



Thomas A. Schatz, *President*
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January 27, 2021

The Honorable Judy Lee
Chairwoman
North Dakota Senate Human Services Committee
600 East Boulevard
Bismarck, ND 58505-0360

Dear Chairwoman Lee and Members of the Senate Human Services Committee,

On behalf of the 4,460 members and supporters of the Council for Citizens Against Government Waste (CCAGW) in North Dakota, I urge you to oppose [SB 2170](#).

SB 2170 adopts price controls, which throughout history are known to distort markets, hurt innovation, and never solve the problem they were created to fix. The Legislative Council [fiscal note](#) states that SB 2170 would impose price controls using prescription drugs prices found in Canada as the reference price for a list of the top 250 prescription drugs utilized by the North Dakota Public Employees Retirement System (NDPERS) drugs. The legislation **gives** the insurance commissioner wide decision-making ability should a specific reference price not be available in Canada.

Not only is it unwise to adopt Canadian price controls for drugs sold in North Dakota, the legislation also raises significant legal issues. If the insurance commissioner determines that a pharmaceutical company is withdrawing a referenced drug from sale or distribution to avoid the rate limitations, or refuses to negotiate prices “in good faith,” the commissioner can assess a penalty of \$500,000 or the amount of “annual savings determined by the commissioner,” whichever is greater. This vague and arbitrary standard will be challenged in court, along with the potential taking of intellectual property in violation of the U.S. Constitution.

CAGW has long opposed using price controls to lower drug prices. For example, we have strongly objected to President Trump’s effort to [adopt](#) a “most favored nation” (MFN) policy that has been a topic of controversy since July 24, 2020. Under the [interim rule](#), the U.S. would be paying no more than the lowest price found in 22 countries, including Canada. These countries have socialized, government-controlled healthcare that utilize price controls and rationing to keep costs down. Neither North Dakota nor the United States should adopt such policies.

A better way to lower drug costs is for legislators to contact North Dakota’s federal representatives and encourage them to hold the Food and Drug Administration’s feet to the fire for faster generic drug approvals, and create an environment that encourages more “me too” drugs that will foster competition among branded pharmaceuticals that are in the same class and still under patent.

Officials in Washington should also implement trade policies that would require Canada, Europe, and other allies to pay their fair share of U.S. biopharmaceutical research and development and adopt policies that would encourage, not stifle, biopharmaceutical research and development in their countries. Not only would that help their biopharmaceutical companies, it also would lead to the creation of more new, innovative drugs and increase competition, which is a far more effective way to reduce costs.

Again, I urge you to vote against HB 2170.

Sincerely,

A handwritten signature in black ink that reads "Thomas Schatz". The signature is written in a cursive style and is contained within a thin black rectangular border.