

FISCAL NOTE
Requested by Legislative Council
01/19/2015

Bill/Resolution No.: HB 1421

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$13,800,000	\$75,400,000		
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties		\$31,300,000	
Cities		\$18,100,000	
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).*

HB 1421 increases the cigarette and tobacco excise taxes.

- 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 2 of HB 1421 increases various wholesale tobacco taxes: (1) from 28% to 43.5% of the wholesale purchase price on other tobacco products, (2) from \$.60 to \$2.72 per ounce for snuff, and (3) from \$.16 to \$.73 per ounce for chewing tobacco. Section 6 increases the combined tax on cigarettes from \$.44 to \$1.54 per package of 20 cigarettes. If enacted, these tax increases are expected to increase total cigarette and tobacco tax revenue by an estimated \$138.6 million in the 2015-17 biennium. This assumes a drop in cigarette consumption of approximately 11% and a drop in consumption of other tobacco products of 15%.

Section 5 of HB 1421 provides a new distribution of cigarette and tobacco tax revenue. These provisions are expected to increase biennial revenue to cities by \$18.1 million over current law. The bill also authorizes the distribution of an estimated \$31.3 million to counties and \$75.4 million to the community health trust fund. The remaining additional revenue, which is estimated to total \$13.8 million, will go to the state general fund.

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.*

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Date Prepared: 02/02/2015

2015 HOUSE FINANCE AND TAXATION

HB 1421

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1421
2/3/2015
23093

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to the excise taxes on tobacco products and the cigarette tax; relating to the exemption from the tobacco tax for products given to the veterans home and the state hospital.

Minutes:

Attachment #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18

Chairman Headland: Opened hearing.

Representative Nelson: Introduced bill. Provided testimony of statistics from the health department relating to causes of death. See attachment #1. This bill will increase, on a pack of cigarettes, the \$.44 existing tax from \$1.10 to \$1.54. The regional average in North Dakota is higher than that. Other tobacco products which are defined in code as all the other products; snuff, chewing tobacco, cigars, pipe, and things like that would be increased at that same percentage as the cigarette tax. It doesn't change the way it's being taxed today; we don't go from a value to a weight measurement which has been discussed in the legislature many times. The existing \$.44 of which \$.03 now is distributed to cities stays. The \$.41 currently goes into the general fund and that will continue in that fashion. The additional revenue that is raised by the increase in taxes of that 60% of that new revenue would flow into the community health trust fund. Eighty percent of the community health trust fund now has to be used for tobacco cessation and prevention programs. This new revenue is not subject to the 80-20 rule so it would be available for a number of other health related issues with some really good health programs. Some of those programs are funded today in the general fund and that could be folded back to the community health fund funding mechanisms so it would take some pressure off the general fund and that is 60% of the new revenue. Twenty five percent of the new revenue would flow back to counties through the same distribution formula that is currently used. Ten percent of the new revenue would flow back to counties in a base payment and the rest would be distributed to them on a population basis. That money is designated for local public health concerns. Every county in the state has a funding mechanism for local public health. Every county has a mill levy that funds local public health. Time and time again in our appropriations committee we try to find new revenue sources for the increased work load that local public is asked to do and does. This new revenue will provide counties the funding to locally establish priorities for local public health. If the money exists to offer property tax relief from the statewide average of two and a half mills that counties fund their local public health units today. The remaining 15% of the new revenue

would flow into cities on a distribution basis based on population that is intended to be used for healthcare or public safety issues. Cities have the ability to enforce the existing smoking laws and public safety is a huge concern. This would provide cities the opportunities to assist or fund some of those programs locally. We have the health department overview of the estimated causes of death in 2013 for the state of North Dakota; 1,097 deaths were directly attributed to smoking. They don't get publicized in the papers and news broadcasts such as motor vehicle crashes. I would venture that everyone in this room knows somebody that has either passed away or their life has been impacted negatively by smoking or tobacco use. This bill is intended to stop young people from beginning to smoke and make those that are older and smoke to take a moment and think about it. There will be upset people asking why they should pay more for a legal habit but they will be stopping and asking themselves if they should be paying an extra dollar for a pack of cigarettes. I look at it as a silent intervention and maybe that will trigger their initiative to stop smoking. This is primarily for the health of North Dakota that this bill is introduced but it is also important to note that it also utilizes the money to pay for what the health care industry has had to pick up the costs for over the years with tobacco use. \$325 million is the estimate that the health department puts on the cost per year in tobacco use to the health care industry and third party payers who are caring for those that need the care.

Chairman Headland: If the concern is public health why do we go to a tax to discourage use? Why not go all the way and ban the sales of tobacco products?

Representative Nelson: We'd be the only state that would ban the use. It's undeniable that raising tobacco tax works. Use stops and works its way up the ladder. If North Dakota would ban tobacco products would that eliminate them from use across the country? Prohibition really didn't stop alcohol use and that was a country wide ban. I don't think that by banning the sales of tobacco products in North Dakota would be effective.

Chairman Headland: I can agree with you but it's also true that in states that have increased the taxes to higher levels than neighboring areas they have pushed the sales of those products to areas where the taxes are less. Wouldn't we be doing the same thing here by pushing the sales of tobacco products to unethical internet sales or to sovereign nations or areas where the tax is a lot less?

Representative Nelson: I think we are a recipient state now and that's why I chose the national average which is lower than the regional average. Minnesota pushes that regional average even higher because I believe they are \$2.83; I believe South Dakota is \$1.53 and Montana is \$1.73 or something like that. I'm trying to be sensitive to the business community but I'm not sensitive to the fact that the people we should be providing a safe haven for increasing health consequences. I think this is a responsible place to land when it comes to this. There is a danger of people going to reservations to buy cigarette products but if you look at Marlboro sales on reservations they are as high if not higher than what retailers around North Dakota sell their cigarette products for so somebody is making some money on that. It is not providing a cheaper product for customers in that environment for that particular product and that's another issue. The discussion needs to take place on tribal land as well because 50% of Native Americans smoke. I can't do anything about that but I think measures like this will tend to bring that issue to our forefront from a tribal leadership issue as well and they need to look at this in a responsible manner as well.

Chairman Headland: Could you address section 7, the area of code you are repealing?

Representative Nelson: Section 7 exempts the state hospital and the veterans' home from taxing authority. They are both smoke free grounds at this point in time. Neither of the administrations had any problem with repealing that section of code.

Representative Kading: Is the intent of this bill to tax e-cigarettes under this same increased taxation?

Representative Nelson: No. The instructions I gave to John Walstad at Legislative Council is that we do not get into the controversy surrounding the e-cigarettes in this bill. The intention is that is left for other pieces of legislation that are still alive and being heard in other committees. We are talking about existing tax law in total.

Representative Haak: You talked about 25% of the new revenue would flow back to the counties through the same distribution formula. What formula are you talking about?

Representative Nelson: The state aid distribution formula is what I was referring to. There is a base payment that every county would share, 10% of the new revenue, and then the remaining revenue would be distributed on a population basis. Every county would get some money no matter to how remote it would be to the population centers around the state.

Representative Froseth: On page 1 line 20 the other tobacco products would include vapor products unless there is another bill that would change it.

Representative Nelson: I would prefer Mr. Walstad comment on that provision. I can assure you that the instructions I gave him was that e-cigarettes are not to be part of this legislation.

Representative Froseth: We'll need to get clarification on that.

Representative Nelson: I would suggest you ask Mr. Walstad to come down and comment on that.

Chairman Headland: Can I ask, did your vote on the floor reflect your intent with this bill?

Representative Nelson: No you may not.

Representative Haak: Are the numbers on the fiscal note based off the tobacco sales from 2013-15 biennium?

Representative Nelson: The numbers that I've been working with are our North Dakota tax department estimates. They prepared the fiscal note. I'm working off the template of the \$103.5 million of which \$62 million would flow into the community health trust fund, \$25.9 million would be distributed to counties, and \$15.5 million would be distributed to cities.

Representative Froseth: In section b of the fiscal note it is apparently calculated in there and it assumes the drop in cigarette consumption of approximately 11% and a drop in consumption of other tobacco products of 15 percent.

Representative Nelson: We didn't want to mandate that counties utilize this money for property tax reduction. The reality should be that this is a dwindling revenue stream. If it works there will be less money collected in tobacco revenue in the next biennium and subsequent biennium than there is projected today. Then that legislature will have to renew its commitment to local public health and counties will have to renew their effort in property tax. As they have the revenue in the near term they can and they should offer property tax reductions or elimination in the area of local public health units.

Representative Trottier: I've seen statistics where more low income people smoke. Could it be put on the backs of children where it takes out of the income of low income people because the parents make the choice to continue smoking?

Representative Nelson: I'd say your assumption is correct. I've seen some numbers on the income levels of smokers. The new construction workers in western North Dakota I believe 30% smoke or use tobacco products. I think that's a fair assumption. We've all heard of situations where children are deprived of nourishment in lieu of the habit. I can't tell you that won't happen. There's only so much we can do from the standpoint of leadership but I would counter that it will make people look at their priorities. If children don't rank higher than a pack of cigarettes or chewing tobacco what have we become? If that's what keeps businesses in operation what are we telling people? I can give you a list of names of the people I know not here anymore because of tobacco products. Business is important in this world but it is not more important than life and death.

Chairman Headland: I think that argument could go to a lot of different products that are completely legal for individuals to consume.

Representative Nelson: I think it's also important to note that those lower income people are also the ones that hospitals are having to care for and sometimes uncompensated in that fashion. Many others whether they have health insurance or not the citizens of North Dakota are paying for that health care coverage either through uncompensated care. The attempt is to repay those industries for what they have provided in the past and as we go forward. I think this makes sound sense from a financial standpoint and we will see the benefits from that.

Representative Hatlestad: Do you know about what we're spending now to discourage smoking state-wide? What do we spend to discourage young people?

Representative Nelson: We are one of the few states today that spend our cessation and prevention programs at the CDC recommended best practice rate. There's better people to give you an exact dollar figure than me. We provide those programs to youth, adults and tribal members across the state. The scoring from the American Cancer Society shows North Dakota getting an A in every category except for one and that is our current tax on tobacco products; we get an F in that area. If we just move to the national average I think we would provide one of the best cases for preventing tobacco use in this county and that is my goal.

Representative Trottier: We rank number one in all except tax, so what are we going to improve by increasing the tax?

Representative Nelson: That's the biggest tool in the box. Minnesota increased their tax significantly; they went to \$2.83 a pack. When they did that their high school smoking rate dropped from 18.1% to 10.6 percent. Florida raised their taxes and their youth smoking rate dropped from 15.7% to 7.5 percent. This shows you the power of the pocket book. It's all about economics in this country.

Chairman Headland: Is there testimony in support of HB 1421?

Representative Hogan: We have been working on keeping the tax lower than our adjacent state so as to not impacting the business community. At the same time we also know that this is good public health policy for all people. If we can stop people from starting that is the best way to deal with tobacco. I hope you will consider this bill.

Chairman Headland: Your comment on the level of taxation and how it discourages use, why are we stopping at \$1.58, why not go to \$3.00 or \$5.00 or \$10 a pack?

Representative Hogan: As a committee we didn't want to be more than our adjacent communities because we knew smokers would go to our neighboring states. We tried to balance both things and that's why we think this is a balanced bill that approaches both sides; raising taxes to reduce but at the same time not having significant impact on retailers.

Chairman Headland: Further testimony in support of HB 1421?

Dr. Eric Johnson, Associate Professor at the University of North Dakota School of Medicine and health sciences: Provided testimony. See attachment #2.

Chairman Headland: In your testimony you talk about smoking as an addiction disorder. I can understand how a tax would impact on somebody who doesn't smoke and help it be a way to discourage them from starting but when you're talking about an addiction aren't we just going to chase those people to other measures to satisfy their addiction? Possibly, would they then go to the internet to purchase products that are probably less safe that come from third world countries or push sales to sovereign nations and essentially punish our businesses?

Dr. Eric Johnson: I think those are extremely relevant and important questions. I have to respect what the sovereign nations want to do. However, I can tell you there's a lot of discussion about what might happen to reduce their smoking rates which are substantial as well. One of the great things about North Dakota is that we have fantastic resources available to people who have nicotine addiction. I don't think we can hand off a tax and tell them they are on their own. We need to also be able to give them the message that we can direct them to resources that in North Dakota are free and actually work. The ND Quits program has had a 30-35% quit rates for the past 10 years and that is one of the leaders in the country and that's where you direct people to this resource. This isn't going to push this down to zero; I don't know what the answer is to get smoking down to zero. It's well understood through the CDC and other academic partners that if we can get smoking rates under 10-12% that will reap hundreds of millions of dollars of healthcare savings over the next 25 years.

Representative Kading: Don't you think parents of the youth and not just the state have a responsibility to keep children from smoking?

Dr. Eric Johnson: Yes, absolutely. I don't think this discounts the role of parents at all. I think parents and families have been instrumental in getting us from about 40% high school smoking rate in 1999 down to where we are today. Tobacco is cheap in North Dakota and that makes it an easy gateway drug. We have the opportunity here to help our parents.

Representative Strinden: You mentioned with Breathe North Dakota or the quit smoking program we have has a cessation rate of about 30-35%. Can you tell us where our cessation rate in the state falls within all the other states?

Dr. Eric Johnson: We'll have others speaking today that work directly with that program. Nationwide we're a little above average as to how well we do. To compare that to other cessation ideas or concepts if you want to quit cold turkey your chances of being successful and not smoking after a year are less than three percent so we are ten times higher than cold turkey. Focus counseling programs that work directly with addiction is the great thing and works well with public policy.

Representative Schneider: Do you have any information or advice on how e-cigarettes should be treated? We've heard that those might help people stop smoking.

Dr. Eric Johnson: Right now e-cigarettes don't have significant safety data or data to show that they help people quit. I would direct people to the other products that have safety profiles and show that they actually work. If you want a good definition of an e-cigarette I would encourage you to look at the FDA website because they are in the process of undertaking some process of regulation of these products which are currently unregulated.

Chairman Headland: Further testimony in support.

Deb Knuth, Government Relations Director for the American Cancer Society Cancer Action Network: Provided testimony. See attachment #3.

Courtney Koebele, Executive Director of the North Dakota Medical Association: Provided testimony. See attachment #4.

Dr. Patricia Moulton, Executive Director of the North Dakota Center for Nursing: Provided testimony. See attachment #5.

Kristie Wolff, Program Manager for the American Lung Association of North Dakota: Provided testimony. See attachment #6.

Vice Chairman Owens: Do we know the number who quit?

Kristie Wolff: In my testimony on page 1 the percentage of adult Minnesotans who smoke cigarettes dropped from 16.1% to 14.4% in 2014, approximately 580,000 adults.

Megan Smith, Blue Cross Blue Shield of North Dakota: I'm simply here to echo the sentiments of those before me. For us, a healthy pool of candidates is a better pool so we are certainly here to stand in support.

Keith Johnson, Administrator for Custer Health: Provided testimony. See attachment #7.

Representative Trottier: Do you know if the federal government still subsidizes tobacco farmers?

Keith Johnson: Yes they do.

Terry Traynor, Association of Counties: Provided testimony. See attachment #8.

June Herman, Regional Vice President of Advocacy for the American Heart Association: Provided testimony. See attachment #9.

Valerie Schoepf, Board member of Tobacco Free North Dakota and Vice President of the Bismarck Tobacco Free Coalition: Provided testimony. See attachment #10. (Ended testimony at 1:13:32)

TJ Jerke, Tobacco Free North Dakota: Provided testimony from the North Dakota Hospital Association. See attachment #11.

Chairman Headland: Is there any testimony in support? We will now take opposition.

Mike Rud, North Dakota Petroleum Marketers Association: Provided testimony in opposition. See attachment #12. (Ended testimony at 1:21:45)

Chairman Headland: In a high tobacco tax state such as New York, are there statistics available that would indicate the percentage of cigarettes being used are illegal cigarettes?

Mike Rud: I don't have those statistics with me but I can get them for you.

Kelsey Eaton, Regional Manager for Infinite Vapor in Fargo: We specialize in providing high quality electronic cigarettes and high end personal vaporizers. Our position is similar to all retailers specializing in our products. I understand the bill's intent and purposes are to not include electronic cigarettes in this bill. The definition you're using as other tobacco products that is going to depend on how other legislation is drawn on whether this is going to fulfill its intent of not including vapor products. It has the unintended consequence of including e-cigs all the way up to nicotine lozenges, gum, patches, inhalers, or anything like that depending on how you define other tobacco products. We urge you to re-evaluate the definition of other tobacco products so as not to include these things. We oppose any amendments that makes smoke free, tobacco free, e-cigarettes, and vapor products subject to North Dakota's other tobacco tax because we don't sell tobacco products; we sell anti-tobacco technology products. I started using vapor products four years ago as a method to quit and this was the only way I could quit. I tried other tobacco cessation programs but they did not help. If we go with this other tobacco product and don't look into the definition and make the proper arrangements for

things like vapor supply products you end up in the future dealing with things and having to tax products that are less harmful. You're putting these taxes on place for vapor supply products and possibly, depending on the definition you use, any of the nicotine products because the only tobacco derived ingredient in our products is tobacco derived nicotine which is the same kind of nicotine used in Nicorette gum and lozenges and patches. Logically, if you put vapor supplies under that category you are then also putting those kinds of products under that category. Just take a look at the definition and see if we can't try to take out anything that is going to affect the product that appeals to people as an alternative to smoking. We all know that combustible tobacco cigarettes are harmful for you, that's why I'm in the business I'm in. If we continue to make those products under other tobacco products and tax them as well all you're doing is furthering the ability for people who are trying to quit smoking from obtaining products that help them quit smoking.

Chairman Headland: The sponsor of this bill clearly identified the fact that he didn't want vapor products involved in this bill. I think it's clear by the actions of the anti-tobacco coalition, on a language on a prior bill, that they wholeheartedly intend on getting these qualified as a tobacco products for taxation purposes. I want you to understand that is the intent even though the sponsor of the bill does not want this bill to go in that direction.

Kelsey Eaton: That was the point I was trying to make.

Chairman Headland: Further opposition.

Kelly Kaiser, O.K. Distributing: Provided testimony. See attachment #13.

Levi Schaefer, Simonson's Stations: Provided testimony from Mary Kuhnau, smoker from Minnesota. See attachment #14. (Ended testimony at 1:35:40). I just want to bring up something from Dr. Johnson about a telephone survey. He said 69% of these people were in support of this tax increase. I heard earlier that if you do the rough math on that it sounds to me that the 69% are probably of the nonsmoking population.

Adam Jones, AMCON Distributing Company: Provided testimony from Kathleen Evans, President of AMCON Distributing Company. See attachment #15.

Chairman Headland: As a distributor, do you believe that if we were to pass this we would need to start stamping cigarettes in this state to combat the pirated cigarettes that would probably be part of the equation?

Adam Jones: In my experience in other states we do business with, it is one of the few ways you can actually track on whether or not it was purchased from the right distributors doing the right things. Right now, because you're not stamping cigarettes, you have no idea where it came from. In other states that stamp you know. If they are buying it illegally whether it is through the internet or other means you won't know.

Representative Schneider: Previous testimony indicated that Florida was one of the states that raised its tobacco tax. Did your company have adverse effects from that and is there any connection with the health food stores you developed there?

Adam Jones: Currently our company does not service Florida so I can't really answer to that exact state. Other states we've seen do increases in tax it slows down the usage by the people in the state that were buying the products being tracked. If it comes through our distributorship we stamp it and know exactly where it goes and who bought it. It's forcing them to find other means to be able to satisfy their habit, legally or illegally.

Representative Schneider: If there were adverse consequences to your business by a tax increase on cigarettes might you also find other ways to sell to the state?

Adam Jones: Our Company does not take that position. We are publicly traded so everything we do is in the public eye. We would not find anything different to do.

Jon Godfread, Greater North Dakota Chamber: Provided testimony. See attachment #16. We are talking about a legal product; a massive tax increase on a legal product. If we're looking on doing social engineering the tax code is a terrible place to do it. Mr. Chairman, you made the statement before that if the goal is to eliminate cigarettes then let's have that discussion but we're talking about a massive increase on a legal product.

Bill Mckennan, AMCON Distributing: One of the key factors we look at with all the people we employ is why we are jeopardizing their income again with a tax increase. We are against this.

Paul Mutch, Mutch Oil Company: Provided testimony. See attachment #17.

Representative Schneider: Do you see the connection between the cost that smokers have to our economy and medical assistance program and other medical parameters?

Paul Mutch: Yes. There are needs in all communities but bottom line is the people who are going to get hit the hardest is the lower income and middle class. I don't believe they need to be hit with that.

Representative Schneider: Who do you think pays the health care costs for these individuals and do you think it's okay that North Dakota taxpayers pick up that cost without any assistance from things such as taxes or tax increases?

Paul Mutch: Everybody pays the cost. There are programs in place that address that. Maybe this is one way to do it.

Chairman Headland: Is there anymore opposition? Neutral testimony.

Allan Nygaard, MHA Nation and Three Affiliated Tribes of North Dakota: Neutral testimony. The tribal council of the MHA Nation has gone on record to institute a tobacco tax, most likely in the next two months. Things I heard in previous testimony have been that folks will just run to the reservation and buy it there. Maybe someplace else but we made a conscious decision that we have an issue we need to deal with and this was the way we could deal with it. The rising cost of taking care of folks who are suffering health issues and one of the ways we are going to do that is by implementing a fairly substantial tobacco tax for all tobacco sold on our reservation. I can't speak for the Standing Rock Sioux Tribe or the Turtle

Mountain Band of Chippewa Indians or the Spirit Lake Nation, I can only speak for my nation and we will go down that road. The fear that they will come to Fort Berthold and we're going to get rich by making tobacco transactions is probably not going to happen because it's actually going to be more expensive on our reservation than anywhere else in North Dakota. When it comes to tobacco cessation and the various programs that are out there we don't have a whole lot of activity directed in our direction. That was another reason we decided to go down this road. Even though we are citizens of North Dakota and pay taxes those services typically don't come to us so we decided we had to act and we couldn't stay silent on this particular issue. Not all reservations are going to benefit. We know that we are going to take a hit and that's it's going to cause some consternations with retailers on our reservation but we consciously made that decision.

Representative Haak: It was testified earlier there was only one reservation that charges sales tax. Can you clarify if that is accurate and would you be the second?

Allan Nygaard: No, that is incorrect. The Standing Rock Sioux Tribe has a tax revenue sharing agreement with the state of North Dakota. None of the other reservations have such an agreement. We tried to negotiate with the state to enter into an agreement but we couldn't come to terms for whatever reason and we find that in other areas as well; sales and use, motor fuels, and alcohol. The Genesis for us imposing a tribal tax as a sovereign nation comes from that experience. We couldn't get the state to work with us so we had to do something.

Chairman Headland: Is there any other testimony? We will close the hearing on HB 1421.

Additional testimony submitted by **Matt Bjornson, Bjornson Oil Company, in opposition. See attachment #18.

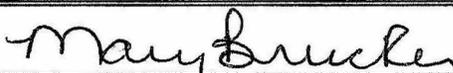
2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1421
2/4/2015
23236

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to the excise taxes on tobacco products and the cigarette tax; relating to the exemption from the tobacco tax for products given to the veterans home and the state hospital.

Minutes:

Attachment #1

Chairman Headland: We have Representative Nelson here with amendments.

Representative Nelson: Distributed amendments 15.0830.01003 and explained. See attachment #1. This has nothing to do with e-cigarettes; it's the other tobacco products that are already taxed. This proposed change lumps all the proceeds from the increased tax to the state treasurer's office and distributed in a lump sum a 60% level to the community health trust fund, 25% level to the counties, and 15% to the cities; not by each individual product.

Chairman Headland: Do all counties have a community public health unit?

Representative Nelson: All communities are part of a city, county, multi-county or a single local public health unit.

Chairman Headland: If they are part of a multi county health unit the distribution among them would go to the one health unit they are part of?

Representative Nelson: The way I envisioned this to be distributed is that each county levies a property tax to the multi county unit and that's levied on all the counties by county. This money would then come back to the individual county as a replacement for local property tax if the money allows them to do that. That would be a local decision though. With the money this would generate in the first few years at least, I can't imagine they wouldn't eliminate their local property tax assessment but that's not for me to stay.

Chairman Headland: Does everybody understand what this amendment is doing? It's clarifying his intent.

Representative Toman: Can we get this in a Christmas tree version?

Representative Nelson: Yes we can.

Representative Toman: Is that percentage correct on page five?

Representative Nelson: As I read the bill it wasn't carved out. It was my intention to address the county funding formula in the way that several of the distribution formulas do. One is that there is a population based distribution. We think the base payment where 10% of the money is spread across 53 divisions of those 10% payments would be sent to every county in the state to create a base. There is to make sure there is a number that local counties have to implement some strategies for healthcare delivery with their population base.

Chairman Headland: We have amendment .01003. Does everybody understand what the amendment is doing? We could request a Christmas tree version but I think we could kick this bill out if nobody would object. We have this amendment to deal with first.

Representative Steiner: Made a motion to move the amendment .01003.

Representative Klein: Seconded.

Voice vote: Motion carried.

Chairman Headland: We have amended bill 1421.

Representative Dockter: Made a motion for a DO NOT PASS AS AMENDED.

Representative Steiner: Seconded.

Roll call vote: 12 YES 2 NO 0 ABSENT
Motion carries for DO NOT PASS AS AMENDED

Chairman Headland will carry this bill.

Representative Steiner volunteered to carry this bill after the recording stopped.

JK
1073

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1421

Page 1, line 14, overstrike "**and**" and insert immediately thereafter an underscored boldfaced comma

Page 1, line 14, after "**tobacco**" insert ", and other tobacco products"

Page 1, line 14, overstrike "**Other** "

Page 1, line 15, overstrike "**tobacco products - Excise**" and insert immediately thereafter "**Snuff and chewing tobacco excise**"

Page 1, line 22, overstrike "or" and insert immediately thereafter an underscored comma

Page 1, line 22, after "tobacco" insert ", or other tobacco products"

Page 1, line 23, after the period insert "For cigars, pipe tobacco, or other tobacco products for which the tax commissioner is unable to readily identify the established price for which a manufacturer sells the cigars, pipe tobacco, or other tobacco products to a distributor, the excise tax shall be paid by the retailer and the "wholesale purchase price" means the price at which the retailer sells such product to a customer at the point of sale, exclusive of any discount or reduction."

Page 2, line 3, after "dollars" insert "ten"

Page 2, line 7, remove the overstrike over "~~For purposes of this subsection, the tax on~~"

Page 2, line 7, after "~~products~~" insert "snuff and chewing tobacco"

Page 2, line 7, remove the overstrike over "~~is computed based~~"

Page 2, remove the overstrike over line 8

Page 2, line 10, overstrike "and regulations"

Page 3, line 3, overstrike the second "and" and insert immediately thereafter an underscored comma

Page 3, line 3, after "tobacco" insert ", and other tobacco products"

Page 3, line 6, overstrike "and, upon all other tobacco products purchased in another state and"

Page 3, overstrike lines 7 and 8

Page 3, line 9, overstrike "state"

Page 3, line 10, overstrike the first "or" and insert immediately thereafter an underscored comma

Page 3, line 10, after "tobacco" insert ", or other tobacco products"

Page 3, line 11, after the period insert "For cigars, pipe tobacco, or other tobacco products for which the tax commissioner is unable to readily identify the established price for which a manufacturer sells the cigars, pipe tobacco, or other tobacco products to a distributor, the excise tax shall be paid by the retailer and the "wholesale purchase price" means

2013

the price at which the retailer sells such product to a customer at the point of sale, exclusive of any discount or reduction."

Page 3, line 14, overstrike "and regulations"

Page 4, line 24, overstrike "hereinafter"

Page 4, line 24, after "provided" insert "in this section"

Page 4, line 25, after "2." insert "All moneys received by the tax commissioner under this chapter from fifty-six and one-half mills of the tax on each of the classes of cigarettes; fifteen and one-half percentage points of the tax on all cigars, pipe tobacco, and other tobacco products; one dollar fifty cents per ounce of the tax on snuff; and forty cents per ounce of the tax on chewing tobacco must be transmitted to the state treasurer at the end of each month and deposited in the tobacco tax distribution fund in the state treasury.

3."

Page 4, line 25, overstrike "All moneys received from the levy and assessment of"

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Page 4, line 26, remove "sixth-tenths"

Page 4, line 26, overstrike "mills on each of the classes of cigarettes provided in this chapter"

Page 4, line 26, remove "and four"

Page 4, remove line 27

Page 4, line 28, replace "tobacco products provided in this chapter" with "Fifteen percent of the revenues deposited in the tobacco tax distribution fund"

Page 5, line 4, overstrike ", and warrants must be drawn"

Page 5, line 5, overstrike "payable to the treasurers of such cities"

Page 5, after line 5, insert:

"4. Twenty-five percent of the revenues deposited in the tobacco tax distribution fund are appropriated and must be distributed on or before the thirtieth day of June and the thirty-first day of December of each year, ten percent of the distribution in equal amounts to each county and ninety percent on a per capita basis to the counties, the allocation to be based upon the population of each county according to the most recent official federal census. The county treasurer shall distribute all moneys received under this section to the county public health unit. Moneys received by counties under this section are intended to augment, but not replace, county taxes levied for the support of public health units under section 23-35-07."

Page 5, line 6, replace "3." with "5."

Page 5, line 6, remove "All moneys received from the levy and assessment of thirty-three and one-tenth mills"

Page 5, remove lines 7 through 9

Page 5, line 10, replace "the credit of" with "Sixty percent of the revenues deposited in the tobacco tax distribution fund are appropriated and must be transferred to"

3073

Page 5, remove lines 11 through 23

Renumber accordingly

Date: 2-4-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1421

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0830.01003

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. Steiner Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND			REP HAAK		
VICE CHAIRMAN OWENS			REP STRINDEN		
REP DOCKTER			REP MITSKOG		
REP TOMAN			REP SCHNEIDER		
REP FROSETH					
REP STEINER					
REP HATLESTAD					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote = Motion carried.

Date: 2-4-15
Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1421**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15. 0830 .01003

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. Dockter Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG		✓
REP TOMAN	✓		REP SCHNEIDER		✓
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Headland Steiner off record volunteer

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

REPORT OF STANDING COMMITTEE

HB 1421: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1421 was placed on the Sixth order on the calendar.

Page 1, line 14, overstrike "**and**" and insert immediately thereafter an underscored boldfaced comma

Page 1, line 14, after "**tobacco**" insert ", and other tobacco products"

Page 1, line 14, overstrike "**Other** "

Page 1, line 15, overstrike "**tobacco products - Excise**" and insert immediately thereafter "**Snuff and chewing tobacco excise**"

Page 1, line 22, overstrike "or" and insert immediately thereafter an underscored comma

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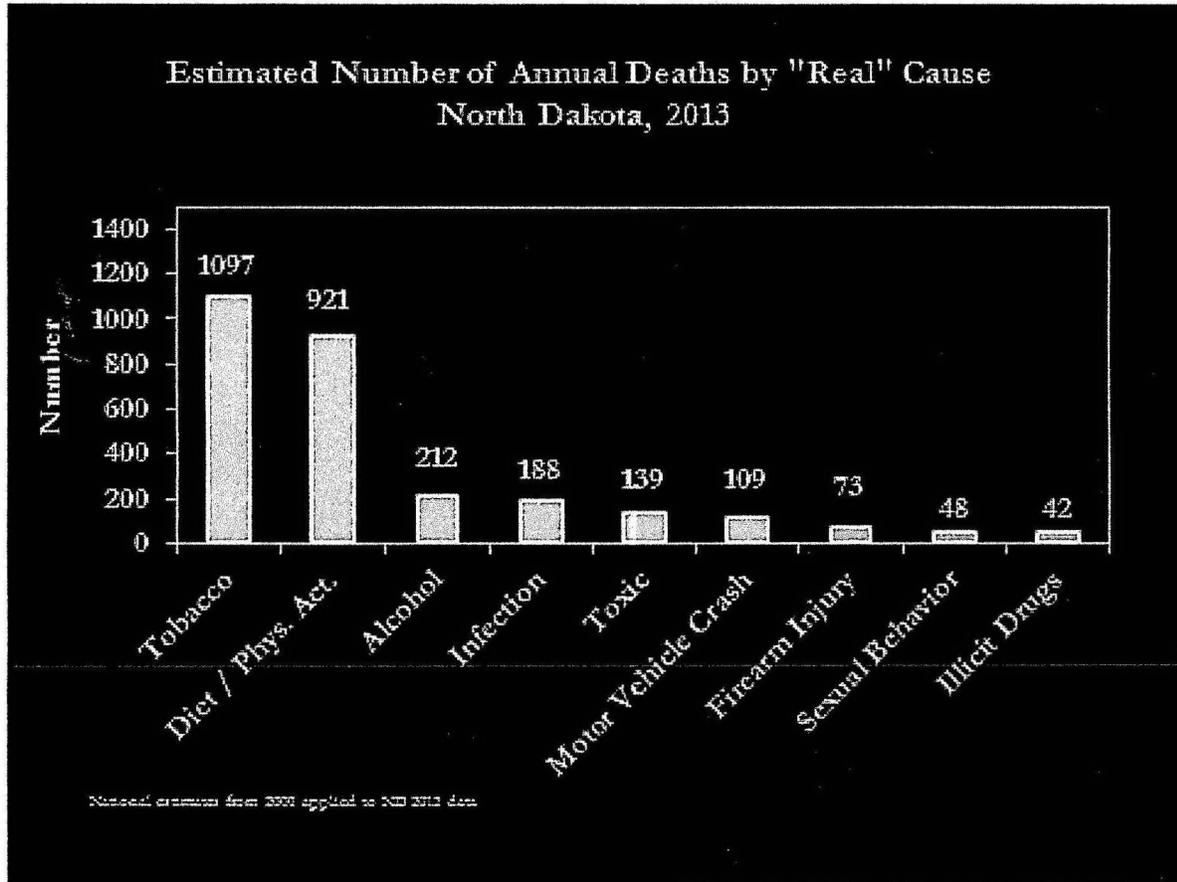
Renumber accordingly

2015 TESTIMONY

HB 1421

HB 1421
2-3-15
#1

Public Health's primary mission is the prevention of the risk factors and behaviors that cause death and disease in North Dakota across the entire age spectrum of the whole population. The next slide shows the underlying risk factors that lead to disease in North Dakota. As you can see, tobacco remains the number one risk factor associated with various cancers and cardiovascular disease, followed closely by poor diets and lack of physical activity, which are associated with diabetes, heart disease, stroke and some cancer.



HB 1421
2-3-15
2 p.1

The logo features a stylized blue cloud shape on the left, composed of three overlapping loops. To the right of the cloud, the words "Tobacco Free" are written in a large, bold, black sans-serif font. Below "Tobacco Free", the words "North Dakota" are written in a black, cursive script font.

Tobacco Free North Dakota

Testimony in support of House Bill 1421
From Dr. Eric Johnson
President, Tobacco Free North Dakota
To House Finance & Tax
Representative Craig Headland, Chair
February 3, 2015

I am Dr. Eric Johnson, Associate Professor at the University of North Dakota School of Medicine and health sciences, where I hold several teaching and administrative appointments. I also maintain a clinic practice in diabetes and long term care services. I have been the physician consultant for ND Quits, President of Tobacco Free North Dakota and serve on the Governor appointed Advisory and Executive Committees for the Center for Tobacco Prevention and Control.

Background

We often think of tobacco use as a bad habit, and although it has many behavior components, the fact is that nicotine is one of the most addictive drugs in the world. Nicotine addiction is very much like all other addiction disorders.

It is well documented that most smokers identify tobacco use as harmful and express a desire to reduce or stop using it, and nearly 35 million of them want to quit each year. **This includes many youth who are not successful.**

480,000 people die every year in the U.S. from tobacco-related diseases including heart disease, cancer of multiple organ systems, stroke, or lung disease. Unlike most other addiction disorders, the parts of the brain responsible for nicotine addiction never really reduce function or shutdown. When nicotine is used again, these areas become very active almost immediately.

We may think that the use of tobacco is an adult lifestyle choice, but over ¾ of users begin before age 18 and are already addicted by adulthood. Addiction is an even more complicated set of disorders in the developing brain. Age of first use is a predictor of severity of addiction with any addiction disorder. Brain development continues past adolescence. (American Lung Association)

Impact of tax on health

#2p.2

In recent years, it's become apparent that increased taxes on tobacco and tobacco related product reduces usage. When we are having serious discussion in our country about the reduction of health care costs, we really need to consider the burden of preventable disease.

We talk about 3 legs of the stool in preventing tobacco related disease:

1. A fully funded comprehensive tobacco prevention and control policy at Center for Disease Prevention and Control recommended levels. North Dakota has this, and is one of two states that does
2. A strong smoke-free, clean indoor air law. North Dakota has this.
3. Higher tobacco taxes. North Dakota does not have this.

On average, it costs \$10.48 in healthcare costs per one pack. Our current tax is 44 cents a pack.

Smokers who make less than \$25,000/year have a smoking rate of about 30%- the overall state average is a little under 20% (NDDOH, CDC)

Among high school aged, rates have been dropping over the last decade, but have stalled at about 19%. The nationwide high school smoking rate is about 15%

(Refer to CFTFK documents here-Public Health Benefits.)

We know that increasing taxes on tobacco reduces tobacco use significantly, and most notably in youth and lower socioeconomic classes. As a physician, I have been involved with several preventive programs, and this would be a powerful, high yield strategy.

Minnesota has recently released data that their increase in tobacco tax resulted in a drop from about an 18% youth smoking rate to about a 10% smoking rate. This is one of the lowest youth smoking rates in the country. Their tax is \$2.90 per pack.

An increase in our tax will bring us in line with our neighbors in MN, SD, and MT. **Tax revenues would be divided up so that 60% goes to community health trust fund, 25% to counties and local public health units and 15% to cities for public health and safety needs.**

We have been a leader with our comprehensive program and strong smoke free law, and we know North Dakotans favor this. In addition, we have programs that smokers looking to quit can use for free in North Dakota, so these smokers will not be on their own in their quest to quit.

I really feel that evidence supports tobacco tax as an efficient way to reduce tobacco use in North Dakota, particularly among youth.

We need good preventive strategies in health care policy to save future costs and lives.

Thank you for your time today.

#2 p.3



NEW REVENUES, PUBLIC HEALTH BENEFITS & COST SAVINGS FROM A \$1.10 CIGARETTE TAX INCREASE IN NORTH DAKOTA

Current state cigarette tax: 44 cents per pack (46th among all states and DC)

Annual health care expenditures in North Dakota directly caused by tobacco use: \$326 million

Projected New Annual Revenue from Increasing the Cigarette Tax by \$1.10 Per Pack: \$36.16 million

New Annual Revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue if it fails to apply the rate increase to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date.

Projected Public Health Benefits for North Dakota from the Cigarette Tax Rate Increase	
Percent decrease in youth smoking:	16.4%
Youth under age 18 kept from becoming adult smokers:	5,300
Current adult smokers who would quit:	5,600
Premature smoking-caused deaths prevented:	3,100
5-Year reduction in the number of smoking-affected pregnancies and births:	900
5-Year health care cost savings from fewer smoking-caused lung cancer cases:	\$910,000
5-Year health care cost savings from fewer smoking-affected pregnancies & births:	\$2.26 million
5-Year health care cost savings from fewer smoking-caused heart attacks & strokes:	\$1.68 million
5-Year Medicaid program savings for the state:	\$630,000
Long-term health care cost savings from adult & youth smoking declines:	\$213.36 million

12.18.14 ACS CAN / January 9, 2015

- Small tax increase amounts do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenue).
- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state additional revenue, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, roll-your-own tobacco, or smokeless tobacco products. To parallel the new \$1.54 per pack cigarette tax, the state's new OTP tax rate should be 38% of the wholesale price with minimum tax rates for each major OTP category linked to the state cigarette tax rate on a per-package or per-dose basis.

Explanations & Notes

#2 p. 4

Health care costs listed at the top of the page are from the U.S. Centers for Disease Control and Prevention (CDC). Annual health care expenditures in North Dakota directly caused by tobacco use are in 2009 dollars and are from the CDC's 2014 *Best Practices from Comprehensive Tobacco Control Programs*.

Projections are based on research findings that each 10% increase in the retail price of cigarettes reduces youth smoking by 6.5%, adult prevalence by 2%, and total cigarette consumption by about 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of ongoing background smoking declines and the continued impact of any recent state cigarette tax increases on prices, smoking levels, and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase and from fewer sales to smokers or smugglers from other states. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

Projected numbers of youth stopped from smoking and dying are based on all youth ages 17 and under alive today. Savings to state Medicaid programs include estimated changes in enrollment resulting from the Affordable Care Act and state decisions regarding Medicaid expansion. Long-term cost savings accrue over the lifetimes of persons who stop smoking or never start because of the tax rate increase. All cost savings are in 2015 dollars.

Projections for cigarette tax increases much higher than \$1.00 per pack are limited, especially for states with relatively low current tax rates, because of the lack of research on the effects of larger cigarette tax increase amounts on consumption and prevalence. Projections for cigarette tax increases much lower than \$1.00 per pack are also limited because small tax increases are unlikely to produce significant public health benefits.

Ongoing reductions in state smoking rates will, over time, gradually erode state cigarette tax revenues, in the absence of any new rate increases. However, those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues, which can drop sharply during recessions. In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused health care and other costs over time. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

The projections in the table on this fact sheet were generated using an economic model developed jointly by the Campaign for Tobacco-Free Kids (TFK) and the American Cancer Society Cancer Action Network (ACS CAN). The projections are based on economic modeling by Frank Chaloupka, Ph.D., and John Tauras, Ph.D., at the Institute for Health Research and Policy at the University of Illinois at Chicago and are updated annually. The state Medicaid cost savings projections, when available, are based on modeling done by Matthew Buettgens and Hannah Recht at the Urban Institute, with updates by Matt Broaddus at the Center for Budget and Policy Priorities.

For other ways states can increase revenues (and promote public health) beyond just raising cigarette tax rates, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>.

Additional information and resources to support tobacco tax increases are available at
http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/ and
<http://acscan.org/tobacco/taxes/>.

For more on sources and calculations, see <http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>.

Campaign for Tobacco-Free Kids
Ann Boonn

American Cancer Society Cancer Action Network
Melissa Maitin-Shepard



RAISING CIGARETTE TAXES REDUCES SMOKING, ESPECIALLY AMONG KIDS (AND THE CIGARETTE COMPANIES KNOW IT)

The cigarette companies have opposed tobacco tax increases by arguing that raising cigarette prices would not reduce adult or youth smoking. But the companies' internal documents, disclosed in the tobacco lawsuits, show that they know very well that raising cigarette prices is one of the most effective ways to prevent and reduce smoking, especially among kids.

- Philip Morris: *Of all the concerns, there is one - taxation - that alarms us the most. While marketing restrictions and public and passive smoking [restrictions] do depress volume, in our experience taxation depresses it much more severely. Our concern for taxation is, therefore, central to our thinking*¹
- Philip Morris: *When the tax goes up, industry loses volume and profits as many smokers cut back.*²
- RJ Reynolds: *If prices were 10% higher, 12-17 incidence [youth smoking] would be 11.9% lower.*³
- Philip Morris: *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.*⁴
- Philip Morris: *Jeffrey Harris of MIT calculated . . . that the 1982-83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke . . . We don't need to have that happen again.*⁵
- Philip Morris: *A high cigarette price, more than any other cigarette attribute, has the most dramatic impact on the share of the quitting population . . . price, not tar level, is the main driving force for quitting.*⁶

[For more on cigarette company documents and price/tax increases see the 2002 study in the *Tobacco Control* journal, "Tax, Price and Cigarette Smoking: Evidence from the Tobacco Documents."⁷]

The cigarette companies have even publicly admitted the effectiveness of tax increases to deter smoking in their required filings with the U.S. Securities and Exchange Commission.

- Philip Morris: *Tax increases are expected to continue to have an adverse impact on sales of tobacco products by our tobacco subsidiaries, due to lower consumption levels . . .* [10-Q Report, November 3, 2008]
- Lorillard Tobacco: *We believe that increases in excise and similar taxes have had an adverse impact on sales of cigarettes. In addition, we believe that future increases, the extent of which cannot be predicted, could result in further volume declines for the cigarette industry, including Lorillard Tobacco . . .* [10-Q Report, November 4, 2008]
- R.J. Reynolds: *Together with manufacturers' price increases in recent years and substantial increases in state and federal taxes on tobacco products, these developments have had and will likely continue to have an adverse effect on the sale of tobacco products.* [10-Q Report, October 24, 2008]

Or, as the Convenience Store News put it: *"It's not a hard concept to grasp -- as taxes on cigarettes goes up, sales of cigarettes go down."*⁸

Economic Research Confirms That Cigarette Tax Increases Reduce Smoking. Numerous economic studies in peer-reviewed journals have documented that cigarette tax or price increases reduce both adult and underage smoking. The general consensus is that every 10 percent increase in the real price of cigarettes reduces overall cigarette consumption by approximately three to five percent, reduces the number of young-adult smokers by 3.5 percent, and reduces the number of kids who smoke by six or seven percent.⁹ Research studies have also found that:

- Cigarette price and tax increases work even more effectively to reduce smoking among males, Blacks, Hispanics, and lower-income smokers.¹⁰
- A cigarette tax increase that raises prices by ten percent will reduce smoking among pregnant women by seven percent, preventing thousands of spontaneous abortions and still-born births, and saving tens of thousands of newborns from suffering from smoking-affected births and related health consequences.¹¹

#2 P. 6

- Higher taxes on smokeless tobacco reduce its use, particularly among young males; and increasing cigar prices through tax increases reduce adult and youth cigar smoking.¹²
- Cigarette price increases not only reduce youth smoking but also reduce both the number of kids who smoke marijuana and the amount of marijuana consumed by continuing users.¹³
- By reducing smoking levels, cigarette tax increases reduce secondhand smoke exposure among nonsmokers, especially children and pregnant women.

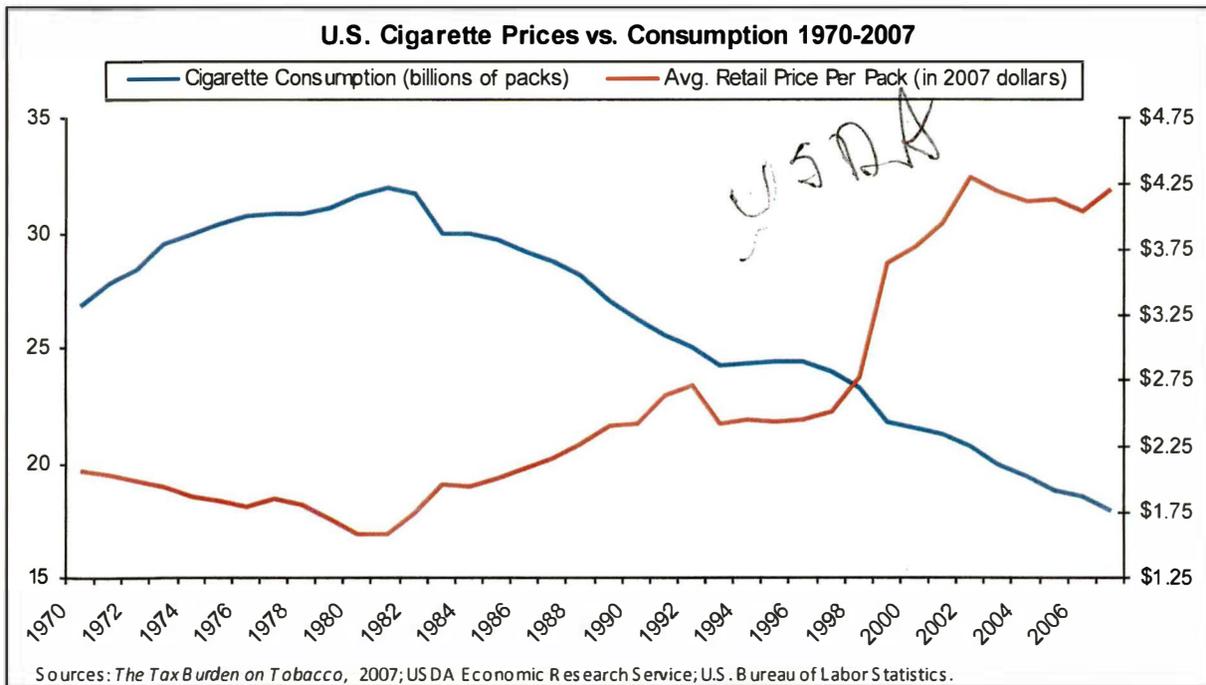
Recent State Experiences

In every single state that has significantly raised its cigarette tax rate, pack sales have gone down sharply.¹⁴ While some of the decline in pack sales comes from interstate smuggling and from smokers going to other lower-tax states to buy their cigarette, reduced consumption from smokers quitting and cutting back plays a more powerful role. As shown in more detail, below, nationwide data – which counts both legal in-state purchases and the vast majority of packs purchased through cross-border, Internet, or smuggled sales – shows that overall packs sales go down as state cigarette tax increases push up the average national price.

In-state evidence shows that state cigarette tax increases are prompting many smokers to quit or cutback. For example, the Wisconsin Quit Line received a record-breaking 20,000 calls in the first two months after its \$1.00 per cigarette pack increase (it typically receives 9,000 calls per year). Likewise, in Texas and Iowa, which each increased their cigarette taxes by \$1.00 in 2007, the number of calls to the state quitlines have been much higher compared to the year before.¹⁵ It is also clear that these efforts to quit by smokers after tax increases translate directly into lower future smoking rates. In Washington State, for example, adult smoking from the year before its 60-cent cigarette tax increase in 2002 to the year afterwards declined from 22.6 to 19.7 percent, reducing the number of adult smokers in the state by more than 100,000, despite overall population increases.¹⁶

Increasing U.S. Cigarette Prices and Declining Consumption

Although there are many other factors involved, comparing the trends in cigarette prices and overall U.S. cigarette consumption from 1970 to 2007 shows that there is a strong correlation between increasing prices and decreasing consumption.

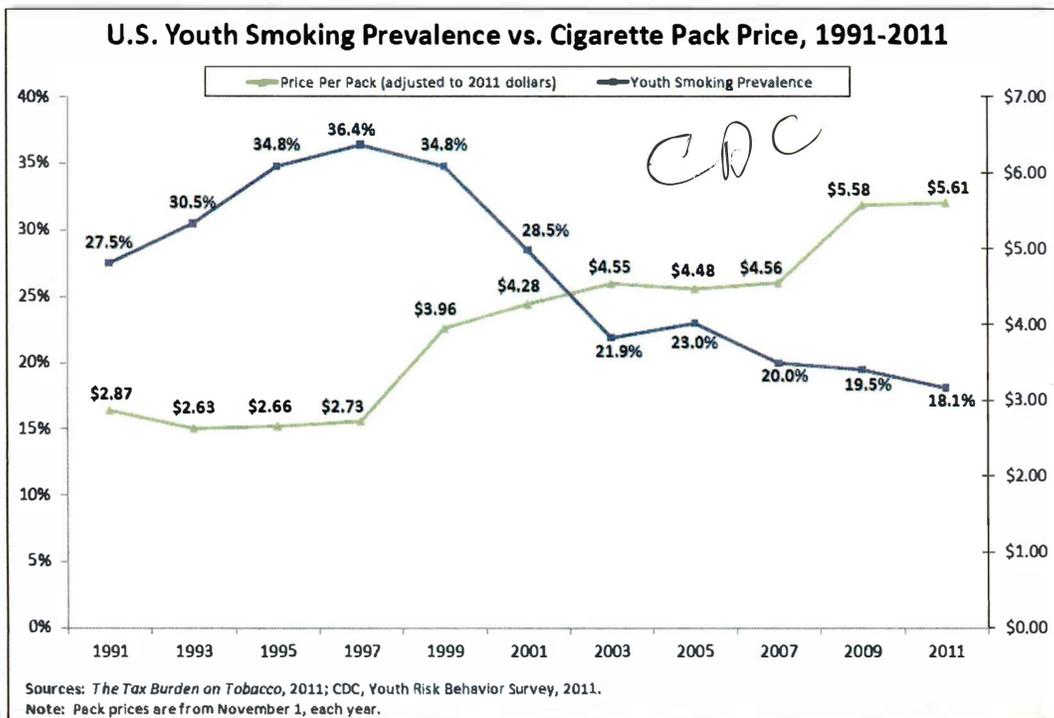


While U.S. cigarette prices are largely controlled by the cigarette companies' price-setting decisions, from 1970 to 2006, the federal tax on cigarettes also increased from eight cents to 39 cents per pack and the average state cigarette tax increased from 10 cents to \$1.07 per pack during that time period. Without these

federal and state tax increases, U.S. cigarette prices would be much lower and U.S. smoking levels would be much higher.

Prices and Youth Smoking Rates. The chart below shows how closely youth smoking prevalence is to cigarette pack prices. As prices climbed in the late 1990s and early 2000s, youth smoking rates declined, but as the price decreased between 2003 and 2005 (along with funding for tobacco prevention programs in many states), youth rates increased. Even the slight increase in price between 2005 and 2007 corresponds with a decline in youth smoking rates.

Researchers found that the 61.66-cent federal cigarette tax rate increase on April 1, 2009 had a substantial and immediate impact on youth smoking. The percentage of students who reported smoking in the past 30 days dropped between 9.7 percent and 13.3 percent immediately following the tax increase, resulting in an estimated 220,000 and 287,000 fewer current smokers among middle and high school students in May 2009.¹⁷



Expert Conclusions on Cigarette Prices and Smoking Levels

- In its 2007 report, *Ending the Tobacco Problem: A Blueprint for the Nation*, the National Academy of Sciences' Institute of Medicine recommends raising cigarette taxes in states with low rates and indexing them to inflation, to reduce cigarette consumption and to provide money for tobacco control. The report states, "Tobacco excise tax revenues pose a potential funding stream for state tobacco control programs. Setting aside about one-third of the per-capita proceeds from tobacco excise taxes would help states fund programs at the level suggested by CDC."¹⁸
- The President's Cancer Panel's 2007 report, *Promoting Healthy Lifestyles*, advised increasing state tobacco taxes, stating, "Increases in tobacco excise taxes, which are passed along to consumers in the form of higher tobacco product prices, have proven highly effective in reducing tobacco use by promoting cessation among current users, discouraging relapse among former users, preventing initiation among potential users, and reducing consumption among those who continue to use tobacco. These revenues also provide crucial dollars needed to fund anti-tobacco efforts."¹⁹
- The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that raising tobacco-product prices decreases the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases produce "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco prevention and control strategies.²⁰

#2 p. 8

- Wall Street tobacco industry analysts have long recognized the powerful role increased cigarette taxes and rising cigarette prices play in reducing U.S. smoking levels. For example, a December 1998 "Sensitivity Analysis on Cigarette Price Elasticity" by Credit Suisse First Boston Corporation settled on a "conservative" estimate that cigarette consumption will decline by four percent for every 10 percent increase in price.
- In its 1998 report, *Taking Action to Reduce Tobacco Use*, the National Academy of Sciences' Institute of Medicine concluded that "the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use."²¹

Campaign for Tobacco-Free Kids, October 11, 2012 / Ann Boonn

More information on state tobacco taxes is available at

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/.

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3 p.1



House Finance and Taxation Committee

9:30 AM, Tuesday, February 3, 2015

HB 1421

Deb Knuth

North Dakota American Cancer Society Cancer Action Network (ACS CAN)

www.acscan.org

Chairman Headland and members of the House Finance and Taxation Committee, my name is Deb Knuth and I am the director of government relations in North Dakota for the American Cancer Society Cancer Action Network (ACS CAN).

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to voice our support of House Bill 1421 to the committee.

Increasing cigarette excise taxes is an evidence-based policy approach to accomplishing the critical public health goals of reducing smoking-related death and disease. Cigarette taxes are also a powerful economic tool resulting in large savings in health care costs. That's why forty-seven states and the District of Columbia have increased their cigarette taxes since 2002; some states more than once. In 2013, three states including Massachusetts, Minnesota and Oregon increased their cigarette taxes and in 2014, Vermont, approved legislation increasing their cigarette tax.

In North Dakota, if we raised the cigarette by \$1.10 per pack, our state would annually increase revenue by \$36.16 million. More importantly, however, we would decrease youth smoking by 16.4% and keep 5,300 young people under the age of 18 from becoming adult smokers. Raising the cigarette tax would encourage 5,600 adult smokers to quit. As a former smoker I know how hard it is to quit. Price of cigarettes does matter to a smoker and raising the taxes per pack works.

Projected public health benefits for North Dakota includes \$630,000 in Medicaid program savings and long-term health care cost savings from adult and youth smoking declines would total \$213.36 million. These facts illustrate the need for a price increase and also the need to intensify our efforts to ensure young North Dakotans never light a cigarette. ACS CAN believes revenue generated by this legislation should be directed toward public health goals such as the community health trust fund to fund chronic disease as well as other health needs in the state.

We are joined in our support of raising the state's cigarette tax, as well as raising state tax rates on other tobacco products (OTPs), by 40 health and business organizations in the Raise it for Health-ND coalition. Many of the members are in this room and will also testify in support of HB 1421.

ACS CAN also released polling results in January 2015, showing 69 percent of North Dakota voters favor increasing the state tobacco tax. ACS CAN commissioned the poll done by Public Opinion Strategies. The telephone survey was completed December 15-17, 2014, among 500 likely voters in North Dakota.

Implementing strong tobacco control policies at the state level has been proven to reduce smoking and discourage new smokers. Through a three-pronged approach – higher tobacco taxes, comprehensive

smoke-free laws, and fully funded tobacco prevention and cessation programs— experience and evidence shows that state tobacco control policies can help curb the tobacco burden in North Dakota.

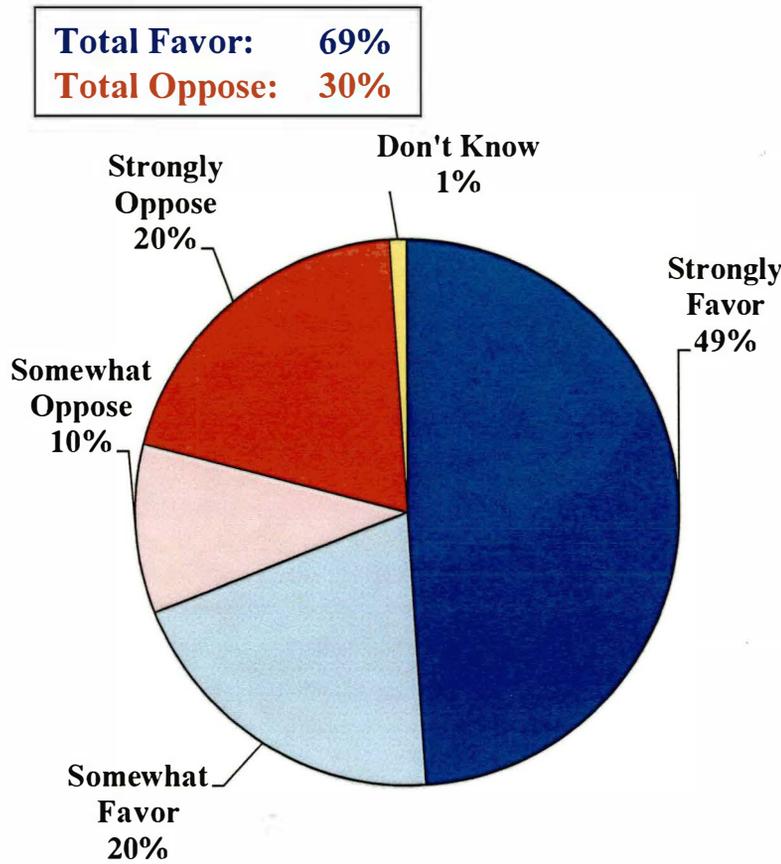
Thank you for your time and consideration of this important issue

The American Cancer Society Cancer Action Network ("ACS CAN") is the advocacy affiliate of the American Cancer Society (the "Society"). The Society is a nationwide, community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy, and service. The American Cancer Society is the largest voluntary health organization in the United States.

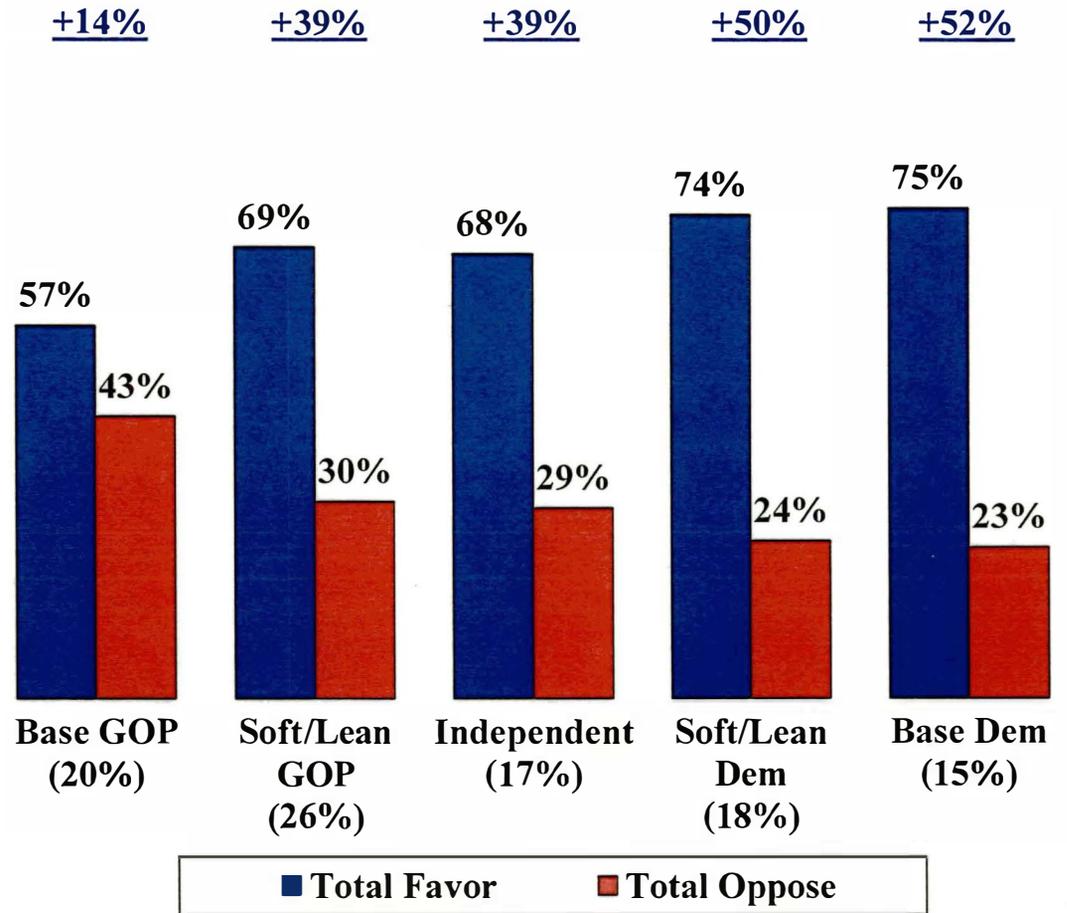
North Dakotans overwhelmingly favor an increase in the state tobacco tax.

“As you may know, the state tobacco tax is currently forty-four cents per pack of cigarettes, which ranks forty-sixth lowest of fifty states. Also, North Dakota has not increased the state tobacco tax since 1993. Would you favor or oppose a proposal that would raise the state tobacco tax and use the revenue for cancer programs, heart programs, and other community health programs?”

Overall



By Party



#3 p. 3



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#4 p. 1

**House Finance and Taxation Committee
HB 1421
February 3, 2015**

Chairman Headland and Committee Members, I am Courtney Koebele and I serve as Executive Director for the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association is in support of HB 1421, increasing the state's tax on tobacco products. At its 2013 annual meeting, NDMA adopted a resolution supporting legislative action to raise North Dakota's tobacco tax 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.

Physicians are on the front lines of trying to prevent and reduce tobacco use, counseling young patients not to start and supporting patients who have already started in their attempts to quit. Yet, they cannot do it alone. Increasing tobacco taxes is one of the leading recommendations for states to use in preventing and treating tobacco addiction.

In fact, in Minnesota, the most recent tobacco survey findings show that increasing the price of tobacco supports smokers in quitting. In 2013, the Minnesota Legislature passed a law that increased the tax on cigarettes by \$1.60 per pack. Smokers reported that this price increase influenced their smoking behavior, with 60.8 percent thinking about quitting, 48.1 percent cutting down on smoking and 44.2 percent making attempts at quitting. Among smokers who successfully quit in the past year, 62.8 percent reported that the price increase helped them make a quit attempt and 62.7 percent reported that it helped keep them from smoking again.

According to the Minnesota Youth Tobacco report, the percent of high school students using any of the conventional tobacco products in the past 30 days fell from 25.8 percent in 2011 to 19.3 percent in 2014, the sharpest drop ever recorded by the survey.

For all of the above stated reasons, NDMA supports HB 1421. I would be happy to answer any questions. Thank you.

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February 3, 2015 Testimony

ND House Finance and Taxation

HB 1421: Relating to the excise taxes on tobacco products and the cigarette tax; to repeal section 57-36-24 of the North Dakota Century Code, relating to the exemption from the tobacco tax for products given to the veterans' home and the state hospital; and to provide a continuing appropriation

Chairman Headland and members of the House Finance and Taxation Committee, I am Dr. Patricia Moulton, Executive Director of the North Dakota Center for Nursing. Today, I am providing testimony in support of HB 1421 relating to the excise taxes on tobacco products and the cigarette tax. I have attached a policy brief to my testimony today which was created by the North Dakota Center for Nursing and was developed to represent over 17,000 nurses and more than forty nursing organizations across North Dakota.

Tobacco use in North Dakota remains a key threat to health. Twenty-one percent (115,500) of adults in North Dakota smoke and nearly 800 North Dakotans will die each year from smoking and smoking-related disease.¹ Nineteen percent (7,400) of youth in North Dakota smoke with 600 North Dakota children (under 18) becoming new daily smokers each year, of whom more than 14,000 will die prematurely because of this addiction.

Tobacco use is North Dakota's leading preventable cause of death, killing more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.

According to the 2014 U.S. 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. Every state that has significantly raised its cigarette tax rate, pack sales have gone down sharply and smoking rates were reduced.

The current ND 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, places North Dakota 46th among the states and U.S. territories for tobacco tax rates, and is lower than the average of tobacco growing states. North Dakota has not enacted legislation to increase tobacco taxes since 1993.

Thank you for the opportunity to speak on behalf of the many nursing organizations that are a part of the ND Center for Nursing.

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ND Public Health Association

Nursing Student Association of ND

ND Workforce Development

Sigma Theta Tau Chapters

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North Dakota Public Health Association

ND Dept. of Commerce, Workforce Development Division

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Turtle Mountain Community College Nursing Program

United Tribes Technical College Nursing Program & Student Health

University of Mary Nursing Program

UND - College of Nursing

University Partnership Research Grant for Health Professional Opportunities

Williston State College Nursing Program

Other Nursing Partners from Healthcare Organizations



**NORTH DAKOTA
CENTER FOR NURSING**
A unified voice in nursing excellence.

#5 p2

Tobacco Tax

Tobacco Free Schools

December 11, 2014

Executive Summary

The North Dakota Center for Nursing is a non-profit, 501c3 organization that was developed to represent over 17,000 nurses and 40+ nursing organizations across North Dakota. The mission of the North Dakota Center for Nursing is to guide the ongoing development of a well-prepared and diverse nursing workforce to meet the needs of the citizens of North Dakota through research, education, recruitment and retention, advocacy and public policy. This policy brief has been approved by our Board of Directors and is an official policy of the ND Center for Nursing.

Tobacco use in North Dakota remains a key threat to health. Twenty-one percent (115,500) of adults in North Dakota smoke and nearly 800 North Dakotans will die each year from smoking and smoking-related disease. Nineteen percent (7,400) of youth in North Dakota smoke with 600 North Dakota children (under 18) becoming new daily smokers each year, of whom more than 14,000 will die prematurely because of this addiction. Tobacco use is North Dakota's leading preventable cause of death, killing more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.

Tobacco use in North Dakota also imposes an economic burden, with smoking-caused direct-healthcare costs amounting to \$326 million each year, smoking-caused productivity losses approximating \$192 million annually, and each household paying \$586 per year in state and federal taxes from smoking-caused government expenditures. North Dakota government Medicaid payments directly related to tobacco use are \$47 million.

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 (US Surgeon General's Report, 2014). Every state that has significantly raised its cigarette tax rate, pack sales have gone down sharply and smoking rates were reduced. The current ND 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, places North Dakota 46th among the states and U.S. territories for tobacco tax rates, and is lower than the average of tobacco growing states. North Dakota has not enacted legislation to increase tobacco taxes since 1993.

The Centers for Disease Control and Prevention (CDC) in its "Best Practices for Comprehensive Tobacco Control Programs" recommends implementing Comprehensive Tobacco Free School Policies to prevent tobacco use initiation because they reshape the environment to support tobacco-free norms.

Policy Recommendation: Support the Raise It for Health Resolution to raise North Dakota's cigarette tax to a minimum of \$2.00 per pack and all other tobacco products by a proportional amount during the 64th Legislative Assembly. #5 p.3

Policy Recommendation: Encourage adoption of a Comprehensive Tobacco Free School Policy by all North Dakota School Boards as outlined in the North Dakota Public Health Association Resolution.

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- BreatheND. Model Policy for Comprehensive Tobacco Free Schools. <http://breathend.com/uploads/resources/1246/nd-comprehensive-model-tobacco-free-school-policy---august-2013-4-4-14.pdf>
- Presidents Cancer Panel's 2007 Report Promoting Healthy Lifestyles <http://deainfo.nci.nih.gov/advisory/pcp/annualReports/pcp07rpt/pcp07rpt.pdf>
- Report of the Surgeon General U.S. Public Health Service 2014 <http://breathend.com/uploads/resources/1246/nd-comprehensive-model-tobacco-free-school-policy---august-2013-4-4-14.pdf>

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2-3-15
#6 p.1



Kristie Wolff – Program Manager, American Lung Association in North Dakota
Support for HB1421
North Dakota House Finance & Tax Committee

February 3, 2015

Chairman Headland and members of the House Finance and Taxation Committee, my name is Kristie Wolff, I am the Program Manager for the American Lung Association in North Dakota.

Based on the American Lung Association's mission to save lives by improving lung health and preventing lung disease through Education, Advocacy, and Research I am here to testify in support of HB1421.

On January 21, 2015, the American Lung Association released its 13th annual State of Tobacco Control Report. This report tracks progress on key tobacco control policies at the federal and state level. Grades are assigned based on whether laws are adequately protecting citizens from tobacco-related death and disease.

North Dakota received an "F" grade for tobacco taxes. At only 44 cents per pack, North Dakota's cigarette tax is among the lowest in the nation. Higher prices for tobacco have been proven to be an effective tool to reduce smoking, especially among youth.

Let's take Minnesota for example. In 2013, the Minnesota Legislature passed a law that increased the tax on cigarettes by \$1.60 per pack.

In 2014 The Minnesota Adult Tobacco Survey (MATS) was conducted, interviewing more than 9,000 Minnesotans age 18 and older by telephone. The results were released January 22, 2015. MATS findings showed that increasing the price of tobacco did support smokers in quitting.

The percentage of adult Minnesotans who smoke cigarettes dropped from 16.1% in 2010 to 14.4% in 2014 (approximately 580,000 adults).

Smokers reported that the \$1.60 per-pack tax increase on cigarettes influenced their smoking, with:

- 60.8 percent thinking about quitting;
- 48.1 percent cutting down on smoking; and
- 44.2 percent making quit attempts.

#6p.2

Among smokers who successfully quit since the tax increase:

- 62.8 percent reported that the price increase helped them make a quit attempt
- 62.7 percent reported that it helped keep them from smoking again.

Youth rates saw an even more significant decrease based on the 2014 Minnesota Youth Tobacco Survey. This survey was conducted by the Minnesota Department of Health at 70 Public schools with an overall participation of 4,243 students in grades 6 through 12. The survey found:

- The percent of high school students who smoked cigarettes dropped from 18.1 percent in 2011 to 10.6 percent in 2014, the steepest decline recorded by the survey.
- The percent of high school students using any of the conventional tobacco products fell from 25.8 percent in 2011 to 19.3 percent in 2014, also the sharpest drop ever recorded by the survey. (Conventional products are cigarettes; cigars, cigarillos and little cigars; smokeless tobacco, and pipes.)

How do we compare?

North Dakota's Current Cigarette Tax



Average of Surrounding States: \$2.04

#bp.3

National Averages:

National Average: \$1.54 per pack

Average of non-tobacco producing states \$1.68 per pack

Average tax of tobacco producing states: 48.5¢ per pack

Average of surrounding states: \$2.04 per pack

Having one of the lowest tobacco taxes in the nation is not something that we should be proud of. It is time to raise the tobacco tax for the health of our state and to help protect our youth from a lifelong addiction to nicotine and the deadly consequences of tobacco. So today I am asking you to please give a do pass recommendation to HB1421.

Thank you.

North Dakota Report Card



N O R T H D A K O T A

Tobacco Prevention and Control Program Funding: **A**

FY2015 State Funding for Tobacco Control Programs:	\$9,518,091
FY2015 Federal Funding for State Tobacco Control Programs:	\$1,205,818*
FY2015 Total Funding for State Tobacco Control Programs:	\$10,723,909
CDC Best Practices State Spending Recommendation:	\$9,800,000
Percentage of CDC Recommended Level:	109.4%
State Tobacco-Related Revenue:	\$64,300,000

Thumbs up for North Dakota for funding its state tobacco control program at or above the CDC-recommended level, one of only two states to do so this year.

*Includes tobacco prevention and cessation funding provided to states from the Centers for Disease Control and Prevention and U.S. Food and Drug Administration.

Smokefree Air: **A**

OVERVIEW OF STATE SMOKING RESTRICTIONS:

- Government Worksites: **Prohibited**
- Private Worksites: **Prohibited**
- Schools: **Prohibited**
- Child Care Facilities: **Prohibited**
- Restaurants: **Prohibited**
- Bars: **Prohibited**
- Casinos/Gaming Establishments: **Prohibited (tribal establishments exempt)**
- Retail Stores: **Prohibited**
- Recreational/Cultural Facilities: **Prohibited**
- Penalties: **Yes**
- Enforcement: **Yes**
- Preemption: **No**
- Citation: N.D. CENT. CODE §§ 23-12-9 to 23-12-11 (2013).

Tobacco Taxes: **F**

CIGARETTE TAX:

Tax Rate per pack of 20: \$0.44

OTHER TOBACCO PRODUCT TAXES:

Tax on little cigars: **Equalized: Yes; Weight-Based: No**

Tax on large cigars: **Equalized: Yes; Weight-Based: No**

Tax on smokeless tobacco: **Equalized: No; Weight-Based: Yes**

Tax on pipe/RYO tobacco: **Equalized: Yes; Weight-Based: No**

Tax on Dissolvable tobacco: **Equalized: No; Weight-Based: Yes**

For more information on tobacco taxes, go to: <http://slati.lung.org/slatis/states.php>

Access to Cessation Services: **C**

OVERVIEW OF STATE CESSATION COVERAGE:

STATE MEDICAID PROGRAM:

Medications: **Covers all 7 recommended cessation medications***

Counseling: **Individual and group counseling covered**

Barriers to Coverage: **Duration limits, annual limits, minimal co-payments required, prior authorization required and use of counseling required to get medications**

Medicaid Expansion: **Yes**

STATE EMPLOYEE HEALTH PLAN(S):

Medications: **Covers all 7 recommended cessation medications***

Counseling: **Covers individual, group, online and phone counseling**

Barriers to Coverage: **Dollar limits apply to medications and counseling**

STATE QUITLINE:

Investment per Smoker: **\$7.05; the average investment per smoker is \$3.65**

OTHER CESSATION PROVISIONS:

Private Insurance Mandate: **Yes**

Tobacco Surcharge: **No prohibition or limitation on tobacco surcharges**

Citation: See North Dakota Tobacco Cessation Coverage page for specific sources.

*The 7 recommended cessation medications are: NRT Gum, NRT Patch, NRT Nasal Spray, NRT Inhaler, NRT Lozenge, Varenicline (Chantix) and Bupropion/Zyban.

North Dakota State Highlights:



Tobacco use remains the leading cause of preventable death and disease in the United States. To address this enormous toll, the American Lung Association and its partners have committed to three bold goals:

1. Reduce smoking rates, currently at about 18 percent, to less than 10 percent by 2024;
2. Protect all Americans from secondhand smoke by 2019; and
3. Ultimately eliminate the death and disease caused by tobacco use.

The American Lung Association in North Dakota recognizes that these bold goals will only be met in North Dakota if these following three actions are taken by our elected officials:

1. Raise the state cigarette tax currently at 44 cents per pack to \$2.00 per pack;
2. Restrict the sale of e-cigarettes to minors;
3. Keep in place the current fully funded tobacco prevention program and smokefree law as voted on by the people of the state.

North Dakota's legislature only meets once every two years, so there was no legislative session in North Dakota in 2014. During this off-year, the American Lung Association in North Dakota worked to continue to educate decision makers about electronic cigarettes, which will likely be a big issue during the 2015 legislative session. The goal is to make sure the current law in North Dakota that prohibits the use of e-cigarettes anywhere smoking is not allowed remains intact and strong.

The American Lung Association in North Dakota is part of a broad based coalition called Raise it for Health ND. Currently, North Dakota's tobacco tax is one of the lowest in the nation and hasn't been increased since 1993. The goal of the coalition is to raise the tobacco tax during the 2015 North Dakota legislative session. The Raise it for Health ND coalition launched a statewide education campaign in 2014. The coalition has found that a large percentage of residents in the state that they have spoken with do support an increase in the state's tobacco tax and many were also appalled by how low the current cigarette tax, at only 44 cents per pack really is.

These goals can be reached by continued support, education, and outreach by the Raise it for Health ND Coalition members to both the public and elected officials and by the residents of North Dakota voicing their support for tobacco control issues. During the 2015 legislative session the American Lung Association in North Dakota and Raise it for Health ND Coalition will need compelling personal testimony along with strong data and information to move our goals forward.



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North Dakota State Facts

Economic Costs Due to Smoking:	\$442,053,000
Adult Smoking Rate:	21.2%
High School Smoking Rate:	19.0%
Middle School Smoking Rate:	5.8%
Smoking Attributable Deaths:	877
Smoking Attributable Lung Cancer Deaths:	259
Smoking Attributable Respiratory Disease Deaths:	245

Adult smoking rate is taken from CDC's 2013 Behavioral Risk Factor Surveillance System. High school smoking rate is taken from the 2013 Youth Risk Behavioral Surveillance System. Middle school smoking rate is taken from the 2011 Youth Tobacco Survey.

Health impact information is taken from the Smoking Attributable Mortality, Morbidity and Economic Costs (SAMMEC) software. Smoking attributable deaths reflect average annual estimates for the period 2000-2004 and are calculated for persons aged 35 years and older. They do not take into account deaths from burns or secondhand smoke. Respiratory diseases include pneumonia, influenza, bronchitis, emphysema and chronic airway obstruction. The estimated economic impact of smoking is based on smoking-attributable health care expenditures in 2004 and the average annual productivity losses for the period 2000-2004.

To get involved with your American Lung Association, please contact:

American Lung Association in North Dakota

701-223-5613

www.Lung.org/northdakota



#bp. 6

STATE CIGARETTE EXCISE TAX RATES & RANKINGS

Overall All States' Average: \$1.54 per pack
 Major Tobacco States' Average: 48.5 cents per pack
 Other States' Average: \$1.68 per pack

State	Tax	Rank
Alabama	\$0.425	47th
Alaska	\$2.00	12th
Arizona	\$2.00	12th
Arkansas	\$1.15	30th
California	\$0.87	33rd
Colorado	\$0.84	34th
Connecticut	\$3.40	4th
Delaware	\$1.60	22nd
DC	\$2.50	11th
Florida	\$1.339	27th
Georgia	\$0.37	48th
Hawaii	\$3.20	5th
Idaho	\$0.57	42nd
Illinois	\$1.98	17th
Indiana	\$0.995	32nd
Iowa	\$1.36	26th
Kansas	\$0.79	36th
Kentucky	\$0.60	40th

State	Tax	Rank
Louisiana	\$0.36	49th
Maine	\$2.00	12th
Maryland	\$2.00	12th
Massachusetts	\$3.51	2nd
Michigan	\$2.00	12th
Minnesota	\$2.90	7th
Mississippi	\$0.68	37th
Missouri	\$0.17	51st
Montana	\$1.70	19th
Nebraska	\$0.64	38th
Nevada	\$0.80	35th
New Hampshire	\$1.78	18th
New Jersey	\$2.70	9th
New Mexico	\$1.66	21st
New York	\$4.35	1st
North Carolina	\$0.45	45th
North Dakota	\$0.44	46th
Ohio	\$1.25	29th

State	Tax	Rank
Oklahoma	\$1.03	31st
Oregon	\$1.31	28th
Pennsylvania	\$1.60	22nd
Rhode Island	\$3.50	3rd
South Carolina	\$0.57	42nd
South Dakota	\$1.53	24th
Tennessee	\$0.62	39th
Texas	\$1.41	25th
Utah	\$1.70	19th
Vermont	\$2.75	8th
Virginia	\$0.30	50th
Washington	\$3.025	6th
West Virginia	\$0.55	44th
Wisconsin	\$2.52	10th
Wyoming	\$0.60	40th
Puerto Rico	\$2.23	NA
Guam	\$3.00	NA
Northern Marianas	\$1.75	NA

Table shows all cigarette tax rates in effect by January 1, 2015 (MN inflation adjustment on 1/1/2015). Since 2002, 47 states, DC, and several U.S. territories have increased their cigarette tax rates more than 110 times. The states in **bold type** have not increased their cigarette tax since 2005 or earlier. Currently, 30 states, DC, Puerto Rico, the Northern Marianas, and Guam have cigarette tax rates of \$1.00 per pack or higher; 15 states, DC, and Guam have cigarette tax rates of \$2.00 per pack or higher; six states and Guam have cigarette tax rates of \$3.00 per pack or higher; and one state (NY) has a cigarette tax rate more than \$4.00 per pack. Tobacco states are KY, VA, NC, SC, GA, and TN. States' average includes DC, but not Puerto Rico, other U.S. territories, or local cigarette taxes. The median tax rate is \$1.36 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 Anchorage, AK at \$4.39 per pack. For more 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 average price for a pack of cigarettes nationwide is roughly \$6.18 (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 22, 2014 / Ann Boonn

For additional information see the Campaign's website at [http://www.tobaccofreekids.org/what we do/state local/taxes/](http://www.tobaccofreekids.org/what_we_do/state_local/taxes/).

Sources: Orzechowski & Walker, *Tax Burden on Tobacco*, 2013; media reports; state revenue department websites.

Resolution to Raise North Dakota's Tobacco Tax

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 combined;

WHEREAS, 19.4% (7,400) of youth in North Dakota smoke, and 500 North Dakota kids (under 18) become new daily smokers each year, of whom more than 11,000 will die prematurely because of this addiction;

WHEREAS, 21.9% (116,600) of adults in North Dakota smoke and nearly 800 North Dakotans will die each year from smoking and smoking-related disease;

WHEREAS, tobacco use in North Dakota imposes economic burden, with smoking-caused direct-healthcare costs amounting to \$247 million each year, smoking-caused productivity losses approximating \$192 million annually, and each household paying \$574 per year in state and federal taxes from smoking-caused government expenditures;

WHEREAS, each year, the North Dakota government Medicaid payments directly related to tobacco use is \$47 million;

WHEREAS, 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;

WHEREAS, the legislative body in North Dakota has not enacted legislation to increase our state's tobacco taxes in 20 years, since 1993;

WHEREAS, according to the 2012 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;

BE IT THEREFORE RESOLVED, 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, that the undersigned organization endorses legislative action to be taken during the 64th Legislative Assembly to raise North Dakota's cigarette tax to a minimum of \$2.00 per pack and all other tobacco products by a proportional amount.

BE IT FURTHER RESOLVED, that the undersigned organization will:

- Inform its members, affiliates, and partners and, if possible, the general public of its endorsement of this Resolution; and,
- Inform the Governor and members of the General Assembly of its endorsement of this Resolution, to the extent permitted by law, and urge its members to do the same.

#702

Organization: Custer Health Board Number of Members: _____
Contact Person: Brady Weaver Title: Tobacco Program Mgr
Address of Organization: 210 2nd Ave NW
City, State Zip: Mandan ND 58554
Phone: 701 667 3370 Email: _____
Authorized Signature: [Signature] Date: 2-7-14

Please return to: Tobacco Free North Dakota, 212 N 2nd St, Bismarck, ND 58501 or scan and email to info@tfnd.org.

Principal Sources:

- President's Cancer Panel's 2007 report, *Promoting Healthy Lifestyles*
- CDC Tobacco Control State Highlights 2012 report
- Campaign for Tobacco-Free Kids, *Toll of Tobacco in North Dakota*, updated June 20, 2013

HB 1421
2-3-15
#8 p.1

Testimony to the
House Finance and Taxation Committee

Prepared February 3, 2015 by
Terry Traynor, Assistant Executive Director
North Dakota Association of Counties

RE: HB1421 – Tobacco Tax Increase

Mr. Chairman and members of the committee, I am Terry Traynor, assistant executive director of the North Dakota Association of Counties, and I would like to speak on behalf of our county official members in support of House Bill 1421.

Although most people think of roads, jails, sheriffs, courthouses, and social services when they think of county government, in reality, counties have a significant role in the delivery of public health services.

In fact, NDCC 23-35-02 specifically states: *"All land in the state must be in a public health unit before January 1, 2001. The health council may issue rules defining the core functions a public health unit shall undertake."*

Whether its immunizations, infectious disease control, environmental health inspections, or simply public health education; the 25 county and multi-county public health units, and the three city health units with which counties participate, are very important components of county service delivery.

HB1421 is supported by counties for three primary reasons:

1. Higher tobacco prices have proven to result in fewer people (particularly children) smoking, and this ultimately increases public health,
2. The largest share of the new tax revenue will be placed in the community health trust fund to be used to fund legislative priorities that are targeted at improving public health, and
3. A smaller, but significant share of the new tax revenue will be used to directly support county and city public health units.

Mr. Chairman and committee members, county officials urge a Do Pass recommendation on HB1421.

House Bill 1421
House Finance and Taxation Committee
Testimony - June Herman, American Heart Association

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2-3-15
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Good morning Chairman Headland and members of the House Finance and Taxation Committee. For the record, I am June Herman, Regional Vice President of Advocacy for the American Heart Association. I am here today to ask for your Do Pass recommendation on House Bill 1421. As you have heard, increasing the price of tobacco products does reduce tobacco use. It is for that reason we support a significant increase in the North Dakota tobacco tax.

High blood pressure and tobacco use are the leading risk factors for heart disease and stroke, North Dakota's leading killers. Stroke is the leading cause of admission to long term care. When we turn to our state's treatment data, the toll of these risk factors are evident – on the individual and their families, our healthcare system, and to our communities.

Additional Data:

- 81% of ND strokes are under age 85, with 1/3 of those strokes under age 65.
- Only 1% of those ND hypertension cases were being treated prior to stroke for HBP
- 69% of Americans who have a first heart attack have blood pressure over 140/90.

Benchmark Group	Time Period	Hypertension	Smoker
All ND Hospitals	2011	74.9%	17.1%
Ischemic Stroke Diagnosis	2012	75.8%	18.8%
	2013	72.5%	20.9%

To provide perspective of why reducing leading risk factors is important to our state: HBP damages the walls of the arteries. If you have high blood pressure, the force exerted on your arteries is too high. It's so high that it creates microscopic tears in the artery walls that then turn into scar tissue. Damaged arteries accumulate circulating materials such as cholesterol, platelets, fats and plaque builds up. Smoking makes platelets stickier, the arteries become less elastic and can spasm. A deadly combination with significant healthcare impact.

HB 1421 proposes a tax increase which can reduce tobacco use in North Dakota. It also provides revenue to the state from all who buy tobacco products here. It addresses essential areas of health needs, such as stroke and cardiac prevention and care, and can increase access to smoking cessation services in the state. Do pass HB 1421 for the health of North Dakota.

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House Bill 1421
House Finance and Taxation Committee
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#9 p.3

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House Finance and Taxation Committee
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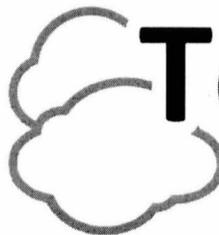
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Tobacco Free North Dakota

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#10 p.1

Testimony in support of HB1421
From Valerie Schoepf
Board member, Tobacco Free North Dakota
To House Finance & Tax Committee
Representative Craig Headland, Chair
February 3, 2015

Good morning, I'm Valerie Schoepf and I live here locally. I'm a board member with Tobacco Free North Dakota and also vice president of the Bismarck Tobacco Free Coalition. I'm here today in support of HB1421 that would raise the tobacco tax by \$1.10.

As you can see, I am relatively pregnant, and so I can further preface my comments by sharing that we won't be accepting cigars, Cuban or candy, when this baby is born. With that, let me tell you a bit more about my growing family and why I'm involved with this issue.

I have a 4-year old daughter, Frances. She's of the character that (with no coaching involved) she'll approach someone smoking and say, "That isn't healthy. Why do you do that?" This stopped one gal in her tracks who then said, "You're right, and I don't know." Frances is wise for her age, and I hope that her impression of tobacco as a 4-year old holds steady over time.

I also have a 3-year old son, John. He's of the character to generally plead the fifth given most questions be it his name or age. He is thoughtful and sensitive yet has been known to enter conversations out of left field in sharing, "My grandpa Ray died, and my name is John Raymond."

So there it is – my kids and my dad, Raymond Waldock, are why I'm here today. I was 14 years old and a freshman in high school when my dad passed away from lung and brain cancer. He got hooked growing up in Parshall, ND, and was a lifelong smoker – who wished he wasn't.

Like my dad, a majority of smokers want to quit. To support this and prevent youth from starting up, the most effective approach has three components: price, tobacco-free environments and education. Of those three components, significant price increases are shown to have the most impact, and immediate results. Since Minnesota increased their tax on cigarettes by \$1.60 per pack, smokers reported that this price increase influenced their smoking behaviors, with 60.8 percent thinking about quitting, 48.1 percent cutting down on smoking and 44.2 percent making attempts to quit. Among smokers who successfully quit in the past year, 62.8 percent reported that the price increase helped them make a quit attempt, and 62.7 percent reported that it helped keep them from smoking again.

North Dakota is doing great on the environmental and educational components, but to really drive smoking rates down it's going to take that third leg: a significant increase to the cost of tobacco. And fortunately, when an increase like the one represented by today's bill prompts people to quit, North Dakota's free and highly effective quit-line is available to all.

My dad died in 1996, and since North Dakota's tobacco tax hasn't changed since 1993, he actually was of the era of the 44-cent tax rate. That was decades ago. Looking to the future, my family's obsession will soon be our newborn – we'll do all we can to protect and provide for her well being. So to wrap up, I have two questions: How long will North Dakota sell tobacco at a deflated price? The answer is in your hands. And second, when do our babies stop being our babies? I don't think they do. In less than 10 years, Frances and John will be teenagers being targeted to try tobacco – and they'll still be my babies. That's no different than the thousands of middle and high school students throughout North Dakota who are someone's babies now – right now they are susceptible to cheap tobacco, and their parents also want to protect their well-being. #VOP

To conclude, I support HB1421 and urge you to make a healthy difference by also supporting this overdue increase to North Dakota's tobacco tax.

Valerie Schoepf, Bismarck, ND
(651) 455-5176 / valerieschoepf@hotmail.com



North Dakota Hospital Association

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2-3-15
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Vision

The North Dakota Hospital Association will take an active leadership role in major Healthcare issues.

Mission

The North Dakota Hospital Association exists to advance the health status of persons served by the membership.

**Testimony: HB 1421
Excise Tax on Tobacco Products
House Finance and Taxation
February 3, 2015**

Good morning Chairman Headland and Members of the House Finance and Taxation Committee. I am Jerry E. Jurena, President of the North Dakota Hospital Association. I am here today in support of HB 1421 and ask that you give this bill a **Do Pass**.

HB 1421 is a bill that has the potential of reducing the number of children and young adults from starting a habit that will in many cases will have a negative and costly outcome.

I have been a hospital administrator for 30 years in four states. In my years of managing hospitals I have seen and visited with a number of people who frequented my hospital for issues related to smoking. I have had acquaintances and good friends dye. Many times I have heard someone say I wish I had never tied one of these d.... things.

Patients who smoke are a source of revenue for hospitals as they are for cigarette companies. It is an addiction that is not easily overcome. I can say I would gladly give up all the revenue that we make from smokers if we can make them all quit. The addiction to tobacco products is also very costly to the individual and to third party payers, i.e. Medicare, Medicaid and Insurance Companies.

I am told by raising the tax on tobacco products has a dramatic effect on individuals especially children and young adults. An increase in taxes on tobacco products could be the difference on whether a child or young adult starts this habit. I am in favor of reducing the number of people that start using tobacco products.

Quality of life is what we are talking about; mine yours, our friends, our children and our grandchildren.

I ask that you give this HB 1421 a **Do Pass**. Thank you.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "J. E. Jurena". The signature is fluid and cursive, with a large initial "J" and "E".

Jerry E. Jurena, President
North Dakota Hospital Association



ND PETROLEUM MARKETERS ASSOCIATION

1025 N 3rd Street • PO Box 1956 • Bismarck, ND 58502
Telephone 701-223-3370 • www.ndpetroleum.org • Fax 701-223-5004

HB 1421
2-3-15
#12 p.1

Testimony- HB 1421

February 3, 2015- House Finance and Tax Committee

Chairman Headland and Members of the House Finance and Tax Committee:

For the record, I'm Mike Rud, President of the North Dakota Petroleum Marketers Association.

On behalf of NDPMA and its 400 members I stand before you urging a **“DO NOT PASS” recommendation on HB 1421.**

North Dakota is the last state that needs to see a business tax increase of any kind. I would agree with several NDPMA members who are here today, who commented to me on how unlikely it was any candidate in last fall's election season brought up raising taxes on the campaign trail.

So it doesn't make much sense that we are suddenly have this debate one more time. The State's economy remains very strong with the retail sales like those being generated by the over **2500 retail stores that sell tobacco in ND** playing a key role. As I've said before with the retail sector of the state's economy hitting on all cylinders why would any legislator support throwing a wrench into the economic engine? Also, why would this legislative body support such an onerous “user” tax on a legal product?

Proponents of raising the state's tobacco taxes would have us believe that low taxes are encouraging more tobacco use. But that contention isn't supported by the data.

North Dakota's smoking rates are very low despite the state also having some of the lowest tobacco taxes in the nation!

According to a 2011 report issued by the CDC, the state ranks just 37th out of 50 states for adult smoking, and 49th for the use of smokeless tobacco.

In terms of youth cigarette use, North Dakota ranked just 34th among the 44 states that reported data.

For use of all forms of tobacco by youths (cigarettes, chew, etc.), North Dakota ranked 30th among 36 states reporting data.

During budget testimony in early January, Breathe ND officials said at the end of the 2017 biennium, **the agency would have will have an estimated \$53 Million Dollars in its coffers!** That would seem to be more than enough cash to keep the anti-tobacco campaign in high gear.

This proposed tax could leave the adult purchaser of a single pack of cigarettes facing a tax increase of roughly 300%. The buyer of a single can of snuff could see a tax increase of nearly 350%.

Cigarettes are already subject to federal and state excise taxes, state sales taxes, and other fees. If North Dakota increased the cigarette excise tax by \$1.10, taxes and fees would account for 57.5% of the cigarette pack price. This far exceeds the government burden imposed on other products that are considered highly taxed. For example the taxes and fees on cell phone and beer account for about 17% of the total product price, while taxes and fees on a gallon of gas equate to about 13%.

According to the National Association of Convenience Stores, cigarettes are the top revenue generator, accounting for 31.8% of in-store sales nationwide. Increasing the excise tax could hurt legitimate retailers when adult smokers shift purchases across state lines or to other outlets, such

#12p3

as the internet or Native American territories. This would negatively impact nearly all of the roughly 800 stores owned by NDPMA members. Again, potentially punishing independent businesses providing legal products and services to adult ND consumers.

Cigarette excise taxes are regressive because they most negatively affect lower-income adult smokers. Based on data from the Centers for Disease Control and Prevention, 32.0% of adults in North Dakota who earn less than \$15,000 are smokers, whereas only 15.5% of adults who earn \$50,000 or more are smokers. Raising taxes will unfairly further burden low-income earners.

An excise tax increase could provide incentives for smuggling and other contraband activities, resulting in lost tax revenues. In 2014, the Bureau of Alcohol, Tobacco, Firearms, and Explosives said “\$7 billion to \$10 billion in state and federal tax revenue is lost each year because of [cigarette] smuggling, up from \$5 billion a few years ago...” And let’s not forget only one of the North Dakota’s Native American reservations currently collects sales tax on tobacco products. How is the state going to police what is sure to be an uptick in illegal purchases of tobacco products brought into communities off the nearby reservation and sold with no taxes charged? State and Local law enforcement are already strapped enough with the surge of traffic into the state without having to deal with policing what is normally a legal sale of a legal product, but now suddenly becomes a black market and tax evasion issue. And if fighting tax increases on the state level isn’t enough of a battle, I might add at the national level it appears President Obama is currently trying to increase the federal tobacco tax by 94 cents.

#12P-4

Contrary to what some might believe, North Dakota retailers don't stand in the driveway or on the storeroom floor attempting to sell tobacco products. Like the food, pop and candy we sell tobacco is a legal product. We simply attempt to meet consumer demand. In a very competitive environment we do the best we can to keep products competitively priced. Don't tie our hands.

HB 1421 is a solution in search of a problem. We urge a "DO NOT PASS" recommendation.



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

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13

Tuesday February 3rd, 2015

House Finance and Taxation Committee HB 1421

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 60 years. I employee 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. I believe the only business tax increase introduced this session. Small c-store owners do not need a tax increase like this. 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.

Taxing tobacco may seem to be an "easy" way to increase revenue to appropriate to public health units and trust funds but increasing 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.

Thank you very much for your time.

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Today, I visited your state for my monthly shopping trip. Just for the record, and to put this letter into perspective, the total amount that I spend in your state is \$600.00 - \$800.00.

Why do I travel over 2 1/2 hours to another state to do my monthly shopping? Because, you see, I am a smoker from Minnesota and the money that I save on purchasing my cigarettes pays for the rest of my monthly shopping.

Yes, I said that I am one of those horrible, icky, SMOKERS!

But, I am also a taxpayer!

I am a law abiding, hard-working, \$12.00/ hr, not on any assistance, tax payer.

I became a smoker during my enlistment in the US Army. No, neither of my parents smoked. No, I did not start smoking as until I reached the age of 18.

I choose to smoke. As an adult, it is my choice. One of the many freedoms that I served to protect.

I understand that the legislators in North Dakota would like to increase the excise tax on cigarettes, to be more in line with Minnesota. Let me tell you what happened in Minnesota after our legislature decided that smokers like me should pay for the new stadium. I, like many of my friends, stopped paying ANY tax on cigarettes in Minnesota because we started driving to North Dakota to buy them, benefitting your state with our tax dollars. In the beginning, we would car pool, buy our cigarettes, and fly back home. Over time, we have discovered many of your other businesses and now make monthly trips on our own to take advantage of them.

Today, for instance, I visited not only the smoke shop, but also K-mart, 8 different re-sale and antique shops, a paint store, gas station, sports shop and Buffalo Wild Wings. Purchasing all my monthly supplies for my home, as well as shoes, ice skates, a jacket, jewelry, a pillow and bedding among other things. And spending the entire day there.

This is a day which in the past, my family and I would have made to St. Cloud, MN. However, after St. Cloud added a local tax years ago, and then with the increase in cigarettes, it has become cost effective for me to make my monthly trip to Fargo instead.

I am not writing to threaten you, only to let you know that if you decide to increase the excise tax on cigarettes to close to the price in Minnesota, you will lose my business. You do understand that I am not going to drive to your state to pay the same price that I can pay at my local gas station where I already stop.

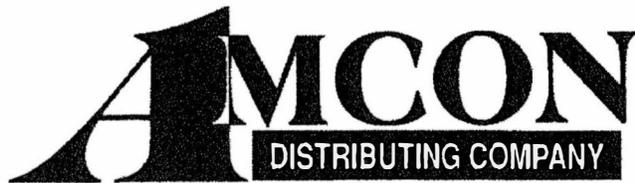
I understand that part of the reason for the purposed is to discourage underage smokers and to encourage smokers like me to quit. Well, the cold hard truth is....neither is going to happen. Did it help here in Minnesota? No, sorry, it did not. Some advocates may have stated that sales have gone down. Sure they have, I know personally 27

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smokers who now buy in your fine state and another 13 who have started rolling their own. So, just because Minnesota is not getting that tax revenue does NOT mean we have quit. It means we are smart, resourceful tax payers, who will find a way.

Please keep this in mind as you contemplate this additional tax. Because, as much as I enjoy and look forward to my monthly shopping trips, if they are not financially beneficial to me, I will move on. South Dakota, Iowa or Wisconsin will receive my business if you don't want it. This equates to lost revenue for North Dakota.

Feel free to contact me if you have questions. Mary Kuhnau (320) 533-0475



HB 1421
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#15

February 2, 2015

North Dakota Legislative Assembly
The Honorable Craig Headland
4950 92nd Avenue SE
Montpelier, ND 58472-9630

Dear Representative Headland:

On behalf of AMCON Distributing Company ("AMCON") and its 840 employees throughout the Midwest and North Dakota, I would like to express our opposition to any proposal to increase excise taxes on tobacco products. Any such action would have a devastating impact on businesses, small and large, and would place an unfair tax burden on a small segment of society who can least afford these increases.

As one of the leading wholesale distributors in the Midwest, AMCON distributes consumer products, including cigarettes and tobacco products, candy and other confectionery, beverages, food service, groceries, paper products, automotive and health and beauty care products to more than 4,500 retailers throughout the Midwest, including North Dakota. We currently employ approximately 840 people, including 60 employees who live and work in North Dakota. In addition, the Company operates sixteen retail health food stores in Florida and the Midwest.

Throughout our 35 year history, we have seen firsthand the damaging effects of tobacco tax increases on our business and the businesses of the retailers with which we interact on a daily basis.

These proposed increases are bad for North Dakota, bad for its people, and bad for business. Specifically, these proposed tax increases make no sense because:

- Cigarette taxes are selective and regressive;
- Increasing taxes on a small group of citizens to benefit the overall population is not fair;
- Higher tobacco taxes DO NOT significantly reduce consumption, but drive consumers to avoid/evade taxes;
- Higher cigarette taxes jeopardize significant cross-border cigarette purchases and tax revenues from residents in surrounding states;
- Increasing the cigarette tax never raises the amount of revenue expected;

- It is bad public policy to raise taxes during the current slow and fragile economic recovery; and
- An increase in the rate applied to smokeless tobacco products creates an artificial barrier to consumers switching from the most risky form of tobacco, cigarettes, to a less risky form of tobacco like moist snuff.

We urge you to reject any attempt to raise tobacco taxes for all of the reasons mentioned above. North Dakota business owners and their employees are the ones who will suffer as a result of these proposals.

Thank you for your time and attention.

Respectfully,



Kathleen Evans
President

Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce
HB 1421
February 3, 2015

Mr. Chairman and members of the committee, my name is Jon Godfread, I am the Vice President of Government Relations for the Greater North Dakota Chamber, the champions for business in North Dakota. GNDC is working on behalf of our more than 1,100 members, to build the strongest business environment in North Dakota. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in in Opposition to HB 1421.

GNDC has a long history of opposing excise taxes, which we believe are onerous and unfair. Raising the taxes on a legal product upwards of 250% - 350% would shock the conscience of any consumer. Our focus in this session is on tax decreases, not increases.

If we are trying to do social engineering, that is to discourage the practice, the tax code is a poor place to do it. If the goal is to eliminate smoking introduce a bill prohibiting the sale or use of tobacco products in the state. As witnessed by our experience with Minnesota increasing their cigarette tax with a "health fee", all we do is drive sales to a lower priced location by passing this bill. Thus, hurting our local retailers and hurting the consumers of a legal product. We see no acceptable reason to increase this tax.

Thank you for the opportunity to appear before you today in opposition to HB 1421. I would be happy to answer any questions.

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Testimony from Paul Mutch

HB 1421 – House committee on Finance and Taxation

February 3, 2015

Mr. Chairman and members of the committee:

My name is Paul Mutch. I live in Larimore where I own and operate Mutch Oil Company, which includes a small convenience store in our community of 1300 people. We have been selling tobacco products for many, many years.

I am opposed to HB 1421 and I do not use tobacco products.

In a time when all we hear about on the national level is how we need to look out for the middle class, middle class tax cuts, and the shrinking middle class, etc., I find it unbelievable how a state like North Dakota – in the financial condition that it is currently in – would even consider the idea of increasing taxes on anything. A tax increase on tobacco products – no matter how much a person hates their usage – would clearly hit the middle class the hardest.

A tax increase, to whatever degree, is not going to be enough to convince my customers whom I spoke with to quit smoking. The lady on social security who comes in and buys two cartons per week – as she carries an oxygen tank – is not going to quit smoking because they now cost more. My bookkeeper, who has been smoking for 40+ years, told me as we visited, that a tax increase of any amount would not deter her from smoking. These are both sad, but true commentaries. Government imposed “sin taxes” meant to change individual behavior seldom have the desired effect.

I urge a NO vote on HB 1421 because even though I would like to see everyone either quit smoking or never start, I don't believe raising taxes would result in any fewer smokers – just more North Dakota residents with less money in their pockets for the things they really need.

Thank you for your consideration.

Paul Mutch

Mutch Oil Company – Larimore, ND

701.739.3835

January 30, 2015

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Written Testimony by Matt Bjornson

House Finance and Tax Committee

HB 1421

Mr. Chairmen and Members of the Committee,

I am in strong opposition to HB 1421. As a small family business owner and North Dakota Citizen it is beyond belief that any legislator could propose a tax increase of any kind upon citizens of our state at this time. I doubt any North Dakota legislative candidate promoted tax increases in their last race. Yet, some legislators have signed on with an already well-funded state bureaucracy promoting a tax increase on a legal product bought by adult consumers. Whether or not you personally like tobacco is not the issue at hand. The real issue is whether taxes should be used as a punishment. In addition to the existing state tax, a large percentage of the current price paid by consumers for legal tobacco products includes the cost of the master settlement tobacco companies' pay. The day the master settlement went into effect, wholesale tobacco prices rose dollar for dollar. Tobacco consumers are already paying more than enough to continue funding the payroll of the anti-tobacco bureaucracy as well as their bloated advertising budget.

Some citizens may say that raising the tax is a good idea. There is nothing easier than saying your neighbor should have to pay a tax that you don't. If our state government is going down the road of taxes for the sake of punishment or behavior change then you should be looking at taxing fast food, large soda drinks, foods high in cholesterol, the list goes on. Or we could just throw what is supposed be a guiding tenant of our government aside, individual freedom, and pass a prohibition on all things deemed "not good for you" by our government.

HB 1421 deals with a legal product bought by adult consumers. Obviously, it's clear our state cannot justify new taxes on the basis of need. Regardless of a legislator's political affiliation, if they support regressive taxes as an acceptable form of punishment of citizens, I'd say they are in the wrong building.

Sincerely,

Matt Bjornson

BJORNSON OIL COMPANY INC.

PO BOX 250

CAVALIER, ND 58220

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1421

- Page 1, line 14, overstrike "**and**" and insert immediately thereafter a boldfaced comma
- Page 1, line 14, after "**tobacco**" insert ", and other tobacco products"
- Page 1, line 14, overstrike "**Other** "
- Page 1, line 15, overstrike "**tobacco products**"
- Page 1, line 15, overstrike "**Excise**" and insert immediately thereafter "**Snuff and chewing tobacco excise**"
- Page 1, line 22, overstrike the first "or" and insert immediately thereafter an underscored comma
- Page 1, line 22, after "tobacco" insert ", or other tobacco products"
- Page 1, line 23, after the period insert "For cigars, pipe tobacco, or other tobacco products for which the tax commissioner is unable to readily identify the established price for which a manufacturer sells the cigars, pipe tobacco, or other tobacco products to a distributor, the excise tax shall be paid by the retailer and the "wholesale purchase price" means the price at which the retailer sells such product to a customer at the point of sale, exclusive of any discount or reduction."
- Page 2, line 3, after "dollars" insert "ten"
- Page 2, line 7, remove the overstrike over "~~For purposes of this subsection, the tax on~~"
- Page 2, line 7, after "~~products~~" insert "snuff and chewing tobacco"
- Page 2, line 7, remove the overstrike over "~~is computed based~~"
- Page 2, remove the overstrike over line 8
- Page 2, line 10, overstrike "and regulations"
- Page 3, line 3, overstrike the second "and" and insert immediately thereafter an underscored comma
- Page 3, line 3, after "tobacco" insert ", and other tobacco products"
- Page 3, line 6, overstrike "and, upon all other tobacco products purchased in another state and"
- Page 3, overstrike lines 7 and 8
- Page 3, line 9, overstrike "state"
- Page 3, line 10, overstrike the first "or" and insert immediately thereafter an underscored comma
- Page 3, line 10, after "tobacco" insert ", or other tobacco products"
- Page 3, line 11, after the period insert "For cigars, pipe tobacco, or other tobacco products for which the tax commissioner is unable to readily identify the established price for which

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a manufacturer sells the cigars, pipe tobacco, or other tobacco products to a distributor, the excise tax shall be paid by the retailer and the "wholesale purchase price" means the price at which the retailer sells such product to a customer at the point of sale, exclusive of any discount or reduction."

Page 3, line 14, overstrike "and regulations"

Page 4, line 24, overstrike "hereinafter"

Page 4, line 24, after "provided" insert "in this section"

Page 4, line 25, after "2." insert: "All moneys received by the tax commissioner under this chapter from fifty-six and one-half mills of the tax on each of the classes of cigarettes; fifteen and one-half percentage points of the tax on all cigars, pipe tobacco, and other tobacco products; one dollar fifty cents per ounce of the tax on snuff; and forty cents per ounce of the tax on chewing tobacco must be transmitted to the state treasurer at the end of each month and deposited in the tobacco tax distribution fund in the state treasury.

3."

Page 4, line 25, overstrike "All moneys received from the levy and assessment of"

Page 4, line 25, remove "nine and"

Page 4, line 26, remove "sixth-tenths"

Page 4, line 26, overstrike "mills on each of the classes of cigarettes provided in this chapter"

Page 4, line 26, remove "and four"

Page 4, remove line 27

Page 4, line 28, replace "tobacco products provided in this chapter" with "Fifteen percent of the revenues deposited in the tobacco tax distribution fund"

Page 5, line 4, overstrike ", and warrants must be drawn"

Page 5, line 5, overstrike "payable to the treasurers of such cities"

Page 5, after line 5, insert:

"4. Twenty-five percent of the revenues deposited in the tobacco tax distribution fund are appropriated and must be distributed on or before the thirtieth day of June and the thirty-first day of December of each year, ten percent of the distribution in equal amounts to each county and ninety percent on a per capita basis to the counties, the allocation to be based upon the population of each county according to the most recent official federal census. The county treasurer shall distribute all moneys received under this section to the county public health unit. Moneys received by counties under this section are intended to augment, but not replace, county taxes levied for the support of public health units under section 23-35-07."

Page 5, line 6, replace "3." with "5."

Page 5, line 6, remove "All moneys received from the levy and assessment of thirty-three and one-tenth mills"

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Page 5, remove lines 7 through 9

Page 5, line 10, replace "the credit of" with "Sixty percent of the revenues deposited in the tobacco tax distribution fund are appropriated and must be transferred to"

Page 5, remove lines 11 through 23

Renumber accordingly