

FISCAL NOTE
Requested by Legislative Council
02/05/2019

Amendment to: SB 2355

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed SB 2355 proposes a possible interim study of the taxation of e-cigarettes and liquid nicotine.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact associated with this possible interim study.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 02/07/2019

FISCAL NOTE
Requested by Legislative Council
01/21/2019

Bill/Resolution No.: SB 2355

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$68,700,000			
Expenditures			\$250,000			
Appropriations			\$250,000			

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities		\$(1,300,000)	
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2355 changes the taxation of all cigarette and tobacco products to a value-based, percentage of wholesale cost method of taxation.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 12 of SB 2355 imposes a cigarette tax of 28% of the wholesale cost. Section 18 repeals the existing tax on cigarettes, currently \$.44 per pack. Other tobacco products all become taxed at the rate of 28% of the wholesale cost under the provisions of this bill, including e-cigarettes and e-products.

The provisions that change the taxation method for cigarettes in this bill will result in a tax increase estimated to total approximately the equivalent of \$.68 per package, overall. The tax on premium cigarettes will be greater and the tax on discount cigarettes will be less than this average amount.

Section 16 of the bill distributes one percent of all collections to cites based on population.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2355 is expected to increase state general fund revenues by an estimated \$68.7 million in the 2019-21 biennium. This is due primarily to an increase in the tax on cigarettes, the inclusion of a wholesale tax on e-cigarette products, and a change to an ad valorem tax of 28% of the wholesale cost on tobacco products currently taxed on a per-ounce basis.

Cities currently receive \$.03 (of the total \$.44) per package of cigarettes. The provisions of SB 2355 would change the cities' share to one-percent of total tobacco tax collections. This is expected to reduce city revenues by an estimated \$1.3 million in the 2019-21 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

There will be programming changes and administrative costs associated with this bill expected to total \$250,000 for the 2019-21 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

If enacted, SB 2355 will require an increased appropriation of \$250,000 to the tax commissioner's office for administrative costs.

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 01/29/2019

2019 SENATE FINANCE AND TAXATION COMMITTEE

SB 2355

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2355
1/30/2019
Job #31783

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 4 of section 51-32-04, sections 57-36-01, 57-36-02, 57-36-03, 57-36-04, 57-36-05, 57-36-05.1, 57-36-09, 57-36-09.1, 57-36-14, 57-36-24, 57-36-25, 57-36-26, 57-36-28, 57-36-29, 57-36-31, and 57-36-33 of the North Dakota Century Code, relating to tobacco product remote sale disclosure requirements and the excise tax on cigarettes and tobacco products; to repeal sections 57-36-06, 57-36-27, and 57-36-32 of the North Dakota Century Code, relating to taxation of cigarettes; to provide a penalty; and to provide an effective date.

Minutes:

Attachments: 19

Chairman Cook: Called the hearing to order on SB 2355.

Senator Brad Bekkedahl: Introduced the bill. See attachment #1. The bill is a public health issue. The connection between the health issue and the tax side is that studies have shown increasing the price of products, can actually reduce the entry of use by youth. We are here to talk about e-cigs. This bill brings them into part of the tax code with this bill. One of the areas I believe in is that some of the products used in the e-cigs and liquid, do cause damage to the tissues in the mouth. One of the most common questions asked in the military field when I am doing dental work are, do you use alcohol and do you smoke. Those are big issues with health concerns. For most soldiers, when they tell me they smoke, I will ask them when and why they started. Many of them said they started when they joined the military. Lately, I have been writing down vaping as one of the things they do. I ask them if they have always vaped. Some people will say they only vape and then in the next year, they will say they smoke now because vaping didn't do it for them. It appears that while e-cigs can assist people in getting off the smoking cigarettes, but now it also seems to be an entry point for people to get into the habit as well. In North Dakota, cigarettes are taxed at 44 cents per pack. Two years ago, we were 47th in the nation at the rate and now we are 49th. Last time it was changed in North Dakota was 1993. This bill would take the cigarettes to 28% of wholesale price tax rate. In SD are taxed at a \$1.23 per pack. They are 24th in the nation. That is a 35% wholesale price. In Montana, they are taxed at \$1.70 per pack which is 22nd in the country. That is 50% of the wholesale price. In Minnesota, they are taxed at \$3.00 per pack which is the 6th highest. The price is 95% of the wholesale price. I thought that would be helpful for you to have. I also have an article that talks about the specific use of e-cigs.

The overview of e-cigs works by heating a liquid to generate an aerosol that the user inhales. The liquid in the e-cig is usually made up of prop oleum glycol, glycerin, flavoring, water, and nicotine. Some users will substitute THC for nicotine. E-cig users tend to reach lower blood nicotine concentrations than tobacco smokers. Reasons for vaping; smoking sensation, the thought that vaping is less harmful than cigarettes, circumvention of smoke free areas, and recreational enjoyment which is the number 1 use. They talk about how tobacco use of middle and high school students has been decreasing since 2014. Since the introduction of the e-cig that number is now increasing. It is estimated that 1 in 5 high school students may now be using e-cig products. E-cig use from 2017-2018 increased nationwide; 78% among high school students, and 48% among middle school students. Although the percentage of nicotine is much lower, .3-1.8% than traditional tobacco products, one electronic cartridge which contains between 200-400 puffs, can equal the smoking of 2-3 packs of regular cigarettes. This results in a much higher risk of developing gum disease and tooth loss. The bottom line is that vaping can be just as dangerous, if not more when compared to smoking. According to a 2013-2014 survey, 81% of current youth e-cig users cited that the availability of appealing flavors is their primary use for their reason of vaping and using e-cigs.

Chairman Cook: Do you know what the 28% of the wholesale price does to the 44 cents? What is it going to be if we increase it 28% of the wholesale price?

Senator Bekkedahl: The increase would put it at approximately \$1.12 per pack. It would go from 44 cents to the \$1.12 per pack. That is still below all our neighboring states.

Dennis Pathroff, Attorney, Zuger, Kirmis, and Smith Law Firm, Bismarck: Testified in support of the bill. See attachment #2.

Chairman Cook: Were you involved in the drafting of the bill?

Dennis Pathroff: Yes.

Chairman Cook: Is this tax policy used in any other state?

Dennis Pathroff: The 28% across the board is not used in any other states. We haven't raised this since 1993. We have tried traditional approaches and we think that this new innovative approach might be pliable.

Chairman Cook: Who was working with you on this approach?

Dennis Pathroff: We had several different partners I which many of them are following me today. They have their different groups and they each have different reasons for supporting this in which they will explain to you.

Chairman Cook: Did you have any communications with the tax department when you put this bill together?

Dennis Pathroff: Not initially, but we have shown it to them and there are a few suggestions that I know the tax department is going to come up with today. I will let them speak to that. As far as implementing this legislation, there are a few hiccups that will need to be fixed but

we are more than willing to work with this committee and the tax dept. to come up with something that is suitable for everyone and to ultimately improve ND's existing tobacco tax regulations.

Chairman Cook: When you put a tax on the wholesale price, who pays the tax?

Dennis Pathroff: I would like the tax department to answer those types of questions if that is okay.

Chairman Cook: Okay that is fine.

Senator Meyer: We are going to see well over 100% increase on the cigarette tax, but have we talked about anything on just focusing primarily on the e-cig devices and not wrapping everything else into this?

Dennis Pathroff: If this bill could be used as a vehicle to address either of those issues, or both, our group would be more than willing to amend this bill to do that. Our two goals with this bill is to address the e-cig issue as well as the tobacco cigarette issue.

Heather Austin, Executive Director for Tobacco Fee North Dakota: Testified in favor of the bill. See attachment #3. Heather read this packet to the committee.

Chairman Cook: How many states tax e-cigs.

Heather Austin: I know of 10.

Heather Austin: Distributed attachment #4. Heather read this packet to the committee.

Senator Unruh: I appreciate all the information of why to increase the tobacco tax but do you have some testimony on why we should change the way we tax the tobacco products? That is a big portion of what this bill does and I am still trying to figure that piece out.

Heather Austin: I do not have written testimony that supports that, but I can speak to it. We have tried for 25 to raise tobacco taxes in a traditional way. The idea was brought forth to try something different and we embraced that it would accomplish the things we wanted it to. Raising the tax creates a less amount of ways that tobacco is taxed in our state. This would simplify things. It would be easier for us to make adjustments or not have to come back to the table in the future. We were open to exploring this and if there is language that can be used to strengthen this bill or conversation that needs to happen to go forward, we are happy to sit down and be part of that discussion to put the best legislation in place to protect our kids and citizens.

Heather Austin: Distributed attachments #5-9.

Neil Charvat, Director of the Tobacco Prevention and Control Program for the ND Dept. of Helath: Testified in support of the bill. See attachment #10. Neil read the attachment to the committee.

Senator Meyer: Would these laws of the gum patches be taxed 20%?

Neil Charvat: These are currently exempt from any taxation because they are FDA approved medications.

Chairman Cook: I knew a guy that smoked for 42 years, he went cold turkey one morning and used an e-cig for 5 days to get off of cigarettes. They do work. Neil I have a question, ND Quits, is that a program of the health department?

Neil Charvat: Yes. I actually administer that program.

Chairman Cook: It is basically a hotline that people call?

Neil Charvat: It is an online or telephone service in which we provide services to help people quit with free medication.

Chairman Cook: How many people are up there answering the phones?

Neil Charvat: We have 4 people in ND providing the counseling. We have another base at UND Medical school. We also have the service provided through a vendor called National Jewish Help which is a hospital system. They actually answer the initial calls and do the intake for us. They have the system capability to do that.

Chairman Cook: Approximately how much do we spend for that?

Neil Charvat: It would be under \$2 million for the biennium.

Jennifer Schaeffer: Testified in favor of the bill. See attachment #11. Jennifer read her testimony to the committee.

Senator Dotzenrod: I have heard of these many different devices. Are they interchangeable.

Jennifer Schaeffer: They are different devices with liquid nicotine in them. Some put the nicotine in and some are to open the container and start drawing from it.

Chairman Cook: JUUL is a manufacturer correct?

Jennifer Schaeffer: Correct.

Senator Kannianen: What measurement unit is used for nicotine in a product when we talk about how much is in a pod or a pack of cigarettes?

Jennifer Schaeffer: When we use measurements, we think of a regular cigarette as having 1-2 milligrams of nicotine. When we think about a can of chew we think about someone taking a pinch and it being about 4 cigarettes worth. With the puffs delivered from pods, it is about a pack of cigarettes with each pod. Students tell me that they are using 1-2 pods a day.

Senator Kannianen: It was mentioned that it is seen as an entry point because people tell him that after a while the e-cigs didn't do it for them, so they went to cigarettes. When you say that the e-cigs have a higher nicotine content and are more addictive, he mentioned that it was the opposite for some people. That seems contradictory to me.

Jennifer Schaeffer: With the products, are student who never have tried cigarettes, are going straight to the vaping and e-cigs. When they don't get the kick they are looking for from the product, then they might try the cigarette is what he was trying to say.

Jennifer Schaeffer: Distributed testimony of Melissa Markegard, the Tobacco Prevention Coordinator at Fargo Cass Public Health. See attachment #12.

Joan Connell: Testified in favor of the bill. See attachment #13. Joan read her testimony to the committee.

Chairman Cook: I keep hearing that these e-cig products are being marketed to our youth. How are they doing that?

Joan Connell: The preceding provider talked about the appealing flavors. If you also listen to the ads, they show people who used to smoke and now they JUUL which helped them quit. It states that their moms are happy about that. That is so full of propaganda that it is sickening.

Chairman Cook: Any other testimony in support? Testimony in opposed?

Monte Williams, Altria: Testified in opposition of the bill. See attachment #14. I have two packs of cigarettes that I brought with me today. They are both the same. They are class A cigarettes at 20 cigarettes per pack. Currently they are taxed at the same rate in ND. Under the proposal of this bill, one would pay \$1.34 in tax, and this one would pay 88 cents. It isn't simpler to do for anyone. It just sounds more simple because it is a percentage times but it is the base that it's applied to that brings in the level of complication. It also changes smoking preference. Someone may go down to a cheaper pack. It doesn't mean they quit, they just go down because the tax system is pushing them that way. Using an average price per pack is great for revenue estimates but when you are looking at the actual application of the tax, you have to use what the marketplace really has in it. The wholesalers don't get to do that. That is why all 50 state tax on a unit based system. No state taxes on an ad valorem basis. It also leads to market manipulation by the pricing policies of the tobacco companies. For example, if you have a 2 for 1, under an ad valorem system, you only get the price of one of the packs. Under a unit system, you get taxed on all 40 cigarettes. You do not want to have a tax system that has pricing policies that will keep the state from getting the money it should. You currently have a really good unit system for almost all the products in the category. It is simple for the state and wholesalers to apply. I urge you to keep that system you have.

Senator Patten: How does ND compare to other state as far as the per pack rate?

Monte Williams: It is one of the lowest ones in the country.

Senator Unruh: With the proposal as it sits in front of us, could you expand on the impact of the market and consumers if we switched over to the method of taxation.

Monte Williams: A certain product is taxed by 22 states in a unit basis and the rest are on an ad valorem basis. We have information to show the impact on the market under both systems. Under a unit based system, the market place is not impacted. Premium and discount products are almost 50/50. When you move into an ad valorem state, the discount market rate move considerably faster. One of these packs would be 98 cents and the other would be 76 cents. That drives consumers down. Every time one goes down, your tax revenue goes down.

Senator Unruh: If we switched, we would be picking winners and losers?

Monte Williams: Your tax policy would help establish a retail price of products in the marketplace where today, it doesn't. That drives consumer behavior because prices change based on that system.

Senator Unruh: Could you talk about why this doesn't work when the retail price goes up and how that effects consumers? Why doesn't this Ad valorem system work?

Monte Williams: It makes the system more complicated. You are getting more revenue under this current proposal, simply because you are raising the rates substantially. It changes the retail patterns of people because the prices change based on the tax policy. A consumer that looks at two products today and they know the prices. If this system was put into place, those prices would change. The premium would go up but the discount would go up as much. Consumer behavior would be to change to a lower priced product after that. That means the revenue goes down with it. For budgeting purposes, you can estimate how many packs of cigarettes but you have no idea what the pricing policies of the companies are going to be.

Chairman Cook: I always consider myself as a tax geek, and it seems like you have the disease really bad as well.

Monte Williams: Yes, I do Mr. Chairman.

Senator Dotzenrod: I am trying to find out if there is some sort of parallel here. If you walk into a gas station and there are 200 different types of candy bars. They are all different prices. They all pay a sales tax at the till. So, you say we are picking winners and losers in the candy bar business by having a sales tax?

Monte Williams: No. When you have an excise tax, you are picking winners and losers when you move to an ad valorem system. There is no excise tax on candy bars. There is a sales tax and an excise tax on tobacco products. Whatever you do with the excise tax, you still have the sales tax on top of that. If you put an excise tax on candy bars, the cheaper candy bars would have less tax than the more expensive ones, but by a greater margin because of the tax policy.

Mike Rud: Testified in opposition of the bill. We are opposed to this bill based on many of the reasons that Monte just described. Distributed testimony of Kelly Kaiser who is the owner

of O.K. Distributing. See attachment #15. Yes, we haven't raised the taxes in 25 years, but it has been before this body time and time again and the answer continues to be no. This isn't the first rodeo for initiated measures either because we just saw one again not too long ago on this issue. The public spoke out and said no to a tax increase. Our marketers have a lot of concern on the wholesale side as well. I would urge a do not pass on this bill.

Chairman Cook: How challenging would it be for a retailer to go to this type of a taxing scheme.

Mike Rud: I haven't heard from a lot of them. There are concerns out there but I do not know to what degree that is. I wouldn't know until it would be implemented. I know the wholesale distributors are extremely concerned about what they would have to do with their systems in order to administer this to their hundreds of customers across the state and in the area.

Senator Dotzenrod: The trend that is used in user fees, is the cost related to tobacco use, is up in the \$700 million and that the revenue from tobacco is in \$60 million. It appears that the government subsidized and provides a subsidy to the tobacco users. They are not covering the costs that are reflected in government expense related to tobacco use. Does it seem like we are not covering the cost of the use of tobacco? If you are against the bill, how would we address this issue that we have these government related costs but we don't have the revenue that we need to cover from those causes of the expenses?

Mike Rud: I think it is similar with what we are seeing in the gas tax situation. These are regressive taxes and tobacco is no different. We have less than 20% of the population that you will stick this bill on to try and raise this revenue. I think you saw, during the last initiated measure, the people of ND didn't want to stand for that. We all want to take care of the veterans but let's all do it, not just the folks who are smoking tobacco. The number from 2018 that I saw, the folks that are using tobacco products paid over \$120 million in taxes. Should we continue to punish them? If we are going to find a solution and address this disease, then let's do it across the state and not pick on the same group.

Senator Meyer: Do you have any breakdown on the socio economic status of those tax payers?

Mike Rud. One third of the smokers in ND earn less than \$15,000 and I think there is only a very small portion that make over \$50,000. This is something that has a huge impact on socio economic ramifications for those folks who can least afford to be up there. To increase the tax, is that going to guarantee that they are going to quit?

Senator Patten: I am hearing two separate issues that you are objecting to. One is a transition from a per unit tax to a percentage tax. That is the primary objection from the people you represent. Then the second, is the amount of the tax. Is that correct?

Mike Rud: As you talked about in two separate cases, I think there is concern about how we administer this. At the retail level, that is first and foremost. That would be how I would visit with the different communities. The tax department can lend light to that as well.

Senator Kannianen: What are your thoughts on the e-cigarette portion of this?

Mike Rud: I think we could argue back and forth about that. The proponents of this bill will tell you that we need to stop the e-cigs but I have seen studies that say this idea of using e-cigs as a harm reduction tool could save millions of lives in the 21st century. There is data that goes both ways. People who own vape shops say they have helped thousands of people in ND stop smoking. I think that is a debate that I think will continue until the FDA takes action.

Arik Spencer, President and CEO of the Greater ND Chamber: Testified in opposition of the bill. One of our primary goals is for ND to have a great business climate. Anytime we are modifying tax, caution needs to be given about the impact it will have on distributors and retailers. With that, I just urge caution and would be happy to answer any questions you have.

Senator Dotzenrod: Should the state and the government be subsidizing the use of tobacco?

Arik Spencer: I think as we look across the state government, there is a balance between user fees and the services provided. I used to work for ND Parks and Recs. There was a user fee to access the state park but the state provides millions of dollars in assistance. The university system is the same way. You lawmakers have the challenge of balancing the user fees and what level of support the states should offer. I do not know if I have a good answer for you but that is a balancing issue that our state needs to address.

Chairman Cook: Senator Dotzenrod, if we are going to go down that road, how about alcohol use, obesity; I think the question is what to what degree should this committee try to control social issues with taxes.

Senator Dotzenrod: We could probably get in to some good committee discussion here.

Chairman Cook: I think we could.

Brian Riek, Director of Operations, Infinite Vapor: Testified in opposition of the bill. We have 5 locations in Wisconsin, and 4 in Minnesota. We are based out of Minneapolis where we currently deal with the 95% excise tax on nicotine products. We see the effects in our stores there. We have 4 locations in ND. One in Bismarck, Minot, Grand Forks, and Fargo. I gear my opposition towards not having the inclusion of vapor products. There has been studies that say it is a 95% of a healthier alternative to smoking traditional tobacco products. I believe they actually do prescribe vaporizers in a certain strength for user of those products in the U.K. I want to comment on a few things that were said before me. Regarding the milligram concentration of a traditional cigarette; it was said to be between 1-2 milligrams. Most studies I have seen indicate that domestic cigarettes are between 6 and 13 milligrams of nicotine per cigarette. Other imported cigarettes can range from 7-29 milligrams. That is substantially higher. When you talk about traditional methods and blends; I know the conversation is the flavor component. With vaping, most people are utilizing a product with 3 milligrams of nicotine per milliliter. The amount of puffs it takes to get through that milliliter is substantially higher. Sometimes it is 50-100 times higher, depending on the unit and the device. This is a vaporization process. It eliminates the creation of tars that comes from combustible tobacco products. At the end of the day, I think we are here from the same reason. We are concerned about the public health, but at the same time, ultimately, vapor

products do provide a good alternative for traditional tobacco users. We have helped tens of thousands of customers to quit. Between our 4 stores in ND, we probably service more people on a daily basis than the quit phone lines.

Alexis Newton, Regional Manager of Infinite Vapor: Testified in opposition to the bill. I feel like I have heard good points from both sides. I would like to read a quote from Dr. Scott Gottlieb, the current FDA commissioner. "If every adult smoker switched to electronic cigarettes, that would be a tremendous benefit to public health." I see that a lot of this is directed towards preventing kids from using these e-cig products. While this bill is being viewed as that, I also feel that the price increase would really affect the adults who are on their journey to tobacco free. The largest impact I foresee happening, are being forced to shut down, depending on the prices. People are going to pay the prices no matter what because this is the product they are choosing to use. Currently in MN, they have a 95% tax on tobacco products. That is very hard for them to get e-liquid in because of the price. These manufacturers are forced to pay these taxes for them to get that into the stores, or else, they aren't able to get the products their consumers want. I would like to clarify some of the points earlier; we deal with all refillable devices. They choose the device and then they choose the strength of nicotine. The strengths are 0,3,6,12, and 18 milligrams in regular e-liquid. Three is the most common strength. That is 3 milligrams of nicotine per milliliter. We recommend anyone who smokes a pack or more a day to start around 12. Most of our customers who come in, are not necessarily using them for a long term thing. A lot of the time they are using them as a short term thing to gradually bring themselves down with the different strengths; ideally to none. I will stand for questions.

Chairman Cook: Any further testimony opposed? Neutral? Miles, can you come up here and answer some questions.

Miles Vosberg: Testified neutrally for the bill. If you look at the bottom of page 3 of the bill, we have a definition of wholesale purchase price. That price is including the federal excise tax, the freight charges, packing costs, etc. If you do to page 10, where the tax is imposed at 28% of the wholesale price, it redefines the wholesale price to be the established price for which a manufacturer sells the tobacco products. There is a conflict between those two definitions; if the intent is for the wholesale price to be more est. by the manufacturer, or the definition at the beginning of the chapter where is it including all the additional costs associated with that. Further on page 10, where it imposes the tax on lines 13-18, it says the tax will be imposed on the distributor when they cause it to be brought into the state. I am not sure how all of these apply; especially a and c. Is it when the products are brought into the state? Is it when they are actually sold to the retailer? Subsection B is to deal with the products that are being mixed by the seller. A and C seem to have some conflict. If you go to the bottom of page 10, it talks about tobacco products that a retailer combines or mixes which I believe goes back to subsection B. Then there is a tax impose of 28 percent on the retail price. It appears that there is a tax on line 15 when it is mixed and then again when it is sold. Those are some of the language problems we have.

Chairman Cook: Did you work with the drafters of this bill at all?

Miles Vosberg: We did not, but we are happy too if they would like moving forward. We would like to clearly identify the intent of the bill and try to structure it more clearly.

Chairman Cook: I am surprised to see a fiscal note for only a quarter of a million dollars. I have seen that on other bill that I thought were much simpler to put in order. Are you comfortable with that number?

Miles Vosberg: It is definitely going to cost and we are going to have to restructure our entire system of the way we administer the tax now. It would be a major overhaul to our system. We basically have to start over.

Chairman Cook: Is it safe for me to say that this is going to have some cost for the retailers to administer this.

Miles Vosberg: I am not exactly sure about the retailers. Based on the language where there are taxes imposed on the retail price, then yes certainly they will need to identify, collect, and keep another tax separate to register and remit. There would be additional work for some of the retailers.

Senator Patten: If the per unit price stayed as a basis for the tax, you would not incur the level of expenditures to modify your systems, correct?

Miles Vosberg: Yes. There are three components; electronic, the change to the wholesale price on the cigarettes and other products as well. We would need to make a change there unless that unit based tobacco product price would remain in place as well.

Senator Patten: The fiscal not shows a \$1.3 million loss in revenue to the cities. Can you explain why?

Mile Vosberg: Currently the cities get a portion of the cigarette tax. It is about 3 cents per cigarette. The shift to the wholesale price transfers 1% of that to the cities. That is not enough. If it went to 2%, that would probably keep the cities whole and not lose any revenue.

Senator Unruh: I know we have some agreements in place with the tribes. How would this affect those or would they even at all?

Miles Vosberg: Under the agreement, the tax on the reservation is the same as the rest of the state and we share that revenue. If we maintain that revenue split, it would not impact that agreement.

Senator Dotzenrod: Under our current system. There is this process where there is a stamp imprinted on cigarette packs correct?

Miles Vosberg: ND does not stamp. Most states do. The wholesalers that are used to stamping in the other states and they sell in multiple states, it would be a challenge for them.

Chairman Cook: This bill was introduced as a means to simplify the tax system; I think it is safe to come to a conclusion (inaudible)

Miles Vosberg: For us, it probably doesn't, because we would have to redo our existing system.

Chairman Cook: Any further neutral testimony?

Josh Brown, Resource Officer, Bismarck Police Dept.: Testified neutrally for the bill. See attachment #16. We want to bring you the information we are seeing in the schools. The bathroom is the hotspot where kids are sharing these pods. They will send a text and go meet in the bathroom and hit it hard and come out and go back to class. I was a smoker for 25 years. I recently quit. I get both ends of it. In my opinion, from what I have seen since I have been in school, I think the e-cigs are going to be a bigger problem than the regular ones were. The amount of students using, is significantly greater than regular tobacco products. The flavors significantly help them do it. It makes it easier for them to take the hit. You do not have that physical impact that would turn people off from doing the regular ones.

Chairman Cook: Do you have a lot of video?

Josh Brown: I do, but they are in evidence so I can't bring them out to you. I usually see snapchat's where we do search warrants to receive those, or I will do a phone extraction and I will see them on there. It nothing I really go after; I just have noticed it a lot. I am more surprised if I don't see it.

Senator Unruh: Can the dogs detect the nicotine in the e-cigs?

Josh Brown: No.

Brett Anderson, School Resource Officer, Bismarck High School: Testified neutrally for the bill. See attachment #17 and #18. A lot of our issues go hand in hand at the different high schools. On the graph I handed out, you can see the amount of students who have had the e-cigs, pods, or JUUL devices. I actually had a young man who was not of the age of 18, who was also selling the JUUL pods and juices for a \$10 markup.

Chairman Cook: That has been going on a lot even with regular cigs in schools. When they are willing to pay a markup like that, do you really think a tax increase is going to slow them down?

Brett Anderson: I have a son who works at a local restaurant and makes \$12.50 an hour. That is a lot. I think kids have such a disposable income and now it's not as huge of a deal to fork over 25-30 dollars for a device.

Senator Meyer: What happened in 2016? That is a significant drop.

Brett Anderson: It depends on how busy you are and what is going on. If you deal with multiple students that have multiple infractions, you might cut them a break. That was also during the protest. Things kind of got shut down. However, now, the vaping and those types of things are going off the charts.

Chairman Cook: Any further testimony? Hearing none, we will close the hearing for SB 2355.

Additional testimony was emailed to the clerk after the hearing took place. See attachment #19.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2355
2/5/2019
Job #32105

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 4 of section 51-32-04, sections 57-36-01, 57-36-02, 57-36-03, 57-36-04, 57-36-05, 57-36-05.1, 57-36-09, 57-36-09.1, 57-36-14, 57-36-24, 57-36-25, 57-36-26, 57-36-28, 57-36-29, 57-36-31, and 57-36-33 of the North Dakota Century Code, relating to tobacco product remote sale disclosure requirements and the excise tax on cigarettes and tobacco products; to repeal sections 57-36-06, 57-36-27, and 57-36-32 of the North Dakota Century Code, relating to taxation of cigarettes; to provide a penalty; and to provide an effective date.

Minutes:

Attachments: 3

Chairman Cook: Called the committee to order on SB 2355.

Senator Dotzenrod: Distributed attachment #1. I had a good conversation with Senator Bekkedahl. He gave me the red envelope. He has three options for us here to consider.

Andrew Askiu, American Cancer Society Cancer Acton Network: Distributed proposed amendments. See attachments #2 and #3. American cancer has worked with Senators Bekkedahl and Dotzenrod. The amendments that ends with 001, this is a hog house amendment to the original 2355 bill. This amendment does essentially three things. It requires a liquid nicotine ingredient labeling requirement. This is needed for the next part of the amendment which is an excise tax. It is 10 cents per milliliter on liquid nicotine. This tax would be imposed just like the other excise taxes. That would be when the product comes into the state. This is assuming the electronic smoking devices are sold in the traditional three tiered distribution system. The third thing it does is revert the current cigarette back to the mill basis rather than the wholesale approach that 2355 originally proposed. In this bill, the current cigarette tax would be raised by 68 cents which would bring it to \$1.12. South Dakota is \$1.52, Montana is \$1.75 and Minnesota is \$3.00. We are still well below our neighbors. The second amendment ends with 003.

Chairman Cook: Do you know of any other states that have labeling requirements?

Andrew Askiu: Not right off the top of my head. The labeling requirement would be needed to ensure that we are able to impose that per milliliter tax. Rather than parse out the

percentages of the ingredients, this would require listing all the ingredients. The labeling requirement is only there to help us leverage that taxing avenue. We just need to be told if there is nicotine and then we can apply the 10 cents tax per milliliter.

Chairman Cook: Do you know to what degree these labels come in today?

Andrew Askiu: I do not. Right now the bill calls for what the manufacturer would list as the amount of the substance. There is an assumption that the manufacturer and producer of the product is listing some sort of liquid content. We want to know if there is nicotine in it and what the milliliter amount is.

Chairman Cook: It makes sense to me but in order for it to work it seems like it has to come from a higher pay than us.

Andrew Askiu: Amendment 003 is a parred down version of the first amendment. This is also a hog house amendment to 2355. The first thing this does is remove anything to do with cigarette tax. It removes the wholesale price tax and any attempt to raise the tax. 003 focuses on electronic smoking devices and regulating the liquid nicotine. Everything I said for the first amendment applies to this amendment in that we would apply a 10 cents per milliliter excise tax at the time the products are brought into the state. This bill also requires the labeling requirement to ensure the products say whether or not they have nicotine as well as indicate the amount. There is no change to the current cigarette excise tax. It would remain at 44 cents. The final amendment ends with 002. This amendment is a whole hog house of 2355 and it calls for study of additional tax on liquid nicotine and electronic smoking devices. This would allow the committee to take this issue into the interim and have a long look at it over the years and even compare it to other states. It seems as if there are two approaches. There is a wholesale approach in which Minnesota does, and then there is the per milliliter approach. We would be at 10 cents for that second approach. I will stand for any questions now.

Chairman Cook: I can tell you the National Council of State Legislators has discussed this. Senator Dotzenrod has been at meetings. I had my intern contact it. I could read all I want about it.

Senator Unruh: I like the direction the 003 amendments are heading, but I think that is something we should've addressed in the hearing. I do not know if passing something like this without hearing from all the people that are being effected by the bill is a good idea. I too would prefer the study. We are not too far behind. Ten other states have imposed this and we are thinking about it. I think that gives us a little time to take a look at making sure we do it the right way. I prefer the study as well.

Senator Dotzenrod: I do think this is good public policy for us to have these products recognized for the nicotine they have in them and to have some policy towards products that have nicotine in them that are available to youth. I think we have some role and responsibility to have a policy. I would lean towards the liquid nicotine tax. I also fell our cigarette tax is not at the level it should be. I do not know how the rest of the committee feels about the tax we have on cigarettes which is 44 cents and if that is something they want to even get into. There is a good argument to make for the first one which has the cigarette and liquid tax. The only

hesitation I have is that I am not sure we have answered all the questions about how this will actually work. I am not sure that all these liquid nicotine products travel through a wholesaler. They may not. This bill presumes that that is where they will travel and that that is where the fee will be imposed. There may be regional companies that market directly to retailers. I think if we knew that there were products not in that three tiered system, then it seems like they would have a hard time making these bills work.

Chairman Cook: I do not know how JUUL is manufactured. I agree. I think any nicotine product should explain what you are getting.

Senator Dotzenrod: I do think we have some obligation here to move towards finding a policy. Maybe the study is the only way we can do that without creating some problems.

Senator Patten: I also lean towards the study. There were quite a few areas of the first bill that were in conflict with current practice. Without the ability for additional testimony addressing the hog house changes, I would lean towards a study where we can get a better drafted bill that would address things more appropriately.

Senator Meyer: I move to adopt the amendment 19.1133.01002 for SB 2355.

Senator Patten: Seconded.

Chairman Cook: Any Discussion?

A Voice Vote Was Taken.

Motion Carried.

Senator Meyer: Moved a Do Pass as Amended.

Senator Unruh: Seconded.

Chairman Cook: Any Discussion.

Chairman Cook: I remember the days we didn't have the lottery. There was a cry out there that everyone on the east side of the state was going to Minnesota to buy their lottery ticket and while they were there they bought their cigarettes and gas. Now today, Minnesota has a high cigarette tax and everyone from ND drive to MN to buy their cigarettes and while they are here they buy their gas and lottery tickets. It has generated a fair amount of revenue.

A Roll Call Vote Was Taken. 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Unruh will carry the bill.

S&L
1/27

PROPOSED AMENDMENTS TO SENATE BILL NO. 2355

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the taxation of liquid nicotine and electronic smoking devices."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TAXATION OF LIQUID NICOTINE AND ELECTRONIC SMOKING DEVICES. During the 2019-20 interim, the legislative management shall consider studying the feasibility and desirability of applying an alternative or additional tax on liquid nicotine and electronic smoking devices. The study must include consideration of the current method of taxation applied to these products, the methods of taxation applied in other states, and the fiscal impact of applying an alternative or additional method of taxation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly

Date: 2-5-19
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2355**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 19.1133.01002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Meyer Seconded By Patten

Senators	Yes	No	Senators	Yes	No
Chairman Cook			Senator Dotzenrod		
Vice Chairman Kannianen					
Senator Meyer					
Senator Patten					
Senator Unruh					

voice vote
Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-5-19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2355

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Meyer Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Unruh

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2355: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2355 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the taxation of liquid nicotine and electronic smoking devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TAXATION OF LIQUID NICOTINE AND ELECTRONIC SMOKING DEVICES. During the 2019-20 interim, the legislative management shall consider studying the feasibility and desirability of applying an alternative or additional tax on liquid nicotine and electronic smoking devices. The study must include consideration of the current method of taxation applied to these products, the methods of taxation applied in other states, and the fiscal impact of applying an alternative or additional method of taxation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly

2019 HOUSE FINANCE AND TAXATION

SB 2355

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2355
3/12/2019
33560

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of the taxation of liquid nicotine and electronic smoking devices.

Minutes:

Attachment 1-5

Chairman Headland: Opened hearing on SB 2355.

Senator Bekkedahl: Introduced bill. Distributed written testimony, see attachment 1. Ended testimony at 5:06.

Chairman Headland: When you mentioned the industry are you talking about the tobacco and vaping industries or are you talking about the anti-tobacco coalition?

Senator Bekkedahl: I'm talking about the tobacco, e-cigarette, vaping, and marketing industries.

Chairman Headland: Further testimony in support?

Neil Charvat, Director of the Tobacco Prevention and Control Program for the North Dakota Department of Health: Distributed written testimony, see attachment 2. Ended testimony at 11:52.

Vice Chairman Grueneich: I can appreciate the facts from the studies on liquid nicotine to determine if it's addictive and also to determine if the packaging as to what products have nicotine in them. Why are we trying to study the method of delivery? Why are we studying electronic smoking devices and why is that being lumped in there? It seems like we're carving out an industry. We've never done a study on pipes and haven't figured out how to lump them into the tobacco products category. If this moves forward where do we stop, lighters or ashtrays? I'd like to see the liquid nicotine part of it moving forward though.

Neil Charvat: We tax pipe tobacco as a separate product; tobacco product but not the pipe itself. Language should make sure we're not just taxing anything that has to do with relation to it whether it's a lanyard for wearing it around your neck or something like that. That could

be part of the bill language clean-up. The main reason for working on taxing these and singling them out is that right now there is no singling out but we should be treating these as a tobacco product. Right now these are general merchandise. They are proving to be highly addictive. People who use these products, not only continue to smoke, but it's bringing in people who would have never considered smoking because the addiction is so severe. If they can't get this product there's a chance to do dual usage where you use different tobacco products in addition to this and we see that. We know this from nationwide data but we don't know that as clearly from data in North Dakota because a lot of that has to do with the lack of classification at this point.

Chairman Headland: We have other products that contain nicotine and are marketed. Since they're not ingested through the lung we don't consider them tobacco. Why is there such a big push to get these taxed as tobacco at a much higher rate than they would be if they were taxed at a normal sales tax rate?

Neil Charvat: If you're referring to a liquid nicotine replacement therapy which touches the body and absorbs nicotine, that isn't taxed because it's a medication designed to quit. If there was ever a time when we showed that these products were something that could be considered safe then that could be considered at that level of product. Right now they are ingested in a similar manner through the lungs like other tobacco products. They contain nicotine from tobacco and that is the push to have them regulated as tobacco.

Chairman Headland: In the past we've heard that people have successfully used products to quit smoking. This is the first time I've ever heard it's causing more people to start smoking. Where is the data to show that?

Neil Charvat: We have data to show that youth rates of smoking have been going down but the tobacco rates are going up. This is causing people to continue smoking. We have that data with NDQuits. There are people that use these products to quit and if they use these products they have a way less successful chance of quitting. We're seeing people who are using these products aren't necessarily quitting they are just continuing to use nicotine. These people have a much higher chance of continuing to use tobacco products down the road.

Chairman Headland: People who are using these products are addicting themselves to nicotine. I didn't hear you say it is pushing these people to tobacco. I thought I heard you say they continue to use the electronic smoking device.

Neil Charvat: They continue to use electronic smoking devices but they also have dual use where if they run out of that device and they need the nicotine they will go to tobacco products. They use the electronic devices where smoking is less acceptable. We're seeing an increase or a continuation of people doing both products.

Representative B. Koppelman: Nicotine occurs in other places not just in tobacco. Why are we trying to tax nicotine as tobacco? Why would we ever consider taxing an electronic smoking device?

Neil Charvat: Nicotine is found in other things. It is way more inefficient to get it from those products other than tobacco. The industry that uses these products uses it from pharmaceutical grade nicotine derived from tobacco. That is where they get their nicotine. Right now we know the vaping industry and a lot of these products are using the same source of nicotine which is medical grade nicotine derived from tobacco products. As far as the device the liquid is the problem so if someone wants to tax the device separately I'm not sure why but we would want to go after the nicotine itself.

Chairman Headland: I keep hearing an industry push but I don't see an industry here supporting this. I don't think it's fair to use that term.

Representative B. Koppelman: I think this is more of an anti-industry. Why don't we just get rid of our tobacco taxes in North Dakota and have a nicotine tax if that's where the problem really is? How many tobacco products would be a problem if they didn't have nicotine in them?

Neil Charvat: If that's what the view of the committee is to tax nicotine products instead of just tobacco then I don't know if anyone would have an objection to that. I don't think it has to just be aimed at coming after tobacco products but rather coming after addiction products. We had some bills in the session and the vaping industry has been here testifying. Some of my testimony is from some of the questions they brought up. This is in direct response to what we're hearing.

Representative Ertelt: You said one in five high school students are using tobacco products and an additional one in five using ENDS or are they part of that one in five?

Neil Charvat: The one in five is overall when viewing tobacco use. ENDS is a separate question on a separate survey because we don't include these in all tobacco products at this time because it's such a new product and they aren't regulated as such.

Representative Ertelt: Is there a question in there that clarifies if they are using tobacco products and ENDS or one or the other?

Neil Charvat: We don't have those products included together. It's one in five with tobacco products and one in five with electronic products; they are asked separately. It doesn't mean they're the same. A lot of youth don't identify them as a tobacco product because they aren't classified. Many of them would say they don't use a tobacco product because they don't consider it a tobacco product.

Representative Ertelt: It could be that they are the same individuals who are using tobacco products are also using ENDS. It is possible?

Neil Charvat: Yes, it is possible and some of them are. I can get that data on how they were asked and what they were asked.

Representative Ertelt: The cessation data you presented, what timeframe is that over?

Neil Charvat: That was from the last full fiscal year from July 1, 2017 to June 30, 2018. Those people are asked to survey at seven months after they complete the program if they are still quit.

Chairman Headland: Is there further support?

Deb Knuth, Government Relations Director for the North Dakota American Cancer Society Cancer Action Network: Distributed written testimony, see attachment 3. Ended testimony at 31:43.

Representative B. Koppelman: Is this your definition of a tobacco product?

Deb Knuth: That is a definition used by American Cancer Society Cancer Action Network. That is our preferred definition.

Representative B. Koppelman: We don't tax pipes, lanyards, ashtrays, etc. What would be the point in taxing those things? The enemy appears to be nicotine but you insist on defining things as tobacco products but a tobacco product cannot be a chunk of metal.

Deb Knuth: I believe that we are interested in taxing those devices because it is the method of inhaling the nicotine and that's what's so addictive. It took us over 30 years to discover the cigarettes causes cancer. Because this isn't approved by the FDA we just don't know what the ill effects are especially in our youth. This is a standard method for the American Cancer Society across the nation that we're recommending.

Chairman Headland: How could you not know that nicotine causes cancer because you've been studying it for over 30 years. We know the tar in tobacco causes cancer but there isn't any of that in the electronic or the vaping products. In the 30 years you've been looking at this you've never looked at what nicotine causes? That seems a bit of a stretch to me.

Deb Knuth: I'm not a medical doctor. E-cigs are not my focus of expertise. We are concerned with the youth using such high rates.

Chairman Headland: What is the rate of use among youth? We heard it went up by 78% but what is the rate? You throw around statistics but bring us something that means something.

Deb Knuth: Let me get you the references for that increase by 78% from 2017 to 2018 nationwide.

Representative Eidson: There are a lot of questions on why we should be taxing smoking devices as well. The reason I think this would be included in this is because in many cases the device is directly attached. JUULs come with pods and they don't sell non-nicotine JUUL pods. The device itself serves no other purpose than to smoke something with nicotine.

Deb Knuth: That is correct.

Representative Eidson: There are other devices that don't disconnect at all; the e-liquid inside and the device is one. That device serves no other purpose than to be used to smoke nicotine.

Deb Knuth: That is correct.

Representative Eidson: You keep mentioning JUUL. There are other devices that can weigh in excess of two pounds that have separate batteries in them and that sell separate liquid. It is very possible you could get liquid with nicotine in it without knowing it so that device is only used as a way of smoking liquid nicotine.

Deb Knuth: That is what we're being told. We are encouraging the FDA to strongly supervise these products.

Vice Chairman Grueneich: Further testimony in support?

Heather Austin, Executive Director for Tobacco Free North Dakota: Distributed written testimony, see attachment 4. Ended testimony at 39:40.

Representative B. Koppelman: You said we can't afford to wait for national policy. We don't have the data to tell us what is harmful in e-cigarettes. There seems to be a rush to ban this because this tends to go hand in glove with the behavior of smoking. We generally don't tax partner items; we don't tax beer mugs as alcohol products and we don't tax pipes as tobacco. We heard that we don't really know what's in the liquids. Wouldn't it be better to have a policy to tax nicotine and then put a policy on that says you must label a nicotine product?

Heather Austin: I would think that would be a great place to start with tax policy. We know that nicotine is harmful. We might not be able to say statistically that it directly causes certain types of diseases but we know in many countries it's used as a poison to kill pests. We know it causes harm to brain development especially in young brains. We know it constricts blood vessels and makes wounds harder to heal and exacerbates high blood pressure. The study we are proposing would be a great way to look at all those different options and figure out what best fits; the products on the market, the needs of North Dakota, and the health of our citizens.

Representative B. Koppelman: Out of all the people that think this is an epidemic and is harmful to kids nobody took the approach to try and deal with the same thing everybody says is the problem. I recommend we discuss it on that narrow basis and stop trying to fold things into the tobacco tax.

Heather Austin: Thank you for your feedback.

Representative Mitskog: I think there are a lot of questions and opinions on what should be taxed or not. The study would be a good place to vet all that out. In the last few days there has been movement on the federal level with the Trump administration and the FDA. Can you share your thoughts on what federal legislation or policy might occur so we may not have to do this as a state?

Heather Austin: At the federal level it is hard to wait for that policy because it keeps getting pushed back. The head of the FDA just resigned so the proposals he's done in the last six to 12 months were great steps in the right direction but they might not continue to be offered up or pushed forward under the new direction of that agency. Some of the things that have been proposed in the past have been pushed back in litigation. I think it would be prudent for North Dakota to at least take a look through an interim study at all the things that might be appropriate.

Representative Mitskog: The Trump administration announced they would like the e-cigarette industry to pay \$100 million a year in user fees under the budget proposal that was released. That would go for a beefed up regulatory oversight by the FDA. I'll make sure the committee gets this article. The proposal plans to enact a user fee proposal for the e-cigarette industry to address the new public health threats of tomorrow. They are asking for \$6.1 billion in FDA funding over the current law. A big chunk of that would be coming from these user fees; from the drugs, nicotine, and devices from e-cigarettes. This is to address the concerns of the teen vaping.

Heather Austin: I think that is an exciting place to start. It's hard to know what will or won't pass but it's a good place to start. I think a user fee can be appropriate knowing the detrimental effects from use as stated in the national news and that these products have been garnering over the past six to 12 months.

Vice Chairman Grueneich: If this study were to be amended to some degree and electronic smoking devices were removed from this study, would your organization still support it?

Heather Austin: What would the study be looking into specifically if not the electronic nicotine delivery systems?

Vice Chairman Grueneich: It would focus on liquid nicotine. Are you just trying to broaden the tax base by lumping electronic smoking devices into that group or is it truly the liquid nicotine that you're concerned about?

Heather Austin: I believe my organization would still be in favor of that study because we know nicotine is so detrimental. Many of those devices are closed systems so you can't separate the nicotine from the devices which could create challenges in creating that tax policy. We would be willing to look at that and help the legislators work together making sure we get the best fit of policy to prevent our kids from starting these products.

Vice Chairman Grueneich: Further testimony in support? Is there any opposition? Seeing none we will close the hearing on SB 2355.

**Additional testimony distributed from Representative Mitskog titled "FDA unveils sweeping anti-tobacco effort to reduce underage vaping and smoking", see attachment 5.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2355
3/13/2019
33642

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of the taxation of liquid nicotine and electronic smoking devices.

Minutes:

No attachments

Representative Steiner: I think because they've seen a rapid rise in youth usage it's a good idea to study. I don't agree that we need to tax smoking devices. I'm concerned about the flavors and that kids are getting ahold of these while we don't know what the impacts are to our youth. I talked to the bill sponsor and told him the committee has a concern that at the heart of this you're really just trying to increase taxation. He said that wasn't right and that they were studying the youth and the increased use of the flavored nicotine.

Chairman Headland: We know the intent of the original bill was an all-around tax increase on tobacco.

Representative Steiner: Now it's reduced to just a study on the youth. I think it's a good idea.

Representative Mitskog: I think a study would be very helpful for defining some of these unclear areas about nicotine and such. Ultimately, the bill sponsor is trying to study the rising use of these products by the youth.

Chairman Headland: Would you be amenable then to removing the electronic smoking devices language?

Representative Mitskog: Yes.

Representative B. Koppelman: I was also going to suggest removing "liquid" before nicotine and after the word "nicotine" insert the word "products." If nicotine is so horrible I think we should study nicotine in whatever form it is. If we're going to have tax policy and we don't know what the next reiteration of nicotine is going to be then the study would be more appropriate.

Representative Eidson: Personally I would like to support the bill as it is. There was a comparison made yesterday that we don't tax glasses because people drink beer out of them and so forth. The difference between that and smoking devices is that glasses can be used for other liquids and other purposes other than alcohol. These smoking devices, especially JUUL, serve no other purpose than to inhale liquid nicotine. There are some devices where you buy the liquid separate and put the nicotine in there and inhale it that way but I'm not sure they are required to label them. There is always a chance you'd buy one that you thought wasn't nicotine but ends up being 5-12% nicotine. With that liquid nicotine, JUUL is set at 5% and doesn't adjust from there. Some of these e-liquids you can buy separately ranging from 3-20% nicotine. As somebody who's used JUUL and other smoking devices for a period of time even 5% burns a lot when you inhale it so a 20% would be much worse. I think we need to study the devices now.

Chairman Headland: We're not studying the devices; we're studying the taxation of the devices.

Representative Eidson: Thank you for the correction. I think we need to study them because they serve no other purpose than to inhale liquid nicotine. These devices are quite dangerous. You can adjust the voltage yourself and some have blown up in people's faces. There is not much regulation on those. I think there are enough questions here and enough discussion here to warrant studying it. In a couple years if we find out it's not a big deal then we don't have to do it. Since we can't get a clear definitive answer I would be on the side of keeping the study as it is.

Representative B. Koppelman: I'd like to propose an amendment on line seven we strike the word "liquid" and the words "and electronic smoking devices" then after the word "nicotine" we put in the word "products." **MADE A MOTION TO ADOPT THE AMENDMENT.**

NO SECOND

Chairman Headland: Doesn't look like we can get a second.

Representative Eidson: MADE A MOTION FOR A DO PASS

Representative Mitskog: SECONDED

Representative Ertelt: I didn't support the amendment because I think we're trying to mask what the bill was initially after. The bill was looking at increased taxation on not only cigarettes but all smoking devices. I don't know what more they want to study about this. They already have information so I don't know what else they want to uncover. It's not alarming to me that one in five use these vaping devices. They said it doesn't actually help much with cessation. They are looking at a single year of data which isn't a significant amount of data. It shows it helps but not as much. I'm not going to support the do pass.

**ROLL CALL VOTE: 8 YES 5 NO 1 ABSENT
MOTION CARRIED**

Representative Eidson will carry this bill.

Date: 3-13-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2355**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Eidson Seconded By Rep. Mitskog

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	X		Representative Eidson	X	
Vice Chairman Grueneich	X		Representative Mitskog	X	
Representative Blum	X				
Representative Dockter	X				
Representative Ertelt		X			
Representative Fisher		X			
Representative Hatlestad	X				
Representative Kading	A				
Representative Koppelman		X			
Representative Steiner	X				
Representative Toman		X			
Representative Trottier		X			

Total (Yes) 8 No 5

Absent 1

Floor Assignment Rep. Eidson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2355, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman)
recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2355 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2355

Senate Finance and Taxation Committee
SB 2355
January 30, 2019

Chairman Cook, Committee members:

Good morning. My name is Senator Brad Bekkedahl and I am the prime sponsor of SB 2355. Although I will defer to some of the folks who helped work on this bill to answer specific questions you may have about the bill's details, I do want to take a moment to explain my support for SB 2355 and the two, rather straight forward, things it seeks to do.

First, SB 2355 seeks to simplify the state's approach to tobacco taxation by classifying cigarettes and electronic smoking devices as "tobacco products" under North Dakota law. Currently, the term "cigarette" is carved out of the tobacco products definition and is defined and taxed separate of all other tobacco products. Regarding electronic smoking devices, which are marketed and sold by companies as tobacco products, these devices are not defined or regulated by North Dakota law. Instead, electronic smoking devices are classified only as general merchandise, and as a result, are not subjected to any tobacco-related taxes. Yet, their products can be used as nicotine delivery systems. As you will hear today from many people, due to the unregulated nature of electronic smoking devices and the alarming increase in use by minors, it is important that we as legislators carefully review our current approach to regulating tobacco products to ensure that we are doing so in a manner that is sensible, responsive to the tobacco industry's ever-changing products, and beneficial to the state and the health of its residents.

Second, SB 2355 attempts to modernize how North Dakota taxes tobacco products without raising the current excise tax rates. Rather than maintaining the status quo, which parses the various types of tobacco products into separate categories and assigns each category a different tax rate, SB 2355 subjects all tobacco products – cigarettes, cigars, and electronic smoking devices alike – to the existing rate of 28% wholesale price. In doing so, SB 2355 treats all tobacco products equally and does not pick winners and losers based upon popularity or other industry-driven changes. This simplified approach to taxing tobacco products will ensure that North Dakota’s tobacco taxes remain proportionate to the ever-increasing prices of products. For example, under SB 2355, a pack of cigarettes that has a wholesale cost of \$4.00 per pack will be subject to an excise tax of approximately \$1.12 – which is \$0.43 lower than South Dakota, \$0.58 lower than Montana, and \$1.88 lower than Minnesota. If the price of tobacco products goes up or down, so too will the excise tax the products will be subjected to – all without the involvement of the legislature.

In conclusion, SB 2355 attempts to modernize North Dakota’s approach to tobacco regulation by simplifying how the state classifies and taxes tobacco products. Rather than creating different definitions for each and every tobacco product, SB 2355 provides a single definition of a tobacco product and taxes all tobacco products equally and in a manner that remains responsive to any fluctuation in product cost or innovation in product design. Therefore, I ask that you give SB 2355 a “Do Pass” recommendation and will stand for questions.

Senate Finance and Taxation Committee
SB 2355
January 30, 2019

Good morning Chairman Cook and members of the committee. My name is Dennis Pathroff. I am an attorney with the Zuger, Kirmis and Smith law firm in Bismarck. I am here today representing Tobacco Free North Dakota.

We stand in support of SB 2355. This legislation attempts to simplify and modernize North Dakota's current tobacco regulations. At the very least, this bill will serve as a starting point for discussions as to whether the state should reevaluate its approach to regulating and taxing tobacco products.

How does SB 2355 simplify North Dakota's tobacco tax regulations?

Currently, North Dakota separates various tobacco products into different categories and assigns each category a different taxing scheme. For example, (1) cigarettes are taxed on a **per mill basis** in multiple sections of the Century Code; (2) chewing tobacco is taxed on a **per ounce basis**; and (3) cigars and pipe tobacco are taxed on a **wholesale purchase price basis**.

SB 2355 simplifies North Dakota's tobacco tax laws by expanding the definition of "tobacco products" to include all products that contain tobacco, such as cigarettes, and then taxing those "tobacco products" at 28% of the wholesale purchase price. Note that this is the current tax rate on cigars and pipe tobacco.

Because the "tobacco products" are taxed on a percentage basis, the dollar amount of the tax will rise and fall with the wholesale purchase price. Accordingly, there will be no need to ask for dollar amount tax increases every legislative session.

How does SB 2355 modernize North Dakota's tobacco tax regulations?

Currently, North Dakota does not subject electronic smoking devices to any tobacco related taxes. These devices are most commonly used to deliver nicotine to the consumer. Therefore, these devices should be subject to tobacco related taxes.

As such, SB 2355's definition of "tobacco products" includes electronic smoking devices. Thus, these devices will be taxed at the rate of 28% of the wholesale purchase price.

What does a 28% tax on the wholesale purchase price do?

The tax on cigarettes is currently \$0.44 per pack. This is one of the lowest cigarette taxes in the country.

Based on an average wholesale price of \$4.00, a 28% tax would equate to \$1.12 per pack (a \$.68 increase).

This \$1.12 per pack tax is still far lower than our neighbors and the national average:

South Dakota - \$1.53
Montana - \$1.70
Minnesota - \$3.00
National Average - \$1.72

The experts that follow me today will explain why this legislation is needed in North Dakota. They will share with you the health benefits and additional tax revenue that this bill will likely produce.

SB 2355 simplifies and modernizes North Dakota's tobacco regulations. Therefore, please vote "do pass" on SB 2355. Thank you for considering this legislation.



P.O. Box 3237
Bismarck, ND 58502
701-751-0229
www.tfnd.org

January 30, 2019

9:00 am CST

Senate Finance and Taxation Committee for the 66th ND Legislative Assembly

Chairman Cook, and members of the Senate Finance and Taxation Committee, hello, my name is Heather Austin and I am the Executive Director for Tobacco Free North Dakota. Thank you so much for your time this morning.

Today I am here to encourage a Do Pass on SB 2355, or the bill to modernize our tobacco tax policy. The mission of Tobacco Free North Dakota is to improve and protect the public health of all North Dakotans by reducing the serious health and economic consequences of tobacco use, the state's number one cause of preventable disease and death. TFND is excited to work with our Legislators to strengthen North Dakota tobacco prevention policy through Senate Bill 2355, which would modernize and streamline our ND tobacco policy and tax code.

In 2018 North Dakota observed the 25th anniversary of the last time we raised the price of tobacco in our state. At that time the tax rate was set at 44 cents per pack, making us 8th in the nation for tobacco tax rate. In the 25 years since that time, we have gone from 8th to 48th with the same 44 cents still being collected. Not much else has held steady in that same amount of time. The tobacco industry has increased their wholesale prices numerous times, the federal tax rate has increased substantially, retail prices have increased, medical costs and insurance premiums have increased, etc. I could go on and on, as nearly nothing is the same price it was 25 years ago. We simply have not kept pace, or parity, in North Dakota. And now is the time to correct that.

Through this bill, all tobacco products, including electronic tobacco products would be defined and regulated as such, and would be subject across the board to the existing tobacco tax wholesale rate of 28%, rather than the myriad of definitions and varying rates our current tobacco tax policy entails. By updating our laws to reflect our current state needs and the new products that have joined the market in the last 25 years, we can better monitor and regulate tobacco to keep it out of the hands of our youth and to provide further resources to health programs and services for ND citizens.

According to the Dept. of Health Tobacco Surveillance Data Table in 2017 for North Dakota, tobacco use cost our state \$326 million in Smoking Attributable Medical Expenditures, and \$232.6 million in Smoking Attributable Productivity Loss. That's over 1/2 a BILLION dollars in

smoking related expenses to the state of North Dakota! That same 2017 survey also showed that 57.8% of North Dakotans STILL support a tobacco tax increase of \$2.00, much higher than the adjustments and product parity promoted in SB 2355.

By including electronic tobacco products for taxation and regulation, alongside other existing tobacco products in North Dakota, and by subjecting them all to the current 28% wholesale rate, we avoid creating product “winners and losers” in our tax policy, treating all tobacco products equally. We create parity, and we take a tremendous step forward in protecting our youth from the dangerous nicotine addiction these products promote. We can begin to stem the tide in what the FDA is now calling an “epidemic” for our youth.

While we have much to learn about these new electronic smoking devices, the evidence is already clear that it is unsafe for young people to use e-cigarettes or any other product containing nicotine. As stated by the Surgeon General, “E-cigarette use poses a significant – and avoidable – health risk to young people in the United States. Besides increasing the possibility of addiction and long-term harm to brain development and respiratory health, e-cigarette use is associated with the use of other tobacco products that can do even more damage to the body.”i.

Also, the Surgeon General has called raising prices on cigarettes “one of the most effective tobacco control interventions.” ii. Tobacco tax increases help make cigarettes too expensive for price-sensitive kids to buy and give smokers another incentive to quit. And I’m happy to point out that North Dakota has one of the best Quitlines in the nation with NDQuits. They are standing ready to help make sure no citizen actually has to continue paying the price of tobacco with their money or their health. The 2014 Surgeon General’s report stated, “The evidence is sufficient to conclude that increases in the prices of tobacco products, including those resulting from excise tax increases, prevent initiation of tobacco use, promote cessation, and reduce the prevalence and intensity of tobacco use among youth and adults.”iii.

I would also like to point out that the tobacco companies know that almost all new tobacco users begin their addiction as kids, in fact 90% of daily addicted users started by the age of 18. Even the tobacco industry acknowledges that raising tobacco taxes reduces smoking, which is why they fight so hard to oppose them. “It is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.”iv. – Myron Johnson, Philip Morris Executive

These unregulated and untaxed electronic products make it easier for beginners – primarily our kids – to try the product and ultimately become addicted. With electronic product use at epidemic levels for our youth, and with new products and flavors being introduced at a lightning pace, we can’t risk waiting for national policy or for FDA regulations. We can lead the way in North Dakota by classifying these products as what they are: tobacco. And by including them in existing tobacco tax structure at current levels, along with all other tobacco products, we can lead the way in protecting our kids, and that creates healthier youth and a healthier state.

Again, thank you for this time in front of you, Chairman Cook, and the Committee. It is very appreciated. Please vote Do Pass on SB 2355.

May I take any questions?

Heather Austin
Executive Director, Tobacco Free North Dakota
Cell: 701-527-2811
heather@tfnd.org
www.tfnd.org

- i. HHS, Know the Risks: E-Cigarettes & Young People, accessed March 15, 2018 at <https://e-cigarettes.surgeongeneral.gov/knowtherisks.html>.
- ii. U.S. Department of Health and Human Services (HHS), The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General, Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014. <http://www.surgeongeneral.gov/library/reports/50-yearsof-progress/index.html>.
- iii. HHS, The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General, 2014, <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html>.
- iv. Philip Morris Research Executive Myron Johnston, "Teenage Smoking and the Federal Excise Tax on Cigarettes," September 17, 1981, Bates No. TA82034-TA82038

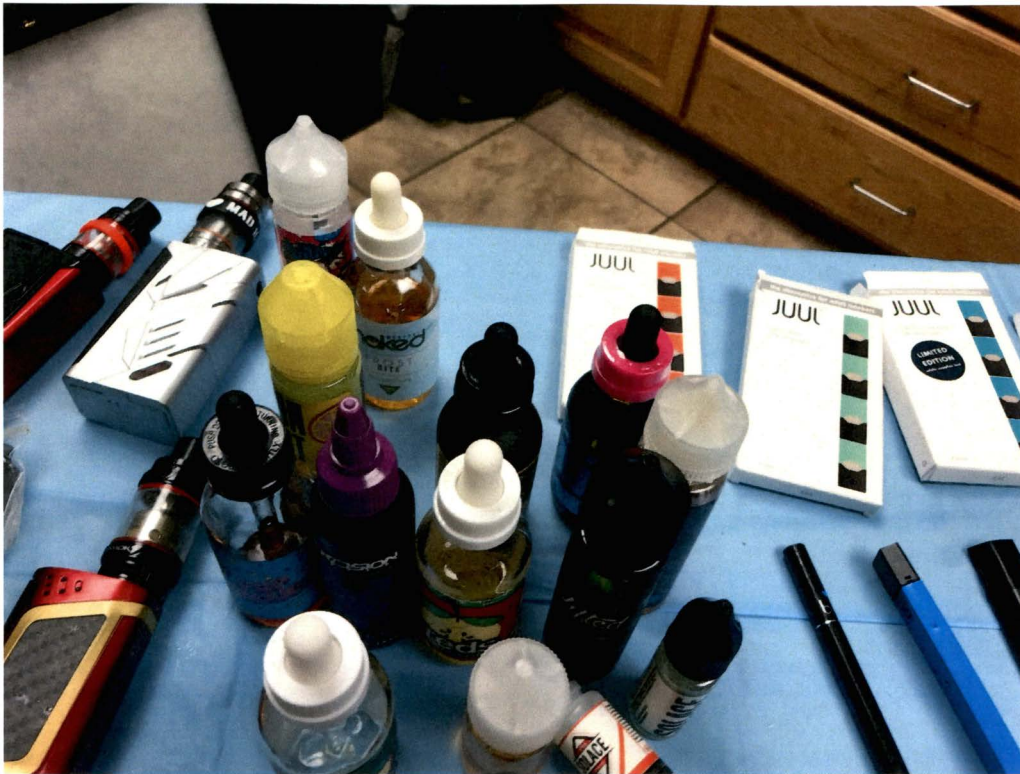


Photo of actual e-juices and electronic tobacco devices confiscated during the fall of the 2018-2019 school year at a North Dakota High School.



✓30 8B 2355 # 3 pg. 5



Photos of the JUUL system – one of the most popular ways youth use electronic tobacco products. JUUL now accounts for nearly 70% of the market.

Tobacco use is **STILL** an issue in ND, especially among youth...

NEW PRODUCTS



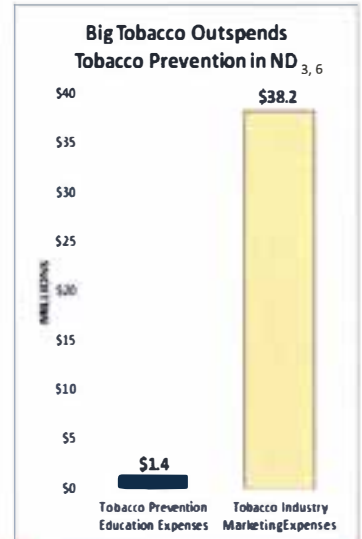
MORE FLAVORS



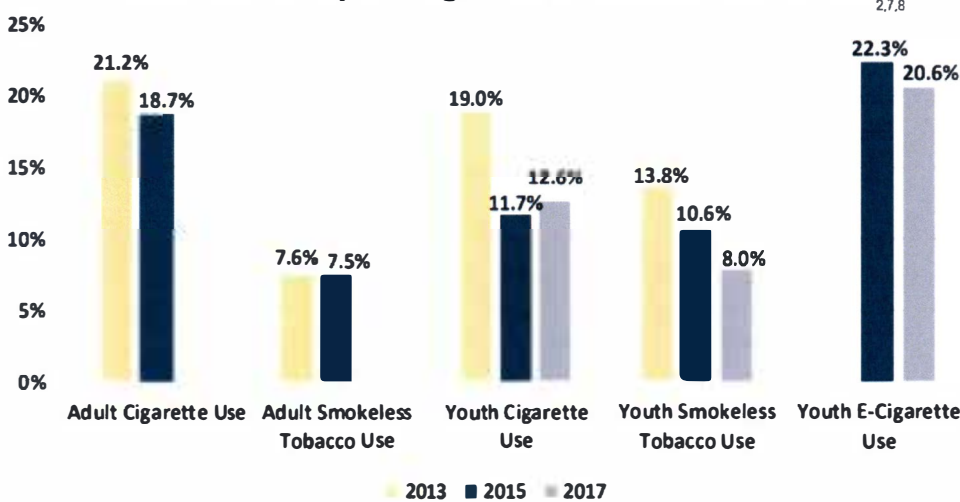
Big Tobacco and the vaping industry are constantly trying to come up with new ways to target youth. Between flavors and high tech/sleek designs its no wonder these products appeal to kids. Their latest products have been showing up in Bismarck/Burleigh County schools. These products **CONTAIN NICOTINE** which is highly addictive and harmful to youth brain development. According to a recent study by TRUTH Initiative, 63% of youth did NOT know that one JUUL pod contains the same amount of nicotine equal to one pack of cigarettes or 200 puffs.^{1,4-6}

What can North Dakota do to protect youth?

-  Increase the price on ALL tobacco products including e-cigarettes, vapes, and MODS
-  Ban flavored tobacco products
-  Fund tobacco prevention and control programs at levels recommended by the CDC
-  Implement Multi Unit Housing Smoke-Free Policy
-  Maintain the ND Smoke-Free Law
-  Raise the legal age to purchase tobacco to 21



Tobacco Use by ND High School Students and Adults



North Dakota ranked in **top 10 states** for high youth e-cigarette usage.⁷

SOURCES

1. (2018). Retrieved from JUUL: <https://www.juul.com/>
2. *Behavioral Risk Factor Surveillance System*. (2018). Retrieved from Centers for Disease Control and Prevention: <https://www.cdc.gov/brfss/index.html>
3. Commission, F. T. (2016). *Cigarette and Smokeless Tobacco Reports for 2013*.
4. *Get the Facts*. (2018). Retrieved from Know the Risks: E-Cigarettes and Young People: <https://e-cigarettes.surgeongeneral.gov/>
5. *juul e-cigarettes gain popularity among youth, but awareness of nicotine presence remains low*. (2018, April 18). Retrieved from Truth Initiative: <https://truthinitiative.org/news/juul-e-cigarettes-gain-popularity-among-youth>
6. *Toll of Tobacco in North Dakota*. (2018, June 20). Retrieved from Campaign for Tobacco Free Kids: https://www.tobaccofreekids.org/problem/toll-us/north_dakota
7. (2018). *Youth Risk Behavior Surveillance - United States, 2017*. Atlanta, GA: Centers for Disease Control and Prevention.
8. (n.d.). *Youth Risk Behavior Surveillance - United States, 2013 and 2015*. Atlanta, GA: Centers for Disease Control and Prevention.



Public Health
Prevent. Promote. Protect.

Bismarck-Burleigh Public Health

10/30/18 #582355



P.O. Box 3237
Bismarck, ND 58502
701-751-0229
www.tfnd.org

January 30, 2019

9:00 am CST

Senate Finance and Taxation Committee for the 66th ND Legislative Assembly

Chairman Cook, and members of the Senate Finance and Taxation Committee, hello, my name is Heather Austin and I am the Executive Director for Tobacco Free North Dakota. Again, thank you so much for your time this morning.

TFND and many other organizations have all signed a formal Resolution to Raise North Dakota's Tobacco Tax.

This Resolution has been signed by: The Fargo-Cass Public Health Board of Health, the Grand Forks Board of Health, Grand Forks Tobacco Free Coalition, Bismarck Tobacco Free Coalition, Cavalier County Health District, City-County Health District Board of Health, Nelson-Griggs District Health Unit, Central Valley Health District, Sargent County District Health, North Dakota Public Health Association, and Tobacco Free North Dakota.

The Resolution reads as follows:

Whereas, according to the 2014 US Surgeon General's Report, increasing tobacco excise taxes have proven highly effective in preventing initiation among youth, reducing tobacco use by promoting cessation among current users, discouraging relapse among former users, and reducing consumption among those who continue to use tobaccoⁱ; and

Whereas, tobacco use remains North Dakota's leading preventable cause of death, killing more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combinedⁱⁱ; and

Whereas, 11.7% of youth in North Dakota smokeⁱⁱⁱ, and 300 North Dakota children (under 18) become new daily smokers each yearⁱⁱⁱ, of whom more than 14,000 will die prematurely because of this addictionⁱⁱⁱ; and

Whereas, 22.3% of youth in North Dakota use electronic nicotine delivery systems (ENDS)^{iv}, otherwise known as e-cigarettes, of whom many will develop a lifelong addiction to nicotine/tobacco products, resulting in the health costs related to such; and

Whereas, ENDS have little to no regulation around content, flavorings, and marketing appealing to youth, and stealth-use products and tactics advertised to youth; and

Whereas, ENDS are not currently classified as tobacco products in North Dakota even though they deliver nicotine in the same way for the same purpose as other tobacco products; and

Whereas, ENDS are not currently approved by the FDA as a cessation device, and

Whereas, 19.8% (115,100) of adults in North Dakota smokeⁱⁱⁱ and nearly 1,000 North Dakotansⁱⁱⁱ will die each year from smoking and smoking-related disease, including 27% of cancer deaths in ND that are attributed to tobacco use^v; and

Whereas, tobacco use in North Dakota imposes economic burden, with smoking-caused direct healthcare costs amounting to \$326 million each yearⁱⁱⁱ, smoking-caused productivity losses approximating \$232.6 million annually^{vi}, and each household paying \$768 per year in state and federal taxes from smoking-caused government expenditures^{vi}, and

Whereas, each year, the North Dakota government Medicaid payments directly related to tobacco use are \$56.9 million^{vi}; and

Whereas, the current cigarette tax of \$0.44 per packⁱⁱⁱ, pipe tobacco and cigar tax at 28% of the wholesale purchase price^{vii}, and snuff tax at \$0.60 per ounce^{vii}, ranking North Dakota one of the four cheapest tobacco states in the nationⁱⁱⁱ is dangerous to our state's citizens; and

Whereas, the legislative body in North Dakota has not enacted legislation to increase our state's tobacco taxes since 1993; and defeated legislation as recently as 2015; and

Whereas, the Tobacco Industry spends \$38.2 million each year marketing in ND^{vi}; and

Whereas, this resolution addresses commercial tobacco, which is different from traditional tobacco used in American Indian spiritual and ceremonial practices;

Now therefore be it resolved, Tobacco Free North Dakota supports increasing the tobacco tax in North Dakota as a proven way to prevent youth tobacco initiation, encourage a reduction of adult tobacco use, reduce health care costs, and provide an overall benefit to public health.ⁱ Further, Tobacco Free North Dakota endorses the 2019 legislative effort to raise North Dakota's cigarette tax by \$1.50 for a total tax of \$1.94 per pack and all other tobacco products by a proportional amount, and to include classifying ENDS as tobacco products so they are taxed as such.

Again, thank you for this time in front of you, Chairman Cook, and the Committee.

Heather Austin

Executive Director, Tobacco Free North Dakota

Cell: 701-527-2811

heather@tfnd.org

www.tfnd.org

ⁱ U.S. Department of Health and Human Services. (2014). *The health consequences of smoking – 50 years of progress. A report of the Surgeon General*. Retrieved from <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/50-years-of-progress-by-section.html>

ⁱⁱ Campaign for Tobacco Free Kids. (2018, June 8). *The toll of tobacco in the United States*. Retrieved from <https://www.tobaccofreekids.org/problem/toll-us>

ⁱⁱⁱ Campaign for Tobacco-Free Kids. (2018, June 7). *Key State-Specific Tobacco Data and Rankings*. Retrieved from <https://www.tobaccofreekids.org/assets/factsheets/0176.pdf>

^{iv} Centers for Disease Control and Prevention. (n.d.). *High School Youth Behavior Risk Survey North Dakota 2015 and United States 2015 Results*. Retrieved from <https://nccd.cdc.gov/youthonline/App/Results.aspx?TT=G&OUT=0&SID=HS&QID=QQ&LID=ND&YID=2015&LID2=XX&YID2=2015&COL=&ROW1=&ROW2=&HT=QQ&LCT=&FS=S1&FR=R1&FG=G1&FSL=&FRL=&FGL=&PV=&C1=ND2015&C2=XX2015&QP=G&DP=1&VA=CI&CS=N&SYID=&EYID=&SC=DEFAULT&SO=ASC&pf=1&TST=True>

^v National Cancer Institute. (2007, August 17). *President's Cancer Panel's 2006 - 2007 report. Promoting healthy lifestyles: Policy, program, and personal recommendations for reducing cancer risk*. Retrieved from <http://archive.tobacco.org/news/251230.html>

^{vi} Campaign for Tobacco Free Kids. (2018, April 10). *The toll of tobacco in North Dakota*. Retrieved from https://www.tobaccofreekids.org/problem/toll-us/north_dakota

^{vii} ND Office of the State Tax Commissioner. (n.d.). *Cigarette and tobacco tax*. Retrieved from <https://www.nd.gov/tax/tobacco>



January 29, 2019

Dear Senator Cook and Members of the Senate Tax and Finance Committee,

The Bismarck Tobacco Free Coalition urges your support of SB 2355, updating state tobacco policy and tax code. We support this bill, whereas:

- According to the 2014 US Surgeon General's Report, increasing tobacco excise taxes have proven highly effective in preventing initiation among youth, reducing tobacco use by promoting cessation among current users, discouraging relapse among former users, and reducing consumption among those who continue to use tobacco.
- Tobacco use remains North Dakota's leading preventable cause of death, killing more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.
- 11.7% of youth in North Dakota smoke, and 300 North Dakota children (under 18) become new daily smokers each year, of whom more than 14,000 will die prematurely because of this addiction.
- 22.3% of youth in North Dakota use electronic nicotine delivery systems (ENDS), otherwise known as e-cigarettes, of whom many will develop a lifelong addiction to nicotine/tobacco products, resulting in the health costs related to such.
- ENDS have little to no regulation around content, flavorings, and marketing appealing to youth, and stealth-use products and tactics advertised to youth.
- ENDS are not currently classified as tobacco products in North Dakota even though they deliver nicotine in the same way for the same purpose as other tobacco products.
- ENDS are not currently approved by the FDA as a cessation device.
- 19.8% (115,100) of adults in North Dakota smoke and nearly 1,000 North Dakotans will die each year from smoking and smoking-related disease, including 27% of cancer deaths in ND that are attributed to tobacco use.
- Tobacco use in North Dakota imposes economic burden, with smoking-caused direct healthcare costs amounting to \$326 million each year, smoking-caused productivity losses approximating \$232.6 million annually, and each household paying \$768 per year in state and federal taxes from smoking-caused government expenditures.

- Each year, the North Dakota government Medicaid payments directly related to tobacco use are \$56.9 million.
- The current cigarette tax of \$0.44 per pack, pipe tobacco and cigar tax at 28% of the wholesale purchase price, and snuff tax at \$0.60 per ounce, ranking North Dakota one of the four cheapest tobacco states in the nation is dangerous to our state's citizens.
- The legislative body in North Dakota has not enacted legislation to increase our state's tobacco taxes since 1993; and defeated legislation as recently as 2015.
- The Tobacco Industry spends \$38.2 million each year marketing in North Dakota.
- This bill addresses commercial tobacco, which is different from traditional tobacco used in American Indian spiritual and ceremonial practices.

The Bismarck Tobacco Free Coalition supports SB 2355 to increase the tobacco tax in North Dakota as a proven way to prevent youth tobacco initiation, encourage a reduction of adult tobacco use, reduce health care costs, and provide an overall benefit to public health. Further, the Bismarck Tobacco Free Coalition applauds that SB 2355 classifies ENDS as the tobacco products they are so they are taxed as such.

On behalf of the Bismarck Tobacco Free Coalition, please vote "yes" on SB 2355.

Sincerely,



Valerie Schoepf

President

Bismarck Tobacco Free Coalition

1/30/2019

Harvey, ND

9:00 a.m.

701-625-1339

Senate Finance and Taxation Committee for the 66th ND

Legislative Assembly

Chairman Cook and members of the Finance and Taxation Committee, hello, my name is Zoe McKinven and I am a student at Harvey High School. Thank you so much for your time this morning.

Today I am here to encourage a Do Pass on SB 2355, or the tobacco tax bill. I am a sophomore at Harvey High School in Wells County and am concerned with the current rise in popularity of the electronic vaping products used by my friends and classmates. I have seen my peers use the JUUL during school behind the teacher's back and blowing the puff of vapor into their shirt. In the girls locker room a JUUL was found sitting on the bench from a girl who had been previously using it during her study hall. My friends have used the JUUL around me and it has made me feel super uncomfortable. I see e-cigarettes used during school, in cars and at parties.

According to the 2017 YRBS survey at Harvey High School, 16.1% of students had used an electronic vaping device in the last 30 days and I am sure it is much higher than that now. I think youth are very cautious about their money. If the tax went up on tobacco products, I believe that they would be less likely to buy the products. Increasing the price would keep youth from trying e cigarettes. Youth are still in school and cannot have a full time job so they would not be able to keep buying tobacco products if the price increased.

30 SB 2355 # 6 pg. 2

It is clear that it is unsafe for young people like me to use e-cigarettes or any other product containing nicotine. According to the Surgeon General, "E-cigarette use poses a significant—and avoidable—health risk to young people in the United States. By increasing the price of tobacco products, we can reduce the number of youth trying and becoming addicted to these dangerous products.

Again, thank you for this time in front of you, Chairman Cook and the Committee. It is very appreciated. Please vote Do Pass on SB 2355.

May I take any questions?

Zoe McKinven

701-625-1339

Zoe.mckinven@k12.nd.us

i., Harvey High School. (2017). "Harvey HS YRBS Results"

<https://www.harvey.k12.nd.us/cms/lib/ND02203038/Centricity/Domain/81/2017%20HHS%20YRBS%20Report.pdf>

ii. HHS, E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

The FDA identifies all of these as tobacco products...

Why doesn't North Dakota?



Senate Bill 2355 will do two simple things:

- Update our North Dakota Century Code to conform with the FDA's identification of e-cigarettes (including mods, JUUL's, etc.) as tobacco products.
- Modernize our North Dakota Century Code to create an EQUAL tax on all tobacco products at 28% of their wholesale price.

As citizens of North Dakota,
we ask that you
Vote YES on **SB 2355!**



stampcoalition@yahoo.com



Minot STAMP Coalition



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Miranda

Last Name:

Email address:

Home Zip Code: _____ Phone number (optional):

Tobacco has personally affected my life a lot. Both of my parents smoke so I've been around tobacco my entire life. When I was younger my dad tried to hide it from us but failed. My dad also chews tobacco. Tobacco cost quite a bit of money and I have always felt that tobacco comes before me to my parents. They take time out of their day to go and smoke, to turn the situation does not matter I worry for my parents health because I know tobacco can cause cancer and lots of other health problems.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: ella

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

My dad has been using tobacco for as long as I can remember. He has tried to stop but never could. My brother also juls and has said that he is trying to stop but it's hard. I notice how addicting and bad it isⁿ for you.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Taylor

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Before I was born my grandma (moms, mom), got sick and had lung cancer. My moms family didn't know for sure what caused it but they think it was from second hand smoking. She ended up passing away so I never got to meet her.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Karly

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

My grandpa died from smoking he basically smoked so much it killed him. His lungs were so bad and he also was in a wheelchair. But I never got to meet him he died a week before I was supposed to meet him. If he didn't smoke I would've met him

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Kayla

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

I know people that smoke on a daily and ends up affecting our relation ships. They always leave me to smoke and don't relize how much it hurts.

This form can be returned to: Jordyn Schaeftbauer at js.schaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Jada

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Tobacco has had an overall negative effect on North Dakota. There is nothing positive about people throwing money away toward their addiction to nicotine. Tobacco causes cancer, lung problems, heart problems, and many other horrible medical side effects. Nicotine is highly addictive and can tear families apart. No one wants to see a family member struggling with an addiction. I think tobacco should be illegal until you are 21 so that if you are going to make that decision you have to wait and know the facts. Also I think there should be a higher tax on tobacco so people would be less inclined to buy it. Tobacco isn't as common in mind as it used to be and that is because of people being more educated which is a good thing.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Harley

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I have noticed that there has been a rise in juuling because there are new technology out and people are not as informed about the effects of juuling unlike smoking. It is not certified by the health department; they don't know what effects it has on the body. It also contains nicotine so you will get addicted.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Alexa

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

my uncle was an athlete + addicted to drugs. He fought with stopping for 7 or more years. He got his license taking away for 1 year. This impacted me because it changed how I looked at him. I lost my respect for him. Now after he went to teen challenge he is doing really good.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Jordan

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Many people in North Dakota are older and may have started smoking, before most people knew about the health effects. My grandpa started smoking in the 1940's when he was 16. He died of lung cancer a year ago.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Morgan

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I feel like tobacco has impacted us in a not good way. People my age (13-14) are trying it. And they shouldn't be. It's not even good for adults. I know people that have done it and were able to stop. But a lot of people can't because of the influence around us. Like ads on TV, or signs on streets or near gas stations.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Rachel

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

Smoking Poulutes and is bad for your health. It affects others too like second hand smoke. Both my parents smoke and they have tryed to quit multiple times but they always start agian. they even tried hiding it from me + my brother, but we found out. its not that hard. I always hate the smell of our gradge and our car. And I worrie that people can smell it when they come over.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Kenna

Last Name:

Email address:

Home Zip Code: 58521 Phone number (optional):

Tobacco has impacted North Dakota in many ways. Some people who have smoked for a long time have gotten cancer. Others are addicted and can't stop using it. Teenagers and young adults have started using e-cigarettes. They say it's "better for them", but it really isn't. There are ways to stop using them, but the nicotine is so addictive they can't stop.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Emma

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I have noticed alot of people at our school have gotten in alot of trouble with juuls. If they are on a team it not only effects them but it effects the whole team because the normally get pulled out of sports.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Brooklynn

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I think that kids are being
peer pressured in to smoking/vaping
because their friends might be
doing it

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Emma

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional)

Both my grandparents used to smoke, and it was not good for them or for the grandkids, so we got them to quit over time.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Olivia

Last Name:

Email address:

Home Zip Code: _____ Phone number (optional):

The effect of tobacco has a lot of effect on people because it can cause the person to get lung disease + some people have even get caught on fire because they smoke + they fall asleep + Idrops + hits the bed. Both my Parents smoked + my mom needs it other wise she has headaches + she gets mean. I get to the point were I just want to throw them away or out the window.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Naah

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

It is affecting people long term. People can start doing things that they should not be doing.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Beckler

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

We were driving and stopped at a stoplight next to us were a mother and her 3 small kids. The mom was smoking with the windows rolled up and you could see the kid in front coughing.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Sid

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

My grandpa used to smoke cigarettes which gave him lung cancer. He could not eat for a long time with a tube in his trachea that put his food in. Now that he is mostly cancer free they took out his voice box but, allowed him to eat foods.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Regan

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Taylor's grandma died from second hand smoke before she was born. So that means she never got to meet her because someone that she was around smoked too much. Sad stuff.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Aliyah

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

The world is becoming bad because juuling is bad and a lot of kids do it

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Colin

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

my mom used to smoke and it affected her attitude and she used to be way more strict but then she quit and she seems to be a lot happier now.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Emily

Last Name:

Email address:

Home Zip Code: _____ Phone number (optional):

I have noticed that tobacco have a big impact on North Dakotans and not just adults it is in the schools to.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Karissa

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Tobacco has impacted North Dakotans a lot. North Dakota is one of the top drug states. People use tobacco in a lot of public places. For example parks, zoos, and even just in the streets. This could lead to a younger kid getting a hold of it. That can make them sick and even potentially lead to death. The more citizens that do this the higher the risk. When I walk around Bismarck the top thing I notice is cigarette buds, tobacco cans, and E-cigarettes. Tobacco is just hurting our ND community.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Elizabeth

Last Name:

Email address:

Home Zip Code: _____ Phone number (optional):

Tobacco has changed the life of North Dakotans in a negative way. People get lung cancer, kids pick up cigarette buds on the streets or even on playgrounds. There is all kinds of and hand smoking, and it just makes north Dakota look bad in general. Teachers, parents, and law enforcement are having trouble with students/kids vaping/juling in or out of school.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Aleah

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I have noticed that tobacco has made our world change. my cousin get addicted to tobacco and he had a very hard recovery. Also everywhere I go I see someone using tobacco and I find it really gross. Also Juul's are becoming really popular and I don't like it and ruining our bodies.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Public Health
Prevent. Promote. Protect.

Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Hope

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I have noticed that there have been more advertisements againsts tabacco and a lot more advertisements trying to get you to use tobacco. Also, kids are started to use it more because they have cool flavons and make them attractive. You also see that a lot of people get lung cancer from smoking and sometimes even died from lung cancer.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Samantha

Last Name:

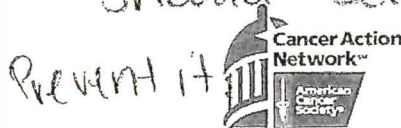
Email address:

Home Zip Code: 58503 Phone number (optional):

I notice that I can tell who lives in a Smoking home. I can smell it and I personally can't stand the smell of cigarette smoke. My Grandpa used to smoke but he got lung cancer from it so he quit. I also notice that students and kids are starting to use it more + more. Also a lot more people are dying or getting cancer.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov

Overall tobacco is not good for you. They should ban it or do something to help



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Lindsey

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I think tobacco affects north dakota in many ways
Smoking increased a lot, I feel like 5 years
ago I could walk into a store without
holding my breath. Now when I walk into
Dor's I always hold my breath to prevent
second hand smoking. I feel like, we need
to make law if you have a child or adopt
a child or dog you have to stop smoking.
To prevent second hand smoking

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Public Health
Prevent. Promote. Protect.

Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Haley

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

Smoking has caused a lot of pollution, not just in North Dakota, but everywhere. It's also not healthy and causes a lot of deaths each year. Second-hand smoke is also a really big problem, because it can effect others health and even kill them. None of my super close family smokes, but I have cousins and other relatives that do. Some even have young kids, and it is not a good influence on them

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Ava

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I haven't noticed much in my community. However, the schools in Bismarck are tainted with vaping, tobacco, and drugs. The good news is that not all students and schools have been sucked into this. Personally I think one of the dumbest things you can do is abuse drugs tobacco, or vape. Everyone knows the consequences, but some proceed to do it anyways. I think that everyone from children to adults would benefit from raising the age of when you can buy tobacco.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Gabrianna

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

My Uncle dips and he spends more money on dip than anything else. It's affecting his family.

My grandpa smoked over 2 packs of cigs a day and he had cancer and lost some of his throat and tongue also teeth.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Josie

Last Name:

Email address:

Home Zip Code: 58504 Phone number (optional):

My mom smokes, and my cousins dip. Dipping is really gross and I don't like it at all. Smoking also grosses me out it stinks, and its bad for your health. I think smoking should be banned, it polluate the air also, and you can get 2nd hand smoke

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name:

Reagan

Last Name:

Email address:

Home Zip Code:

58503

Phone number (optional):

It affects middle schoolers
because they think vaping
is cool.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: EVAN

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

It affects North Dakota a lot by health problems and also kids are starting to use them more which that also causes health problems for them too. also vaping and duffing is also causing problems and speeding. even if you dont smoke, smoke can harm you because of the chemicals it is called second hand smoking.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: eve

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

kids at school have been doing
it and can lead to worse
things

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Kaiden

Last Name:

Email address:

Home Zip Code: 58504 Phone number (optional):

Kids are using it more, some with vapes and juuls and kids are bringing it to school and getting into trouble. It has made a big impact on everybody, mostly kids around North Dakota.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Sisaly

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

People are losing friends + family members because they smoke and they get lung cancer and many other diseases. And it also effects other people by 2 hand smoke.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Jackson

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

In 2015, my grandfather passed due to lung failure, and that caused everyone in my family to stop smoking. Ironically, it took one death to wake everyone up.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Arianna

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

When people use tobacco their voice gets raspy & hoarse.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Caitlin

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

When listening to someones voice who have done drugs (Tobacco) it have been affected. (raspy, oldish voices)

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Madison

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Tobacco has not really affected me personally. I just know at school kids vape, and its kind of sad. Outside when people smoke, I dont like to walk by them because it smells so bad, that is affecting me because inhaling smoke is still bad for you. People think it is cool but its really not.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Maya

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Tobacco has effected North Dakota by the use. the other day I was at Pancheros and a guy sitting behind me said to his friends that he just started chewing.

People think its cool and its not. Its really bad for you and the people who use tobacco just dont seem to care.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Aver +

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Some "popular" kids at school are vaping and juuling in the bathrooms. ALSO, I see it online, everywhere! People think its cool but its really not.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: hasie

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Kids in schools are vaping & its
 easy for them to get stuff to vape
 because of high school friends,
 & it causes different medical
 problems & tears family's apart

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Sean

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

It can affect their family members & themselves
emotionally & physically.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Kendra

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I've noticed that when people smoke, or do e cigarettes, it can effects peoples lifes phisically and emotionally, because they effect the brain, but also others around them too.

-> they also have a smell to.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Joel

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

It has changed ND by high schoolers + middle schoolers sometimes trying to vape.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Cole

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

it has affected ND by high schoolers
 are justin and using tobacco or drugs

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Briley

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Some people who use e-cigarettes, tobacco, juuls, etc have a smell to them. They can also change you emotionally and physically

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Corrina

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

In North Dakota, many people smoke, which is bad for your health.

My grandpa smokes, and we think he has circulation issues from it

Kids in our grade have gotten in trouble for juling + vaping.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Lexi

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

Makes my garge smell gross.
People are starting to use vapes because they think they are better for you. but they are not

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Kira

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

I think tobacco has impacted North Dakota by risking lives of people, people having lung cancer, people having that hole thing in their neck. Tobacco has killed people & is not good for you.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Luke

Last Name:

Email address:

Home Zip Code: 58505 Phone number (optional):

My mom smoked for a while and tried to keep it a secret. My step-dad found out and they got into a fight.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Molly

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

My brother and cousins and ~~sister~~ and my brother in-law they all vape and were people I know.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Whitney

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

The reason why I joined this club is to teach teenagers my age how dangourse it is to smoke and wul and vape and many more. I want to stop smokeing out side of bars or in bars because my grandma died of lung cancer whe she was young because she worked at a bar where they smoked.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Summer

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

My Uncle used to smoke and it was pretty bad and he tried to quit for years and he finally quit and our family was very proud of him.

This form can be returned to: Jordyn Schaeffbauer at jschaeffbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Jaryn

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

my family and even some of my friends don't use tobacco or smoke, but some of my friends have a hard life because their parents smoke or use tobacco. They've told me that they've tried to stop but they can't. When I go to their house, it always smells like smoke. Also when I used to live in apartments, there would always be the smell of smoke. My friend and I put up drawings of cigarettes being crossed out. I hope to be able to help as much as a can to be able to stop people from making bad choices that have serious consequences.



This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Ryder

Last Name:

Email address:

Home Zip Code: 58603 Phone number (optional):

At both of my brother's high schools there are vaping bathrooms that people avoid because they don't want to be apart of that. Also my brother has been using the bathroom while someone was vaping in there.

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Alecia's

Last Name:

Email address:

Home Zip Code: 58503 Phone number (optional):

My family has a history with tobacco and ~~alcohol~~ alcohol. I'm currently being my aunt to alcohol addiction

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



Share your story

A story is powerful – and it can change lives.

We are asking for stories to share with elected officials about how tobacco use has impacted North Dakotans.

Sharing your personal story can provide a human connection to the devastating effects of tobacco use. Your story can make a difference.

Use the space below to share your story with us!

First Name: Allannah

Last Name:

Email address:

Home Zip Code: 58501 Phone number (optional):

Something that change is when my uncle was smoking
I told him all the affect on what can happen
and he stopped and never went back again

This form can be returned to: Jordyn Schaeftbauer at jschaeftbauer@bismarcknd.gov



1/30 SB 2355
#9 pg. 1

Vaping is not a safe alternative

Vaping devices



Vaping devices come in many shapes and sizes; some resemble pens, USB sticks, or other common items. Using an e-cigarette can also be known as vaping.

The FDA does not currently approve vaping devices as quit smoking aids. There is no evidence to prove that vaping helps a person quit smoking.

VAPING CAN BE HARMFUL



Vaping may introduce preteens and teens to other tobacco products, including cigarettes. Young people are often attracted to the flavored liquids used in vaping devices.



Vaping produces an aerosol by heating a liquid using a battery and a heating element. This aerosol is not just a water vapor and usually contains nicotine and may contain harmful substances and particles, including heavy metals like lead and cancer-causing agents.



E-liquids used in vaping devices may be labeled as “generally recognized as safe,” but research shows that the safety applies to ingestion, not necessarily for other exposures, such as inhalation.

NICOTINE IN VAPING DEVICES IS HIGHLY ADDICTIVE

1/30 SB 2355
#9 pg. 2



Nicotine is a health danger for pregnant women and is toxic to the brains of developing fetuses.



Nicotine can harm adolescent brain development, which continues into the early to mid-20s. Research suggests it can even prime the brain's reward system, putting tobacco users at risk for addiction to other drugs.



Nicotine use in adolescence and early adulthood has been associated with cognitive and behavioral impairments, including effects on working memory and attention.

VAPING CAN CAUSE INJURIES



Defective vaping devices have caused fires and explosions.



Children and adults have been poisoned by swallowing, breathing, or absorbing e-liquid through their skin or eyes.

Get Help Quitting

Free coaching and cessation medications are available from NDQuits. Call or go online to get help quitting.

NDQuits

1.800.QUIT.NOW

www.ndhealth.gov/ndquits

1.800.784.8669



NORTH DAKOTA
DEPARTMENT of HEALTH

Tobacco use is **STILL** an issue in ND, especially among youth...

NEW PRODUCTS



MORE FLAVORS



Big Tobacco and the vaping industry are constantly trying to come up with new ways to target youth. Between flavors and high tech/sleek designs its no wonder these products appeal to kids. Their latest products have been showing up in Bismarck/Burleigh County schools. These products **CONTAIN NICOTINE** which is highly addictive and harmful to youth brain development. According to a recent study by TRUTH Initiative, 63% of youth did **NOT** know that one JUUL pod contains the same amount of nicotine equal to one pack of cigarettes or 200 puffs.^{1,4-6}

What can North Dakota do to protect youth?



Increase the price on ALL tobacco products including e-cigarettes, vapes, and MODS



Ban flavored tobacco products



Fund tobacco prevention and control programs at levels recommended by the CDC



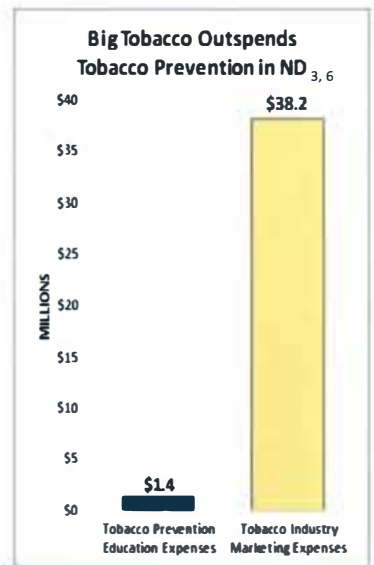
Implement Multi Unit Housing Smoke-Free Policy



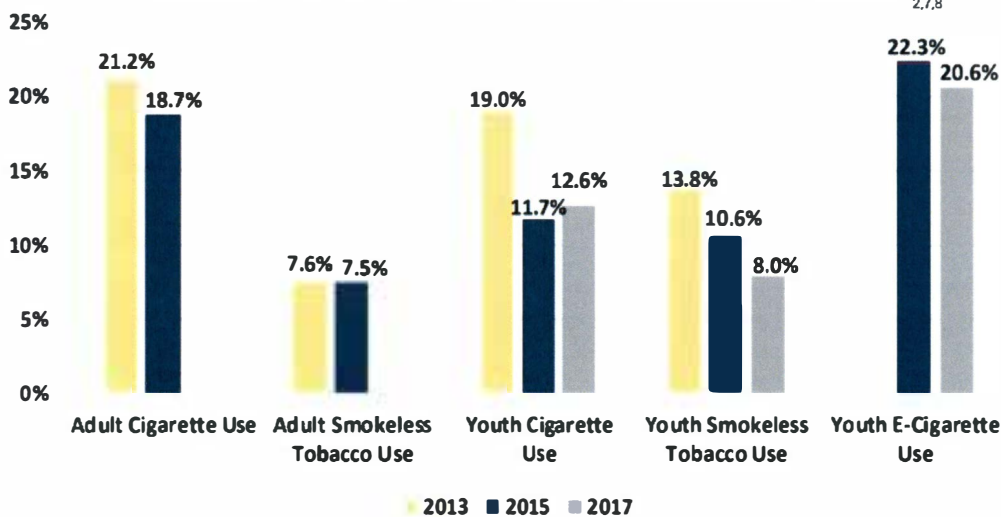
Maintain the ND Smoke-Free Law



Raise the legal age to purchase tobacco to 21



Tobacco Use by ND High School Students and Adults



North Dakota ranked in **top 10 states** for high youth e-cigarette usage.⁷

FOR MORE INFORMATION

[HTTP://WWW.BREATHEND.COM/PUBLICHEALTHUNITS/BISMARCK-TOBACCO-FREE/](http://www.breathend.com/publichealthunits/bismarck-tobacco-free/)

SOURCES

1. (2018). Retrieved from JUUL: <https://www.juul.com/>
2. *Behavioral Risk Factor Surveillance System*. (2018). Retrieved from Centers for Disease Control and Prevention: <https://www.cdc.gov/brfss/index.html>
3. Commission, F. T. (2016). *Cigarette and Smokeless Tobacco Reports for 2013*.
4. *Get the Facts*. (2018). Retrieved from Know the Risks: E-Cigarettes and Young People: <https://e-cigarettes.surgeongeneral.gov/>
5. *juul e-cigarettes gain popularity among youth, but awareness of nicotine presence remains low*. (2018, April 18). Retrieved from Truth Initiative: <https://truthinitiative.org/news/juul-e-cigarettes-gain-popularity-among-youth>
6. *Toll of Tobacco in North Dakota*. (2018, June 20). Retrieved from Campaign for Tobacco Free Kids: https://www.tobaccofreekids.org/problem/toll-us/north_dakota
7. (2018). *Youth Risk Behavior Surveillance - United States, 2017*. Atlanta, GA: Centers for Disease Control and Prevention.
8. (n.d.). *Youth Risk Behavior Surveillance - United States, 2013 and 2015*. Atlanta, GA: Centers for Disease Control and Prevention.



Public Health
Prevent. Promote. Protect.

Bismarck-Burleigh Public Health

IS Big Tobacco IN YOUR KID'S backpack?

MINNESOTANS FOR A
**SMOKE-FREE
GENERATION**

Tobacco products are designed to look like everyday items like candy and school supplies. Don't let the tobacco industry hook your kids for a lifetime of addiction.

✓30 88 2355 #9 pg.5



** = Tobacco Product

1) Camel Snus**

2) Altoids gum

3) Camel Snus**

4) Watermelon cigarillo**

5) Fruit Roll-Ups

6) Berry-flavored cigar wraps**

7) Fruit Roll-Ups

8) blu e-cigarette**

9) JUUL**

10) USB flash drive

11) Pen

12) Starbuzz e-cigarette**

13) Pen

14) Starbuzz e-cigarette**

15) blue e-cigarette**

16) Pen

17) White-out

18) Suorin Drop e-cigarette**

19) Phillies cigarillo**

20) Highlighter

21) Swisher Sweets cigarillo**

22) Highlighter

23) Highlighter

TOBACCO USE AND SECONDHAND SMOKE EXPOSURE IS HIGH IN MULTIUNIT HOUSING



• About **80 million (1 in 4) people in the US** live in multiunit housing, such as apartments.



• Many who live in public housing are especially affected by secondhand smoke, **including children, the elderly, and people with disabilities.**



• About **8 in 10 multiunit housing residents** choose to make their own homes **smoke-free.**

• About **20 percent of adults in multiunit housing use combustible tobacco products**, which are a source of secondhand smoke exposure.



Among multiunit housing residents with smoke-free home rules, **34 percent** report that secondhand smoke involuntarily enters their homes from somewhere else in or around the building.

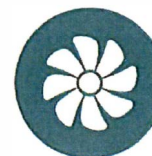
There is **no safe level** of **secondhand smoke exposure**



Secondhand smoke can **travel within multiunit housing** and common areas through **doorways, cracks in walls, electrical lines, ventilation systems and plumbing.**



Opening windows and using fans **does not completely remove secondhand smoke.**



Heating, air conditioning and ventilation systems **cannot eliminate exposure to secondhand smoke.**

Cigars: Not a Safe Alternative to Cigarettes



Cigars are a public health risk and a leading cause of laryngeal, oral and esophageal cancers. Unfortunately, sales of cigars continue unabated. While cigarette consumption decreased by nearly 40 percent from 2000 to 2015, cigar consumption increased by 92 percent.ⁱ Cigar use among youth almost as common as cigarette smoking. And among some groups, such as black high school students, more students use cigars than cigarettes.ⁱⁱ The most significant trend is the use of “little” cigars and cigarillos, which are often the same size as cigarettes but can be flavored in ways that are prohibited for cigarettes.

Among youth, cigar use is almost as common as cigarette smoking.

What Defines a Cigar?

A cigar is usually defined, for tax purposes, as any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco. A cigarette is usually defined as any roll of tobacco wrapped in paper or any substance not containing tobacco. Unlike most machine-made cigarettes, cigars do not usually have a filter.

Cigars sold in the United States include large cigars, cigarillos, and little cigars. Large cigars usually contain at least a half an ounce of tobacco and can take 1-2 hours to smoke. Cigarillos tend to be shorter and contain 3 grams or less of tobacco. Some cigarillos and little cigars are similar in size and shape to cigarettes; some have filters. These little cigars are often sold in cigarette-like packs. Their size, shape, filters, flavors, and packaging make them look like cigarettes, except for their color. In fact, in 2016, the U.S. Food and Drug Administration (FDA) sent warning letters to four tobacco manufacturers stating that they were illegally selling flavored cigarettes labeled as “little cigars.”ⁱⁱⁱ

Cigar Use in the United States

- Approximately 12.5 million people in the U.S. ages 12 and older smoked cigars in 2013.^{iv}
- Among adults, cigar smoking is more common among individuals who are male, younger in age, non-Hispanic multi-race or non-Hispanic Black, and report serious psychological distress.^v
- In 2016, 7.7 percent or 1.13 million high school students smoked cigars. This rate is similar to the cigarette rate of 8.0 percent.^{vi}
- In fact, cigar smoking was more common among non-Hispanic Black high school students (9.5 percent) than cigarette smoking (3.0 percent).^{vii}
- Cigars are one of the many tobacco products on the market that appeal to youth. Some cigarette-sized cigars contain candy and fruit flavoring, such as strawberry and grape. About two-thirds (63.5 percent) of youth cigar smokers report smoking flavored cigars.^{viii}

Health Risks of Cigar Smoking

- Cigars are not a safe alternative to cigarettes, as they contain many of the same cancer-causing substances as cigarettes and other tobacco products.
- Regular cigar smoking increases the risk of cancers of the lung, oral cavity, larynx, and esophagus.^{ix}
- Cigar smokers are four to 10 times more likely to die from laryngeal, oral or esophageal cancers than non-smokers.^x
- Heavy cigar smoking also increases the risk of developing coronary heart disease and lung diseases, such as emphysema and chronic bronchitis.^{xi}
- Even cigar smokers who don't inhale still breathe in large amounts of smoke from the lit end of the cigar.
- All tobacco products, including cigars, contain nicotine, which may induce dependence and harm health. Many cigar smokers also use other tobacco products, including cigarettes, roll-your-own and smokeless tobacco.^{xii}
- Cigars also produce secondhand smoke that is dangerous for non-smokers.

Status of Cigars in Tobacco Control Laws

- Cigars are taxed differently than cigarettes, and often at lower rates. Because of the lower taxes, cigarillos and little cigars cost less than cigarettes in many states, making them more affordable for younger smokers. Cigars, cigarillos and little cigars may be sold as individual sticks, which can again, make them more appealing to youth.
- Some states and localities exempt cigar stores, cigar bars and tobacco shops from smoke-free laws. These loopholes endanger public health.
- Cigars manufacturers are not required to disclose to the federal government any information about ingredients that are harmful or potentially harmful. However, cigarettes are subject to these disclosure requirements.
- Many cigar manufacturers regularly manipulate their products to evade taxation and other tobacco control regulations.

ACS CAN on Cigars

Regulation of cigars is part of ACS CAN's comprehensive approach to reducing tobacco use and exposure to secondhand smoke in the United States. ACS CAN makes the following policy recommendations with respect to cigars:

- **Subject cigars to taxation:** Like all other tobacco products, cigars should be subject to taxation as well as manufacturing and marketing rules to reduce the deadly and costly burden of tobacco use. All cigars, regardless of size, must be taxed at rates equivalent to cigarettes.
- **Include cigars in smoke-free laws:** Secondhand smoke from cigars poses significant health risks to smokers and those around them, and should be included as part of any smoke-free law. This includes prohibiting cigar use in cigar and tobacco shops, bars identified as "cigar bars", gaming facilities and wherever else cigarette smoking is prohibited.
- **Regulate cigars as tobacco products:** All types of cigars, regardless of their weight, should be regulated by the FDA as tobacco products and subject to the same sales, marketing and disclosure requirements as cigarettes, smokeless tobacco and other tobacco products.

ⁱ American Cancer Society. *Cancer Facts & Figures 2017*. Atlanta, GA: American Cancer Society, 2017.

ⁱⁱ Arrazola RA, Neff LJ, Kennedy SM, et al. Tobacco Use Among Middle and High School Students – United States, 2013. *MMWR* 2014; 63(45): 1021-1041.

ⁱⁱⁱ <https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm532563.htm>

^{iv} Substance Abuse and Mental Health Services Administration (SAMHSA). *Results from the 2015 National Survey on Drug Use and Health: Summary of National Findings*. September 2016. Available at <https://www.samhsa.gov/data/sites/default/files/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015.pdf>.

^v Phillips E, Wang TW, Husten CG, et al. Tobacco Product Use Among Adults — United States, 2015. *MMWR Morb Mortal Wkly Rep* 2017;66:1209–1215. DOI: <http://dx.doi.org/10.15585/mmwr.mm6644a2>.

^{vi} Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2016. *Morbidity and Mortality Weekly Report*, 2017;66(23):597–603

^{vii} Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2016. *Morbidity and Mortality Weekly Report*, 2017;66(23):597–603

^{viii} Centers for Disease Control and Prevention. Flavored Tobacco Product Use Among Middle and High School Students—United States, 2014. *Morbidity and Mortality Weekly Report* 2015;64(38):1066–70

^{ix} American Cancer Society. *Cancer Facts & Figures 2017*. Atlanta, GA: American Cancer Society, 2017

^x American Cancer Society, 2014.

^{xi} CDC. Cigar Fact Sheet. Updated November 14, 2013. Available at http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/cigars/#marketing. Accessed July 11, 2014.

^{xii} U.S. Department of Health and Human Services. *The Health Consequences of Smoking – 50 Years of Progress. A Report of the Surgeon General*. Rockville, MD: U.S. Department of Health and Human Services, 2014.

Clearing the Air: The Facts About Ventilation



The only effective way to fully protect nonsmokers from exposure to secondhand smoke is to eliminate smoking in indoor public spaces.

Secondhand smoke is a serious health hazard. Ventilation technologies do not sufficiently protect individuals from the harmful effects of breathing in secondhand smoke. Reports from two different Surgeon Generals have found that there is no safe level of exposure to secondhand smoke.^{i, ii} While ventilation or air purification systems are sometimes promoted as a way to reduce exposure to secondhand smoke, ventilation cannot remove all secondhand smoke and does not purify the air at rates fast enough to protect people from harmful toxins. The Surgeon General has concluded that even separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure of nonsmokers

to secondhand smoke. The only effective way to fully protect nonsmokers from exposure to secondhand smoke is to completely eliminate smoking in indoor public spaces.ⁱⁱⁱ

The Facts on Secondhand Smoke and Air Quality

Secondhand smoke is a major source of particulate matter, a type of air pollution. Conventional air cleaning systems can remove large particles, but not the smaller particles or gases found in secondhand smoke.^{iv} Particulate matter, of the size found in cigarette smoke, is easily and deeply inhaled into the lungs and can lead to disease and death. Exposure to secondhand tobacco smoke has been causally linked to cancer, respiratory and cardiovascular diseases, and numerous other adverse health effects.^v

Numerous studies over the past two decades have repeatedly shown that secondhand smoke is a cause of pollution and smoke-free laws are the only effective way to reduce exposure to secondhand smoke. For example:

- The pollution generated from three lit cigarettes in a room of 197 cubic feet was higher than the pollution generated from a diesel engine in a closed private garage.^{vi}
- Between 90 and 95 percent of airborne pollution in Delaware hospitality venues was caused by smoking before the state's smoking ban went into effect.^{vii} Levels of cancer-causing pollutants were found to be 4 times greater than National Ambient Air Quality Standards (NAAQS) outdoor requirements in six Delaware bars, one casino, and one pool hall before implementation of a statewide smoking ban.^{viii}
- Studies have found that in restaurants and bars where smoking was previously allowed, particulate matter decreased 80-90 percent within months of a smoke-free policy taking effect.^{ix}

The American Society of Heating, Refrigeration, and Air-Conditioning Engineers:^{xii}

- Concludes that the only way to eliminate the health risks of secondhand smoke exposure is to prohibit the smoking behavior
- Furthermore, no engineering approaches, including ventilation and air cleaning technologies, can eliminate the health risk.
- Includes marijuana smoke in the definition of environmental tobacco smoke (also called secondhand smoke).

What is Ventilation?

Ventilation uses controlled airflow to curb airborne contaminants.^x Despite the fact that ventilation systems cannot remove carcinogens found in secondhand smoke from a workplace or public place, the tobacco industry and their allies have promoted ventilation as a method to accommodate both smokers and non-smokers. There are two types of ventilation that are commonly used in commercial and industrial buildings.^{xi}

- **Local exhaust ventilation** attempts to trap pollutants at or near their source. It is geared toward environments with high pollution levels and requires low levels of air circulation. The theory is that pollutants are trapped at their source and are not diffused throughout the air.^{xii} Ventilated ashtrays are one example of local exhaust technology. Once a cigarette is placed into an ashtray, a filter would isolate any pollutants emitted from the burning tip. Canopy hoods are another example and work by filtering out any smoke that is exhaled directly above restaurant and gaming tables. In practice, local exhaust ventilation is not fully effective and requires substantial maintenance, making the technology ineffective, inefficient and costly for businesses to operate.
- **Dilution ventilation**, also known as general ventilation, involves saturating a room with clean, unpolluted air in an attempt to dilute airborne contaminants—in this case tobacco smoke—to safe and comfortable levels. The process requires high levels of air circulation and works best in environments with low pollution levels spread over a large area. However, exposure to secondhand smoke, at any level, is neither safe nor acceptable; the health consequences are immediate and can be life-threatening. Because dilution ventilation allows tobacco smoke to travel throughout a room, it offers little protection from secondhand smoke exposure and can even distribute secondhand smoke throughout a building.^{xiii, xiv} In addition to being ineffective, it may be costly for businesses to install.

Ventilation is Ineffective

The U.S. Surgeon General has concluded that separating smokers from nonsmokers, air cleaning technologies, and ventilating buildings cannot eliminate secondhand smoke exposure.^{xv} Research has shown that “tornado-like levels of ventilation” would be needed in restaurants, bars, and gaming establishments to protect hospitality workers from secondhand smoke.^{xvi} For example:

- Placing hoods over gaming, restaurant and bar tables to filter secondhand smoke would require “impracticably high” minimum airflows in excess of 300 cubic feet per minute per hood (cfm/hood).^{xvii}
- Ventilation was unable to control pollution in seven hospitality venues that were surveyed in Boston, Massachusetts, prior to the city’s smoke-free ordinance. Indoor air pollution levels were four times higher than NAAQS outdoor requirements.^{xviii}

A study of 36 tribal casinos found that air pollution was more than four times as high in the non-smoking gaming areas of casinos that allowed smoking than smoke-free casinos when there was no separation from smoking gaming areas. Even when there was complete separation between smoke-free and non-smoking gaming areas, air pollution was an average of 40 percent greater in the non-smoking areas of casinos that allowed smoking than completely smoke-free casinos.^{xix}

A study comparing indoor air quality at U.S. airports with and without smoking lounges found significantly more secondhand smoke particles in airports with smoking lounges, even in non-smoking parts of the airport. In airports with smoking lounges, the amount of secondhand smoke in the areas adjacent to the smoking lounges – where smoking was not allowed – was four times higher than the average amount of secondhand smoke in the non-smoking parts of airports that allowed smoking and five times higher than the average amount of secondhand smoke in completely smoke-free airports.^{xx} Despite ventilation, secondhand smoke from the airport smoking lounges penetrated the non-smoking parts of the airports, exposed non-smoking employees and travelers to secondhand smoke.

Manufacturers and sellers of air filtration technologies admit that their products do not protect consumers from the health risks imposed by secondhand smoke.^{xxi} The American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) re-affirmed in 2016, that the only means of effectively eliminating the health risk associated with indoor exposure is to prohibit smoking activity.^{xxii} According to ASHRAE:

- No other engineering approaches, including current and advanced dilution ventilation or air cleaning technologies, have been demonstrated or should be relied upon to control health risks from secondhand smoke exposure in spaces where smoking occurs.^{xxiii}
- While some engineering measures may reduce secondhand smoke exposure and some of the corresponding odor and irritation, smoke-free air cannot be accomplished with any engineering or other approaches besides prohibiting smoking.^{xxiv}

Even the tobacco industry acknowledges that ventilation and air filtration technologies are ineffective at removing secondhand smoke.

- British American Tobacco (BAT) acknowledged that its Colt air filtration unit was only 34 percent efficient at removing particulate matter from tobacco smoke. The unit failed to eliminate carbon monoxide and other volatile organic compounds found in cigarette smoke.^{xxv} The Colt unit only reduced “haze, tobacco-smoke aroma and total perceived smoke,” thus making the air more comfortable to breath, but not less harmful.^{xxvi}
- Phillip Morris USA states that “the public should be guided by the conclusions of public health officials regarding the health effects of secondhand smoke.”^{xxvii} The company further acknowledges that “the conclusions of public health officials concerning environmental tobacco smoke are sufficient to warrant measures that regulate cigarette smoking in public places.” Even the tobacco company itself does not promote ventilation as an alternative to smoke-free laws.

ACS CAN on Ventilation

ACS CAN supports local, state, and federal initiatives to eliminate public exposure to secondhand smoke, including 100 percent smoke-free laws, prohibiting smoking in all workplaces, including restaurants, bars and casinos, which are key to protect nonsmokers, children and workers from the deadly effects of secondhand smoke.

ACS CAN does not support smoke-free laws that allow for separating smokers from nonsmokers or ventilating buildings as alternatives to requiring a 100 percent smoke-free environment, as the evidence is overwhelming that these measures cannot eliminate exposure of nonsmokers to secondhand smoke.

ACS CAN’s work to create 100 percent smoke-free environments is part of a comprehensive approach to addressing tobacco use and exposure to secondhand smoke in the United States.

ⁱ U.S. Department of Health and Human Services (HHS). *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

ⁱⁱ HHS. *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010.

ⁱⁱⁱ HHS, 2006.

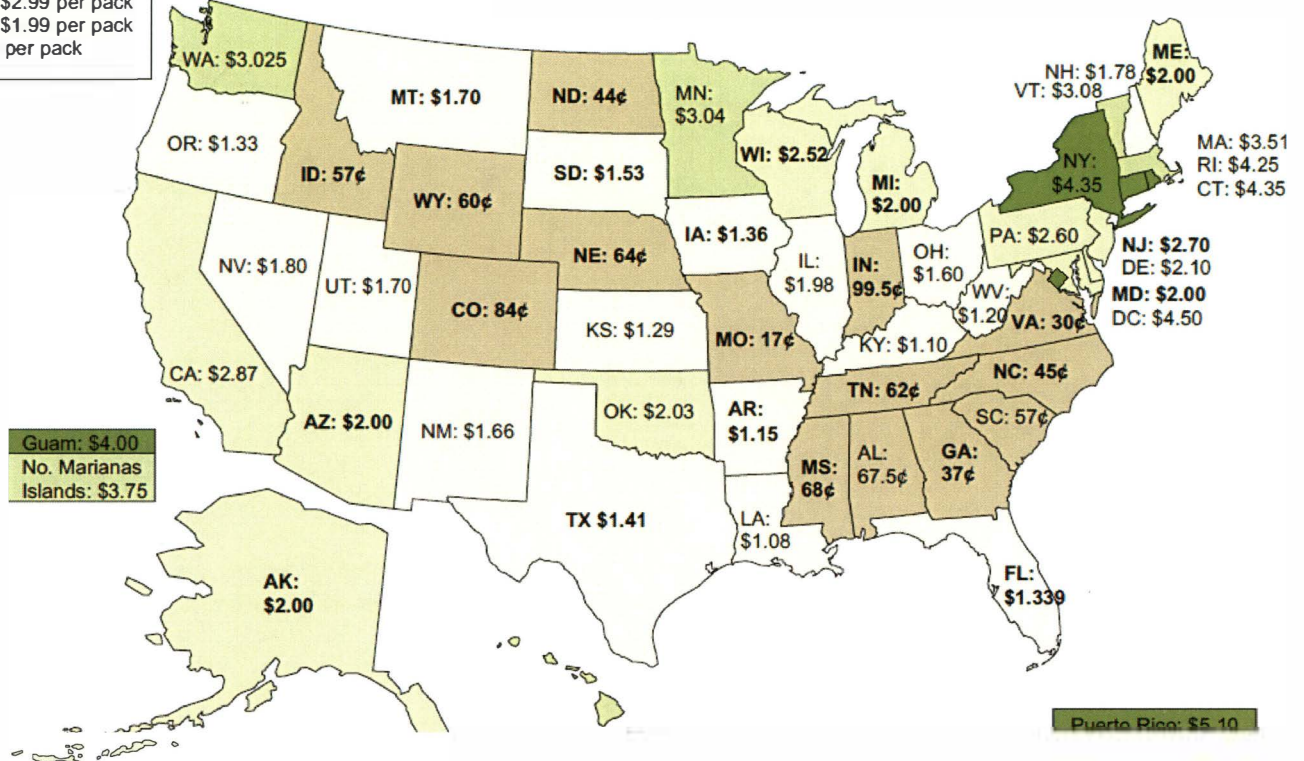
^{iv} HHS, 2006.

- ^v HHS. *The Health Consequences of Smoking—50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014. Printed with corrections, January 2014.
- ^{vi} Invernizzi G, Ruprecht A, Mazza R, et al. Particulate Matter from Tobacco Versus Diesel Car Exhaust: An Educational Perspective. *Tobacco Control* 2004; 13:219-221.
- ^{vii} Repace, J. Respirable Particles and Carcinogens in the Air of Delaware Hospitality Venues Before and After a Smoking Ban. *Journal of Occupational and Environmental Medicine* 2004; 45(9): 887-905.
- ^{viii} Repace, 2004.
- ^{ix} Babb S, McNeil C, Kruger J, Tynan MA. Secondhand Smoke and Smoking Restrictions in Casinos: A Review of the Evidence. *Tobacco Control* 2014; doi:10.1136/tobaccocontrol-2013-051368.
- ^x Repace J. Can Ventilation Control Secondhand Smoke in the Hospitality Industry? June 2000. Available online at <http://www.dhs.ca.gov/ps/cdic/tcs/documents/pubs/FedOHSHAets.pdf>. Accessed November 11, 2014.
- ^{xi} Repace, 2000.
- ^{xii} Repace, 2000
- ^{xiii} Repace, 2000
- ^{xiv} American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE). ASHRAE Position Document on Environmental Tobacco Smoke. Approved by ASHRAE Board of Directors October 22, 2010. Reaffirmed by ASHRAE Technology Council June 29, 2016.
- ^{xv} HHS, 2006.
- ^{xvi} Repace, 2000.
- ^{xvii} Repace, 2004.
- ^{xviii} Repace, J. An Air Quality Survey of Respirable Particles and Particulate Carcinogens in Boston Pubs Before and After a Smoking Ban. Bowie, MD: Repace Associates, Inc, 2003.
- ^{xix} Babb, 2014.
- ^{xx} Centers for Disease Control and Prevention. Indoor air quality at nine large-hub airports with and without designated smoking areas – United States, October–November 2012. *MMWR* 2012; 61(46): 948-951.
- ^{xxi} Americans for Nonsmokers' Rights. Ventilation and Air Filtration: What Air Filtration Companies and the Tobacco Industry Are Saying. August 2005. Available at <http://www.no-smoke.org/document.php?id=267>.
- ^{xxii} ASHRAE, 2016
- ^{xxiii} ASHRAE, 2016.
- ^{xxiv} ASHRAE, 2016.
- ^{xxv} Leavell NR, Muggli ME, Hurt RD, and Repace J. Blowing Smoke: British American Tobacco's air filtration scheme. *British Medical Journal* 2006; 332: 227-229.
- ^{xxvi} Leavell, 2006.
- ^{xxvii} Phillip Morris USA. Smoking and Health Issues. 2014. Available at http://www.philipmorrisusa.com/en/cms/Products/Cigarettes/Health_Issues/Secondhand_Smoke/default.aspx. Accessed November 11, 2014.



MAP OF STATE CIGARETTE TAX RATES

Average State Cigarette Tax: \$1.79 per Pack



Map shows state cigarette tax rates and state average currently in effect. The states in bold have not increased their tax for at least 10 years (since 2009 or earlier). Currently, 36 states, DC, Puerto Rico, Northern Mariana Islands, and Guam have cigarette tax rates of \$1.00 per pack or higher; 19 states, DC, Puerto Rico, Northern Mariana Islands, and Guam have cigarette tax rates of \$2.00 per pack or higher; eight states, DC, Puerto Rico, Northern Mariana Islands, and Guam have cigarette tax rates of \$3.00 per pack or higher; three states, DC, Puerto Rico, and Guam have cigarette tax rates of \$4.00 per pack or higher; and Puerto Rico has a cigarette tax rate higher than \$5.00. The state average listed above does not include any of the U.S. territories. Federal cigarette tax is \$1.01 per pack. Not shown are the special taxes or fees some states place on cigarettes made by Non-Participating Manufacturers (NPMs), the companies that have not joined the Master Settlement Agreement (MSA) between the states and the major cigarette companies. Some local governments also have their own cigarette taxes, such as Chicago (\$1.18), Cook County, IL (\$3.00), New York City (\$1.50), Philadelphia (\$2.00), Aspen, CO (\$3.00) and Juneau, AK (\$3.00). Nationally, estimated smoking-caused health costs and lost productivity totals \$19.16 per pack.

Campaign for Tobacco-Free Kids, December 11, 2018 / Ann Boonn

For more information on state cigarette taxes and the benefits from increasing them, see <https://tobaccofreekids.org/fact-sheets/tobacco-control-policies/tobacco-taxes>.



STATE CIGARETTE EXCISE TAX RATES & RANKINGS

Average State Cigarette Tax: \$1.79 per pack

State	Tax	Rank
Alabama	\$0.675	41st
Alaska	\$2.00	16th
Arizona	\$2.00	16th
Arkansas	\$1.15	35th
California	\$2.87	10th
Colorado	\$0.84	39th
Connecticut	\$4.35	2nd
Delaware	\$2.10	14th
DC	\$4.50	1st
Florida	\$1.339	31st
Georgia	\$0.37	49th
Hawaii	\$3.20	6th
Idaho	\$0.57	45th
Illinois	\$1.98	21st
Indiana	\$0.995	38th
Iowa	\$1.36	30th
Kansas	\$1.29	33rd
Kentucky	\$1.10	36th

State	Tax	Rank
Louisiana	\$1.08	37th
Maine	\$2.00	16th
Maryland	\$2.00	16th
Massachusetts	\$3.51	5th
Michigan	\$2.00	16th
Minnesota	\$3.04	8th
Mississippi	\$0.68	40th
Missouri	\$0.17	51st
Montana	\$1.70	24th
Nebraska	\$0.64	42nd
Nevada	\$1.80	22nd
New Hampshire	\$1.78	23rd
New Jersey	\$2.70	11th
New Mexico	\$1.66	26th
New York	\$4.35	2nd
North Carolina	\$0.45	47th
North Dakota	\$0.44	48th
Ohio	\$1.60	27th

State	Tax	Rank
Oklahoma	\$2.03	15th
Oregon	\$1.33	32nd
Pennsylvania	\$2.60	12th
Rhode Island	\$4.25	4th
South Carolina	\$0.57	45th
South Dakota	\$1.53	28th
Tennessee	\$0.62	43rd
Texas	\$1.41	29th
Utah	\$1.70	24th
Vermont	\$3.08	7th
Virginia	\$0.30	50th
Washington	\$3.025	9th
West Virginia	\$1.20	34th
Wisconsin	\$2.52	13th
Wyoming	\$0.60	44th
Puerto Rico	\$5.10	NA
Guam	\$4.00	NA
Northern Mariana Isl.	\$3.75	NA

Table shows all cigarette tax rates currently in effect. Since 2002, 48 states and the District of Columbia have increased their cigarette tax rates 136 times. The states in bold have not increased their tax for at least 10 years (since 2009 or earlier). Currently, 36 states, DC, Puerto Rico, Northern Mariana Islands, and Guam have cigarette tax rates of \$1.00 per pack or higher; 19 states, DC, Puerto Rico, Northern Mariana Islands, and Guam have cigarette tax rates of \$2.00 per pack or higher; eight states, DC, Puerto Rico, Northern Mariana Islands, and Guam have cigarette tax rates of \$3.00 per pack or higher; three states, DC, Puerto Rico, and Guam have cigarette tax rates of \$4.00 per pack or higher; and Puerto Rico has a cigarette tax rate higher than \$5.00. States' average includes DC, but not Puerto Rico, other U.S. territories, or local cigarette taxes. The median tax rate is \$1.66 per pack. AK, MI, MN, MS, TX, and UT also have special taxes or fees on brands of manufacturers not participating in the state tobacco lawsuit settlements (NPMs).

The highest combined state-local tax rate is \$6.16 in Chicago, IL, with New York City second at \$5.85 per pack.

Other high state-local rates include Evanston, IL at \$5.48 and Juneau, AK at \$5.00 per pack. For more information on local cigarette taxes, see: <http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

Federal cigarette tax is \$1.01 per pack. From the beginning of 1998 through 2002, the major cigarette companies increased the prices they charge by more than \$1.25 per pack (but also instituted aggressive retail-level discounting for competitive purposes and to reduce related consumption declines). In January 2003, Philip Morris instituted a 65-cent per pack price cut for four of its major brands, to replace its retail-level discounting and fight sales losses to discount brands, and R.J. Reynolds followed suit. In the last several years, the major cigarette companies have increased their product prices by almost \$1.00 per pack. **Nationally, estimated smoking-caused health costs and lost productivity totals \$19.16 per pack.**

The weighted average price for a pack of cigarettes nationwide is roughly \$6.26 (including statewide sales taxes but not local cigarette or sales taxes, other than NYC's \$1.50 per pack cigarette tax), with considerable state-to-state differences because of different state tax rates, and different manufacturer, wholesaler, and retailer pricing and discounting practices. AK, DE, MT, NH & OR have no state retail sales tax at all; OK has a state sales tax, but does not apply it to cigarettes; MN & DC apply a per-pack sales tax at the wholesale level; and AL, GA & MO (unlike the rest of the states) do not apply their state sales tax to that portion of retail cigarette prices that represents the state's cigarette excise tax.

Campaign for Tobacco-Free Kids, December 21, 2018 / Ann Boonn

For additional information see the Campaign's website at <https://tobaccofreekids.org/fact-sheets/tobacco-control-policies/tobacco-taxes>. Sources: Orzechowski & Walker, *Tax Burden on Tobacco*, 2016; media reports; state revenue department websites.



RAISING TOBACCO TAXES: A WIN-WIN-WIN

Increasing the tobacco tax is a win-win-win solution for states: a public health win that reduces smoking and saves lives, a financial win that reduces smoking-caused health care costs and raises much-needed revenue, and a political win because tobacco taxes have the strong support of the public. Even the tobacco industry acknowledges that raising tobacco taxes reduce smoking, which is why they fight so hard to oppose them.

"It is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes."

– Myron Johnson, Philip Morris Executive

Since January 1, 2002, 48 states and the District of Columbia have implemented or passed 142 cigarette tax increases – nearly quadrupling the average state cigarette tax from 43.4 cents to \$1.79 per pack today.

Raising Tobacco Taxes Reduces Tobacco Use, Especially Among Kids

The Surgeon General has called raising prices on cigarettes “one of the most effective tobacco control interventions.”² Tobacco tax increases help make cigarettes too expensive for price-sensitive kids to buy and give smokers another incentive to quit. The 2014 Surgeon General’s report stated, “The evidence is sufficient to conclude that increases in the prices of tobacco products, including those resulting from excise tax increases, prevent initiation of tobacco use, promote cessation, and reduce the prevalence and intensity of tobacco use among youth and adults.”³ The general consensus is that nationally, every 10 percent increase in the real price of cigarettes reduces adult smoking by about two percent, reduces smoking among young adults by about 3.5 percent, reduces the number of kids who smoke by six or seven percent, and reduces overall cigarette consumption by approximately three to five percent.⁴ Research studies have also found that cigarette price and tax increases work even more effectively to reduce smoking among pregnant women, Blacks, Hispanics, and lower-income smokers.⁵

Raising Tobacco Taxes Reduces Health Care Costs

Tobacco use costs about \$170 billion each year in health care expenses, more than 60 percent of it paid by taxpayers through government programs like Medicare and Medicaid.⁶ Smokers’ lifetime health care costs average about \$21,000, despite shorter life spans.⁷ Since many smoking-related diseases take years to develop, health care cost savings from a cigarette tax increase will be relatively small in the first few years after an increase; however, they grow quickly. These benefits will be even greater if a portion of the tobacco tax revenue is dedicated to support tobacco prevention and cessation programs. Because tobacco tax increases work best to reduce smoking among youth, lower-income smokers and pregnant women, those smoking declines will reduce state Medicaid program expenditures. Similarly, decreasing smoking rates among workers reduces public and private sector employers’ health insurance costs – while also decreasing business productivity losses from smoking-caused job performance declines and work absences, and from losing productive workers to smoking-caused disease or disability. Among the many other savings from smoking reductions are reduced property losses from smoking-caused fires, and reduced cleaning and maintenance costs.

Raising Tobacco Taxes Generates Revenue

Tobacco taxes are a reliable source of revenue for states.⁸ In fact, every state that has increased its cigarette tax by a significant amount has enjoyed a substantial increase in revenue, despite ongoing and tax-specific smoking declines and any ongoing or increased tax evasion.^{9,10} Put simply, the new revenue the state receives on each pack sold in the state after a cigarette tax increase always significantly outweighs the revenue losses from the decline in total pack sales caused by the rate increase. State cigarette and overall tobacco tax revenues are also much more predictable and stable than state income tax or corporate tax revenues, which can decline sharply during recessionary periods.

While the tobacco industry and its allies argue that raising tobacco taxes hurts local businesses, money spent on cigarettes in state retail stores does not disappear when state smokers quit or cutback. They will simply shift some of their spending on cigarettes to other items, thereby keeping more money in the state. For example, pack-a-day smokers who quit because of a state cigarette tax increase can spend the more than \$2,400 per year¹¹ that they would have spent on cigarettes on other goods and services, including products sold in local convenience stores.

Raising Tobacco Taxes Has Widespread Public Support

The results of numerous polls conducted nationally and in states throughout the country have consistently shown broad, bipartisan voter support for tobacco tax increases.¹² For example, a January 2010 nationwide poll found that 67 percent of voters favor a \$1 increase in their state tobacco tax rates.¹³ This support extends across party lines and throughout all regions of the country. Moreover, voters support tobacco taxes over other tax increases or budget cuts, and support dedicating a portion of tobacco tax revenue to tobacco prevention efforts.

Support for tax increases has been strong and bipartisan, with state cigarette tax increases being passed into law 52 times under a Republican governor, 64 times under a Democratic governor, and once under an Independent governor since 2002.¹⁴ Similarly, increases were passed 33 times with a Republican-controlled legislature, 62 times with a Democratic-controlled legislature, and 21 times with state legislatures where the control of the state houses was split between the parties. Nine of the increases since 2002 were passed by voters in ballot initiatives, including California's \$2.00 per pack increase that passed in November 2016.¹⁵

Campaign for Tobacco-Free Kids, December 21, 2018 / Ann Boonn

More information on state tobacco taxes is available at <https://www.tobaccofreekids.org/fact-sheets/tobacco-control-policies/tobacco-taxes>.

¹ Philip Morris Research Executive Myron Johnston, "Teenage Smoking and the Federal Excise Tax on Cigarettes," September 17, 1981, Bates No. TA82034-TA82038.

² U.S. Department of Health and Human Services (HHS), *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*, Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014. <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html>.

³ HHS, *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*, 2014, <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html>.

⁴ See, e.g., Chaloupka, FJ, "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research* 1(Suppl 1):S105-9, 1999; other studies at <http://www.ihrp.uic.edu/researcher/frank-j-chaloupka-phd> and <http://tobacconomics.org/>; Tauras, J, "Public Policy and Smoking Cessation Among Young adults in the United States," *Health Policy* 6:321-32, 2004; Tauras, J, et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," National Bureau of Economic Research Working Paper 8331, June 2001, <http://www.nber.org/papers/w8331>; Chaloupka, FJ & Pacula, R, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998; Emery, S, et al., "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270, 2001; Evans, W & Huang, L, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, April 15, 1998; Harris, J & Chan, S, "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2):3-12, February 1998, <http://www.mit.edu/people/jeffrey/HarrisChanHEL98.pdf>; HHS, *Reducing Tobacco Use: A Report of the Surgeon General*, Atlanta, Georgia: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000, <http://profiles.nlm.nih.gov/NN/B/L/Q/ /nbbliq.pdf>. See also, Campaign for Tobacco-Free Kids (CTFK) factsheet, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf>.

⁵ See, e.g., CDC, "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups – United States 1976-1993," *Morbidity and Mortality Weekly Report (MMWR)* 47(29):605-609, July 31, 1998, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00054047.htm>; Chaloupka, FJ & Pacula, R, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998. Oredein, T & Foulds, J, "Causes of the Decline in Cigarette Smoking Among African American Youths From the 1970s to the 1990s," *American Journal of Public Health* e1-e11, doi:10.2105/AJPH.2011.300289, August 18, 2011.

⁶ Xu, X et al., "Annual Healthcare Spending Attributable to Cigarette Smoking: An Update," *Am J Prev Med*, 2014. HHS, *The Health Consequences of Smoking – 50 Years of Progress A Report of the Surgeon General*, 2014. Federal gov't reimburses the states, on average, for 56.8% of their Medicaid expenditures. National health care costs are in 2010 dollars.

⁷ Hodgson, TA, "Cigarette Smoking and Lifetime Medical Expenditures," *The Milbank Quarterly* 70(1), 1992. CDC, "Projected Smoking-Related Deaths Among Youth—United States," *MMWR* 45(44):971-974, November 8, 1996, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00044348.htm>. Health care costs are adjusted to 2009 dollars using the Consumer Price Index for Medical Care (MCPI) from the U.S. Bureau of Labor Statistics. Nusselder, W, et al., "Smoking and the Compression of Morbidity," *Epidemiology & Community Health*, 2000. Warner, K, et al., "Medical Costs of Smoking in the United States: Estimates, Their Validity, and Their Implications," *Tobacco Control* 8(3):290-300, Autumn 1999. CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States 2000-2004," *MMWR* 57(45):1226-1228, November 14, 2008, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5745a3.htm>. See also CTFK factsheet, *Health Costs of Smokers vs. Former Smokers vs. Non-Smokers and Related Savings from Quitting*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0327.pdf>.

⁸ CTFK, *Tobacco Tax Increases Are a Reliable Source of Substantial New State Revenue*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

⁹ CTFK, *Raising State Cigarette Taxes Always Increases State Revenues (and Always Reduces Smoking)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

¹⁰ In rare cases, a small state cigarette tax increase might not bring in enough new revenue to make up for significant ongoing state pack sales and revenue declines caused by other factors. For example, after New Jersey increased its \$2.40 per pack cigarette tax by another 17.5¢ in 2006 (which amounted to only a 3% increase to the average pack price), its total cigarette tax revenues still declined somewhat over the following year. But without the tax increase the state's cigarette tax revenues would have dropped much more sharply. In every other instance besides NJ in 2006, state cigarette tax rate increases have been followed by significant net increases to annual state tax revenues.

¹¹ Based on average savings across all states. Actual amount would vary based on state of residence. See <https://www.tobaccofreekids.org/research/factsheets/pdf/0337.pdf> for more information.

¹² CTFK, *Voters Across the Country Support Large Increases in Tobacco Taxes*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0309.pdf>.

¹³ Nationwide survey of 847 registered voters conducted January 20-24, 2010 by International Communications Research.

¹⁴ SC's increase in 2010 was vetoed by the governor, but was overridden by the legislature.

¹⁵ CTFK, *State Cigarette Tax Increases Since January 1, 2002 (With Political Party of Sitting Governor & Legislature)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0239.pdf>.

DID YOU KNOW?

With the current per pack tax, North Dakota ranks 48th among ALL states and the District of Columbia.



FYI...

ND has NOT increased the price of tobacco products since 1993.

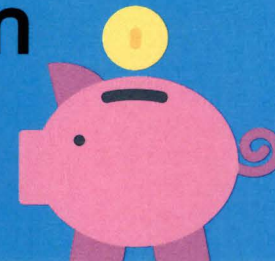
http://www.tobaccofreekids.org/what_we_do/state_local/taxes/

DID YOU KNOW?

By increasing the price of tobacco by \$1.50 per pack ND could make

\$50.83 million dollars

in annual revenue.



FYI...

Each year ND spends \$326 million on health care costs directly caused by smoking.

https://www.tobaccofreekids.org/problem/toll-us/north_dakota

DID YOU KNOW?

The last time ND raised the tobacco tax (1993) was when the FIRST "GOT MILK?" commercial aired on Television.



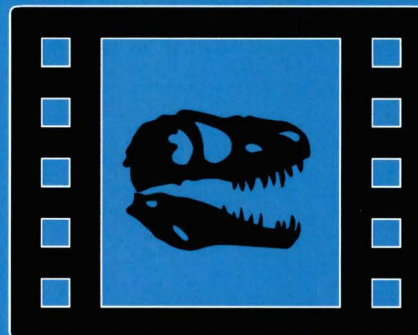
Research has shown...

Increasing the price of tobacco is one of the most effective ways to reduce smoking and other tobacco use, especially among kids.

http://www.tobaccofreekids.org/what_we_do/state_local/taxes/

DID YOU KNOW?

The last time ND raised the tobacco tax (1993) the FIRST Jurassic Park movie was shown in theaters!



Research has shown...

Increasing the price of tobacco is one of the most effective ways to reduce smoking and other tobacco use, especially among kids.

http://www.tobaccofreekids.org/what_we_do/state_local/taxes/

1/30 888 2355 #49

pg. 18

Good morning Chairman Cook and members of the Committee. My name is Neil Charvat, and I am the Director of the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in support of Senate Bill 2355.

Tobacco prevention and control efforts in North Dakota focus on guidance provided by the Centers for Disease Prevention and Control (CDC) *Best Practices for Comprehensive Tobacco Control Programs* (Best Practices). Best Practices provide evidence-based interventions to: Prevent tobacco product use initiation; Increase quitting tobacco use; and Reduce exposure to secondhand smoke. Senate Bill 2355 designates electronic smoking devices, or electronic nicotine delivery systems (ENDS), as a tobacco product. This will help prevent tobacco product use initiation.

Nearly one in five high school students uses tobacco products. Additionally, adolescents' use of ENDS (e-cigarettes/vaping devices) has significantly increased from 1.6 percent in 2011 to 19.1 percent in 2017 (ND Youth Risk Behavior Survey). JUUL, an ENDS device resembling a computer USB storage device, has taken over almost three-quarters of the ENDS market in just a few years. JUUL has caused widespread concern because of its popularity with youth. On September 12, 2018, the Food and Drug Administration (FDA) declared that youth use of ENDS has reached "nothing short of an epidemic proportion of growth." In addition, new data from the FDA cites an anticipated increase of 77 percent in ENDS use among high school students within the next year.

Citing statistics regarding youth use of ENDS is difficult, since these devices are not classified as "tobacco products." SB 2355 would change this classification from general merchandise to tobacco products and require that retailers must have a tobacco license to sell these products. Additional benefits would include:

- Helping retailers to justify checking identification for proof of age as they already do with other tobacco products.

- Assisting groups performing tobacco compliance checks in retailer establishments to include youth purchase attempts of ENDS with other tobacco products, such as cigarettes. With ENDS lacking this state-level designation, many compliance statutes are not possible for ENDS.
- Allowing closer monitoring of the amount of ENDS sales; thereby, assisting efforts to gather data regarding usage of these products.

Beyond youth initiation, there are concerns about the promotion of ENDS to adults as cessation (quitting) devices for cigarette smokers. The Tobacco Prevention and Control Program views ENDS as tobacco products, so using these products as a replacement for cigarettes is not quitting tobacco, but merely a substitution. There are health care advocates that embrace ENDS as a harm reduction product to help curb the thousands of deaths directly caused by cigarette use. They are so focused on this point, they are overlooking the bigger picture: ENDS are NOT proven to be a safe and effective tool for quitting smoking.

The FDA is investigating the possibility of approving other tobacco products as "modified risk" products, defined as something that can be used instead of cigarettes because they may cause less death and disease than cigarettes do. The tobacco industry, the ENDS industry, many health organizations and countries (such as the United Kingdom) have embraced this concept. However, the current lack of proof regarding the safety of these products does not warrant embracing them to save lives.

Switching from cigarettes to ENDS products is merely changing the delivery method for nicotine addiction. New studies are showing that this is an actual trend. Our own tobacco cessation service, NDQuits, has a lower success rate for people to quit smoking who continue to use ENDS (33.2% vs. 22.5% 30-day abstinence rate at 7-month follow-up). The FDA plans to identify modified-risk versus full-risk tobacco products. However, plans and studies that use the words "may be safer", "may be less dangerous" and other similar statements do not correlate to success in saving lives.

The Tobacco Prevention and Control Program recommends the seven FDA-approved medications for tobacco cessation: nicotine gum, nicotine patch, nicotine lozenge, nicotine nasal spray, nicotine inhaler, bupropion (Zyban), and varenicline (Chantix). These products have gone through the rigorous

FDA approval process for medication to prove effectiveness and safety. The FDA-approved tobacco cessation products are designed to help people through a gradual, "step down" process to quit tobacco for good, not switch to another device. The ENDS industry promotes ENDS as a cessation product, yet can only offer anecdotal data on success. Despite being in existence for over 10 years, no ENDS devices have been approved by the FDA as a cessation medication.

In the short time that ENDS have been in existence, we have seen increased nicotine addiction in youth, poisonings among youth and adults, and exploding devices. A new study released by the University of California, San Francisco relates ENDS use to increased risks of myocardial infarctions (heart attacks). It took medical science 40 years to identify the negative impact of cigarette smoking on populations. Without clear data to prove the safety of ENDS, it would be premature to promote these devices as a safe alternative to nicotine use.

Identifying ENDS as tobacco products as SB 2355 proposes will help public health prevention efforts by monitoring the sales volume of these products and allowing for a more comprehensive understanding of usage. For these reasons, we ask you to support passage of SB 2355.

Southwestern District
Health Unit



PublicHealth
Prevent. Promote. Protect.

227 16th Street W.
701-483-3760
www.swdhu.net

January 30, 2019

9am CT

Tax and Finance Committee for the 66th ND Legislative Assembly

Chairman Cook and members of the Tax and Finance Committee, hello, my name is Jennifer Schaeffer and I am a Nationally Certified Tobacco Treatment Specialist with the Southwestern District Health Unit, which covers the 8 counties in the southwest. Thank you so much for your time this morning.

I have worked with students and the youth of the eight southwest counties for 16 years. My goal is to educate youth from kindergarten to seniors in high school on the health effects, social effects and addiction that comes from using all forms of tobacco. I also see students in my office when they are addicted to nicotine from tobacco products, been given a Minor In Consumption of Tobacco, been given 6 weeks suspension due to using tobacco while in High School Sports, or are brought in from their concerned parents. The youth I'm seeing and guiding through the quit process in the last 2 years are addicted to the liquid nicotine, the JUUL pods and vaping products similar to both of these. These students tell me they are using 1-2 pods a day with vaping, which is equivalent to 2 packs of cigarettes. They are using these right in school and at their homes with adults not knowing it. The children coming to my office don't understand that vaping and liquid nicotine are very addictive. Youth are becoming addicted

1/30 8B 2355 # 11 pg. 2

faster on these products than I have seen on any other tobacco product. Nicotine can harm the adolescent brain development, which continues into the mid 20's. Research suggests it can prime the brain's reward system, putting them at a greater risk for addiction to other drugs. It is imperative that this bill passes to protect our kids and the next generation from a life of addiction.

Flavored tobacco products are making it easier for our kids to use tobacco, masking the harshness of the products, and the high levels of nicotine. Young students who would not normally try traditional tobacco products that smell and taste like a cigarette or can of chew, said they would try flavored products like the JUUL, the Sourin Drop , the Smok Badge, Grizzley, Copenhagen, Swisher Sweets to name just a few. Because of the cool looking devices that these tobacco products come in, kids are enticed to use these. With flavors that contain flavors such as 'Cotton Candy', Bubble Gum, Gummy Bears, Tropical Fusion & Peach, can be put into these devices, and contain nicotine are direct marketing to our children.

It is important to keep these products out of the hands of the next generation of kids, and to keep them from getting addicted.

The youngest child caught vaping in our region was a kindergartner on the playground.

Let's end the epidemic as our FDA Commissioner stated and help our youth.

Again, thank you for this time in front of you, Chairman Cook and the Committee. It is much appreciated.

May I take any questions?

1/30 8B 2355 # 11 pg. 3

Jennifer Schaeffer

Tobacco Prevention Treatment Specialist, Southwestern District Health Unit

701-483-3760

jschaeffer@nd.gov



Public Health
Prevent. Promote. Protect.

Fargo Cass Public Health

1240 25th Street South
Fargo, ND 58103
701.476.4083

January 19, 2019
10:15 am CST
Senate Finance and Taxation Committee
for the 66th ND Legislative Assembly

Good morning, Chairman Cook and members of the Senate Finance and Taxation Committee. My name is Melissa Markegard. I am a Tobacco Prevention Coordinator at Fargo Cass Public Health. Thank you for your time this morning.

I am here today to provide education regarding SB 2355. Fargo Cass Public Health has provided tobacco prevention and control programs and resources for the residents of Fargo and Cass County since 2003. In recent years, we have seen an alarming trend in Cass County regarding tobacco use, including e-cigarettes, and the number of citations given to minors by our local School Resource Officers.

In Fargo, minors, ages 14-17 who are caught using or possessing tobacco or tobacco related products, including vaping products, are issued a citation. City of Fargo ordinance requires minors who receive this citation to attend the Tobacco Education Program, or TEP for short. TEP is a course offered at Fargo Cass Public Health in which we educate minors on nicotine addiction, quitting, why they started, and more recently, how e-cigarette use poses a significant and avoidable health risk.

In 2013, twenty tobacco citations to minors were reported to Fargo Cass Public Health. In 2018, just five years later, 64 citations were reported - TRIPLE the number of citations in just five short years. In those 5 years, one thing has changed – e-cigarettes. In 2018, sixty-four minors were caught – but we know that many more than 64 minors were using tobacco products in our high schools and middle schools.

E-cigarettes were created to be difficult to detect and identify – they were created to be discreet and easily hidden. With each TEP class taught, we as Tobacco Coordinators, professionals and “experts”, learn new information about e-cigarettes from the youth attending – new devices that are easier to conceal, new terms and words used and how youth view using these devices. With this information from the youth, we are learning that we need to do more to protect them.

Fargo Cass Public Health has another program called Break Away from Nicotine, which assists adults who are ready to quit their tobacco use. Clients of this program who have smoked for 30-40-50 years often say, “If I had known then what I know now, I never would have started.” SB 2355 attempts to keep tobacco and tobacco products (including e-cigarettes) out of the hands of youth by increasing the tax and classifying e-cigarettes as tobacco products. SB 2355 contains policy change that is proven to be highly effective in reducing tobacco initiation and use, especially among youth.

I hope the information I provided today helps everyone understand what we are seeing in Cass County, and how important it is to protect the health of our community. Chairman Cook and Committee members, thank you for the opportunity to provide this testimony. I would be happy to answer any questions at this time.

Melissa Markegard
Tobacco Prevention Coordinator, Fargo Cass Public Health
701.476.4083
MMarkegard@FargoND.gov

Senate Bill 2355
Finance and Taxation Committee
66th Legislative Assembly of North Dakota
January 25, 2019

Good morning Chairman Cook and Finance and Taxation Committee members,

My name is Joan Connell. As past-President of the North Dakota Chapter of the American Academy of Pediatrics, a local pediatrician, and a Mom of school age children, I am here to support the unified classification of nicotine-containing products as tobacco products, with a uniform sales tax percentage that is associated with these products.

My testimony, as a physician, may be useful, to help clarify the medical reasons that this makes sense. Sometimes people are confused that the dangers of nicotine disappear when you take it in a form that is not combustible. Recent ads from the vaping industry make these products seem like a godsend to those who use them. Unfortunately, this is clearly not the case. I have attached a link to a scientific article that describes the health consequences of nicotine, the ingredient that all of these products share in common.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4363846/>

You will note that the majority of the body's organ systems are adversely affected by this substance. I remember one of my medical school professors describing this mouse study where a portion of the mice were given nicotine containing water bottles next to regular bottles, with food located in a separate part of the maze. The mice exposed to nicotine ended up dying of starvation because they would not leave the nicotine water bottle, continuously drinking from it until they died. The point of the story was to drive home the intensity of nicotine addiction. The FDA has recently stated that all vaping products may need to be removed from the marketplace, due to the epidemic of use by school age kids. This number of kids, compounded by the fact that the vaping products- which are marketed to children- have a significantly higher percentage of nicotine that easily results in addiction after one use, will lead to a huge number of adults with all the health problems described in my attached article.

When considering applying a 28% tax to these products, one would expect two consequences. First, it has been proven that increasing the cost of tobacco products decreases their use. Second, this extra money collected in tax may in part go into the general fund, so that it can be used to support the numerous health care costs these users will have to care for all the disease processes described in the article.

My research also shows that this legislation that unifies nicotine-containing products under the common identity of "tobacco products" is supported by the The American Academy of Pediatrics, who in their policy statement published in 2011, defined tobacco products as "any nicotine delivery agent, currently regulated or unregulated by the US FDA, which is not approved for safe and effective tobacco dependence treatment."

In closing, Senate Bill 2355 will justly bundle nicotine-containing products into a group of products that are uniformly addictive and deleterious to one's health, so that those products will justly be associated with the same taxation. I would encourage any questions you may have about the medical or pharmacologic similarities of these products at this time. Thank you for considering my testimony.

50 8B 2355 # 13 pg. 2

Publication of the Indian Society of Medical and Paediatric Oncology

Indian Journal of
Medical and Paediatric OncologyHome
Current issue
Instructions
Submit article

Indian J Med Paediatr Oncol. 2015 Jan-Mar; 36(1): 24–31.

PMCID: PMC4363846

doi: 10.4103/0971-5851.151771: 10.4103/0971-5851.151771

PMID: [25810571](#)

Harmful effects of nicotine

[Aseem Mishra](#), [Pankaj Chaturvedi](#), [Sourav Datta](#), [Snita Sinukumar](#), [Poonam Joshi](#), and [Apurva Garg](#)

Department of Surgical Oncology, Head and Neck Services, Tata Memorial Hospital, Parel, Mumbai, Maharashtra, India

Address for correspondence: Dr. Pankaj Chaturvedi, Department of Surgical Oncology, Head and Neck Services, Tata Memorial Hospital, Dr. E. Borges Road, Parel, Mumbai - 400 012, Maharashtra, India. E-mail: chaturvedi.pankaj@gmail.com

Copyright : © Indian Journal of Medical and Paediatric Oncology

This is an open-access article distributed under the terms of the Creative Commons Attribution-Noncommercial-Share Alike 3.0 Unported, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Abstract

With the advent of nicotine replacement therapy, the consumption of the nicotine is on the rise. Nicotine is considered to be a safer alternative of tobacco. The IARC monograph has not included nicotine as a carcinogen. However there are various studies which show otherwise. We undertook this review to specifically evaluate the effects of nicotine on the various organ systems. A computer aided search of the Medline and PubMed database was done using a combination of the keywords. All the animal and human studies investigating only the role of nicotine were included. Nicotine poses several health hazards. There is an increased risk of cardiovascular, respiratory, gastrointestinal disorders. There is decreased immune response and it also poses ill impacts on the reproductive health. It affects the cell proliferation, oxidative stress, apoptosis, DNA mutation by various mechanisms which leads to cancer. It also affects the tumor proliferation and metastasis and causes resistance to chemo and radio therapeutic agents. The use of nicotine needs regulation. The sale of nicotine should be under supervision of trained medical personnel.

Keywords: *Addiction, cancer, cardiovascular, gastrointestinal, nicotine, respiratory*

INTRODUCTION

Tobacco is the leading cause of preventable cancers. WHO estimated around 1.27 billion tobacco users world-wide. Tobacco consumption alone accounts for nearly 5.4 million deaths per year and one billion people may die in this century if global tobacco consumption remained at the current levels.[1] An international treaty spearheaded by WHO in 2003 and signed by 170 countries, aims to encourage governments to reduce the production, sales, distribution advertisement and promotion of tobacco

1/30 8B 2355 # 13 pg. 3

products. Despite strong opposition from the Industry, the treaty has been making steady progress in achieving its goal of comprehensive tobacco control around the world.[2] As tobacco consumption is being curbed, there is a growing demand for cessation. Pharmacological treatment of nicotine addiction remains an active area of research. There are many nicotine preparations (nicotine gums, patches, e cigarettes and inhalational agents) that are freely available in most parts of the world. These products are being heavily promoted and marketed as magical remedies. Nicotine gums are available in 2 mg and 4 mg preparation that deliver around 1 mg and 3 mg nicotine to the blood stream respectively. E-cigarette, a sophisticated nicotine delivery device, delivers nicotine in a vapor form and it closely mimics the act of smoking. Currently, these products constitute approximately 1% of total nicotine consumption and are showing an increasing trend in most countries.[3]

Nicotine is well known to have serious systemic side effects in addition to being highly addictive. It adversely affects the heart, reproductive system, lung, kidney etc. Many studies have consistently demonstrated its carcinogenic potential. [Table 1] The only other known use of nicotine has been as an insecticide since 17th century.[4] After World War II, its use has declined owing to the availability of cheaper, more potent pesticides that are less harmful to mammals. The environment Protection Agency of United States has banned use of nicotine as a pesticide from 1st January 2014.[4] India, one of the largest producer and exporter of nicotine sulphate, has progressively banned its use as agricultural pesticide.[5] We undertook this review to evaluate the systemic adverse effects of nicotine.

MATERIALS AND METHODS

A computer aided search of the Medline and PubMed databases was done using different combination of the keywords “nicotine,” “chemical composition,” “history,” “metabolism,” “addiction,” “cancer,” “toxic,” “endocrine system,” “cardiovascular system,” “respiratory system,” “lung carcinogenesis,” “gastrointestinal system,” “immune system,” “ocular,” “cataract,” “central nervous system,” “renal system,” “reproductive system,” “menstrual cycle,” “oocytes,” “foetus,”. Initial search buildup was done using “Nicotine/adverse effects” [Mesh], which showed 3436 articles. Articles were analyzed and 90 relevant articles were included in the review. All the animal and human studies that investigated the role of nicotine on organ systems were analyzed. Studies that evaluated tobacco use and smoking were excluded. All possible physiological effects were considered for this review. We did not exclude studies that reported beneficial effects of nicotine. The objective was to look at the effects of nicotine without confounding effects of other toxins and carcinogens present in tobacco or tobacco smoke.

CHEMICAL PROPERTIES AND METABOLISM

Nicotine was first extracted from tobacco by German physicians Wilhelm Heinrich Posselt and Karl Ludwig Reimann. Nicotine, a strong alkaloid, in its pure form is a clear liquid with a characteristic odour. It turns brown on exposure to air. It is water soluble and separates preferentially from organic solvents. It is an amine composed of pyridine and pyrrolidine rings.

Nicotine is a dibasic compound and the availability and absorption in human body depends upon the pH of the solution.[7] The absorption can occur through oral mucosa, lungs, skin or gut.[6] The increase in pH of a solution causes an increase in concentrations of uncharged lipophilic nicotine, in this form it can actively

30 88 2355 # 13 pg. 4

pass through all biological membranes.[7] The addition of slaked lime and catechu to tobacco increases the absorption of nicotine from the oral cavity.

Nicotine once ingested, is absorbed and metabolized by the liver. The metabolic process can be categorized into two phases. In phase I there is microsomal oxidation of the nicotine via multiple pathways.[8] This leads to formation of various metabolites like cotinine and nornicotine, demethyl cotinine, trans-3-hydroxy-cotinine and d-(3-pyridyl)-g-methylaminobutyric acid.[9,10] Thereafter in phase II there is N'-and O'-glucuronidation of the metabolites and excretion via urine, feces, bile, saliva, sweat etc.[11,12] 5-10% of elimination is by renal excretion of unchanged nicotine, however there is reabsorption from the bladder when the urinary pH is high.[14] There is evidence that nitrosation of nicotine *in vivo* could lead to formation of N-nitrosornicotine (NNN) and 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanone (NNK).[13] which are known to be highly carcinogenic. Inflammation in the oral cavity increases risk of endogenous nitrosation.

MECHANISM OF ACTION

Nicotine acts via 3 major mechanisms, producing physiological and pathological effects on a variety of organ systems.[15,16]

1. Ganglionic transmission.
2. Nicotinic acetylcholine receptors (nAChRs) on chromaffin cells via catecholamines.
3. Central nervous system (CNS) stimulation of nAChRs.

Brain imaging studies demonstrate that nicotine acutely increases activity in the prefrontal cortex and visual systems. There is release of a variety of neurotransmitters important in drug-induced reward. Nicotine also causes an increased oxidative stress and neuronal apoptosis, DNA damage, reactive oxygen species and lipid peroxide increase. nAChRs were originally thought to be limited to neuronal cells, however, studies have identified functional nAChRs in tissues outside the nervous system. Actions on nicotinic receptors produce a wide variety of acute and long-term effects on organ systems, cell multiplication and apoptosis, throughout the body.

IMMEDIATE EFFECTS AND TOXICITY

Nicotine on direct application in humans causes irritation and burning sensation in the mouth and throat, increased salivation, nausea, abdominal pain, vomiting and diarrhea.[17] Gastrointestinal effects are less severe but can occur even after cutaneous and respiratory exposure.[18] Predominant immediate effects as seen in animal studies and in humans consist of increase in pulse rate and blood pressure. Nicotine also causes an increase in plasma free fatty acids, hyperglycemia, and an increase in the level of catecholamines in the blood.[19,20] There is reduced coronary blood flow but an increased skeletal muscle blood flow.[20,22] The increased rate of respiration causes hypothermia, a hypercoagulable state, decreases skin temperature, and increases the blood viscosity.

Nicotine is one of the most toxic of all poisons and has a rapid onset of action. Apart from local actions, the target organs are the peripheral and central nervous systems. In severe poisoning, there are tremors, prostration, cyanosis, dyspnoea, convulsion, progression to collapse and coma. Even death may occur from

1/30 8B 2355 #13 pg. 5

paralysis of respiratory muscles and/or central respiratory failure with a LD50 in adults of around 30-60 mg of nicotine. In children the LD50 is around 10 mg.[23]

GREEN TOBACCO SICKNESS

This is an acute form of nicotine toxicity that is known to occur due to handling of green tobacco leaves, with symptoms lasting from 12 to 24 h. The acute symptoms include headache, nausea, vomiting, giddiness, loss of appetite, fatigue and tachyarrhythmias.[24] No significant mortality has been reported due to green tobacco sickness (GTS) but it significantly affects the health of workers in the tobacco industry.[25]

NICOTINE ADDICTION

Nicotine is one of the most addicting agent. The US surgeon general (2010) has concluded nicotine to be as addictive as cocaine or heroin. Nicotine interacts with the nicotinic acetyl choline receptors and stimulates the dopaminergic transmission.[26] This in turn stimulates the reward centre and is responsible for the mood elevation and apparent improvement in cognitive function.[27] With chronic stimulation by nicotine the GABAergic neurons are desensitized and thus lose their inhibitory effect on dopamine.[28] This in turn reinforces the addiction by inducing craving. This effect has been shown to affect the CYP2A6 gene and leads to heritable dependence to nicotine. Studies have shown the nicotine dependence to be transmitted maternally and grand maternally by epigenetic mechanism.[29]

EFFECTS ON METABOLISM

Nicotine causes catecholamine release and stimulates the autonomic system. There is increased glycogen synthesis due to α -adrenoceptor stimulation. This leads to reduction in the fasting blood glucose levels. It also causes lipolysis thus decreasing body weight. Nicotine affects insulin resistance and predisposes to metabolic syndrome. In an animal study prenatal exposure was toxic to pancreatic β -cell and leads to decreased B cell population, thus increasing the risk of diabetes.[30,31]

NICOTINE AND CANCER

The stimulation of nAChRs by nicotine has biologic effects on cells important for initiation and progression of cancer.[26] It activates signal transduction pathways directly through receptor-mediated events, allowing the survival of damaged epithelial cells. In addition, nicotine is a precursor of tobacco specific nitrosamines (TSNAs), through nitrosation in the oral cavity.[32,33] It is shown that nitrosation of nicotine could lead to formation of NNN and NNK. This effect of nicotine may be important because of its high concentration in tobacco and nicotine replacement products.[13] NNN and NNK are strongly carcinogenic.[34]

Nicotine forms arachidonic acid metabolites which cause increased cell division. Binding to Bcl-2 and action on vascular endothelial growth factor and cyclooxygenase-2 (COX-2) causes increased cancer proliferation and survival.[35,36] Promotion of tumor angiogenesis accelerates tumor growth which is mediated by β -adrenergic activation and stimulation of nAChRs.[35,37,28,39] Nicotine also suppresses

1/30 8B 2355 #13 pg.6

apoptosis by phosphorylation mediated extracellular signal regulated kinases of Bcl-2.[40,41] Recent studies show that nicotine, activates nuclear factor kappa B (NF-kB)-dependent survival of cancer cell and proliferation.[42]

In normal cells, nicotine can stimulate properties consistent with cell transformation and the early stages of cancer formation, such as increased cell proliferation, decreased cellular dependence on the extracellular matrix for survival, and decreased contact inhibition. Thus, the induced activation of nAChRs in lung and other tissues by nicotine can promote carcinogenesis by causing DNA mutations[26] Through its tumor promoter effects, it acts synergistically with other carcinogens from automobile exhausts or wood burning and potentially shorten the induction period of cancers[43] [Table 2].

LUNG CARCINOGENESIS

A study relates lung carcinogenesis by nicotine due to genetic variation in CYP2B6.[44] Its simultaneous exposure with hyperoxia has been found to induce cancer in hamsters.[45] Cotinine has been found to promote lung tumorigenesis by inhibiting anti-apoptotic pathway.[46] Nuclear translocation of ARB1 gene by nicotine has found in proliferation and progression of nonsmall-cell lung cancer. Several Studies have shown that nicotine has significant role in tumor progression and metastasis via CXCR4 and increased angiogenesis.[36,47] Carriers of the lung-cancer-susceptibility loci in their DNA extract more nicotine. Smokers carrying the gene CHRNA3 and CHRNA5 were found to extract more nicotine and cells were thus exposed to a higher internal dose of carcinogenic nicotine-derived nitrosamines.[48] Additionally modulation of the mitochondrial signaling pathway leads to resistance to the chemotherapeutic agents.[49]

GASTRO INTESTINAL CARCINOGENESIS

The carcinogenic role may be mediated by the MAPK/COX-2 pathways, α -7 nAChR and β -adrenergic receptor expression, and mi RNAs α -BTX antagonist.[50] Nicotine forms adducts with liver DNA which enhances its mutagenic potential.[49,51,52] activation of cell-surface receptors by nicotine stimulates downstream kinases that can mediate resistance to chemotherapy. It has been shown by the finding that smokers who continue to smoke during chemotherapy have a worse prognosis. Moreover they also have increased toxicity and lower efficacy of chemo therapeutic drugs.[53] Nicotine affects the periostin gene, α -7-nAChR and e-cadherin suppression which explains the mechanism of gastric cancer growth, invasion and metastasis.[54,55] Nicotine negatively impacts tumor biology by promoting angiogenesis, tumor invasion and increased risk of metastasis.[53]

PANCREATIC CANCER

Nicotine has been found to induce pancreatic adenocarcinoma in mice model, by stimulating the stress neurotransmitters.[56,57] In another study nicotine promoted the growth of nonsmall cell lung cancer and pancreatic cancer in a receptor dependent fashion. It also increased tumor metastasis, and resistance to gemcitabine induced apoptosis, causing chemoresistance.[58] The MUC-4 upregulation, NF-kB and GRP78 activation and Id1 expression by Src dependent manner are the probable mechanism leading to tumor growth, metastasis and chemotherapeutic drug resistance.[57,58]

BREAST CANCER

1/30 8B 2355 # 13 pg. 7

Nicotine causes $\alpha 9$ -nAChR-mediated cyclin D3 overexpression which might cause transformation of normal breast epithelial cells and induce cancer. Nicotine and cotinine has been found to be present in the breast fluid of lactating women.[59] Several studies have found that $\alpha 9$ -nAChR mediated mechanism leads to increased tumor growth, metastasis and tumor cells resistant to chemotherapeutic drugs in breast cancer. [59,60]

CARDIOVASCULAR SYSTEM

The acute hemodynamic effects of cigarette smoking or smokeless tobacco are mediated primarily by the sympathomimetic action. The intensity of its hemodynamic effect is greater with rapid nicotine delivery. [61] Nicotine causes catecholamine release both locally and systemically leading to an increase in heart rate, blood pressure and cardiac contractility. It reduces blood flow in cutaneous and coronary vessels; and increases blood flow in the skeletal muscles. Due to restricted myocardial oxygen delivery there is reduced cardiac work. In a study, chewing a low dose (4 mg) of nicotine gum by healthy nonsmokers blunted the increase in coronary blood flow that occurs with increased heart rate produced by cardiac pacing.[21] Thus, persistent stimulation by nicotine can contribute to Coronary Vascular Disease by producing acute myocardial ischemia. In the presence of coronary disease, myocardial dysfunction can be worsened. In a placebo-controlled experiment that produced transient ischemia in anesthetized dogs myocardial dysfunction was produced at doses, that did not alter heart rate, blood pressure, or blood flow or myocyte necrosis.[62]

Nicotine alters the structural and functional characteristics of vascular smooth muscle and endothelial cells.[63] It enhances release of the basic fibroblast growth factor and inhibits production of transforming growth factor- $\beta 1$. [64] These effects lead to increased DNA synthesis, mitogenic activity, endothelial proliferation and increases atherosclerotic plaque formation.[65] Neovascularization stimulated by nicotine can help progression of atherosclerotic plaques.[66] These effects lead to myointimal thickening and atherogenic and ischemic changes, increasing the incidence of hypertension and cardiovascular disorders. A study on dogs demonstrated the deleterious effects of nicotine on the heart.[67]

Nicotinic acetylcholine receptor's actions on vascular smooth muscle proliferation and plaque neovascularization increases the risk of peripheral arterial disorders. In a murine model of hind limb ischemia, short-term exposure to nicotine paradoxically increased capillary density and improved regional blood flow in the ischemic hind limb.[35] However, long-term exposure to nicotine for 16 weeks (about one-third of the life span of a mouse) before induction of ischemia obliterated angiogenic response to nicotine.[68]

RESPIRATORY SYSTEM

The effects of nicotine on respiratory system are twofold. One, directly by a local exposure of lungs to nicotine through smoking or inhaled nicotine, and second via a central nervous system mechanism. Nicotine plays a role in the development of emphysema in smokers, by decreasing elastin in the lung parenchyma and increasing the alveolar volume. Nicotine stimulates vagal reflex and parasympathetic ganglia and causes an increased airway resistance by causing bronchoconstriction.[69] Nicotine alters respiration through its effects on the CNS. The simultaneous effect of bronchoconstriction and apnea increases the tracheal tension and causes several respiratory disorders. In a study microinjection of nicotine

1/30 8B 2355 # 13 pg. 8

were administered to the prebotzinger complex and adjacent nuclei in the brain. The firing pattern of the brain signals and breathing pattern were monitored. There was an increased frequency of bursts and decreased amplitude and a shallow and rapid rhythm of respiration.[70]

GASTROINTESTINAL SYSTEM

Nicotine use has been associated with Gastro Esophageal Reflux Disorder (GERD) and peptic ulcer disease (PUD).[36,71] This effect is mediated by increased gastric acid, pepsinogen secretion and stimulatory effects on vasopressin. The action on the cyclo-oxygenase pathway also increases the risk of GERD and PUD.[72] Nicotine causes smooth muscle relaxation by action of endogenous nitric oxide as a nonadrenergic noncholinergic neurotransmitter.[73] The decrease in tone of the colon and gastric motility and reduced lower esophageal sphincteric pressure might be the reason of increased incidence of GERD. [74]

There is an increased incidence of treatment resistant *Helicobacter pylori* infection in smokers. It potentiates the effects of toxins of *H. pylori* by its action on the gastric parietal cells.[75] This effect could be due to histamine mediated response of nicotine.

IMMUNOLOGICAL SYSTEM

Nicotine has been known to be immunosuppressive through central and peripheral mechanisms. It impairs antigen and receptor mediated signal transduction in the lymphoid system leading to decreased immunological response. The T-cell population is reduced due to arrest of cell cycle. Even the macrophage response, which forms the first line defense against tuberculosis becomes dysfunctional and causes increased incidence of tuberculosis.[76] The migration of fibroblasts and inflammatory cells to the inflamed site is reduced. There is decreased epithelialization and cell adhesion and thus there is a delayed wound healing as well as increased risk of infection in nicotine exposed individuals.

The action on the hypothalamo-pituitary adrenal axis and autonomic nervous system stimulation via sympathetic and parasympathetic pathways affects the immune system. The adrenocorticotrophic hormone (ACTH) secretion pathway and corticotrophin release is affected and this causes immunosuppression.[77]

OCULAR SYSTEM

Nicotine promotes pathologic angiogenesis and retinal neovascularization in murine models. It causes age-related macular degeneration in mice.[78] In a clinical study, the most virulent form of age-related maculopathy was associated with retinal neovascularization that contributed to visual deterioration. Tobacco smokers are known to be at greater risk of age-related macular degeneration than are nonsmokers. [79] In animal model, spraguely Dawley rats with type 1 diabetes treated with nicotine, developed cataract. [80] Thus the synergetic relationship between nicotine and glucose metabolism exaggerating diabetes might cause accelerated cataract formation. There is synergistic relationship between nicotine and glucose metabolism which increases the risk of diabetes mellitus. This might cause accelerated cataract formation.

RENAL SYSTEM

30 88 2355 # 13 pg.9

Risk of chronic kidney disease in smokers is high. Cigarette smoking has been found to increase albumin excretion in urine, decrease glomerular filtration rate, causes increased incidence of renal artery stenosis and is associated with an increased mortality in patients with end-stage renal disease. The pathogenesis of renal effects is due to the action of nicotine via COX-2 isoform induction. The COX-2 isoforms causes increased glomerular inflammation, acute glomerulonephritis and ureteral obstruction.[81] There is impaired response of kidneys to the increased systemic blood pressure in smokers. This loss of renoprotective mechanism in smokers also leads to pathogenetic effects of nicotine on the renal system. [82]

REPRODUCTIVE SYSTEM – MALES

Nitrous oxide liberated from parasympathetic-nergic nerves plays a pivotal role in generating immediate penile vasodilatation and corpus cavernosum relaxation, and NO derived from endothelial cells contributes to maintaining penile erection. Nicotine causes impairment of NO synthesis. This may lead to loss of penile erections and erectile dysfunction.[83]

Various animal studies suggest that nicotine causes seminiferous tubules degeneration, disrupts the spermatogenesis and at cellular level, affect germ cell structure and function in males.[84] It decreases testosterone levels which is secondary to decreased production of StAR.[85] StAR is the protein which plays an important role in testosterone biosynthesis.

REPRODUCTIVE SYSTEM – FEMALE

Menstrual cycle

Nicotine by inhibiting the 21 hydroxylase causes hypoestrogenic state. It shunts the metabolites to formation of androgen. This leads to chronic anovulation and irregular menstrual cycles. Nicotine can predispose the endometrium to inappropriate cytokine production and irregular bleeding.[86] There is consistent evidence that increase in follicle-stimulating hormone levels and decreases in estrogen and progesterone that are associated with cigarette smoking in women, is atleast in part due to effects of nicotine on the endocrine system.[26]

Effect on oocytes

Nicotine affects the ovaries and alters the production of oocytes in various animal studies. Nicotine-treated oocytes appeared nonspherical with rough surface and torn and irregular zona-pellucida. Nicotine also caused disturbed oocyte maturation. There is a decreased blood flow to the oviducts and thus impaired fertilization.[87]

Peri-natal effects

Maternal smoking has always been known to have deleterious effects on the fetal outcome. There is an increased incidence of intrauterine growth restriction, still birth, miscarriages and mental retardation.[88] Various animal studies show retarded fetal growth and lower birth weight when treated perinatally with nicotine. The lower levels of ACTH and cortisol due to nicotine are probable reasons for the incidence of lower birth weight in the newborns.[89]

1/30 8B 2355 # 13 pg.10

Maternal as well as grand maternal smoking has been found to increase risk of pediatric asthma. Another serious and important effect is the transgenic transmission of the addictive pattern.[29]

CONCLUSION

Nicotine is the fundamental cause of addiction among tobacco users. Nicotine adversely affects many organs as shown in human and animal studies. Its biological effects are widespread and extend to all systems of the body including cardiovascular, respiratory, renal and reproductive systems. Nicotine has also been found to be carcinogenic in several studies. It promotes tumorigenesis by affecting cell proliferation, angiogenesis and apoptotic pathways. It causes resistance to the chemotherapeutic agents. Nicotine replacement therapy (NRT) is an effective adjunct in management of withdrawal symptoms and improves the success of cessation programs. Any substantive beneficial effect of nicotine on human body is yet to be proven. Nicotine should be used only under supervision of trained cessation personnel therefore its sale needs to be strictly regulated. Needless to say, that research for safer alternative to nicotine must be taken on priority.

Footnotes

Source of Support: Nil

Conflict of Interest: None declared.

REFERENCES

1. WHO Data. Tobacco Fact Sheet; No. 339. [Last accessed on 2015 Jan 29]. Available from: <http://www.who.int/mediacentre/factsheets/fs339/en> .
2. WHO Framework Convention on Tobacco Control. [Last accessed on 2014 Sep 27]. Available from: <http://www.who.int/fctc/about/en> .
3. Fagerström K. The nicotine market: An attempt to estimate the nicotine intake from various sources and the total nicotine consumption in some countries. *Nicotine Tob Res.* 2005;7:343–50. [PubMed: 16085502]
4. US Environmental Protection Agency. Nicotine: Product cancellation order. *Fed Regist.* 2009. [Last accessed 2014 Nov 01]. Available from: <http://www.epa.gov/fedrgstr/EPA-PEST/2009/June/Day-03/p12561.htm> .
5. APIB. Banned Pesticides. [Last updated on 2002 Mar 25; Last accessed on 2014 Sep 27]. Available from: http://megapib.nic.in/Int_pest_bannedPest.htm .
6. Langone JJ, Gjika HB, Van Vunakis H. Nicotine and its metabolites. Radioimmunoassays for nicotine and cotinine. *Biochemistry.* 1973;12:5025–30. [PubMed: 4761980]
7. Schievelbein H, Eberhardt R, Löschenkohl K, Rahlfs V, Bedall FK. Absorption of nicotine through the oral mucosa I. Measurement of nicotine concentration in the blood after application of nicotine and total particulate matter. *Inflamm Res.* 1973;3:254–8. [PubMed: 4776369]
8. Armitage AK, Turner DM. Absorption of nicotine in cigarette and cigar smoke through the oral mucosa. *Nature.* 1970;226:1231–2. [PubMed: 5422597]

1/30 SB 2355 #13 pg. 11

9. Sobkowiak R, Lesicki A. Absorption, metabolism and excretion of nicotine in humans. *Postepy Biochem.* 2013;59:33–44. [PubMed: 23821941]
10. Dempsey D, Tutka P, Jacob P, 3rd, Allen F, Schoedel K, Tyndale RF, et al. Nicotine metabolite ratio as an index of cytochrome P450 2A6 metabolic activity. *Clin Pharmacol Ther.* 2004;76:64–72. [PubMed: 15229465]
11. Nakajima M, Tanaka E, Kwon JT, Yokoi T. Characterization of nicotine and cotinine N-glucuronidations in human liver microsomes. *Drug Metab Dispos.* 2002;30:1484–90. [PubMed: 12433823]
12. Seaton MJ, Kyrematen GA, Vesell ES. Rates of excretion of cotinine, nicotine glucuronide, and 3-hydroxycotinine glucuronide in rat bile. *Drug Metab Dispos.* 1993;21:927–32. [PubMed: 7902257]
13. Stepanov I, Carmella SG, Briggs A, Hertsgaard L, Lindgren B, Hatsukami D, et al. Presence of the carcinogen N'-nitrosonornicotine in the urine of some users of oral nicotine replacement therapy products. *Cancer Res.* 2009;69:8236–40. [PMCID: PMC2783463] [PubMed: 19843845]
14. Borzelleca JF. Drug movement from the isolated urinary bladder of the rabbit. *Arch Int Pharmacodyn Ther.* 1965;154:40–50. [PubMed: 14346415]
15. Dani JA, Ji D, Zhou FM. Synaptic plasticity and nicotine addiction. *Neuron.* 2001;31:349–52. [PubMed: 11516393]
16. Jones S, Sudweeks S, Yakel JL. Nicotinic receptors in the brain: Correlating physiology with function. *Trends Neurosci.* 1999;22:555–61. [PubMed: 10542436]
17. Smith EW, Smith KA, Maibach HI, Andersson PO, Cleary G, Wilson D. The local side effects of transdermally absorbed nicotine. *Skin Pharmacol.* 1992;5:69–76. [PubMed: 1637561]
18. Sonnenberg A, Hüsmert N. Effect of nicotine on gastric mucosal blood flow and acid secretion. *Gut.* 1982;23:532–5. [PMCID: PMC1419697] [PubMed: 7076029]
19. Benowitz NL. Nicotine and smokeless tobacco. *CA Cancer J Clin.* 1988;38:244–7. [PubMed: 3135084]
20. Dani JA, Heinemann S. Molecular and cellular aspects of nicotine abuse. *Neuron.* 1996;16:905–8. [PubMed: 8630247]
21. Kaijser L, Berglund B. Effect of nicotine on coronary blood-flow in man. *Clin Physiol.* 1985;5:541–52. [PubMed: 4092414]
22. Jolma CD, Samson RA, Klewer SE, Donnerstein RL, Goldberg SJ. Acute cardiac effects of nicotine in healthy young adults. *Echocardiography.* 2002;19:443–8. [PubMed: 12356338]
23. Centre for Disease Control and Prevention. [Last accessed on 2014 Sep 27]. Available from: <http://www.cdc.gov/niosh/idlh/54115.html> .

30 SB 2355 #13 pg.12

24. Parikh JR, Gokani VN, Doctor PB, Kulkarni PK, Shah AR, Saiyed HN. Acute and chronic health effects due to green tobacco exposure in agricultural workers. *Am J Ind Med.* 2005;47:494–9. [PubMed: 15898093]
25. Weizenecker R, Deal WB. Tobacco cropper's sickness. *J Fla Med Assoc.* 1970;57:13–4. [PubMed: 5490388]
26. US Department of Health and Human Services. Mental Health. [Last accessed on 2014 Sep 27]. Available from: <http://www.samhsa.gov/data/2k12/MHUS2010/MHUS-2010.pdf> .
27. Mansvelder HD, McGehee DS. Cellular and synaptic mechanisms of nicotine addiction. *J Neurobiol.* 2002;53:606–17. [PubMed: 12436424]
28. Vezina P, McGehee DS, Green WN. Exposure to nicotine and sensitization of nicotine-induced behaviors. *Prog Neuropsychopharmacol Biol Psychiatry.* 2007;31:1625–38. [PMCID: PMC2139894] [PubMed: 17936462]
29. Leslie FM. Multigenerational epigenetic effects of nicotine on lung function. *BMC Med.* 2013;11:27. [PMCID: PMC3585797] [PubMed: 23379695]
30. Bruin JE, Kellenberger LD, Gerstein HC, Morrison KM, Holloway AC. Fetal and neonatal nicotine exposure and postnatal glucose homeostasis: Identifying critical windows of exposure. *J Endocrinol.* 2007;194:171–8. [PubMed: 17592031]
31. Somm E, Schwitzgebel VM, Vauthay DM, Camm EJ, Chen CY, Giacobino JP, et al. Prenatal nicotine exposure alters early pancreatic islet and adipose tissue development with consequences on the control of body weight and glucose metabolism later in life. *Endocrinology.* 2008;149:6289–99. [PubMed: 18687784]
32. IARC Working Group on the Evaluation of Carcinogenic Risks to Humans. Tobacco smoke and involuntary smoking. *IARC Monogr Eval Carcinog Risks Hum.* 2004;83:1–1438. [PMCID: PMC4781536] [PubMed: 15285078]
33. Hoffmann D, Adams JD. Carcinogenic tobacco-specific N-nitrosamines in snuff and in the saliva of snuff dippers. *Cancer Res.* 1981;41(11 Pt 1):4305–8. [PubMed: 7198005]
34. International Agency for Research on Cancer. Tobacco smoke and involuntary smoking. *IARC Monogr Eval Carcinog Risk Hum.* 2007;89:455–7.
35. Heeschen C, Jang JJ, Weis M, Pathak A, Kaji S, Hu RS, et al. Nicotine stimulates angiogenesis and promotes tumor growth and atherosclerosis. *Nat Med.* 2001;7:833–9. [PubMed: 11433349]
36. Shin VY, Wu WK, Chu KM, Wong HP, Lam EK, Tai EK, et al. Nicotine induces cyclooxygenase-2 and vascular endothelial growth factor receptor-2 in association with tumor-associated invasion and angiogenesis in gastric cancer. *Mol Cancer Res.* 2005;3:607–15. [PubMed: 16317086]
37. Natori T, Sata M, Washida M, Hirata Y, Nagai R, Makuuchi M. Nicotine enhances neovascularization and promotes tumor growth. *Mol Cells.* 2003;16:143–6. [PubMed: 14651253]

30 8B 2355 # 13 pg. 13

38. Wong HP, Yu L, Lam EK, Tai EK, Wu WK, Cho CH. Nicotine promotes colon tumor growth and angiogenesis through beta-adrenergic activation. *Toxicol Sci.* 2007;97:279–87. [PubMed: 17369603]
39. Zhu BQ, Heesch C, Sievers RE, Karliner JS, Parmley WW, Glantz SA, et al. Second hand smoke stimulates tumor angiogenesis and growth. *Cancer Cell.* 2003;4:191–6. [PubMed: 14522253]
40. Heusch WL, Maneckjee R. Signalling pathways involved in nicotine regulation of apoptosis of human lung cancer cells. *Carcinogenesis.* 1998;19:551–6. [PubMed: 9600337]
41. Mai H, May WS, Gao F, Jin Z, Deng X. A functional role for nicotine in Bcl2 phosphorylation and suppression of apoptosis. *J Biol Chem.* 2003;278:1886–91. [PubMed: 12421819]
42. Tsurutani J, Castillo SS, Brognard J, Granville CA, Zhang C, Gills JJ, et al. Tobacco components stimulate Akt-dependent proliferation and NFkappaB-dependent survival in lung cancer cells. *Carcinogenesis.* 2005;26:1182–95. [PubMed: 15790591]
43. Slotkin TA, Seidler FJ, Spindel ER. Prenatal nicotine exposure in rhesus monkeys compromises development of brainstem and cardiac monoamine pathways involved in perinatal adaptation and sudden infant death syndrome: Amelioration by vitamin C. *Neurotoxicol Teratol.* 2011;33:431–4. [PMCID: PMC3109087] [PubMed: 21320590]
44. Wassenaar CA, Dong Q, Amos CI, Spitz MR, Tyndale RF. Pilot study of CYP2B6 genetic variation to explore the contribution of nitrosamine activation to lung carcinogenesis. *Int J Mol Sci.* 2013;14:8381–92. [PMCID: PMC3645749] [PubMed: 23591849]
45. Schuller HM, McGavin MD, Orloff M, Riechert A, Porter B. Simultaneous exposure to nicotine and hyperoxia causes tumors in hamsters. *Lab Invest.* 1995;73:448–56. [PubMed: 7564279]
46. Nakada T, Kiyotani K, Iwano S, Uno T, Yokohira M, Yamakawa K, et al. Lung tumorigenesis promoted by anti-apoptotic effects of cotinine, a nicotine metabolite through activation of PI3K/Akt pathway. *J Toxicol Sci.* 2012;37:555–63. [PubMed: 22687995]
47. Improgo MR, Soll LG, Tapper AR, Gardner PD. Nicotinic acetylcholine receptors mediate lung cancer growth. *Front Physiol.* 2013;4:251. [PMCID: PMC3774984] [PubMed: 24062692]
48. Le Marchand L, Derby KS, Murphy SE, Hecht SS, Hatsukami D, Carmella SG, et al. Smokers with the CHRNA lung cancer-associated variants are exposed to higher levels of nicotine equivalents and a carcinogenic tobacco-specific nitrosamine. *Cancer Res.* 2008;68:9137–40. [PMCID: PMC2587068] [PubMed: 19010884]
49. Zhang D, Ma QY, Hu HT, Zhang M. β 2-adrenergic antagonists suppress pancreatic cancer cell invasion by inhibiting CREB, NFkB and AP-1. *Cancer Biol Ther.* 2010;10:19–29. [PubMed: 20424515]
50. Jensen K, Afroze S, Munshi MK, Guerrier M, Glaser SS. Mechanisms for nicotine in the development and progression of gastrointestinal cancers. *Transl Gastrointest Cancer.* 2012;1:81–87. [PMCID: PMC3371638] [PubMed: 22701817]

30 8B 2355 # 13 pg. 14

51. Pérez-Sayáns M, Somoza-Martín JM, Barros-Angueira F, Diz PG, Gándara Rey JM, García-García A. Beta-adrenergic receptors in cancer: Therapeutic implications. *Oncol Res.* 2010;19:45–54. [PubMed: 21141740]
52. Majidi M, Al-Wadei HA, Takahashi T, Schuller HM. Nongenomic beta estrogen receptors enhance beta1 adrenergic signaling induced by the nicotine-derived carcinogen 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanone in human small airway epithelial cells. *Cancer Res.* 2007;67:6863–71. [PubMed: 17638897]
53. Petros WP, Younis IR, Ford JN, Weed SA. Effects of tobacco smoking and nicotine on cancer treatment. *Pharmacotherapy.* 2012;32:920–31. [PMCID: PMC3499669] [PubMed: 23033231]
54. Liu Y, Liu BA. Enhanced proliferation, invasion, and epithelial-mesenchymal transition of nicotine-promoted gastric cancer by periostin. *World J Gastroenterol.* 2011;17:2674–80. [PMCID: PMC3110933] [PubMed: 21677839]
55. Lien YC, Wang W, Kuo LJ, Liu JJ, Wei PL, Ho YS, et al. Nicotine promotes cell migration through alpha7 nicotinic acetylcholine receptor in gastric cancer cells. *Ann Surg Oncol.* 2011;18:2671–9. [PubMed: 21347787]
56. Al-Wadei HA, Plummer HK, 3rd, Schuller HM. Nicotine stimulates pancreatic cancer xenografts by systemic increase in stress neurotransmitters and suppression of the inhibitory neurotransmitter gamma-aminobutyric acid. *Carcinogenesis.* 2009;30:506–11. [PMCID: PMC2722153] [PubMed: 19131543]
57. Crowley-Weber CL, Dvorakova K, Crowley C, Bernstein H, Bernstein C, Garewal H, et al. Nicotine increases oxidative stress, activates NF-kB and GRP78, induces apoptosis and sensitizes cells to genotoxic/xenobiotic stresses by a multiple stress inducer, deoxycholate: Relevance to colon carcinogenesis. *Chem Biol Interact.* 2003;145:53–66. [PubMed: 12606154]
58. Treviño JG, Pillai S, Kuniyal S, Singh S, Fulp WJ, Centeno BA, et al. Nicotine induces inhibitor of differentiation-1 in a Src-dependent pathway promoting metastasis and chemoresistance in pancreatic adenocarcinoma. *Neoplasia.* 2012;14:1102–14. [PMCID: PMC3540937] [PubMed: 23308043]
59. Chen CS, Lee CH, Hsieh CD, Ho CT, Pan MH, Huang CS, et al. Nicotine-induced human breast cancer cell proliferation attenuated by garcinol through down-regulation of the nicotinic receptor and cyclin D3 proteins. *Breast Cancer Res Treat.* 2011;125:73–87. [PubMed: 20229177]
60. Nishioka T, Kim HS, Luo LY, Huang Y, Guo J, Chen CY. Sensitization of epithelial growth factor receptors by nicotine exposure to promote breast cancer cell growth. *Breast Cancer Res.* 2011;13:R113. [PMCID: PMC3326555] [PubMed: 22085699]
61. Porchet HC, Benowitz NL, Sheiner LB, Copeland JR. Apparent tolerance to the acute effect of nicotine results in part from distribution kinetics. *J Clin Invest.* 1987;80:1466–71. [PMCID: PMC442405] [PubMed: 3680508]
62. Przyklenk K. Nicotine exacerbates postischemic contractile dysfunction of ‘stunned’ myocardium in the canine model. Possible role of free radicals. *Circulation.* 1994;89:1272–81. [PubMed: 8124816]

130 88 2355 # 13 pg. 15

63. Csonka E, Somogyi A, Augustin J, Haberbosch W, Schettler G, Jellinek H. The effect of nicotine on cultured cells of vascular origin. *Virchows Arch A Pathol Anat Histopathol*. 1985;407:441–7. [PubMed: 3931344]
64. Villablanca AC. Nicotine stimulates DNA synthesis and proliferation in vascular endothelial cells *in vitro*. *J Appl Physiol*. 1998;84:2089–98. [PubMed: 9609804]
65. Chalon S, Moreno H, Jr, Benowitz NL, Hoffman BB, Blaschke TF. Nicotine impairs endothelium-dependent dilatation in human veins *in vivo*. *Clin Pharmacol Ther*. 2000;67:391–7. [PubMed: 10801248]
66. Lee J, Cooke JP. The role of nicotine in the pathogenesis of atherosclerosis. *Atherosclerosis*. 2011;215:281–3. [PMCID: PMC3755365] [PubMed: 21345436]
67. Sridharan MR, Flowers NC, Hand RC, Hand JW, Horan LG. Effect of various regimens of chronic and acute nicotine exposure on myocardial infarct size in the dog. *Am J Cardiol*. 1985;55:1407–11. [PubMed: 3993579]
68. Konishi H, Wu J, Cooke JP. Chronic exposure to nicotine impairs cholinergic angiogenesis. *Vasc Med*. 2010;15:47–54. [PMCID: PMC3142172] [PubMed: 19778953]
69. Beck ER, Taylor RF, Lee LY, Frazier DT. Bronchoconstriction and apnea induced by cigarette smoke: Nicotine dose dependence. *Lung*. 1986;164:293–301. [PubMed: 3097432]
70. Jaiswal SJ, Pilarski JQ, Harrison CM, Fregosi RF. Developmental nicotine exposure alters AMPA neurotransmission in the hypoglossal motor nucleus and pre-Botzinger complex of neonatal rats. *J Neurosci*. 2013;33:2616–25. [PMCID: PMC4006565] [PubMed: 23392689]
71. Chu KM, Cho CH, Shin VY. Nicotine and gastrointestinal disorders: Its role in ulceration and cancer development. *Curr Pharm Des*. 2013;19:5–10. [PubMed: 22950507]
72. Ogle CW, Qiu BS, Cho CH. Nicotine and gastric ulcers in stress. *J Physiol Paris*. 1993;87:359–65. [PubMed: 8292987]
73. Irie K, Muraki T, Furukawa K, Nomoto T. L-NG-nitro-arginine inhibits nicotine-induced relaxation of isolated rat duodenum. *Eur J Pharmacol*. 1991;202:285–8. [PubMed: 1802747]
74. Kadakia SC, De La Baume HR, Shaffer RT. Effects of transdermal nicotine on lower esophageal sphincter and esophageal motility. *Dig Dis Sci*. 1996;41:2130–4. [PubMed: 8943963]
75. Endoh K, Leung FW. Effects of smoking and nicotine on the gastric mucosa: A review of clinical and experimental evidence. *Gastroenterology*. 1994;107:864–78. [PubMed: 7915701]
76. Geng Y, Savage SM, Johnson LJ, Seagrave J, Sopori ML. Effects of nicotine on the immune response. I. Chronic exposure to nicotine impairs antigen receptor-mediated signal transduction in lymphocytes. *Toxicol Appl Pharmacol*. 1995;135:268–78. [PubMed: 8545837]
77. Sopori ML, Kozak W, Savage SM, Geng Y, Soszynski D, Kluger MJ, et al. Effect of nicotine on the immune system: Possible regulation of immune responses by central and peripheral mechanisms. *Psychoneuroendocrinology*. 1998;23:189–204. [PubMed: 9621398]

30 8B 2355 # 13 pg. 16

78. Suñer IJ, Espinosa-Heidmann DG, Marin-Castano ME, Hernandez EP, Pereira-Simon S, Cousins SW. Nicotine increases size and severity of experimental choroidal neovascularization. *Invest Ophthalmol Vis Sci.* 2004;45:311–7. [PubMed: 14691189]
79. Seddon JM, Willett WC, Speizer FE, Hankinson SE. A prospective study of cigarette smoking and age-related macular degeneration in women. *JAMA.* 1996;276:1141–6. [PubMed: 8827966]
80. Tirgan N, Kulp GA, Gupta P, Boretsky A, Wiraszka TA, Godley B, et al. Nicotine exposure exacerbates development of cataracts in a type 1 diabetic rat model. *Exp Diabetes Res.* 2012;2012:349320. [PMCID: PMC3459283] [PubMed: 23049540]
81. Jaimes EA, Tian RX, Joshi MS, Raji L. Nicotine augments glomerular injury in a rat model of acute nephritis. *Am J Nephrol.* 2009;29:319–26. [PubMed: 18849602]
82. Halimi JM, Philippon C, Mimran A. Contrasting renal effects of nicotine in smokers and non-smokers. *Nephrol Dial Transplant.* 1998;13:940–4. [PubMed: 9568854]
83. Xie Y, Garban H, Ng C, Rajfer J, Gonzalez-Cadavid NF. Effect of long-term passive smoking on erectile function and penile nitric oxide synthase in the rat. *J Urol.* 1997;157:1121–6. [PubMed: 9072555]
84. Jana K, Samanta PK, De DK. Nicotine diminishes testicular gametogenesis, steroidogenesis, and steroidogenic acute regulatory protein expression in adult albino rats: Possible influence on pituitary gonadotropins and alteration of testicular antioxidant status. *Toxicol Sci.* 2010;116:647–59. [PubMed: 20498001]
85. Oyeyipo IP, Raji Y, Bolarinwa AF. Nicotine alters male reproductive hormones in male albino rats: The role of cessation. *J Hum Reprod Sci.* 2013;6:40–4. [PMCID: PMC3713576] [PubMed: 23869150]
86. Jin Z, Roomans GM. Effects of nicotine on the uterine epithelium studied by X-ray microanalysis. *J Submicrosc Cytol Pathol.* 1997;29:179–86. [PubMed: 9165711]
87. Hammer RE, Mitchell JA, Goldman H. *Cellular and Molecular Aspects of Implantation.* US: Springer; 1981. Effects of nicotine on conceptus cell proliferation and oviductal/uterine blood flow in the rat; pp. 439–42.
88. Chen M, Wang T, Liao ZX, Pan XL, Feng YH, Wang H. Nicotine-induced prenatal overexposure to maternal glucocorticoid and intrauterine growth retardation in rat. *Exp Toxicol Pathol.* 2007;59:245–51. [PubMed: 17881205]
89. Liu L, Liu F, Kou H, Zhang BJ, Xu D, Chen B, et al. Prenatal nicotine exposure induced a hypothalamic-pituitary-adrenal axis-associated neuroendocrine metabolic programmed alteration in intrauterine growth retardation offspring rats. *Toxicol Lett.* 2012;214:307–13. [PubMed: 22975262]

Figures and Tables

30 SB 2355 #13 pg. 17

Table 1

Studies showing nicotine as a carcinogen

Author	Model	System	References
Jensen <i>et al.</i> , 2012	Animal	Gastrointestinal	[50]
Schuller <i>et al.</i> , 1995	Animal	Lung cancer	[45]
Nakada <i>et al.</i> 2012	Human	Tumor promoter in lung cancer	[46]
Al-Wadei <i>et al.</i> , 2009	Mice	Pancreatic cancer	[56]
Treviño <i>et al.</i> , 2012	Animal	Pancreatic cancer	[58]
Crowley-Weber <i>et al.</i> , 2003	Human	Pancreatic cancer	[57]
Chen <i>et al.</i> , 2011	Human	Breast cancer	[59]
Wassenaar <i>et al.</i> , 2013	Human	Lung	[44]

$\frac{1}{30}$ 8B 2355 # 13 pg. 18

Table 2

Studies showing the role of nicotine as tumor promoter

Author	System	References
Chu <i>et al.</i> , 2013	Gastrointestinal tumor growth	[71]
Improgo <i>et al.</i> , 2013	Lung	[47]
Heusch and Maneckjee, 1998	Lung	[40]
Mai <i>et al.</i> , 2003	Lung	[41]
Shin <i>et al.</i> , 2005	Gastric	[36]
Heeschen <i>et al.</i> , 2001	Tumor growth and angiogenesis	[35]
Zhu <i>et al.</i> , 2003	Tumor angiogenesis and growth	[39]
Heusch and Maneckjee, 1998	Lung	[40]
Le Marchand <i>et al.</i> , 2008	Lung	[48]
Perez-Sayans <i>et al.</i> , 2010	GIT	[51]
Zhang <i>et al.</i> , 2010	GIT	[49]
Petros <i>et al.</i> , 2012	Chemoresistance	[53]
Trevino <i>et al.</i> , 2012	Tumor growth and chemoresistance	[90]

GIT – Gastrointestinal tract

Articles from Indian Journal of Medical and Paediatric Oncology : Official Journal of Indian Society of Medical & Paediatric Oncology are provided here courtesy of **Wolters Kluwer -- Medknow Publications**

**North Dakota Senate
Senate Finance and Taxation Committee
Regarding SB2355**

Testimony of Monte Williams

January 30, 2019

Mr. Chairman and Members of the Committee, thank you for the opportunity to speak today.

My name is Monte Williams, and I am offering testimony to the Committee today, on the behalf of Altria and its affiliates Philip Morris USA, John Middleton and US Smokeless Tobacco Company regarding SB 2355 and the impact it will have on North Dakota.

My comments and opinions are based on a 30-year career with the California State Board of Equalization. I have held the positions of Chief of Excise Taxes and Chief of Criminal Investigations during my tenure with the Board of Equalization. I have over 20 years of experience with tobacco tax administration and enforcement at the state level. I am a past chair of the FTA Tobacco Tax Section. Since leaving government 13 years ago, my practice has been almost exclusively dealing with tobacco issues.

Excise taxes are traditionally a consumption tax and typically based on a measuring unit of that item. For example, the excise tax on gasoline is measured by the gallon. It does not matter if it is premium or regular gasoline. The reason is the impact on the highway is no different if the vehicle is running on premium or regular.

This holds true for the excise tax on cigarettes, alcoholic beverages and since 2001 Moist Smokeless Tobacco. It was the right thing to do then and it is still the right tax system. The sales tax addresses the price differences of the items sold.

A unit-based tax system is better for several reasons:

- All like products are taxed at the same rate
- The administration is simpler for both the taxpayer and the state
- It takes the state out of the marketplace and does not pick winners and losers

1/30 SB 2355 # 14

pg. 2

On the other hand, an ad valorem system, such as one proposed here, the tax is based on the price. Sounds simple, but in reality, is not. Under an ad valorem system each product is taxed based on the wholesale price of the items. There are hundreds of sku's in the cigarette and tobacco products markets and many different price points.

For example, under both the current cigarette tax and MST tax law in North Dakota, the wholesaler only needs to know how many units are subject to tax and applies the rate. Under an ad valorem system, the wholesaler must use the price of each products and make sure it includes or does not include items under the definition of wholesale price.

This becomes even more complicated for any refunds.

Rather than just knowing the units times the rate as it is under the current system, under the ad valorem system both the wholesaler and the state must verify the price on which the tax was originally paid as prices do change.

In addition, an ad valorem tax will have an impact on the marketplace and consumer preferences. The ad valorem tax system will provide for different retail prices because it is based on the wholesale price and there are many price points. Under this proposal a pack of premium cigarettes will be taxed at \$1.34 and a pack of discount cigarettes will be taxed at \$0.88. That is why all 50 states apply a "unit" based method of taxation to cigarettes.

An ad valorem tax system can lead to marketing practices that reduce the states taxes. For example, under a buy one get one free promotion the state will only get half the taxes that the current system returns.

North Dakota currently has a good system for taxing tobacco products. Changing it will only lead to issues that

21 other states have moved away from. To move to an ad valorem system is, in my opinion, a step backwards. No state taxes cigarettes using an ad valorem methodology.

30 8B 2355
14 pg. 3

Thank you for your time and I will be happy to try to answer any questions.



Information provided by Altria Client Services Inc. on behalf of Philip Morris USA Inc., US Smokeless Tobacco Company and John Middleton
For more information, please visit Altria.com

1/30 SB 2355 #15 pg.1



O.K. Distributing Co., Inc.

P.O. Box 1252
522 14th Avenue West
Williston, ND 58802-1252
Phone: 701-572-9161
Fax: 701-572-9631
Email: kellyk@okdist.com

Tuesday January 29th, 2019

Senate Finance and Taxation Committee SB 2355

Mr. Chairman and members of the committee, my name is Kelly Kaiser I am from Williston and owner of O.K. Distributing. We are a cigarette and tobacco wholesaler that services Northwest North Dakota for 64 years. I employ over 30 people in Williston and am the 3rd generation owner of this company.

I am not in favor of this bill. Because of the following:

- This bill would increase the number of Native American smoke shops and tobacco outlets on Reservations and Indian trust lands and thousands of people will avoid the tax completely. Those operators on Reservation and Indian trust lands will be able to increase their profit dramatically while the State will increase revenue minimally.
- This is a huge tax increase. On most cigarettes the increase is over 200% on most chewing tobacco is over 35%. Small c-store owners do not need a tax increase like this. It will drive even more tobacco purchases to the reservations. It will impact their overall business substantially.
- This bill would start opening the door for individuals to transport tobacco from tribal non-taxed businesses to private individuals and businesses.
- The cigarette industry has different prices of each brand of cigarettes. No different from the beer and spirits industry. Marlboro (premium priced) for instance is a higher price while Eagle (value priced) is a much lower price. Currently, both are taxed the same. However, if this bill is enacted, the premium will be taxed more than the value priced. That increased separation will in fact drive consumers to trade down to the value priced cigarettes and a lower tax rate. Essential "flipping" the category. The same scenario is true with chewing tobacco, Copenhagen sales will decrease while lower priced brands will gain market share.
- The administration of this bill would be a huge headache. We have industry specific software and reports that would have to be rewritten at a tremendous cost to us because no other states tax cigarettes by wholesale cost according to our software vendor. I could not image all the new paperwork the tax department would have us fill out every month. As a small business owner, it would be a nightmare.
- Taxing e-cigs and vape products really doesn't make sense to me. These are a potentially risk reducing products when compared to combustible cigarettes and this bill would treat them the same as a normal cigarette. It seems counter productive to say, "we want you quit smoking, but if you switch to a vape product in an effort to quit, we still will tax you". With that logic, we should tax nicotine gum and patches.

This bill may seem to be an "easy" way to tax cigarettes and tobacco products but increasing the rate this dramatically at one time will change the landscape of tobacco purchasing perhaps not for the better. The results may surprise all of us.

North Dakota still has a great economy and increasing taxes on a specific group of citizens and business owners is not the right thing to do.

I would urge a "do not pass" on this bill.

Thank you very much for your time.

TESTIMONY FOR SB2355

Josh Brown
700 S. 9th St Bismarck, ND 58504
701-223-1212

Chairman Cook, and members of the Senate Finance and Taxation Committee,

My name is Josh Brown; I am a school resource officer. I am speaking on behalf of the Bismarck Police Dep. I am here to provide educational testimony for Senate Bill 2355.

As I said, I am a SRO with the BPD. My primary responsibility as a SRO is Legacy High School located in North Bismarck.

E cigarettes are a major problem for schools in the Bismarck area. At Legacy High School, we have students daily that are using e-cigarette devices,in school. We do our best to intercept and/or discourage the students, but there is only so much we can do. The restroom is one of the "hot spots", the other popular choice is to have a bunch of kids pile into a car, drive around, and either share an e-cigarette or each utilize their own.

I have had older students start their own business by offering e-cigarettes and refill packs to younger students at a marked up price. While I appreciate their entrepreneurial spirit this is an issue. I have seen videos of students on snapchat driving in a car that you cannot see out because of the thick layer of smoke caused by e-cigarettes. I have had cases where students were using "vaporizers" to inhale concentrated THC "wax", then switch out a part on the unit and then use it to ingest "e-cigarette juice".

When a student is caught having an e-cigarette, there is school consequence as well as police interaction. The e-cigarette is also seized from the student and destroyed. I have had students that I have caught multiple times, and they do not have a difficult time re-attaining an e-cigarette if they need one. The responses I normally get from students when they do get caught is "everyone is doing it", "they are using e-cigarettes to quit regular cigarettes", and many believe there are no health side effects from e-cigarettes.

I was a smoker for 25 years. I believe that e-cigarettes will be a bigger problem than cigarettes ever were. E-cigarettes allow you to inhale more "smoke", ingest a stronger concoction of product (juice which contains nicotine), taste better due to the VERY wide variety of flavors available, and come in high tech sometimes undetectable designs.

In my experience, the 9th and 10th graders are the students that utilize the e-cigarettes the most. The Juul is currently the most popular product. The jewel is a perfect design for kids to utilize. It appears as a USB device. All LHS students are issued a laptop computer so it would be expected they would have a USB thumb drive. We have had kids charging their JUULs while in class. At first the teachers didn't know what they were. Once they learned it was very eye opening how many we realized we had missed. The size of the JUUL also makes it very easy to conceal. Female students

place their JUULs into their under garments and male students into their underwear because they know they will not be searched that thoroughly by school staff.

In closing, I do realize there are many factors to this issue and 1 correction will not fix the entire problem. On the other hand, the more cost prohibitive these products are the more difficult it will be for kids to get them.

Thank you for this time in front of you, Chairman Cook and members of the Senate Finance and Tax Committee. It is very appreciated. I am here to answer any questions you may have.

TESTIMONY FOR SB2355

Brett Anderson 171
700 South 9th Street
701-223-1212

Chairman Cook, and members of the Senate Finance and Taxation Committee, my name is Brett Anderson; I am a School Resource Officer assigned to Bismarck High School. I am speaking on behalf of Bismarck Police Department. I am here to provide educational testimony for Senate Bill 2355.

I am seeing numerous students use vape pens/ Juuls / and e-cigarettes at school. The most common type of e-cig I see is the JUUL, followed by the vape pens and last e-cigs. The JUULs are very easy to conceal, and I have even cited kids for using the JUULs in the class room.

Other places students are using these products both in the school bathrooms, stairwells, and classrooms. Outside the school building students are using these products in the parking lots and inside their vehicles.

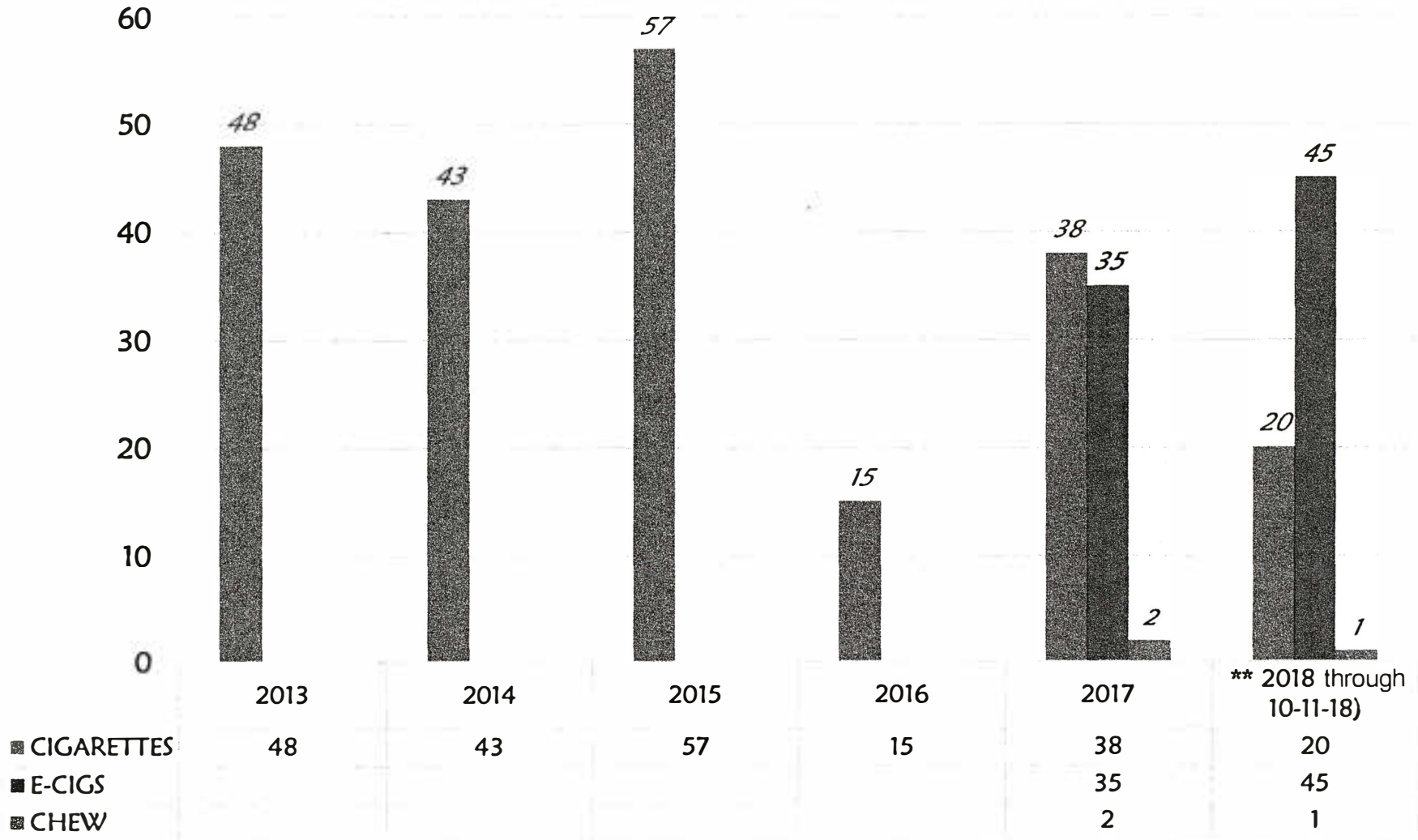
I have had to cite several students more than once for the use of the products. When I catch a student using an e-cigarette, vape, or JUUL I ask the student if they are addicted to the product. Most say no, but I will tell them that I have some material for services (North Dakota Quitline) that will help them. When they say no, I still tell them about the information.

Thank you for this time in front of you, Chairman Cook and members of the Senate Finance and Tax Committee. It is very appreciated. I am here to answer any questions you may have.

TOBACCO VIOLATION REPORTS TO SCHOOLS 2013 – 2018 (10-11-2018)

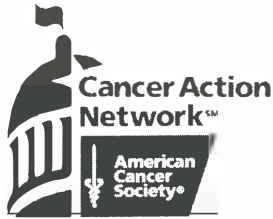
DATA SOURCE; DRUG AND ALCOHOL REPORTS TO SCHOOLS BY BISMARCK POLICE YOUTH BUREAU

1. CD 81
30 SB 2355 # 18pg. 1



2017 WAS THE FIRST YEAR THAT TOBACCO CITATIONS WERE SEPARATED INTO 3 CATEGORIES

1/30 SB 2355 # 19 pg. 1



American Cancer Society
Cancer Action Network
2401 46th Ave SE, Ste 102
Mandan, ND 58579
701.471.2859
www.fightcancer.org

**North Dakota SB 2355
Senate Finance and Taxation Committee
January 30, 2019
9:00 a.m. Lewis and Clark Room**

Good morning, Chairman Cook and members of the Committee, my name is Deb Knuth and I am the Government Relations Director for the North Dakota American Cancer Society Cancer Action Network.

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer including tobacco policies.

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the sponsors' good intentions on SB 2355. While we share your interest in delivering positive health outcomes to the people of North Dakota, we see this bill missing the mark in a couple respects, and for that reason we must oppose.

ACS CAN supports regular and significant increases in the excise tax on all tobacco products. However, ACS CAN opposes the change on how the excise tax is applied to cigarettes in this bill. North Dakota currently taxes cigarettes with a *specific* excise tax which is levied based on a fixed amount per cigarette. This bill changes the excise tax on cigarettes to an *ad valorem* excise tax which is levied based on value, or in this case at a percent of the wholesale price.

According to the U.S. National Cancer Institute and World Health Organization in "The Economics of Tobacco and Tobacco Control," *specific* taxation—which is to say, taxation on cigarettes *by the cigarette or by the pack* – better achieves public health objectives because it increases retail prices and narrows price gaps, thus reducing consumers' incentives to change from higher-priced to lower-priced brands or to other (non-cigarette) tobacco products.

Switching the cigarette tax to a percent of wholesale price can produce the unintended consequence of creating even larger price gaps between brands, resulting in a *de facto* category of very low-cost cigarettes that appeal to youth, and furthermore encouraging people who smoke cigarettes to simply switch to cheaper products rather than quit. Such an approach is sure to deliver diminished health outcomes over time.

Any future inflationary increases assessed on cigarettes that might result from the proposed price-based approach to taxing cigarettes in the bill would be (at best) pennies on the dollar. And we know from experience that tax increases of a few pennies per year do not deter youth tobacco use, and they don't encourage those who currently smoke to quit.

30 SB 2355 #19 pg. 2

Specific excise taxes are easy to administer and provide a more predictable revenue stream. Since 2002, 48 states and the District of Columbia have increased their cigarette tax rates 136 times, and all have applied a *specific* tax. Significant tobacco tax increases always produce substantial net new revenues. In every single instance where a state has passed a significant cigarette tax increase, the state has enjoyed a substantial increase to its state cigarette tax revenues, well above what they would have received absent any rate increase.

The weather has prevented me from traveling to the Capital. Thank you for allowing my testimony by email. Please contact me with any questions or concerns.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2355

Page 1, line 1, after "A Bill" replace the remainder of the bill with "for an Act to create and enact section 12.1-31-03.3 of the North Dakota Century Code, relating to ingredient labeling on liquid nicotine containers; to amend and reenact sections 57-36-01, 57-36-02, 57-36-04, 57-36-05, 57-36-09, 57-36-09.1, 57-36-24, 57-36-25, 57-36-26, 57-36-28, 57-36-29, 57-36-32, and 57-36-33 of the North Dakota Century Code, relating to the imposition of tax on liquid nicotine and an increase in the tobacco products tax rate for cigarettes; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 12.1-31-03.3 of the North Dakota Century Code is created and enacted as follows:

12.1-31-03.3. Liquid nicotine - Ingredient labeling requirement.

1. The packaging on any electronic smoking device containing liquid nicotine or liquid nicotine container sold at retail in this state must be labeled with each ingredient contained in the liquid nicotine and the total volume of the liquid or other substance containing nicotine.
2. For purposes of this section, "liquid nicotine" means a bottle or other container of a liquid or other substance containing nicotine in which the liquid or substance is sold, marketed, or intended for use in an electronic smoking device.
3. Any person that engages in retail sales of electronic smoking devices containing liquid nicotine or liquid nicotine containers that do not meet the ingredient and volume labeling requirements in this section is subject to a civil penalty of not more than five hundred dollars for each separate violation of this section, to be recovered by any enforcement authority designated by the city or political subdivision in which the violation occurred.

SECTION 2. AMENDMENT. Section 57-36-01 of the North Dakota Century Code is amended and reenacted as follows:

57-36-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

- "Chewing tobacco" means any leaf tobacco that is intended to be placed in the mouth.
- "Cigar" means any roll of tobacco wrapped in tobacco.

3. "Cigarette" means any roll for smoking made wholly or in part of tobacco or processed tobacco and encased in any material except tobacco.
"Cigarette" also means any product of a cigarette-making machine.
4. "Cigarette-making machine" means a machine used for commercial purposes to process tobacco into a roll or tube, formed or made from any material other than tobacco, at a production rate of more than five rolls or tubes per minute.
5. "Consumer" means any person who has title to or possession of cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products in storage, for use or other consumption in this state.
6. "Dealer" includes any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products, or any product of a cigarette-making machine.
7. "Distributor" includes any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers.
8. "Electronic smoking device" means a nonlighted, noncombustible device that employs a mechanical heating element, battery, or circuit, regardless of shape or size, to produce aerosolized or vaporized nicotine for inhalation into the body of an individual, including a device manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or any other similar product with any other product name or descriptor.
9. "Licensed dealer" means a dealer licensed under the provisions of this chapter.
- ~~9.10.~~ "Licensed distributor" means a distributor licensed under the provisions of this chapter.
- ~~10.11.~~ "Liquid nicotine" means any solution containing nicotine designed or sold for use with an electronic smoking device.
- ~~12.~~ "Other tobacco products" means snuff and chewing tobacco.
- ~~11.13.~~ "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability company, trust, or association however formed.
- ~~12.14.~~ "Pipe tobacco" means any processed tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.
- ~~13.15.~~ "Sale" or "sell" applies to gifts, exchanges, and barter.

- 14-16. "Snuff" means any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth.
- 15-17. "Storage" means any keeping or retention of cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products for use or consumption in this state.
- 16-18. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products.

SECTION 3. AMENDMENT. Section 57-36-02 of the North Dakota Century Code is amended and reenacted as follows:

57-36-02. Distributors and dealers to be licensed.

Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco in this state, including any distributor or dealer, must secure a license from the attorney general before engaging or continuing to engage in business. A separate application and license is required for each distributor at each outlet or place of business within the state, and a separate dealer's license is required for each retail outlet when a person owns or controls more than one place of business dealing in cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco. No retailer will be granted a distributor's license except a retailer who, in the usual course of business, performed a distributor's or wholesaler's function for at least one year prior to filing the license application. The application prescribed by the attorney general must include the name and address of the applicant, the address and place of business, the type of business, and other information as required for the proper administration of this chapter. Each application for a wholesale or distributor's outlet license must be accompanied by a fee of twenty-five dollars and a surety bond approved by the attorney general. Each application for a dealer's outlet license must be accompanied by a fee of fifteen dollars. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one licensee in any fiscal year. A distributor's license does not authorize the holder to make retail sales. Each license issued must be prominently displayed on the premises covered by the license.

SECTION 4. AMENDMENT. Section 57-36-04 of the North Dakota Century Code is amended and reenacted as follows:

57-36-04. Revocation of license - Penalty.

The attorney general may revoke the license of any dealer or distributor for failure to comply with any of the provisions of this chapter, or any of the rules or regulations prescribed by the tax commissioner or the attorney general. When a license has been legally revoked, no license may be issued again to the licensee for a period of one year thereafter. A person may not sell any cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco after that person's license has been revoked as provided in this chapter.

SECTION 5. AMENDMENT. Section 57-36-05 of the North Dakota Century Code is amended and reenacted as follows:

57-36-05. Unlawful to sell without license.

²
5 SB CSS #1 pg.4

A dealer or distributor may not sell cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco in this state at wholesale or at retail unless a license has been issued to that dealer or distributor as prescribed by this chapter, and a person may not sell, offer for sale, or possess with the intent to sell, any cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco without such license.

SECTION 6. AMENDMENT. Section 57-36-09 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09. Records to be kept by distributors and reports made - Penalty.

Distributors shall keep records and make reports relating to purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products made by them, and must be punished for failure so to do, as follows:

1. Each distributor who shall dispose of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products shall keep and preserve for one year all invoices of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products purchased by the distributor and shall permit the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner, to inspect and examine all taxable merchandise, invoices, receipts, books, papers, and memoranda as may be deemed necessary by the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner in determining the amount of the tax as may be yet due. Each person selling or otherwise disposing of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products as a distributor shall keep a record of all sales made within the state showing the name and address of the purchaser and the date of sale. For sales of other tobacco products, the records must also include the net weight in ounces, as listed by the manufacturer.
2. On or before the fifteenth day of each month, each licensed distributor, on such form as the state tax commissioner shall prescribe, shall report to the tax commissioner all purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products made from or to any persons either within or without this state during the preceding month. For sales of other tobacco products, each licensed distributor shall also report to the tax commissioner the net weight in ounces, as listed by the manufacturer. The tax levied by this chapter is payable monthly and must be remitted to the tax commissioner by each licensed distributor on or before the fifteenth day of the month following the monthly period.
3. Any person failing to file any prescribed form or return or to pay any tax within the time required or permitted by this section is subject to a penalty of five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

SECTION 7. AMENDMENT. Section 57-36-09.1 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09.1. Warehouse - Record of deliveries and shipments.

Records of all deliveries of shipments of cigarettes and snuff from a licensed public warehouse to persons within this state must be kept by the warehouse and be available to the tax commissioner for inspection. They must show the name and address of the consignee, the date, the quantity of cigarettes, snuff, cigars, liquid nicotine, or other tobacco products delivered, and such other information as the tax commissioner may require. These records must be preserved for one year from the date of delivery of the cigarettes, snuff, cigars, liquid nicotine, or other tobacco products.

SECTION 8. AMENDMENT. Section 57-36-24 of the North Dakota Century Code is amended and reenacted as follows:

57-36-24. Exemptions.

All gift cigarettes, snuff, cigars, liquid nicotine, and other tobacco products, not for resale, which are given to the North Dakota veterans' home or the North Dakota state hospital for distribution to the occupants thereof, are exempt from the excise taxes levied under this chapter.

SECTION 9. AMENDMENT. Section 57-36-25 of the North Dakota Century Code is amended and reenacted as follows:

57-36-25. Cigars and pipe tobacco - Excise tax on wholesale purchase price - ~~Other~~ Liquid nicotine and other tobacco products - Excise tax on weight - Penalty - Reports - Collection - Allocation of revenue.

1. There is hereby levied and assessed upon all cigars and pipe tobacco sold in this state an excise tax at the rate of twenty-eight percent of the wholesale purchase price at which ~~such~~the cigars and pipe tobacco are purchased by distributors. For the purposes of this section, the term "wholesale purchase price" ~~shall mean~~means the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction.
2. There is levied and assessed upon all liquid nicotine sold in this state an excise tax at the rate of ten cents per fluid milliliter on the volume of the liquid nicotine as listed by the manufacturer, and a proportionate rate on all fractional parts of a fluid milliliter of volume of liquid nicotine as listed by the manufacturer.
3. There is levied and assessed upon all other tobacco products sold in this state an excise tax at the following rates:
 - a. Upon each can or package of snuff, sixty cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.
 - b. On chewing tobacco, sixteen cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.

For purposes of this subsection, the tax on other tobacco products is computed based on the net weight as listed by the manufacturer.

- 3.4. The proceeds of the taxes imposed under this section, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the fifteenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with remittance shall be filed before the fifteenth day of the month following the month for which the returns are filed.
- 4.5. Any person failing to file any prescribed form or return or to pay any tax within the time required or permitted by this section is subject to a penalty of five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
- 5.6. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.

SECTION 10. AMENDMENT. Section 57-36-26 of the North Dakota Century Code is amended and reenacted as follows:

57-36-26. Cigars, pipe tobacco, liquid nicotine, and other tobacco products - Excise tax payable by dealers - Reports - Penalties - Collection - Allocation of revenue.

1. There is levied and assessed, upon all cigars and pipe tobacco purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of twenty-eight percent of the wholesale purchase price and, upon liquid nicotine and all other tobacco products purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rates indicated in section 57-36-25, at the time the products were brought into this state. For the purposes of this section, the term "wholesale purchase price" means the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction. However, the dealer may elect to report and remit the tax on the cost price of the products to the dealer rather than on the wholesale purchase price. The proceeds of the tax, together with the forms of return and in accordance with any rules and regulations the tax commissioner may prescribe, must be remitted to the tax commissioner by the dealer on a monthly basis on or before the fifteenth day of the month following the monthly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit that remittance period. In addition, the tax commissioner shall have the authority to permit the

consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.

2. If cigars, pipe tobacco, liquid nicotine, or other tobacco products have been subjected already to a tax by any other state in respect to their sale in an amount less than the tax imposed by this section, the provisions of this section apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in the other state is twenty percent of the wholesale purchase price or more, then no tax is due on the article. The provisions of this subsection apply only if the other state allows a tax credit with respect to the excise tax on cigars, pipe tobacco, liquid nicotine, or other tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.
3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section is subject to a penalty of five dollars or a sum equal to five percent of the tax due, whichever is greater, plus one percent of the tax for each month of delay or fraction thereof excepting the month within which the return was required to be filed or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
4. All moneys received by the tax commissioner under the provisions of this section must be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.

SECTION 11. AMENDMENT. Section 57-36-28 of the North Dakota Century Code is amended and reenacted as follows:

57-36-28. Consumer's use tax - Cigars, pipe tobacco, liquid nicotine, and other tobacco products - Reports - Remittances.

1. A tax is imposed upon the use or storage by consumers of cigars, pipe tobacco, liquid nicotine, and other tobacco products in this state, and upon those consumers, at the rates indicated in section 57-36-25.
2. This tax does not apply if the tax imposed by section 57-36-25 or 57-36-26 has been paid and it does not apply to cigars, pipe tobacco, liquid nicotine, or other tobacco products exempt under section 57-36-24.
3. On or before the tenth day of each calendar quarter, every consumer who, during the preceding calendar quarter, has acquired title to or possession of cigars, pipe tobacco, liquid nicotine, or other tobacco products for use or storage in this state, upon which products the tax imposed by either section 57-36-25 or 57-36-26 has not been paid, shall file a return with the tax commissioner showing the quantity of such products so acquired. For sales of other tobacco products, the return must also include the net weight in ounces, as listed by the manufacturer. The return must be made upon a form furnished and prescribed by the tax commissioner and must contain such other information as the tax commissioner may require. The

return must be accompanied by a remittance for the full unpaid tax liability shown by it.

4. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to the tax commissioner's best judgment and information.
5. If any consumer required to pay the tax levied by this section fails to file a return or remit the tax as required, the tax commissioner shall make an assessment of tax against the consumer according to the tax commissioner's best judgment and information.
6. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests, hearings, interest and penalties, and collections of taxes apply to consumers under this section.

SECTION 12. AMENDMENT. Section 57-36-29 of the North Dakota Century Code is amended and reenacted as follows:

57-36-29. Correction of errors.

1. If it appears that as a result of a mistake an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, then such amount becomes due under this chapter, and the amount must be credited or refunded to such person or firm by the tax commissioner.
2. Whenever a distributor destroys cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products accidentally, or intentionally, because of staleness or other unfitness for sale, a credit or refund must be given to the wholesaler under the terms and conditions prescribed by the tax commissioner.

SECTION 13. AMENDMENT. Section 57-36-32 of the North Dakota Century Code is amended and reenacted as follows:

57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited.

There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~seventeen~~fifty-one mills on each cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, corporation, or limited liability company shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying the tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

SECTION 14. AMENDMENT. Section 57-36-33 of the North Dakota Century Code is amended and reenacted as follows:

57-36-33. Penalties for violation of chapter.

2/5 SB 2355 #1 pg.9

Except as otherwise provided in this chapter:

1. Any person who violates any provision of this chapter is guilty of a class A misdemeanor.
2. All cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products in the possession of the person who violates any provision of this chapter, or in the place of business of the person, may be confiscated by the tax commissioner as provided under section 57-36-14 and forfeited to the state. Any cigarette-making machine that is maintained or operated in violation of sections 57-36-05.3, 57-36-05.4, or 57-36-06.1 must be confiscated by the tax commissioner and forfeited to the state in accordance with chapter 29-31.1."

Renumber accordingly

February 1, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2355

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 12.1-31-03.3 of the North Dakota Century Code, relating to ingredient labeling on liquid nicotine containers; to amend and reenact sections 57-36-01, 57-36-02, 57-36-04, 57-36-05, 57-36-09, 57-36-09.1, 57-36-24, 57-36-25, 57-36-26, 57-36-28, 57-36-29, and 57-36-33 of the North Dakota Century Code, relating to the imposition of tax on liquid nicotine; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 12.1-31-03.3 of the North Dakota Century Code is created and enacted as follows:

12.1-31-03.3. Liquid nicotine - Ingredient labeling requirement.

1. The packaging on any electronic smoking device containing liquid nicotine or liquid nicotine container sold at retail in this state must be labeled with each ingredient contained in the liquid nicotine and the total volume of the liquid or other substance containing nicotine.
2. For purposes of this section, "liquid nicotine" means a bottle or other container of a liquid or other substance containing nicotine in which the liquid or substance is sold, marketed, or intended for use in an electronic smoking device.
3. Any person that engages in retail sales of electronic smoking devices containing liquid nicotine or liquid nicotine containers that do not meet the ingredient and volume labeling requirements in this section is subject to a civil penalty of not more than five hundred dollars for each separate violation of this section, to be recovered by any enforcement authority designated by the city or political subdivision in which the violation occurred.

SECTION 2. AMENDMENT. Section 57-36-01 of the North Dakota Century Code is amended and reenacted as follows:

57-36-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Chewing tobacco" means any leaf tobacco that is intended to be placed in the mouth.
2. "Cigar" means any roll of tobacco wrapped in tobacco.
3. "Cigarette" means any roll for smoking made wholly or in part of tobacco or processed tobacco and encased in any material except tobacco.
"Cigarette" also means any product of a cigarette-making machine.

4. "Cigarette-making machine" means a machine used for commercial purposes to process tobacco into a roll or tube, formed or made from any material other than tobacco, at a production rate of more than five rolls or tubes per minute.
5. "Consumer" means any person who has title to or possession of cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products in storage, for use or other consumption in this state.
6. "Dealer" includes any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products, or any product of a cigarette-making machine.
7. "Distributor" includes any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers.
8. "Electronic smoking device" means a nonlighted, noncombustible device that employs a mechanical heating element, battery, or circuit, regardless of shape or size, to produce aerosolized or vaporized nicotine for inhalation into the body of an individual, including a device manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or any other similar product with any other product name or descriptor.
9. "Licensed dealer" means a dealer licensed under the provisions of this chapter.
- ~~9.10.~~ "Licensed distributor" means a distributor licensed under the provisions of this chapter.
- ~~10.11.~~ "Liquid nicotine" means any solution containing nicotine designed or sold for use with an electronic smoking device.
- ~~12.~~ "Other tobacco products" means snuff and chewing tobacco.
- ~~11.13.~~ "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability company, trust, or association however formed.
- ~~12.14.~~ "Pipe tobacco" means any processed tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.
- ~~13.15.~~ "Sale" or "sell" applies to gifts, exchanges, and barter.
- ~~14.16.~~ "Snuff" means any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth.

45.17. "Storage" means any keeping or retention of cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products for use or consumption in this state.

46.18. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products.

SECTION 3. AMENDMENT. Section 57-36-02 of the North Dakota Century Code is amended and reenacted as follows:

57-36-02. Distributors and dealers to be licensed.

Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco in this state, including any distributor or dealer, must secure a license from the attorney general before engaging or continuing to engage in business. A separate application and license is required for each distributor at each outlet or place of business within the state, and a separate dealer's license is required for each retail outlet when a person owns or controls more than one place of business dealing in cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco. No retailer will be granted a distributor's license except a retailer who, in the usual course of business, performed a distributor's or wholesaler's function for at least one year prior to filing the license application. The application prescribed by the attorney general must include the name and address of the applicant, the address and place of business, the type of business, and other information as required for the proper administration of this chapter. Each application for a wholesale or distributor's outlet license must be accompanied by a fee of twenty-five dollars and a surety bond approved by the attorney general. Each application for a dealer's outlet license must be accompanied by a fee of fifteen dollars. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one licensee in any fiscal year. A distributor's license does not authorize the holder to make retail sales. Each license issued must be prominently displayed on the premises covered by the license.

SECTION 4. AMENDMENT. Section 57-36-04 of the North Dakota Century Code is amended and reenacted as follows:

57-36-04. Revocation of license - Penalty.

The attorney general may revoke the license of any dealer or distributor for failure to comply with any of the provisions of this chapter, or any of the rules or regulations prescribed by the tax commissioner or the attorney general. When a license has been legally revoked, no license may be issued again to the licensee for a period of one year thereafter. A person may not sell any cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco after that person's license has been revoked as provided in this chapter.

SECTION 5. AMENDMENT. Section 57-36-05 of the North Dakota Century Code is amended and reenacted as follows:

57-36-05. Unlawful to sell without license.

A dealer or distributor may not sell cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco in this state at wholesale or at retail unless a license has

been issued to that dealer or distributor as prescribed by this chapter, and a person may not sell, offer for sale, or possess with the intent to sell, any cigarettes, cigarette papers, snuff, cigars, liquid nicotine, or tobacco without such license.

SECTION 6. AMENDMENT. Section 57-36-09 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09. Records to be kept by distributors and reports made - Penalty.

Distributors shall keep records and make reports relating to purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products made by them, and must be punished for failure so to do, as follows:

1. Each distributor who shall dispose of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products shall keep and preserve for one year all invoices of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products purchased by the distributor and shall permit the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner, to inspect and examine all taxable merchandise, invoices, receipts, books, papers, and memoranda as may be deemed necessary by the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner in determining the amount of the tax as may be yet due. Each person selling or otherwise disposing of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products as a distributor shall keep a record of all sales made within the state showing the name and address of the purchaser and the date of sale. For sales of other tobacco products, the records must also include the net weight in ounces, as listed by the manufacturer.
2. On or before the fifteenth day of each month, each licensed distributor, on such form as the state tax commissioner shall prescribe, shall report to the tax commissioner all purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products made from or to any persons either within or without this state during the preceding month. For sales of other tobacco products, each licensed distributor shall also report to the tax commissioner the net weight in ounces, as listed by the manufacturer. The tax levied by this chapter is payable monthly and must be remitted to the tax commissioner by each licensed distributor on or before the fifteenth day of the month following the monthly period.
3. Any person failing to file any prescribed form or return or to pay any tax within the time required or permitted by this section is subject to a penalty of five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

SECTION 7. AMENDMENT. Section 57-36-09.1 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09.1. Warehouse - Record of deliveries and shipments.

Records of all deliveries of shipments of cigarettes and snuff from a licensed public warehouse to persons within this state must be kept by the warehouse and be available to the tax commissioner for inspection. They must show the name and address of the consignee, the date, the quantity of cigarettes, snuff, cigars, liquid nicotine, or other tobacco products delivered, and such other information as the tax commissioner may require. These records must be preserved for one year from the date of delivery of the cigarettes, snuff, cigars, liquid nicotine, or other tobacco products.

SECTION 8. AMENDMENT. Section 57-36-24 of the North Dakota Century Code is amended and reenacted as follows:

57-36-24. Exemptions.

All gift cigarettes, snuff, cigars, liquid nicotine, and other tobacco products, not for resale, which are given to the North Dakota veterans' home or the North Dakota state hospital for distribution to the occupants thereof, are exempt from the excise taxes levied under this chapter.

SECTION 9. AMENDMENT. Section 57-36-25 of the North Dakota Century Code is amended and reenacted as follows:

57-36-25. Cigars and pipe tobacco - Excise tax on wholesale purchase price - ~~Other~~ Liquid nicotine and other tobacco products - Excise tax on weight - Penalty - Reports - Collection - Allocation of revenue.

1. There is hereby levied and assessed upon all cigars and pipe tobacco sold in this state an excise tax at the rate of twenty-eight percent of the wholesale purchase price at which ~~such~~the cigars and pipe tobacco are purchased by distributors. For the purposes of this section, the term "wholesale purchase price" ~~shall mean~~means the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction.
2. There is levied and assessed upon all liquid nicotine sold in this state an excise tax at the rate of ten cents per fluid milliliter on the volume of the liquid nicotine as listed by the manufacturer, and a proportionate rate on all fractional parts of a fluid milliliter of volume of liquid nicotine as listed by the manufacturer.
3. There is levied and assessed upon all other tobacco products sold in this state an excise tax at the following rates:
 - a. Upon each can or package of snuff, sixty cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.
 - b. On chewing tobacco, sixteen cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.

For purposes of this subsection, the tax on other tobacco products is computed based on the net weight as listed by the manufacturer.

- 3.4. The proceeds of the taxes imposed under this section, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the fifteenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with remittance shall be filed before the fifteenth day of the month following the month for which the returns are filed.
- 4.5. Any person failing to file any prescribed form or return or to pay any tax within the time required or permitted by this section is subject to a penalty of five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
- 5.6. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.

SECTION 10. AMENDMENT. Section 57-36-26 of the North Dakota Century Code is amended and reenacted as follows:

57-36-26. Cigars, pipe tobacco, liquid nicotine, and other tobacco products - Excise tax payable by dealers - Reports - Penalties - Collection - Allocation of revenue.

1. There is levied and assessed, upon all cigars and pipe tobacco purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of twenty-eight percent of the wholesale purchase price and, upon liquid nicotine and all other tobacco products purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rates indicated in section 57-36-25, at the time the products were brought into this state. For the purposes of this section, the term "wholesale purchase price" means the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction. However, the dealer may elect to report and remit the tax on the cost price of the products to the dealer rather than on the wholesale purchase price. The proceeds of the tax, together with the forms of return and in accordance with any rules and regulations the tax commissioner may prescribe, must be remitted to the tax commissioner by the dealer on a monthly basis on or before the fifteenth day of the month following the monthly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit that remittance period. In addition, the tax commissioner shall have the authority to permit the consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.

2. If cigars, pipe tobacco, liquid nicotine, or other tobacco products have been subjected already to a tax by any other state in respect to their sale in an amount less than the tax imposed by this section, the provisions of this section apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in the other state is twenty percent of the wholesale purchase price or more, then no tax is due on the article. The provisions of this subsection apply only if the other state allows a tax credit with respect to the excise tax on cigars, pipe tobacco, liquid nicotine, or other tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.
3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section is subject to a penalty of five dollars or a sum equal to five percent of the tax due, whichever is greater, plus one percent of the tax for each month of delay or fraction thereof excepting the month within which the return was required to be filed or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
4. All moneys received by the tax commissioner under the provisions of this section must be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.

SECTION 11. AMENDMENT. Section 57-36-28 of the North Dakota Century Code is amended and reenacted as follows:

57-36-28. Consumer's use tax - Cigars, pipe tobacco, liquid nicotine, and other tobacco products - Reports - Remittances.

1. A tax is imposed upon the use or storage by consumers of cigars, pipe tobacco, liquid nicotine, and other tobacco products in this state, and upon those consumers, at the rates indicated in section 57-36-25.
2. This tax does not apply if the tax imposed by section 57-36-25 or 57-36-26 has been paid and it does not apply to cigars, pipe tobacco, liquid nicotine, or other tobacco products exempt under section 57-36-24.
3. On or before the tenth day of each calendar quarter, every consumer who, during the preceding calendar quarter, has acquired title to or possession of cigars, pipe tobacco, liquid nicotine, or other tobacco products for use or storage in this state, upon which products the tax imposed by either section 57-36-25 or 57-36-26 has not been paid, shall file a return with the tax commissioner showing the quantity of such products so acquired. For sales of other tobacco products, the return must also include the net weight in ounces, as listed by the manufacturer. The return must be made upon a form furnished and prescribed by the tax commissioner and must contain such other information as the tax commissioner may require. The return must be accompanied by a remittance for the full unpaid tax liability shown by it.

4. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to the tax commissioner's best judgment and information.
5. If any consumer required to pay the tax levied by this section fails to file a return or remit the tax as required, the tax commissioner shall make an assessment of tax against the consumer according to the tax commissioner's best judgment and information.
6. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests, hearings, interest and penalties, and collections of taxes apply to consumers under this section.

SECTION 12. AMENDMENT. Section 57-36-29 of the North Dakota Century Code is amended and reenacted as follows:

57-36-29. Correction of errors.

1. If it appears that as a result of a mistake an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, then such amount becomes due under this chapter, and the amount must be credited or refunded to such person or firm by the tax commissioner.
2. Whenever a distributor destroys cigarettes, cigars, pipe tobacco, liquid nicotine, or other tobacco products accidentally, or intentionally, because of staleness or other unfitness for sale, a credit or refund must be given to the wholesaler under the terms and conditions prescribed by the tax commissioner.

SECTION 13. AMENDMENT. Section 57-36-33 of the North Dakota Century Code is amended and reenacted as follows:

57-36-33. Penalties for violation of chapter.

Except as otherwise provided in this chapter:

1. Any person who violates any provision of this chapter is guilty of a class A misdemeanor.
2. All cigarettes, cigarette papers, cigars, pipe tobacco, liquid nicotine, or other tobacco products in the possession of the person who violates any provision of this chapter, or in the place of business of the person, may be confiscated by the tax commissioner as provided under section 57-36-14 and forfeited to the state. Any cigarette-making machine that is maintained or operated in violation of sections 57-36-05.3, 57-36-05.4, or 57-36-06.1 must be confiscated by the tax commissioner and forfeited to the state in accordance with chapter 29-31.1."

Renumber accordingly

19.1133.01002
Title.

Prepared by the Legislative Council staff for
Senator Bekkedahl
February 1, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2355

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the taxation of liquid nicotine and electronic smoking devices."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TAXATION OF LIQUID NICOTINE AND ELECTRONIC SMOKING DEVICES. During the 2019-20 interim, the legislative management shall consider studying the feasibility and desirability of applying an alternative or additional tax on liquid nicotine and electronic smoking devices. The study must include consideration of the current method of taxation applied to these products, the methods of taxation applied in other states, and the fiscal impact of applying an alternative or additional method of taxation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly

#1
SB 2355
3-12-19

House Finance and Taxation Committee
SB 2355
March 12, 2019

Chairman Headland, Committee members:

Good morning. My name is Senator Brad Bekkedahl and I am the prime sponsor of SB 2355. As introduced, SB 2355 sought to modernize North Dakota's approach to tobacco regulation by simplifying how the state classifies and taxes tobacco products. Rather than creating different definitions for each and every tobacco product, SB 2355 provided a single definition of a tobacco product and would have taxed all tobacco products equally and in a manner that would have remained responsive to any fluctuation in product cost or innovation in product design. More specifically, SB 2355 would have subjected **all** tobacco products – cigarettes, cigars, and electronic smoking devices alike – to the existing rate of 28% wholesale price. In doing so, SB 2355 would have treated all tobacco products equally and would have ended the practice of picking winners and losers based upon popularity or other industry-driven reasons. This simplified approach to taxing tobacco products would have ensured that North Dakota's tobacco taxes remained proportionate to the ever-increasing prices of tobacco products without having to revisit the issue of raising tax rates every single legislative session. Under SB 2355, a pack of cigarettes that has a wholesale cost of \$4.00 per pack would have been subjected to an excise tax of approximately \$1.12 – which is \$0.43 lower than South Dakota, \$0.58 lower than Montana, and \$1.88 lower than Minnesota.

After the Senate Finance and Taxation Committee heard testimony from the various stakeholders, the Committee felt that it would be best to direct this issue to an interim study for a determination as to the best approach to taxing electronic cigarettes and/or liquid nicotine. As a result, the Committee unanimously voted to amend SB 2355 to provide for an interim study of the taxation of liquid nicotine and electronic smoking devices, which must include consideration of the taxation methods applied in other states and the fiscal impacts of the various methods of taxing electronic smoking devices. Senate Bill 2355 passed the Senate with overwhelming support – 46 yeas; 1 nay.

As you will hear today from many people, due to the unregulated nature of electronic smoking devices and the alarming increase in use by minors, it is important that we as legislators carefully review our current approach to regulating tobacco products to ensure that we are doing so in a manner that is sensible, responsive to the tobacco industry's ever-changing products, and beneficial to the state and the health of its residents. Therefore, I respectfully urge this Committee to give SB 2355 a "Do Pass" recommendation and see that this legislative body pursues this important study during the upcoming interim.

#2
SB 2355
3-12-19
p. 1

Good morning Chairman Headland and members of the Committee. My name is Neil Charvat, and I am the Director of the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in support of Senate Bill 2355.

Tobacco prevention and control efforts in North Dakota focus on guidance provided by the Centers for Disease Prevention and Control (CDC) *Best Practices for Comprehensive Tobacco Control Programs* (Best Practices). Best Practices provides evidence-based interventions to prevent tobacco product use initiation, increase quitting tobacco use, and reduce exposure to secondhand smoke. Senate Bill 2355 provides the opportunity to study the designation of electronic smoking devices, or electronic nicotine delivery systems (ENDS), as a tobacco product. This designation would positively impact the ability to monitor ENDS data and specifically provide information on ENDS product initiation and usage patterns.

Nearly one in five high school students uses tobacco products. Additionally, adolescent use of ENDS (e-cigarettes/vaping devices) has significantly increased from 1.6 percent in 2011 to 19.1 percent in 2017 (ND Youth Risk Behavior Survey). JUUL, an ENDS device resembling a computer USB storage device, has taken over almost three-quarters of the ENDS market in just a few years. JUUL has caused widespread concern because of its popularity with youth. On September 12, 2018, the Food and Drug Administration (FDA) declared that youth use of ENDS has reached "nothing short of an epidemic proportion of growth."

Citing statistics regarding youth use of ENDS is difficult, since these devices are not classified as "tobacco products." SB 2355 would provide the opportunity to study the change of this classification from general merchandise to tobacco products. If this change occurred, it would require that retailers have a tobacco license to sell these products. Additional benefits would include:

- Helping retailers to justify checking identification for proof of age as they already do with other tobacco products.

- Assisting groups statewide with performing tobacco compliance checks in retailer establishments to include youth purchase attempts of ENDS with other tobacco products, such as cigarettes. With ENDS lacking this state-level designation, many compliance statutes are not possible for ENDS.
- Allowing closer monitoring of the amount of ENDS sales; thereby, assisting efforts to gather data regarding usage of these products.

Beyond youth initiation, there are concerns about the promotion of ENDS to adults as cessation (quitting) devices for cigarette smokers. The Tobacco Prevention and Control Program views ENDS as tobacco products, so using these products as a replacement for cigarettes is not quitting tobacco, but merely a substitution. There are health care advocates that embrace ENDS as a harm reduction product to help curb the thousands of deaths directly caused by cigarette use. They are so focused on this point, they are overlooking the bigger picture: ENDS are not proven to be a safe and effective tool for quitting smoking. The ENDS industry is making efforts to confuse the definition of "tobacco" products and "nicotine" products. According to the JUUL Labs website: "Nicotine is a stimulant that comes from the tobacco plant. We use highly purified/USP grade/pharmaceutical grade nicotine" and "No tobacco-based nicotine e-liquid product should be considered safe." There should be no confusion about the source of nicotine for these products.

The current FDA approved nicotine replacement therapy (NRT) products are designed to help people addicted to nicotine quit their addiction by gradually stepping down strength levels of nicotine. The difference between ENDS and NRT is that the NRT products have gone through rigorous FDA testing to prove safety and efficacy. Despite being in existence for over 10 years, no ENDS devices have been approved by the FDA as a cessation medication.

The FDA is investigating the possibility of approving other tobacco products as "modified risk" products, defined as something that can be used instead of cigarettes because they may cause less death and disease than cigarettes do. The tobacco industry, the ENDS industry, many health organizations and countries (such as the United Kingdom) have embraced this concept. Studies provided to support these efforts lack the current level of scientific

#2
SB 2355
3-12-19
p.3

proof to conclusively demonstrate the safety of these products. Vague studies and anecdotal evidence do not warrant embracing ENDS to save lives.

Switching from cigarettes to ENDS is merely changing the delivery method for nicotine addiction. New studies show that this is an actual trend. Our own tobacco cessation service, NDQuits, has a lower success rate for people to quit smoking who continue to use ENDS (33.2 percent vs. 22.5 percent 30-day abstinence rate at 7-month follow-up). The FDA has discussed plans to identify modified-risk versus full-risk tobacco products. However, plans and studies that use the words "may be safer," "may be less dangerous" and other similar statements do not correlate to success in saving lives. The FDA has effectively deferred comprehensive regulation of ENDS products until 2022.

In the short time that ENDS have been in existence, we have seen increased nicotine addiction in youth, poisonings among youth and adults, and exploding devices. A new study released by the University of California, San Francisco relates ENDS use to increased risks of myocardial infarctions (heart attacks). It took medical science 40 years to identify the negative impact of cigarette smoking on populations. Without clear data to prove the safety of ENDS, it would be premature to promote these devices as a safe alternative to nicotine use.

For these reasons, we ask you to support passage of SB 2355. This concludes my testimony. I am happy to answer any questions you may have.

#3
SB 2355
3-12-19
p. 1



American Cancer Society
Cancer Action Network
2401 46th Ave SE, Ste. 102, Mandan,
ND
701-471-2859
Deb.knuth@cancer.org

**House Finance and Taxation Committee
Tuesday, March 12, 2019
9:00 a.m.
Chairman Craig Headland
Ft. Totten Room
SB 2355**

My name is Deb Knuth and I am the Government Relations Director for the North Dakota American Cancer Society Cancer Action Network.

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer. ACS CAN strongly supports a legislative management study of the taxation of liquid nicotine and electronic smoking devices. We prefer the following:

Definitions for taxing e-cigarettes:

“Electronic smoking device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include any battery or battery charger when sold separately. In addition, electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

"Tobacco product" means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco product” also means electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, and substances used in electronic smoking devices, whether or not they contain nicotine. “Tobacco product” does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

ACS CAN supports efforts to classify E-Cigs as tobacco products. We also urge the Committee to review North Dakota’s entire approach to tobacco taxation since we have not increased the cigarette tax since

#3
SB2355
3-12-19
p.2

1993, and is currently only at \$.44, and E-Cigs are not currently taxed as tobacco and is being used by youth at epidemic levels.

Thank you for allowing me to testify. Are there any questions?



P.O. Box 3237
Bismarck, ND 58502
701-751-0229
www.tfnd.org

#4
SB 2355
3-12-19
p. 1

March 12, 2019

9:30 am CST

House Finance and Taxation Committee for the 66th ND Legislative Assembly

Chairman Headland, and members of the House Finance and Taxation Committee, hello, my name is Heather Austin and I am the Executive Director for Tobacco Free North Dakota. Thank you so much for your time this morning.

Today I am here to encourage a Do Pass on SB 2355, or the bill to enact a study of electronic nicotine delivery systems (ENDS). The mission of Tobacco Free North Dakota is to improve and protect the public health of all North Dakotans by reducing the serious health and economic consequences of tobacco use, the state's number one cause of preventable disease and death. TFND is excited to work with our Legislators to strengthen North Dakota tobacco prevention policy through Senate Bill 2355, which would allow us to figure out ways to make good policy decisions to prevent increased use of ENDS in North Dakota. We can begin to stem the tide in what the FDA is now calling an "epidemic" for our youth.

While we have much to learn about these new electronic smoking devices, the evidence is already clear that it is unsafe for young people to use e-cigarettes or any other product containing nicotine. As stated by the Surgeon General, "E-cigarette use poses a significant – and avoidable – health risk to young people in the United States. Besides increasing the possibility of addiction and long-term harm to brain development and respiratory health, e-cigarette use is associated with the use of other tobacco products that can do even more damage to the body."i.

I would also like to point out that the tobacco companies know that almost all new tobacco users begin their addiction as kids, in fact 90% of daily addicted users started by the age of 18. These unregulated and untaxed electronic products make it easier for beginners – primarily our kids – to try the product and ultimately become addicted. With electronic product use at epidemic levels for our youth, and with new products and flavors being introduced at a lightning pace, we can't risk waiting for national policy or for FDA regulations.

Again, thank you for this time in front of you, Chairman Headland, and the Committee. It is very appreciated. Please vote Do Pass on SB 2355.

#4
SB 2355
3-12-19
P 2

May I take any questions?

Heather Austin
Executive Director, Tobacco Free North Dakota
Cell: 701-527-2811
heather@tfnd.org
www.tfnd.org

i. HHS, Know the Risks: E-Cigarettes & Young People, accessed March 15, 2018 at <https://e-cigarettes.surgeongeneral.gov/knowtherisks.html>.

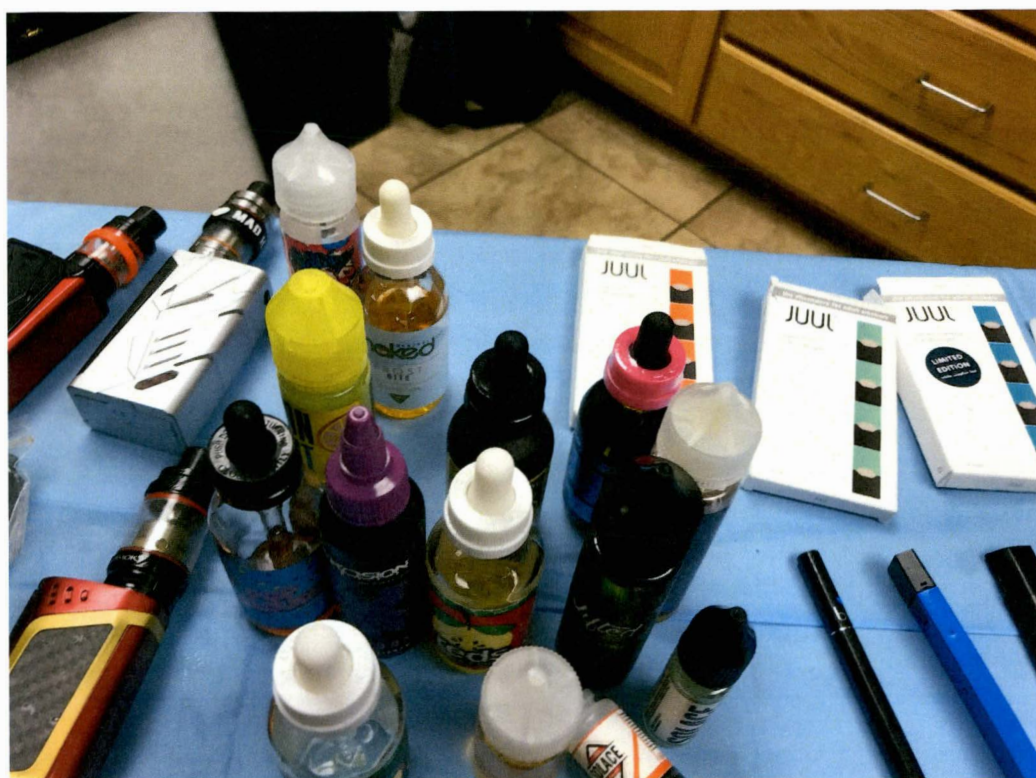


Photo of actual e-juices and electronic tobacco devices confiscated during the fall of the 2018-2019 school year at a North Dakota High School.

#4
SB 2355
3-12-19
p.3



Photos of the JUUL system – one of the most popular ways youth use electronic tobacco products. JUUL now accounts for nearly 70% of the market.

The Washington Post

Health

FDA unveils sweeping anti-tobacco effort to reduce underage vaping and smoking

#5
SB 2355
3-12-19
p.1

Agency targets e-cigarettes, flavored cigars and menthol cigarettes.

By Laurie McGinley and
Lenny Bernstein
November 15, 2018

The Food and Drug Administration on Thursday launched a multipronged attack on the rising underage use of tobacco products, imposing sales restrictions on flavored e-cigarettes and announcing plans to ban menthol cigarettes and flavored cigars.

The FDA says it will limit sales of many flavored e-cigarettes to bricks-and-mortar outlets that have either age-restricted entry or areas inside stores that are not accessible to people under 18. The agency also will require stepped-up age verification for online sales.

“Our aim is to make sure no kid can access a fruity flavor product in a convenience store,” FDA Commissioner Scott Gottlieb said. He added that stores that want to sell fruit-flavored e-cigarette products “need to age-restrict completely or have a separate room that is age-verified. A curtain or a partition won’t cut it.” Agency officials said they believe that vape and tobacco shops will not have trouble complying.

The new sales restrictions reflect health experts’ concerns that e-cigarette use could lead to nicotine addiction early in life and affect the developing adolescent brain and that some e-cigarette users will go on to smoke more dangerous regular cigarettes. The agency also said it will go after products marketed to children — through the use of cartoon characters, for example.

More significant than the e-cigarette steps are the FDA’s commitments to propose bans on menthol in cigarettes and cigars, as well as other flavors in cigars. Such prohibitions will require new regulations that could take years to go into effect and could be derailed by opposition from the cigarette industry. If successful, though, the bans could have an especially large impact on African American adults and youth, who smoke menthol cigarettes and flavored cigars at higher rates than other groups.

The tobacco blueprint was released by Gottlieb as the government published new data showing a surge in e-cigarette use among minors. The 2018 National Youth Tobacco Survey, by the FDA and the Centers for Disease Control and Prevention, found that vaping had increased 78 percent among high school students since last year and almost 48 percent among middle schoolers; 3.6 million youngsters reported vaping at least once in the previous 30 days.

Especially concerning to officials was a sharp rise in regular use. Almost 28 percent of high school vapers said they used e-cigarettes at least 20 days a month, and most used flavored products.

“The bottom line is this: I will not allow a generation of children to become addicted to nicotine through e-cigarettes,” Gottlieb said, while calling on companies to remove the affected products within 90 days from stores that children can enter and from online sites that don’t have adequate age-verification procedures. He said the new policy was designed to get to the “core” of the issue — flavored nicotine products, often in fruity, sweet and creamy flavors, that appeal to kids. The restrictions do not affect mint, menthol and tobacco flavored e-cigarette products.

The FDA’s moves on menthol cigarettes and flavored cigars drew widespread praise. But its actions on e-cigarettes were more controversial. Public health experts and Democratic lawmakers lauded the vaping moves as a first step but said they didn’t go far enough. For example, Sen. Richard Durbin (D-Ill.) said the agency was finally “moving in the right direction” on e-cigarettes but called on Gottlieb to immediately ban all kid-friendly flavors. Meanwhile, Sen. Ron Johnson (R-Wis.), endorsing the view

of many vaping advocates, said that the FDA effort could hurt adult smokers who use e-cigarettes to try to quit regular cigarettes.

"The proposal to prohibit the sale of menthol cigarettes and flavored cigars has the potential to have a greater impact on youth tobacco use and tobacco use among African Americans than any regulatory measure ever undertaken by the federal government," said Matt Myers, president of the Campaign for Tobacco-Free Kids. But, he said, the e-cigarette actions "fall short of what's needed." In particular, he said, he is worried that some convenience stores will continue to sell the flavored e-cigarettes "by creating an ineffective artificial barrier."

Robin Koval, chief executive of Truth Initiative, a tobacco-control group, also praised the planned menthol and cigar bans but said it was a mistake to exempt mint and menthol e-cigarettes from the planned sales restrictions, given that data shows those flavors are becoming increasingly popular among high schoolers. Public health groups want a ban on all flavored cigarettes, at least until manufacturers can prove the items benefit public health.

But Gottlieb insisted that the exclusion of mint and menthol reflected a "careful balancing" of concerns about youth and the needs of adult smokers using e-cigarettes to quite smoking. And he said he would consider restricting those exempted flavors if youth use didn't decline.

Lyle Beckwith, senior vice president of NACS, which represents convenience stores, said his group would review the proposal carefully but that "sound regulation should ensure that e-cigarettes are sold responsibly and that the market is a level playing field." He also said that any ban on menthol cigarettes would simply shift sales of those products to the black market.

The 2009 tobacco-control act banned all flavors in traditional cigarettes except menthol; the law left that to the FDA. Part of the reason that menthol was left out of the law was because of a split in the black community. For years, the tobacco industry has donated money to black interests such as the Congressional Black Caucus Foundation and marketed heavily to African Americans. But FDA, while long debating a menthol ban, never proposed one.

Black organizations applauded a menthol ban, noting that almost 90 percent of African American smokers choose menthols. "While we're saddened by the number of lives lost and new smokers addicted over the past decade, we're pleased that the FDA is moving in this direction," said Delmonte Jefferson, executive director of the National African American Tobacco Prevention Network. The statement also was signed by the National Urban League, the National Association for the Advancement of Colored People and other groups.

In a statement, the R.J. Reynolds Tobacco company, which makes the nation's best-selling menthol cigarette, Newport, said research does not support differing regulations for menthol and non-menthol cigarettes and hinted at the possibility of a lawsuit.

"Any regulation of menthol in cigarettes must be done through the established comprehensive rulemaking process and must be based on a thorough review of the science while considering the unintended consequences of any rule," the company said. "Failing to do so would mean any such action would not withstand judicial review."

Gottlieb, in pursuing his tobacco strategy, is taking some flak from fellow conservatives. "The administration promised less regulation — without sacrificing protections," said Jeff Stier, a senior fellow at the Consumer Choice Center. "So if the FDA fails to meet both objectives — by announcing a heavy-handed regulatory plan — President Trump should realize that the current leadership at the FDA is not equipped to implement the administration's policy agenda." But Gottlieb's boss, Health and Human Services Secretary Alex Azar signaled his support for the FDA in a statement.

The FDA's e-cigarette crackdown already has had an impact. Juul Labs, which accounts for more than 70 percent of e-cigarette retail sales and has been blamed by the FDA for much of the rise in underage use, announced this week that it would stop selling most of its flavored e-cigarette pods — specifically, mango, fruit, crème and cucumber — in 90,000 retail outlets, and enhance its online protections. The

#5
SB 2355
3-12-19
p. 2

The Washington Post

Health

Trump wants the e-cigarette industry to pay \$100 million a year in user fees

#5
SB 2355
3-12-19
p. 3

The fees, if approved by Congress, would pay for federal oversight.

By Laurie McGinley
March 11 at 4:38 PM

The e-cigarette industry would pay \$100 million a year in user fees under the Trump administration budget proposal released Monday. The funds would go to beefed-up regulatory oversight by the Food and Drug Administration.

E-cigarettes are not subject to such fees now, but several other types of tobacco products are, including cigarettes, cigars and snuff. The agency is expected to collect an estimated \$712 million in user fees in the current fiscal year, with cigarettes accounting for more than 86 percent of the amount.

President Trump's budget plan said the user-fee proposal for the e-cigarette industry "would ensure that FDA has the resources to address today's alarming rise in youth e-cigarette use as well as new public health threats of tomorrow."

Overall, the administration is asking for \$6.1 billion in FDA funding, a \$418.5 million boost over current law. A big chunk, \$2.8 billion, involves user fees from the drug, device and other industries, as well as the proposed e-cigarette fee. The budget request includes increases to promote medical-product innovation, food safety and blood-supply safety.

The FDA's Center for Tobacco Products is funded entirely by user fees. Extending the requirement to e-cigarettes would provide more resources as the agency tries to combat youth vaping and assesses the risks and benefits of e-cigarettes for adults.

The proposed fees on the e-cigarette industry would be imposed on manufacturers and importers of vaping devices and e-liquids. The change would have to be approved by Congress, administration officials said.

Liz Mair, a strategist for Vapers United, criticized the user-fee proposal. "This is a tax, not a 'user fee,'" she said. "'User fee' is lingo that Republicans and conservative Democrats use when they're about to hike taxes but don't want to admit that's what they're doing." She added that the government should pursue policies to keep vaping taxes low to encourage adult smokers to switch to e-cigarettes.

In a statement, FDA Commissioner Scott Gottlieb acknowledged e-cigarettes may be useful tool for adult smokers wanting to quit regular cigarettes, but said they must be put through "regulatory gates" to assess their risks and benefits. However, "no child should be using an e-cigarette," he said, because researchers still are investigating the long-term effects of e-cigarette use, such as whether vaping ingredients can harm the lungs.

Matthew Myers, president of Campaign for Tobacco-Free Kids, was cautious, noting that details on the proposal were sparse. "This is a potentially positive development," he said, "but it doesn't detract from the need for the FDA to take strong mandatory action to rein in the behavior and products that have caused the youth epidemic." He said the FDA should ban all flavored e-cigarettes and require the companies to curb their marketing.

Sen. Jeanne Shaheen (D-N.H.) welcomed the proposal, noting it was similar to legislation she recently introduced. "I hope to work with the administration as I rally bipartisan support for my legislation in Congress," she said.

Concerns at the FDA about youth vaping skyrocketed after federal data showed that e-cigarette use among high school students rose 78 percent between 2017 and 2018. Officials say they want to prevent a new generation of children from becoming addicted to nicotine, which they say raises the risk they will eventually smoke regular cigarettes.