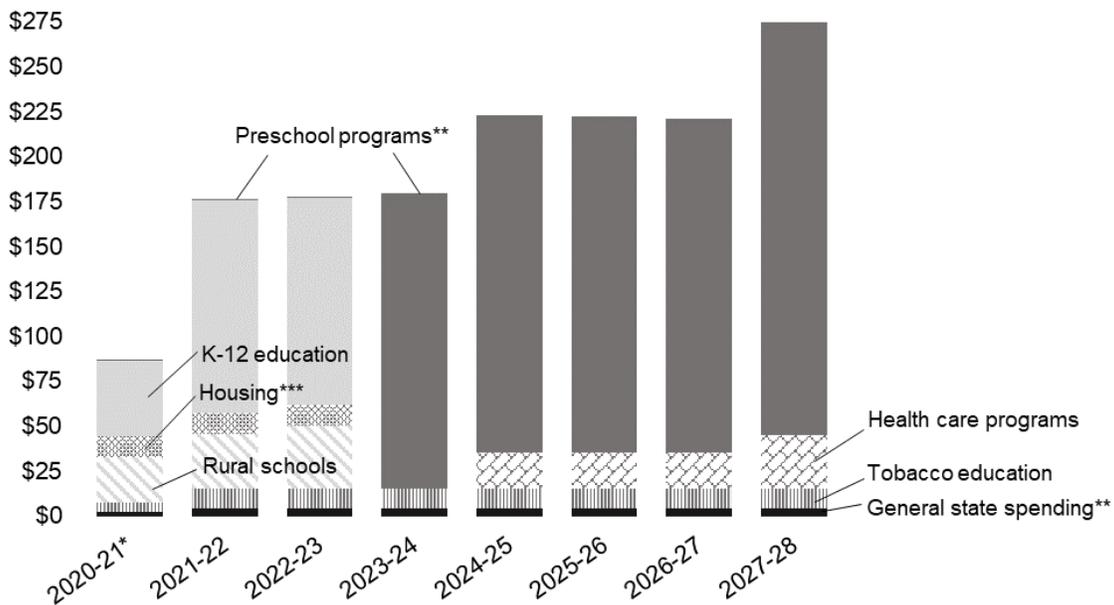
Are vaping products taxed under Proposition ??

Yes, vaping products, which are devices that deliver nicotine through the inhalation of a vapor or aerosol, are included in the definition of nicotine products and will be subject to the new tax rates established by Proposition ?. Vaping products are not eligible for the lower tax rates for modified risk tobacco products, even if they are approved for this designation by the federal government.

How will the new tax revenue be spent?

Proposition ? is expected to generate up to \$176.6 million in cigarette, tobacco, and nicotine tax revenue in budget year 2021-2022, the first full year when the measure will be in effect, and up to \$274.9 million beginning in budget year 2027-28 when the new tax rates are fully phased in. Figure 1 shows the programs that will receive funding as the new tax rates are phased in through budget year 2027-28. The amount allocated to different programs changes as the new tax rates are phased in.

Figure 1
Distributions of New Tax Revenue
Millions of dollars, by budget year



* Half-year impact.
 ** Includes additional revenue from excise and sales taxes.
 *** Includes housing development and eviction legal assistance.

1 As shown in the above figure, Proposition ? will provide funding for the following
2 programs:

- 3 • **K-12 education.** In the first three years of the measure, any revenue not
4 allocated to other programs will be available for K-12 education funding, which
5 may include school finance funding to school districts, including charter schools,
6 as well as other education programs.

- 7 • **Rural schools.** Of the money allocated for rural schools in the first three years of
8 the measure, 55 percent goes to rural school districts with between 1,000 and
9 6,500 students, and 45 percent goes to rural school districts with fewer than
10 1,000 students. The funding is allocated on a per-student basis.

- 11 • **Housing development.** In the first three years of the measure, funding will be
12 allocated to nonprofits, local governments, and housing authorities as grants or
13 loans to buy, renovate, and construct houses, or provide rental assistance, in an
14 effort to increase the supply of affordable housing. Of the amount allocated for
15 this purpose, \$5.0 million must be used in rural areas.

- 16 • **Eviction legal assistance.** Funding for this purpose is allocated in the first three
17 years of the measure and will be awarded to organizations that provide legal
18 assistance to low-income clients at risk of eviction.

- 19 • **Health care programs.** Funding allocated for health care programs will be used
20 for Medicaid, primary care, tobacco use prevention, children’s health and a
21 variety of other health care programs that currently receive cigarette and tobacco
22 tax revenue.

- 23 • **General state spending.** Of the amount allocated for this purpose, 27 percent
24 must be distributed to local governments, and the remainder used for general
25 state spending, which may include education, transportation, and health care,
26 and will be determined by the state legislature. A portion of the additional sales
27 tax revenue from the minimum cigarette price is also used for general state
28 spending.

- 29 • **Tobacco education programs.** Money allocated for this purpose is used for
30 grants for community-based and statewide programs to reduce tobacco use by
31 youth, encourage cessation, and reduce exposure to secondhand smoke.

- 32 • **Preschool programs.** Proposition ? provides funding for expanded preschool,
33 including at least ten hours per week of free preschool to every child in their final
34 year before kindergarten. A portion of the additional sales tax revenue from the
35 minimum cigarette price is also used for this purpose.

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38 year before kindergarten. A portion of the additional sales tax revenue from the
39 minimum cigarette price is also used for this purpose.

38 **How does Proposition ? change preschool availability and funding?**

39 Currently, the Colorado Preschool Program funds 29,360 half-day preschool slots for
40 three- and four-year old children who are from low-income families, in need of
41 language development, or who meet certain criteria indicating they may be in danger
42 of falling behind in school. About 9,000 low-income students also have access to
43 preschool through federal Head Start programs. Proposition ? requires that the new
44 funding be used to offer at least 10 hours per week of free preschool to every child in

1 their final year before kindergarten. This is expected to begin in the 2023-24 school
2 year. Any remaining revenue must be used to expand preschool opportunities for
3 low-income families and children at risk of not being ready for kindergarten.

For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

4 **Arguments For Proposition ?**

- 5 1) Cigarettes, tobacco, and nicotine products are addictive and have negative
6 health impacts, which can include cancer and heart and lung disease. Tax
7 increases usually result in higher prices, which deter smoking and tobacco use,
8 especially among youth and young adults. Colorado has one of the lowest tax
9 rates on cigarettes and tobacco products, and no tax on vaping products, while
10 also having one of the highest rates of youth vaping in the country. A tax on
11 vaping products could decrease consumption while funding health care and
12 tobacco education and prevention programs.
- 13 2) Proposition ? provides needed funding for education. The impacts of the
14 COVID-19 pandemic on the state budget have resulted in a 10 percent decrease
15 in the state share of public school funding for the 2020-21 school year. Additional
16 federal funding has helped lessen the impact of this state budget cut in 2020;
17 however, it is not likely not going to be available next year and further cuts are
18 expected. The measure provides vital funding for schools as the economy
19 recovers, and additional assistance for small rural districts that are
20 disproportionately impacted by state funding cuts.
- 21 3) Providing access to free preschool gives all children the same foundation before
22 entering kindergarten. Currently, half of Colorado three- and four-year-olds do
23 not attend any type of preschool. High quality preschool is shown to improve
24 educational, economic, and health outcomes throughout a child's life, including
25 higher wages, higher graduation rates, and fewer criminal convictions. Access to
26 preschool also supports working parents by giving them the option to enroll their
27 children in up to ten hours per week at no cost.

28 **Arguments Against Proposition ?**

- 29 1) Increasing taxes on cigarette, tobacco, and nicotine products harms people who
30 choose to consume them, particularly low income users. Because these products
31 are addictive, users may continue to purchase them even after a tax increase. In
32 addition, vaping products are used by many as a way to quit using traditional
33 cigarettes. Youth vaping should be addressed through enforcement of existing
34 age restrictions and additional education and prevention, not through raising
35 taxes on a product that some use as a cessation device.
- 36
37 2) Raising taxes and establishing a minimum purchase price hurts business
38 owners. Businesses selling these products may see a decline in sales, which
39 can be particularly harmful for small, local businesses at a time when many are

1 already struggling. In addition, setting a minimum price for a product reduces the
2 choices for consumers in the marketplace and limits the ability for businesses to
3 innovate and make their products better and more affordable. Private businesses
4 and market competition are best suited to determine the prices at which products
5 are bought and sold.

6 3) The state should not be dependent on tax revenue from a specific, addictive
7 product to fund schools, preschool, and other state services. Once Proposition ?
8 is fully phased in, revenue from this tax is likely to decline over time as the
9 increased price results in fewer products being purchased. At the same time,
10 preschool funding needs are likely to grow. A tax intended to decrease
11 consumption is not a funding source the state should rely on.

12 **Estimate of Fiscal Impact of Proposition ?**

13 **State revenue.** Proposition ? will increase state revenue from cigarette, tobacco
14 product, and nicotine product taxes by \$86 million in state budget year 2020-21 and
15 \$175 million in state budget year 2021-22, the first full year under the measure. The
16 amount of new revenue will increase as the measure is phased in, with \$275 million
17 expected to be generated in state budget year 2027-28.

18 In addition, the measure will also increase state revenue from sales taxes by
19 \$0.8 million in state budget year 2020-21 and by \$1.5 million in state budget year
20 2021-22, the first full year under the measure. The amount of additional sales tax
21 revenue will decline as the measure is phased in, with no new sales tax revenue
22 expected in state budget year 2027-28.

23 **State spending.** Proposition ? will increase state spending by \$87 million in state
24 budget year 2020-21 and by \$177 million in state budget year 2021-22. As the
25 measure is phased in, state spending will increase, with \$275 million expected to be
26 spent in state budget year 2027-28. Spending includes the amounts identified in
27 Figure 1 for education, housing, preschool, tobacco and nicotine education and
28 cessation programs and other programs, as well as costs for administrative and
29 auditing purposes.

30 **Taxpayer impacts.** Proposition ? is expected to increase taxes paid by an average
31 of \$38 per Colorado adult in state budget year 2021-22, and \$53 per Colorado adult
32 in budget year 2027-28; however, the direct tax impact applies only to people who
33 consume cigarette, tobacco products, and/or nicotine products. If the percentage of
34 adult smokers remains constant at 14.6 percent, the measure is expected to
35 increase the taxes paid by cigarette smokers by an average of \$220 in state budget
36 year 2021-22 and by \$289 in state budget year 2027-28.