

# Amendment 72

## The Burning Question About Tobacco and Its Future in Colorado

OCTOBER 2016

*Quick, what plant-based product is responsible for 5,100 deaths and \$1.89 billion in medical costs annually in Colorado? If you answered tobacco, you're right.*

*Reducing tobacco use is one of Colorado's "10 Winnable Battles" to improve health through known and effective solutions.*



Proponents believe that Amendment 72 — a measure on the November ballot that would raise the state tax on tobacco products — will make Colorado healthier, save medical costs and fund important projects and research.

Opponents of Amendment 72 believe that it will lock \$315.7 million in tobacco tax revenue into health care-related programs that have not been identified. They argue that it will disproportionately impact the state's lowest-income residents. And they object to adding a tax to the state constitution.

Here are the numbers:

- Amendment 72 would triple the state's cigarette tax from 84 cents per pack to \$2.59 a pack. That \$1.75 increase would raise the price of cigarettes to about \$7.40 per pack. The cost of other tobacco products also would go up.
- Colorado has the 14th lowest tobacco tax rate among states. And it is one of only 14 states that hasn't increased tobacco taxes in the past decade.
- Even so, Colorado's smoking rates are below the

national average. The rate for Colorado adults is 15.6 percent compared with 18.5 percent nationally. Nine percent of youth smoke in Colorado, nearly two percentage points lower than the national average of 10.8 percent.

- Still, that means one of six adults and one of 10 youth smoke in Colorado. For many medical experts and public health officials, this is still too many.

Evidence suggests that tobacco tax increases deter smoking. Following Colorado's last tobacco tax increase in 2005, the state's adult smoking rate decreased by four percentage points over five years.

But Amendment 72 has a notable exclusion: electronic vapor products, or e-cigarettes. They are not currently considered a tobacco product, so e-cigarettes are not included in the tobacco tax and will remain subject only to sales tax. This could send smokers to e-cigarettes, which have been found to contain harmful and carcinogenic ingredients.

This brief provides an independent, evidence-based analysis of Amendment 72.

## Amendment 72: An Explainer

In addition to tripling the cigarette excise tax, Amendment 72 would also increase the tax on other tobacco products, such as cigars and chewable tobacco, from 40 percent to 62 percent of the manufacturer’s price. This means that for every dollar a tobacco manufacturer charges for its product, 62 cents would go to the state.

If passed, this amendment would mark the first time Colorado has increased its tobacco tax since 2004 when Amendment 35 hiked the cigarette tax from 20 cents a pack to 84 cents a pack, an increase that kicked in the next year. At the time, the state’s taxes were in line with the national average.

Since the 2004, however, Colorado has lagged behind other states and now ranks 38th. Today, the average cigarette tax is \$1.65 a pack compared with Colorado’s 84 cents. If Amendment 72 passes, Colorado would move to eleventh highest in the nation.

## Increasing Tobacco Taxes Decreases Smoking

Scientific evidence shows that raising tobacco taxes is a useful policy lever in lowering smoking rates. But just how much sticker shock does it take to discourage a smoker from lighting up?

In a review of more than 100 academic papers, it was established that a 10 percent increase in the price of cigarettes decreases the smoking rate three to five percent for adults and six to seven percent for youth. The U.S. Surgeon General supports excise taxes as an effective method of achieving price increases that deter smoking, and there is home-grown evidence to support this view.<sup>1</sup>

Colorado’s adult smoking rate hovered around 21 percent between 1995 and 2004 — the same period that the national smoking rate declined four percentage points. In 2004, Coloradans approved Amendment 35, which increased the cigarette tax from 20 cents per pack

Figure 1. Colorado and the West

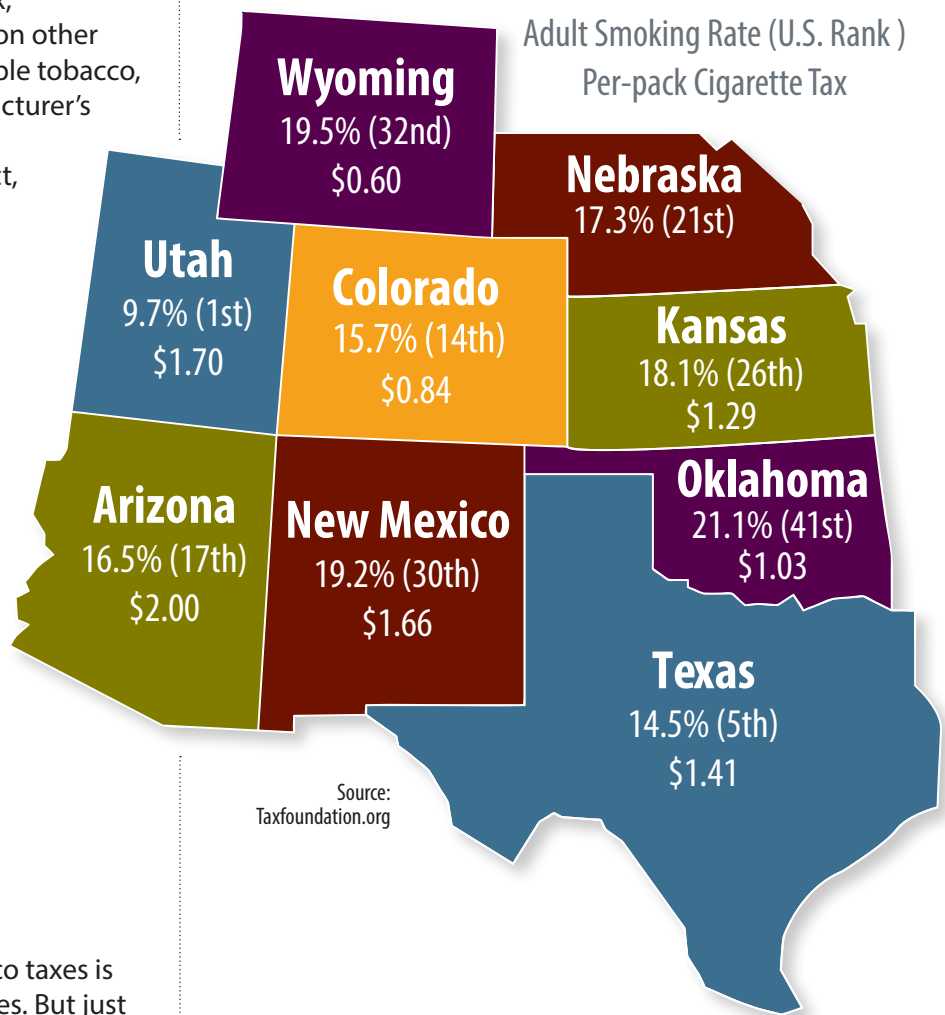


Figure 2. If Amendment 72 Passes ...

Colorado would go from the **14th lowest** per-pack tax in the nation (\$0.84) to the **11th highest** (\$2.59).

1. New York	\$4.35	7. Washington	\$3.03
2. Connecticut	\$3.90	8. Minnesota	\$3.00
3. Rhode Island	\$3.75	9. New Jersey	\$2.70
4. Massachusetts	\$3.51	10. Pennsylvania	\$2.60
5. Hawaii	\$3.20	11. Colorado	\$2.59
6. Vermont	\$3.08		

\* Upon passage of Amendment 72

to 84 cents per pack. By 2010, the percentage of adult smokers had fallen to 16 percent.<sup>2</sup>

However, the effects of a tobacco tax increase diminish over time. Between 2010 and 2015, Colorado's adult smoking rate decreased just .4 percentage points from 16 percent to 15.6 percent while national rates continued to decline.

There are other health benefits than just nudging smokers to quit. Studies show that while tobacco taxes encourage people to stop using tobacco products, they also discourage people — especially youth — from ever starting.

Teens are more sensitive to price changes because they generally have less disposable income. This is important because nearly nine of 10 cigarette smokers first tried smoking before age 18. Two of three young smokers will continue the habit into adulthood, and one of them will die of a smoking-related disease, according to the American Cancer Society.<sup>3</sup>

## Challenges Facing Amendment 72

Reducing tobacco and nicotine use among Coloradans may be challenging even with passage of Amendment 72.

The use of e-cigarettes, almost unheard of five years ago, has skyrocketed recently in Colorado and across the country. These battery-powered devices vaporize a nicotine-filled liquid that can be inhaled, allowing users to get their nicotine fix without having to light up a cigarette.

Among U.S. high school students, e-cigarette use jumped from 1.5 percent in 2011 to 16 percent in 2015.<sup>4</sup> In Colorado, high school use is even higher at 26.1 percent, according to the Healthy Kids Colorado Survey.

Little research has been done on the long-term effects of vaporizers.<sup>5</sup> They are thought to contain fewer harmful ingredients than cigarettes, but have been found to contain carcinogenic chemicals, including antifreeze and formaldehyde.

Because e-cigarettes are not regulated as a tobacco product in Colorado, they are not subject to tobacco taxes. As a result, their prices would not be impacted

by Amendment 72. There is limited research on whether smokers would switch to e-cigarettes as an alternative to cigarettes if the price of tobacco products goes up.

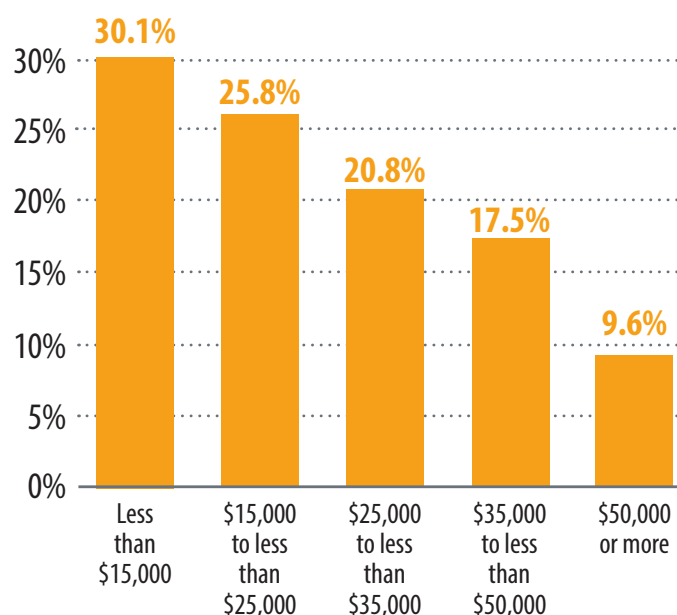
Another challenge could come from outside Colorado. If Amendment 72 passes, Colorado will have the highest tax of any surrounding state. This raises the possibility that more cigarettes will come in from Wyoming, where the cigarette tax is just 60 cents a pack, or another state. These un-taxed cigarettes could cut into Colorado's tax revenues.

As one example, New York has the highest cigarette tax in the nation at \$4.35 per pack. And 56.9 percent of the cigarettes consumed there are purchased from other states.<sup>6</sup>

## Potential Impact on Low-Income Coloradans

Tobacco taxes have a greater impact on low-income people because they are more likely to smoke. Of Colorado adults earning less than \$15,000 a year, three of 10 are smokers. Only one of 10 Colorado adults making more than \$50,000 a year is a smoker, according to the Behavioral Risk Factors Surveillance Survey.<sup>7</sup>

Figure 3. Smoking Rate by Income



Research, however, suggests that lower-income smokers are also more likely to quit or limit consumption in response to price increases.<sup>8</sup>

Revenues from Amendment 72 would support Health First Colorado (Colorado’s Medicaid program), which is required by the Affordable Care Act to provide smoking cessation services to its members and new tax revenues are earmarked to support Community Health Centers and health care providers serving low-income patients.

## Cigarette Tax Revenue: Where It Would Go

Proponents of Amendment 72 estimate that it will bring in \$315.7 million a year to be distributed to seven health-related areas (see Figure 4). Colorado’s Legislative Council, the legislature’s nonpartisan research arm, estimates it would bring in closer to \$299 million a year due to the likelihood that increasing the tobacco tax will reduce sales. Whatever the amount, the amendment specifies that revenues would be exempt from the state’s Taxpayer’s Bill of Rights, which limits the annual growth in government revenue.

Taxes collected during the state’s 2015-16 budget year under Amendment 35 totaled \$200.3 million. Of that, \$143.7 million went to health-related programs and the remainder to state and local programs.

Opponents of Amendment 72 argue that the amendment doesn’t spell out in detail which programs would receive funding from the tax.

It is true that specific programs are not identified in Amendment 72. Instead, legislation would be needed to direct where the money would go, giving lawmakers a chance to weigh in. Similar legislative oversight has been used to allocate revenues from Amendment 35.

All programs would be administered by either the Colorado Department of Public Health and Environment (CDPHE) or the Department of Health Care Policy and Financing (HCPF).

**Figure 4. Estimated Revenue from Additional Taxes Under Amendment 72, State Budget Year 2017-2018**

<b>Spending</b> on health-related programs funded by previously approved tobacco taxes, including Medicaid, children’s health care, tobacco education programs and disease prevention and treatment	<b>\$36M</b>
<b>Research grants</b> to study tobacco-related health problems	<b>\$92M</b>
<b>Education and prevention</b> and other programs that encourage people to stop using tobacco	<b>\$55M</b>
<b>Grants</b> to improve health, find employment and prevent homelessness for veterans	<b>\$48M</b>
<b>Grants</b> for child and adolescent mental health and substance abuse prevention and treatment	<b>\$34M</b>
<b>Construction or improvements</b> to community health centers or providers that serve predominantly low-income patients	<b>\$34M</b>
<b>Student loan repayment and training</b> for health care professionals working in rural or underserved areas of the state	<b>\$17M</b>

For instance, institutions applying for research funding to study tobacco’s effects on health would have to apply for a grant through CDPHE. The applications would then be peer reviewed and evaluated for scientific merit and potential conflicts of interest.

This means that program funding for these programs is directly related to the amount of tobacco products being purchased. If smoking rates decreased, tax revenues would also decrease.

## Proponents

Amendment 72's proponents include a wide array of health organizations, including the American Cancer Society, American Lung Association, American Heart Association and Colorado Medical Society. Also supporting the amendment are veterans' groups, hospitals and philanthropic health foundations. A number of organizations have contributed to the pro-Amendment 72 campaign, but they have been vastly outspent by the opponents.

Colorado Governor John Hickenlooper supports Amendment 72 and its mission to save lives, but has said he might have preferred a smaller tax increase.

The 2016 State Ballot Information Booklet, known as the Colorado Blue Book, identifies the following arguments in support of Amendment 72:

- Tobacco product consumption is responsible for 5,100 deaths in Colorado every year. Higher tobacco prices have been shown to deter tobacco use, especially among children and young adults, and following the implementation of Amendment 35, the number of cigarettes consumed per person dropped by 12.6 percent.
- By dedicating tobacco tax revenue to programs that will further decrease the use of tobacco products, Amendment 72 would improve the health of Coloradans while helping to offset the \$1.89 billion cost of tobacco-related disease.

## Opponents

The opposition to Amendment 72 is being headed by a committee calling itself No Blank Checks in the Constitution. Altria Client Services, a subsidiary of the tobacco producer Altria, has contributed \$10 million. It is the campaign's only contributor.

The 2016 Colorado Blue Book identifies the following arguments against Amendment 72:

- Amendment 72 would unnecessarily lock \$315 million into constitutional spending with little-to-no accountability or oversight. The amendment does not identify specific programs that would receive funding, and taxpayers would not have a say in where this money would go.
- Low-income individuals are more likely to use tobacco products and would take the brunt of the tobacco tax increase. With less disposable income to spend, Amendment 72 would be a burden on low-income Coloradans

**Figure 5. Top Contributors**

### Opponents

<b>No Blank Checks in the Constitution</b>	<b>\$10,067,500.00</b>
Altria Client Services	<b>\$10,067,500.00</b>

### Proponents

<b>The Campaign for a Healthier Colorado 2016</b>	<b>\$1,686,902.00</b>
UC Health	<b>\$250,000.00</b>
Colorado Community Health Network	<b>\$135,809.00</b>
Healthier Colorado	<b>\$134,821.05</b>
Tobacco-Free Kids Action Fund	<b>\$64,670.00</b>
Gary Community Investment Company	<b>\$50,000.00</b>

By Ian Pelto, Public Interest Fellow, Colorado Health Institute

# Endnotes

- <sup>1</sup> Chaloupka, Frank J., Ayda Yurekli, and Geoffrey T. Fong. "Tobacco taxes as a tobacco control strategy." *Tobacco Control* 21.2 (2012): 172-180.
- <sup>2</sup> Centers for Disease Control and Prevention. (2016). "BRFSS Prevalence & Trends Data." (Retrieved September 30, 2016, from: <http://www.cdc.gov/brfss/brfssprevalence/index.html>).
- <sup>3</sup> American Cancer Society. (2016). "Why People Start Smoking and Why It's Hard to Stop." (Retrieved September 30, 2016, from: <http://www.cancer.org/cancer/cancercauses/tobaccocancer/why-people-start-using-tobacco>).
- <sup>4</sup> Centers for Disease Control and Prevention. (2016). "The Facts on the FDA's New Tobacco Rule." (Retrieved September 30, 2016, from: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm506676.htm#safer>).
- <sup>5</sup> National Cancer Institute. (2016). "Debate, Research on E-Cigarettes Continue." (Retrieved September 30, 2016, from: <https://www.cancer.gov/news-events/cancer-currents-blog/2014/e-cigarettes>).
- <sup>6</sup> Tax Foundation. (2016). "Cigarette Taxes and Cigarette Smuggling by State." (Retrieved September 30, 2016, from: <http://taxfoundation.org/article/cigarette-taxes-and-cigarette-smuggling-state>).
- <sup>7</sup> 2015 Behavioral Risk Factors Surveillance Survey.
- <sup>8</sup> Jonathan Gruber and Botond Koeszegi, "A Theory of Government Regulation of Addictive Bads," *Journal of Public Economics*, 2004, 88(9-10), 1959-1987.



The Colorado Health Institute is a trusted source of independent and objective health information, data and analysis for the state's health care leaders. The Colorado Health Institute is funded by the Caring for Colorado Foundation, Rose Community Foundation, The Colorado Trust and the Colorado Health Foundation.

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