

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

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Deanna Hall
Operator's Signature

10/2/03
Date

2003 HOUSE FINANCE AND TAXATION

HB 1174

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1174

House Finance and Taxation Committee

Conference Committee

Hearing Date January 14, 2003

Tape Number	Side A	Side B	Meter #
1		X	5.2

Committee Clerk Signature *Janice Stein*

Minutes:

REP. WESLEY BELTER, CHAIRMAN Called the hearing to order.

REP. MIKE GROSZ, DIST. 42, GRAND FORKS, Introduced the bill. See written testimony.

REP. IVERSON Asked whether Rep. Grosz was prepared to prohibit the sale of alcohol and other current illegal products which the government says causes health problems also.

REP. GROSZ Stated he did not look at alcohol, because in previous articles in the Bismarck Tribune, it actually stated that alcohol was actually good for you, if used in moderation.

REP. IVERSON You pointed out statistics where 1000 North Dakotans died, is there another greater killer out there, other than tobacco, that more North Dakotans die from each year?

REP. GROSZ Stated he had not looked into the stats on that, according to the ads on television, it seems like tobacco is the number one killer.

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House Finance and Taxation Committee

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Hearing Date January 14, 2003

REP. IVERSON Asked how this bill would deal with increased incarceration of individuals who will undoubtedly break this prohibition.

REP. GROSZ Stated, the penalties in the bill were misdemeanors. The judge could possibly, give a year of incarceration, but the fines may be the direct version of penalizing people.

REP. DROYDAL Congratulated Rep. Grosz for bringing up this subject.

He referred to the statistic of youth smoking of 35%, we currently prohibit youths from buying tobacco products, yet we are the highest in the nation. You also have Indian land, which is not subject to our laws, we have expressed concern before of purchasing tax-free tobacco from the reservations, is this going to drive those smokers to the tax-free purchases?

REP. GROSZ If you look at it from that point of loss, I can see where your point is coming from, however, if you look at the cost associated with this, and the economic impact it adds on our state with the three hundred fifty one million dollars in direct costs, I don't think they will go outside our state to purchase this, because the use is illegal. It can be enforced if you light up.

REP. DROYDAL If somebody lights up in their home and stands in front of the window, a cop could go in and arrest them?

REP. GROSZ I am not sure about the search and seizure laws.

TOM WOODMANSEE, PRESIDENT OF THE NORTH DAKOTA GROCERS

ASSOCIATION Testified in support of the bill. See written testimony.

MICK GROSZ, INDIVIDUAL REPRESENTING HIMSELF, HAZEN, ND Testified in support of the bill. He stated, during his stint in the legislature, he heard many concerns about tobacco products, the cost of tobacco. We were told many things. We were told education could solve the problem. They raised taxes on tobacco users, they entered into a multi-state

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lawsuit, and had a settlement from the tobacco users, to get money back for costs that the state spent on tobacco related illnesses. The state takes in about fifty million dollars per biennium, that is the fiscal note on it. The state is taking care of their costs, but the societal costs, which we pay as individuals, when our insurance premiums go up, and the cost of our groceries go up, everything goes up to pay for this three hundred and fifty million dollars. Maybe our employees don't show up, someone is paying that three hundred and fifty million dollars. As a legislature and officials, we have taken care of the state part of it, we have not taken care of the societal costs of it. Not too many years ago, we legalized gambling in North Dakota, and let it expand, I would ask any of you, have our societal costs gone down because we legalized gambling? Will our societal costs go down if we legalize drugs? I daresay that our societal problems will get a whole lot worse if we make heroin and meth legal. Why are we fighting meth so hard, why don't we just tax it and educate people, because we know it won't work. He stated, while he was a member of the Finance & Tax Committee, a health official testified that tobacco was more addictive than heroin, and yet we let it on the market. If we can tax it, it is better. As an individual, I would like help in reducing my costs, attributed by this product. If it saves one life, it would be worth passing this bill.

CAROL TWO EAGLES Testified stating certain religions required the use of tobacco during their religious practices. She suggested amendments to the bill so that there could be exemptions for religious reasons.

KATHLEEN MANGSKAU, TOBACCO PROGRAM ADMINISTRATOR, NORTH DAKOTA DEPARTMENT OF HEALTH. Testified in a neutral position. See written

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testimony.

REP. FROELICH Stated that there would be a loss of fifty million in tax revenue, if this bill passed, is there somewhere we can cut fifty million from the tax revenue?

KATHLEEN MANGSKAU Stated, at this point, it would be a decision for the legislature to make.

REP. BELTER We have been spending money on education and I have seen them spend a lot of money on the DARE program for drugs, and yet drug use throughout the United States does not seem to be going down, we are trying to do the same thing with tobacco, and now tobacco smoking among the young, has gone up. Where are we failing here?

KATHLEEN MANGSKAU Tobacco use in North Dakota is a significant problem, however, what we need to look at, is programs that have evidence base, that we know work. The DARE program, is not an evidence based program, cited by the Center of Disease Control, as being an effective method to promote quitting among youth. There are evidence based programs that we could put in place, that we know work. Those are the strategies, that we need to promote in our state. The number of youth that currently smoke, is about 35.3%, that is down from 41% set in 1999. We have seen a decrease of 6% between 1999 and 2001. We believe that directly attributable to the programs we are starting to put in place.

REP. GROSZ In your presentation, you stated that for every one dollar spent, three dollars are seen in health care costs, however, we still have three hundred and fifty one million dollars of health care costs, does the state have enough money to effectively, get that number down there, if it is a one to three match?

KATHLEEN MANGSKAU Currently, in North Dakota, we do not spend, for tobacco control

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what is recommended for comprehensive programs in this state. We cannot expect the results to be as significant as seen in other states, where they have spent what is recommended. We need to spend the amounts of money in this state for programs that we know will work. Currently, those programs are under funded in this state. We do not spend, even at the low amount recommended which is eight million annually, currently, we are only spending 3.5 million, annually.

REP. GROSZ Stated he understood using recommended programs to eliminate smoking, does that mean we have a big problem with marijuana, and other legal drugs, because we don't have the same approaches in place, because it is prohibited?

KATHLEEN MANGSKAU Tobacco use, has had extensive research, other areas of drug use haven't had the same level of research conducted as tobacco control. We know what works in tobacco control, we just have to put it in place.

KAREN ROMIG LARSON, DIRECTOR OF THE DIVISION OF MENTAL HEALTH & SUBSTANCE ABUSE SERVICES. Appeared to provide information. See written testimony.

REP. GROSZ How supportive do you think the federal agencies that do this stuff, of the programs, somewhat like I am introducing here, it seems to me this is what they want to get to, so they should be very supportive of it.

KAREN ROMIG LARSON Stated they have faxed a copy of the legislation, maybe when they have time to review it and analyze it, they will send out a response. I am not sure how long that will take. I am sure this is the first time, apparently no other state has legislation like this.

REP. SCHMIDT Asked how the state enforces the compliance law.

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KAREN ROMIG LARSON Stated they are given a method by which they have to do it. There must be attempts to make underage purchases. Every state has a target percent by which they are penalized to lose some of their money. Our target percent is 20%. If we sell more than 20% to minors, in a compliance check, the representative number of the tobacco retailers, we risk losing 40% of our block grant dollars. Those checks are done on a yearly basis.

REP. SCHMIDT Commented that a retail store in his area was being trapped. The state sends the young folks in, and luckily he didn't sell him tobacco, but the retailer was awfully upset. What is your feeling on that?

KAREN ROMIG LARSON We attempt very very hard to try to attempt to work with the retailers, we can't give them advance warning of the compliance checks coming, because of the methodology and acceptance by our federal granting agency, would disallow that. We do communicate with them as soon as possible, either thanking them for not selling tobacco, or seeing what we can do to work with them.

BRUCE LEVI EXECUTIVE DIRECTOR OF THE NORTH DAKOTA MEDICAL ASSOCIATION. Testified in opposition of the bill. See written testimony.

REP. GROSZ Related to the testimony, there are 15,000 youths that have died prematurely, due to smoke, and we are the number one state for teenage smoking, this is using the current methods of smoking control and prevention.

BRUCE LEVI If you look at the history in North Dakota, you are correct the numbers we have have gone down, but we are still the highest in terms of smoking. In North Dakota, we have just begun implementing our comprehensive approach. We have had lots of debates in the legislature

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regarding resources for implementing comprehensive programs. Whether it is the tobacco settlement dollars, of which now, only ten percent goes to health programs.

REP. CLARK Asked whether the North Dakota Medical Association is for smoking cigarettes or the sale of them.

BRUCE LEVI Stated we have to state what our goal is. Is the goal to prevent and reduce tobacco use. That will affect the death and disease and the costs associated with tobacco use. Or, is our goal simply to prohibit it. Our goal is to reduce and prevent tobacco use. Prohibition has not been shown to prevent tobacco use. That is the position we are taking. We need to support a science based approach to move forward with an effective tobacco policy.

REP. BELTER You made the statement that prohibiting tobacco is not proven, how do you know that, where is the test being done. There is no state that prohibits the sale of tobacco.

BRUCE LEVI It just boils down to the fact that it hasn't been tried. It hasn't been proven effective in light of what we know. What does work? Do we want to use North Dakota as a test case, driving those numbers and costs up. That is really the bottom line. I don't know why it hasn't been tried in other states.

REP. GROSZ On those same lines, is it a false assumption then, that marijuana, heroin, cocaine, and those drugs are prohibited, that program isn't effective, and shouldn't be tried. Should we legalize those and do the education and taxation approach on those, since it isn't proven effective?

BRUCE LEVI I am not an expert on those other areas, all I know, that in tobacco use, the science practiced in other states, is proven that you can reduce tobacco use. The ultimate goal

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being, to prevent and reduce tobacco use. Those other areas, will definitely be taking another approach.

REP. IVERSON Is the publicology of meth, cocaine and marijuana, different from tobacco?

BRUCE LEVI You are out of my league, I think there are others who can answer that.

PATTY LEWIS, NORTH DAKOTA HOSPITALITY ASSOCIATION. Testified in opposition of the bill. She stated the businesses whom she represents, really have to, every session, go in and fight smoking ordinances, tax increases, and it becomes very burdensome. We need to start looking at personal responsibility. It has been proven that obesity is just as harmful as smoking. Where are we going to draw the lines. Look at the lawsuit against McDonald's in New York City, on behalf of the diabetic and obese children. It is not stopping with tobacco, it will not stop with alcohol. When does personal responsibility start?

JUNE HERMAN, AMERICAN HEART ASSOCIATION Testified stating they concur with the North Dakota Medical Association.

SUSAN KAHLER, AMERICAN LUNG ASSOCIATION OF NORTH DAKOTA. Testified concurring with the North Dakota Medical Association.

REP. BELTER What you are saying is that, if we outlawed tobacco, there would be more smoking than there is now. You are making that assumption.

SUSAN KAHLER There is no science based proof behind it to prove that it would be effective. The stats were just released in May to do comprehensive programs. It is minimal, only three million, compared to eight million, other states have used. We haven't even begun.

REP. BELTER Don't you find a conflict in your testimony, I thinking of the example of marijuana, it is not allowed, and I don't know what percent of our youth uses marijuana, but it is

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certainly a lot smaller than those who use cigarettes. I can't believe that if marijuana were made illegal, that the amount of marijuana use would jump substantially.

SUSAN KAHLER What we go on, is what we have for science research. We didn't do a correlation of marijuana and other drug use, just on tobacco.

REP. DROYDAL What I got out of this testimony, of those opposing it, was in fact, that they thought smoking numbers would go up, maybe they thought smokers would get cigarettes over the internet or other outside resources, and that all of the existing programs would no longer be there to help smokers, is that summarizing the opposition?

SUSAN KAHLER The theory that Rep. Grosz has with this prohibition, is a wonderful idea, we all hope that would be there, but it has a lot of difficulty in it.

REP. GROSZ Apologized, stating he misunderstood something in her testimony, about fighting the tobacco problem in April.

SUSAN KAHLER Stated it was actually in May, the appropriation of that fund was 2.4 million, it has only gotten down to the local level.

REP. GROSZ However, there have been other programs involved previous to May, haven't there?

SUSAN KAHLER They have been minimally funded and minimally used.

KEITH JOHNSON, NORTH DAKOTA PUBLIC HEALTH ASSOCIATION Concurred with Bruce Levi's testimony. He stated he could hear the committee struggling with why are all of these people up here who want to eliminate tobacco, and then appear here saying, we don't want to eliminate tobacco. The fact is, we do want to eliminate tobacco. We did learn a bit of a lesson from prohibition of alcohol in the 30's. I had a couple of uncles who died from alcohol,

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when it was prohibited. The fact is, if we prohibit tobacco, Montana, Canada, South Dakota, Minnesota and many of the federal lands, will continue to sell. We will, perhaps, foster an industry in fast cars, I am not sure. The fact is, alcohol and tobacco are both very addictive. Tobacco probably more so than alcohol. The people who need it, will try to get it. The education programs you have heard, try to build community norms. They try to build the norm that alcohol and tobacco are not to be abused, and that tobacco is not to be used. Related to the example of drugs. Our children get the message that marijuana and meth are not to be used. Its use is still on the rise, even though we outlaw it, but not on the levels that tobacco is. Only very recently, have we started to think that using tobacco is not a normal thing. Until we, the older generation say, the use of tobacco is not O.K., it will continue to be used. That is the lesson we learned from alcohol prohibition. We need to foster programs that build community norms and make people make their own decision.

REP. GROSZ I believe this bill sends a message that smoking is not O.K. Would marijuana and meth and those drugs be less, if we legalized them?

KEITH JOHNSON I am not sure if they would be less if we legalized them, or if we prohibited them. If we prohibited them and Montana, South Dakota, Canada, & Minnesota all sold it, I suspect our efforts would be hampered. We have a prohibition on a substance, which society has not yet said it should be prohibited, and so, the support gets to be vague at the grass roots level.

REP. GROSZ Could this bill be a starting point at the grass roots, for the rest of the nation?

KEITH JOHNSON The bills that have worked in the past, are what we started last session, which was 2380. Those educational and norming bills, those bills that try to make people make

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Hearing Date January 14, 2003

their own decisions, have been the ones, nationwide, that have worked. They are probably the way we should continue. This is a very serious subject, as you are aware. Right now, there is a big accountability with the tobacco program. We are trying very hard to keep them science based. We would encourage that we would continue with that. That we fund those programs adequately, even perhaps, going a little bit into the common school trust fund and water project, which has been funded from the tobacco settlement fund already.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-15-03 Tape 1, Side A, Meter #1.0

REP. GROSZ Made a motion for a do pass.

REP. IVERSON Second the motion. **MOTION CARRIED.**

9 YES 4 NO 1 ABSENT

REP. WEILER Was given the floor assignment.

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1/14/03
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FISCAL NOTE
 Requested by Legislative Council
 01/02/2003

Bill/Resolution No.: HB 1174

1A. **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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$49,597,000)	(\$1,040,000)		
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
				(\$2,415,000)				

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

HB 1174, if enacted, would repeal the cigarette and tobacco products tax laws.

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.

The repeal of the tobacco taxes would reduced state general fund revenues by an estimated \$37,637,000 during the 2003-05 biennium. The cities would lose their share of the cigarette tax, which is estimated to be \$2,415,000 for the biennium. The loss in sales tax revenues from the sale of tobacco is estimated to be an additional \$11,960,000 in state general fund revenues and \$1,040,000 in state aid distribution fund revenues.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	01/10/2003

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Kathryn L. Strombeck
 Operator's Signature

1/2/03
 Date

Date: 1-15-03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1174

House FINANCE & TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Grosz Seconded By Rep. Iverson

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR		✓			
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND		✓			
IVERSON	✓				
KELSH	✓				
KLEIN		✓			
NICHOLAS	A				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH		✓			

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Weiler

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

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Dorinda G. Ball
Operator's Signature 1/2/03
Date

REPORT OF STANDING COMMITTEE (410)
January 15, 2003 10:26 a.m.

Module No: HR-07-0568
Carrier: Weller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1174: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1174 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-07-0568

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2003 TESTIMONY

HB 1174

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House Bill 1174

Thank you, Chairman Belter and members of the Finance and Taxation committee. My name is Rep. Mike Grosz from District 42 in Grand Forks. House Bill 1174 would prohibit the sale and use of tobacco products. The main purpose of this legislation is to save lives.

According to the Morbidity and Mortality Weekly Report, the Center of Disease Control and Prevention, and information provided to me by Kathy Mangskau of the North Dakota Department of Health, the state of North Dakota loses nearly 1,000 people every year to tobacco. This is the equivalent to losing the total population of my old hometown of Turtle Lake, plus Mercer and Goodrich each year. According to the same source approximately 440,000 United State's citizens die each year due to tobacco. If we are to accept these figures as fact, in less than a year and a half time period the United States will lose the equivalent of the population of the state of North Dakota.

In addition to the loss of life, the cost in money attributed to the use of tobacco by these same sources is tremendous. According to the Center of Disease Control and Prevention and the North Dakota Department of Health, every year, tobacco costs the people of North Dakota \$193 million in direct medical expenses and \$158 million in productivity for a total of \$351 million. According to the National Center for Tobacco-Free Kids, that equates to \$7.82 per pack of cigarettes in medical and productivity costs for the state of North Dakota. According to the same source, the national cost on average is as much as \$7.18 per pack. The state of North Dakota is projected to receive \$39.7 million of tobacco taxes during this biennium. The Governor's budget for the next biennium is projected to receive \$67 million of tobacco taxes. The tobacco settlement amount is based on national sales. Therefore, North Dakota's portion of the settlement will only be affected if national sales decrease dramatically.

The idea of prohibiting the use and sale of tobacco products has been described as a radical idea. Nothing could be further from the truth. When a manufacturer had problems with SUV tires, our government asked that the tires be taken off the market, and a recall was done to save lives. When tainted meat gets into the marketplace, our government recalls the product in order to save lives. However, with the tobacco problem our government, for the past numerous decades, decided to try a different approach. Our government decided not to ban or regulate the product that they claim kills people. The government decided instead to tax the product in order to try to curb the purchase of the product. They would then use the proceeds to educate people on why not to use the product. I believe that the taxing and educating approach for products that are claimed to kill people is the radical idea.

We have tried the taxing and educating approach to protect the people of North Dakota from tobacco. We continue to lose productive citizens of North Dakota utilizing this approach. One of the scariest statistics is that according to the Center of Disease Control and Prevention and the North Dakota Department of Health 35.3% of North Dakota teenagers have smoked. According to them we are the number one state in the nation for teenage smoking. The national average is 28.5%. The Department of Health and the national Truth advertisements have made a huge effort to educate and reduce teenage smoking. The education approach is obviously not working in North Dakota.

One argument I have heard is that we will continue to have medical costs without any tobacco revenue if this bill becomes law due to the illness of current smokers. However, studies have shown within 20 minutes of your last cigarette, blood pressure drops to normal, pulse rate drops to normal, and body temperature of your hands and feet increases to normal. After eight hours, carbon monoxide level in the blood drops to normal, and oxygen level in the blood

increases to normal. After twenty-four hours, the chance of a heart attack decreases considerably. After forty-eight hours, nerve endings start to re-grow, and the ability to taste and smell improves. After seventy-two hours, bronchial tubes relax, making breathing easier, and lung capacity increases. After two weeks to three months, circulation improves, walking becomes easier, and lung function increases up to 30%. After one to nine months, coughing, sinus congestion, fatigue, and shortness of breath decreases, cilia re-grows in the lungs, increasing ability to handle mucus, clean the lungs and reduce infection, and the body's overall energy level increases. If these studies are correct, the health of people who quit smoking will improve quickly. Besides, we will still receive tobacco settlement money to take care of the residual costs. Also, it seems like this concern becomes a catch 22 in that we need people to smoke to get tax monies to take care of current smokers and then a new batch of smokers to take care of them.

Another argument I have heard is this is prohibition, and it will create a black market. I am not naive enough to believe that some of this won't happen. However, should we not prohibit the sale and use of tobacco just because it may be difficult to enforce, and let nearly 1,000 North Dakotans needlessly die annually? We currently have a prohibition in effect for the sale and use of marijuana and other drugs. Marijuana and other illegal drugs kill far fewer people than tobacco does but we prohibit its sale and use. Prohibiting the sale and use of tobacco products in North Dakota, will probably not decrease the number of smokers by 100%, but will surely decrease the number of unnecessary deaths due to tobacco by a significant amount.

The reason I have introduced this bill is I feel we, as a Legislature, cannot sit back and allow 1,000 North Dakotans to die needlessly each year in exchange for approximately \$20 million of tax revenue. I do not believe the value of a North Dakotan's life is only worth

\$20,000. If what we are told by the U.S. Department of Health and Human Services, the CDC, the Morbidity and Mortality Weekly Report, the National Center for Tobacco-Free Kids, the Heart and Lung Associations and the ND Department of Health is true, it is not only offensive that we allow this product to remain available but probably criminal. If we do not pass this bill, we are saying it is okay to allow nearly 1,000 North Dakotans to die to get \$20 million into the state treasury.

Mr. Chairman, members of the Committee, I would ask that you give HB1174 a do pass recommendation

Thank you, Chairman Belter, and I would be happy to answer any questions.

Deanna Ballerich
Operator's Signature

10/2/03
Date

TESTIMONY ON HB # 1174

Chairman Belter and members of the House Finance and Tax Committee. The following are the comments made by Tom Woodmansee, President of the North Dakota Grocers Association regarding Representative Mike Grosz's bill #1174.

As President of NDGA, I would like to emphasize that our retailers **do not** and **will not** encourage or knowingly sell tobacco products to minors.

Our retailers continue to spend their dollars to train and re-train their employees on the proper procedures for proof of age. This can be expensive and time consuming, especially since many of our stores are open 24 hours a day. Age 18 may not be so bad, but the FDA requires a photo ID for those who appear under 27. This can and does cause some problems.

Our retailers are continually subject to under-cover stings by tobacco coalitions, (usually funded by state or federal grants) local law enforcement, fines and in some cases license suspension (ex. Bismarck, a possible \$1,000 fine.)

In your hand out, you will see where the local ordinances have gone from 1990 to 2001 (1 to 36). I ask you, who is carrying most of the burden on the smoking issue? The retailer!

Also in your hand out, is a copy of my testimony in 1997 before Senator Krebsbach's Government and Veterans Affairs Committee, at which time I suggested this same proposal. Which I might add, was rejected.

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10/2/03
Date

Currently in North, the State and Federal Government get .83 cents a pack, (.44 cents - North Dakota / .39 cents - Federal) or 25% of the purchase price.

Obviously, this revenue is substantial.

Should this bill pass, our problems go away, however other problems will arise.

I would hope that the anti tobacco coalitions around our state will step forward and support this bill, as vigorously as they have supported the different ordinances that have been placed on our retailers.

In closing, Mr. Chairman and members of Finance and Tax, the probability of this bill passing is remote, but I do encourage your support of H.B. #1174.

Thank you, and if there are any questions, I will attempt to answer them.

Tom Woodmansee

President, North Dakota Grocers Association

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Deanna Ballman
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10/2/03
Date

North Dakota
Local Tobacco Ordinance Provisions (36)
May 2001

Ordinance Provisions	1986-1991 (1)	1992-1993 (8)	1994-1995 (13)	1996-1997 (23)	1998-1999 (33)	2000-2001 (36)
Vending Machine Restrictions	Grand Forks	Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake	Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot Williston	Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot Williston Langdon West Fargo Wahpeton Turtle Mt.	Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot Williston Langdon West Fargo Wahpeton Turtle Mt. Harvey Hettinger Maddock	Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot Williston Langdon West Fargo Wahpeton Turtle Mt. Harvey Hettinger Maddock
Licensing	0	Jamestown	Jamestown Valley City Grand Forks Williston*	Jamestown Valley City Grand Forks Williston* Fargo* West Fargo* Minot Wahpeton Turtle Mt.	Jamestown Valley City Grand Forks Williston* Fargo* West Fargo* Minot Wahpeton Turtle Mt. Bismarck	Jamestown Valley City Grand Forks Williston* Fargo* West Fargo* Minot Wahpeton Turtle Mt. Bismarck Mandan
Self-Service Restrictions	0	0	0	Bismarck Langdon Wahpeton Devils Lake Turtle Mt.	Bismarck Langdon Wahpeton Devils Lake Turtle Mt. Minot Maddock	Bismarck Langdon Wahpeton Devils Lake Turtle Mt. Minot Maddock Valley City 2001 Minot
Clean Indoor Air	0	0	0	0	0	0

Source: North Dakota Department of Health, Tobacco Prevention & Control
* Authority to sell, not a tangible item

2002

ND RETAIL-PETROLEUM

03/28/02 THU 14:44 FAX 701 223 5004

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Doreen Hall
Operator's Signature

10/2/03
Date

Tom Woodmansee-President

North Dakota Grocers Association

PO Box 758 • Bismarck, North Dakota 58502 • Phone (701) 223-4106

TESTIMONY ON SB #2193

Chairman Krebsbach and members of the Senate Government and Veterans Affairs Committee: The following are the comments made by Tom Woodmansee, President of the North Dakota Grocers Association regarding S.B. #2193 at the committee hearing on January 30, 1997.

- ◆ As president of NDGA, I would like to emphasize that our retailers **do not, have not and will not** encourage or knowingly sell tobacco products to minors (under age 18). We do support the restriction on sales, but **do not** believe our retailers should carry the majority of the burden.
- ◆ As stated by a prior witness, the regulation by FDA requiring retailers to check a photo ID for anyone under 27, takes effect on February 28th 1997, unless stopped by a current court challenge.
- ◆ NDGA is greatly concerned about section 3 of the bill that basically will allow minors to act as undercover police under the jurisdiction of city, county or board of health.
- ◆ We have tried this approach with alcohol issues, but have not succeeded. We have tried similar solutions to restrict illegal drugs, that has not worked.

Madam Chairman and members of the committee, without being considered a wise-guy, maybe the committee should consider amending this bill to simply forbid the sale of all tobacco products in the State of North Dakota...this would eliminate retailer problems and satisfy the proponents of SB #2193.

In closing Madam Chairman, I would like to again emphasize, NDGA **does support** the concerns of the proponents of this bill...but **DO NOT** support the bill as written. NDGA does encourage a **DO NOT PASS** on SB #2193.

Thank you for allowing me to testify early Madam Chairman, I would be happy to try to answer any questions the committee might have.

Tom Woodmansee
President, NDGA

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Deanna Ball
Operator's Signature

10/2/03
Date

Testimony

HB No. 1174

House Finance and Taxation Committee

January 14, 2003

9:30 a.m.

North Dakota Department of Health

Good morning Chairman Belter and members of the House Finance and Taxation Committee. My name is Kathleen Mangskau, and I am the Tobacco Program Administrator of the North Dakota Department of Health. I am here to provide information about tobacco use in North Dakota.

Tobacco use is the leading preventable cause of death and disability in our state. Each year, more than 850 North Dakotans die as a result of tobacco use. The economic impact of tobacco use on North Dakota is \$351 million annually.

The Department of Health supports and promotes evidence-based measures that we know work to prevent and reduce tobacco use in our state. We use the evidence and recommendations from the Guide to Community Preventive Services, Best Practices for Comprehensive Tobacco Control Programs, and the Surgeon General's Report on Reducing Tobacco Use to guide our programs. Through the Community Health Grant Program, we are using the Centers for Disease Control and Prevention Best Practices to develop a comprehensive approach to tobacco control in the state. This includes components such as school and community programs, media and public education campaigns, enforcement, cessation efforts, and monitoring and evaluation to assess progress. States that have implemented a comprehensive approach have shown that for every \$1 spent, \$3 is saved in health care costs.

Evidence from the Guide to Community Preventive Services shows that policies, regulations and laws which limit smoking in workplaces and public areas are strongly recommended to reduce exposure to secondhand smoke. An additional benefit is the reduction in smoking among workers and the general public. Currently, no state has enacted a total ban on tobacco use, sale, and distribution. As a result, we have no evidence of the effectiveness of total prohibition of tobacco.

Mr. Chairman, this completes my formal testimony. I am pleased to answer any questions that you or other members of the committee have regarding tobacco prevention and control issues. Thank you.

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Kathleen Mangskau
Operator's Signature

10/2/03
Date

TESTIMONY
HB 1174
HOUSE FINANCE AND TAXATION COMMITTEE
WESLEY BELTER, CHAIRMAN
JANUARY 14, 2003

Chairman Belter, members of the Finance and Taxation Committee, I am Karen Romig Larson, Director of the Division of Mental Health and Substance Abuse Services. I am here today to provide information about about the potential impact of HB 1174 on the Substance Abuse Prevention and Treatment (SAPT) Block Grant.

The SAPT Block Grant provides \$4.75 million annually to the ND Department of Human Services. These federal funds are designated for substance abuse treatment and prevention services. These funds account for approximately 43% of funding for treatment services in the regional Human Service Centers. As a condition of receipt of these funds, Public Law 102-321, 42 USC 300x-26 states that each state must have State law regarding sale of tobacco products to individuals under the age of 18, that the state must annually conduct random, unannounced inspections to ensure compliance with the law, and that the annual report to the Secretary must describe strategies utilized by the State for enforcement of this law.

Section 2 of HB 1174

- seeks to amend out the current prohibition of tobacco sales to minors and replace it with a prohibition of tobacco possession by minors. However, in doing this, the law required for receipt of the SAPT Block Grant is removed.
- removes the immunity from prosecution for tobacco purchase and possession by minors when acting under the supervision of any law enforcement authority to conduct compliance checks. Compliance checks are currently required under Public Law 102-321

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Donna Holbrook
Operator's Signature

10/2/03
Date

- preempts local ordinances regarding sale of tobacco to minors. Since there is no State-level enforcement of ND's tobacco sales law, this would appear to remove ND's ability to enforce its laws against sale of tobacco to minors.

The prohibition of all non-religious sales would not automatically remove the SAMHSA requirement of an annual survey. This could result in a failure by North Dakota to meet SAMHSA requirements, risking a penalty of 40% of the SAPT block grant.

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Dorinda Holbrook
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Testimony on HB 1174
House Finance and Taxation Committee
January 14, 2003

Chairman Belter and Members of the House Finance and Taxation Committee, I'm Bruce Levi, Executive Director of the North Dakota Medical Association. The ND Medical Association is the professional membership organization for North Dakota's active and retired physicians, residents, and medical students.

The comments and observations in my testimony are shared by the American Heart Association, American Cancer Society, American Lung Association of North Dakota, North Dakota Public Health Association, and the North Dakota Nurses Association.

HB 1174 presents an interesting challenge to the many organizations and individuals in North Dakota who are working to reduce tobacco use among both youth and adults. Tobacco use is the single most preventable cause of death in North Dakota. Each year 855 North Dakotans die prematurely due to smoking, and more than 15,600 youth are projected to die prematurely due to smoking.

In addition, each of us - whether tobacco users or not - pay a high price for tobacco use. In addition to death and disease, tobacco use costs us \$351 million annually in medical expenses and lost productivity. That is \$552 per year for each man, woman and child in the state. About 11 percent (\$37 million) of all Medicaid expenditures in the state are spent on smoking-related illnesses and diseases. The high price of tobacco use is also driving up the cost of our health insurance premiums. Our state's largest health insurance carrier BlueCross BlueShield of North Dakota estimates, based on national information, that the additional cost of care for tobacco users who are BCBSND members is about \$30 million per year. Of that \$30 million, \$4.5 million of additional cost is attributed to the state's own PERS health plan for state employees.

North Dakota employers, workers and taxpayers have been left paying for the escalating costs of health care due to tobacco use, taking resources away from what could be spent for schools, business incentives, Medicaid, prescription drug coverage - or left in the pockets of North Dakota taxpayers.

What do we do to prevent and reduce the death, disease, and costs associated with tobacco use?

HB 1174 would prohibit the use, sale, and distribution of tobacco in North Dakota and dismantle the current statutory framework for how we now address tobacco use prevention and reducing the death and disease that comes from tobacco. While we support Representative Grosz' intent to prevent and reduce tobacco use, HB 1174 would initiate an approach to tobacco control that has not been proven effective, or even implemented in any other state.

So, what does work?

The Surgeon General of the United States, as well as the Centers for Disease Control and Prevention and the Institute of Medicine, have documented evidence showing that multi-faceted,

state-based tobacco control programs are effective in reducing tobacco use. The evidence shows that comprehensive state tobacco control programs are effective in reducing tobacco use because they bring about a shift in social norms and reduce the broad cultural acceptability of tobacco use.

According to the Surgeon General and others, the components of a multi-faceted approach include: (1) community programs and interventions to reduce tobacco use, which include schools, health agencies, city and county governments, and civic, social, and recreation organizations, as well as chronic disease programs that focus attention on cancer, cardiovascular disease, asthma, oral cancer, and stroke for which tobacco is a major cause, (2) counter-marketing, which includes using media advocacy, paid media, prohealth promotions, and other media strategies to promote smoking cessation and decrease the likelihood of people starting to smoke, (3) program policy and regulation, which addresses such issues as minors' access, tobacco pricing (including tobacco taxation), advertising and promotion, clean indoor air (including community smoke-free ordinances), product regulation, and tobacco use cessation, and (4) surveillance and evaluation, which includes monitoring tobacco industry promotional campaigns, evaluating the economic impact of environmental tobacco smoke (ETS or second-hand smoke) laws and policies, conducting surveys of public opinion on program interventions, and other activities to make ongoing refinements that lead to more effective prevention strategies.

The Legislative Assembly took important steps last session to implement the Community Health Grant Program (2001 SB 2380; NDCC Chapter 23-38), and over the years has provided an important statutory framework for enforcement, taxation, and local control over tobacco issues. HB 1174 would dismantle all the previous work of the North Dakota Legislative Assembly, the state, and local communities as they have moved toward building a comprehensive approach to preventing and reducing tobacco use. For that reason, we oppose HB 1174.

At the same time, it important to note that there is more that the Legislative Assembly can do to further reduce tobacco use, by:

- (1) Supporting the Governor's proposed appropriation to the Community Health Grant Program for 2003-05 in the Health Department's budget bill (HB 1004), and considering even more resources to build a more effective and comprehensive tobacco control program in North Dakota;
- (2) Supporting the Governor's proposed increase in the tobacco tax which has also been shown to reduce tobacco use (SB 2076), and considering an even larger increase to provide the resources and support for smokers to quit and for further prevention efforts; and
- (3) Continue to ensure that local communities are not preempted by state law in their efforts to reduce exposure to second-hand smoke and to prevent and reduce tobacco use.