

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

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

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

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

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

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

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

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

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

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

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

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

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