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House Bill 1477
Senate Judiciary Committee
March 19, 2019, 11:00 a.m.

Good morning, Chairman Larson and members of the Senate Judiciary Committee. My name is Neil Charvat, and I am the Director of the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in support of House Bill 1477.

Tobacco prevention and control efforts in North Dakota focus on guidance provided by the Centers for Disease Prevention and Control (CDC) *Best Practices for Comprehensive Tobacco Control Programs* (Best Practices). Best Practices provides evidence-based interventions to prevent tobacco product use initiation, increase quitting tobacco use, and reduce exposure to secondhand smoke. House Bill 1477 prohibits the sale of flavored e-liquid to minors and increases the fine for selling these products. Prohibiting the sales of flavored e-liquid, or electronic nicotine delivery systems (ENDS) to minors, will assist in preventing tobacco product use for youth.

In 2017, more than one in four (28.8%) high school students reported using tobacco products during the 30 days before the survey (ND Youth Risk Behavior Survey). This includes cigarettes, cigars, smokeless tobacco, or ENDS either alone or in some combination. Additionally, adolescent use of ENDS has significantly increased from 1.6 percent in 2011 to 19.1 percent in 2017 (ND Youth Tobacco Survey). JUUL, an ENDS device resembling a computer USB storage device, has taken over almost three-quarters of the ENDS market in just a few years. JUUL has caused widespread concern because of its popularity with youth. On September 12, 2018, the Food and Drug Administration (FDA) declared that youth use of ENDS has reached "nothing short of an epidemic proportion of growth." This was followed by the December 18, 2019 United States Surgeon General advisory on the E-cigarette epidemic among youth. Increasing any restrictions of the sale of electronic products, including flavored e-liquids, will help reduce youth initiation of tobacco products.

It is important to treat ENDS products, including e-liquids, as the tobacco products they are. The Tobacco Prevention and Control Program views ENDS as tobacco products, so using these products as a replacement for cigarettes is not quitting tobacco, but merely a substitution. The ENDS

industry is making efforts to confuse the definition of "tobacco" products and "nicotine" products. According to the JUUL Labs website: "Nicotine is a stimulant that comes from the tobacco plant. We use highly purified/USP grade/pharmaceutical grade nicotine" and "No tobacco-based nicotine e-liquid product should be considered safe." There should be no confusion about the source of nicotine for these products.

There are health care advocates that embrace ENDS as a harm reduction product to help curb the thousands of deaths directly caused by cigarette use. They are so focused on this point, they are overlooking the bigger picture: ENDS are not proven to be a safe and effective tool for replacing smoking or quitting smoking.

The current FDA approved nicotine replacement therapy (NRT) products are designed to help people addicted to nicotine quit their addiction by gradually stepping down strength levels of nicotine. The difference between ENDS and NRT is that the NRT products have gone through rigorous FDA testing to prove safety and efficacy. Despite being in existence for over 10 years, no ENDS devices have been approved by the FDA as a cessation medication.

The FDA is investigating the possibility of approving other tobacco products as "modified risk" products, defined as something that can be used instead of cigarettes because they may cause less death and disease than cigarettes do. This is referred to as "harm reduction". The tobacco industry, the ENDS industry, many health organizations and countries (such as the United Kingdom) have embraced this concept. Studies provided to support these efforts lack the current level of scientific proof to conclusively demonstrate the safety of these products. Vague studies and anecdotal evidence do not warrant embracing ENDS to save lives.

Switching from cigarettes to ENDS is merely changing the delivery method for nicotine addiction. New studies show that this is an actual trend. Our own tobacco cessation service, NDQuits, has a lower success rate for people to quit smoking who continue to use ENDS (33.2% vs. 22.5% 30-day abstinence rate at 7-month follow-up). The FDA has discussed plans to identify modified-risk versus full-risk tobacco products. However, plans and studies that use the words "may be safer," "may be less dangerous" and

other similar statements do not correlate to success in saving lives. The FDA has effectively deferred comprehensive regulation of ENDS products until 2022.

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

For these reasons, we ask you to support passage of HB 1477. This concludes my testimony. I am happy to answer any questions you may have.