

**Minnesota Legislature
House Committee on Taxes
Testimony of Monte Williams
Regarding HF 991**

February 18, 2021

Chairperson and Members of the Committee, thank you for the opportunity to speak today.

My name is Monte Williams, and I am offering testimony to the Committee today, on behalf of Altria and its affiliates Philip Morris USA, John Middleton and U.S. Smokeless Tobacco Company regarding HF 991 and the potential impact on Minnesota.

My comments and opinions are based on a 30-year career with the California State Board of Equalization. I have held the positions of Chief of Excise Taxes and Chief of Criminal Investigations during my tenure with the Board of Equalization. I have over 20 years of experience with tobacco tax administration and enforcement at the state level. I am a past chair of the Federation of Tax Administrators Tobacco Tax Section. Since leaving government 15 years ago, my practice has been almost exclusively dealing with tobacco issues.

In the interest of time, I am going to limit my testimony to three areas:

- Revenue estimates on cigarette tax increases,
- Impact of this proposal on revenue and cross border issues
- Impact of this proposal on adult consumers

My comments will focus on the impact on cigarette excise tax increases. However, these comments also apply to Other Tobacco Products and Vapor Product tax increases.

Revenue Estimates

Revenue estimates on cigarette tax increases are difficult to make. The revenue is based on a declining market which will create funding shortfalls that will have to be paid for with other budget revenues or tax increases.

To illustrate how difficult it is to make cigarette revenue estimates, 85% of the last state revenue projections on cigarette tax increases missed their mark. Several states even collected lower revenues than before the increase. A material part of that shortage was due to cross border issues and consumer attitude.

Impact on Cross Border Issues

My second area of concern with this proposal is the issue of cross border trafficking of cigarettes. If this proposal is adopted, Minnesota's cigarette excise tax will be \$3.60 higher than North Dakota, \$2.51 higher than South Dakota and \$1.52 higher than Wisconsin. This is a significant difference on a per-pack basis. However, when you

look at a 10 pack carton or a 50 carton case, the money adds up quickly. In addition, this proposal raises the tax on MST and additional 33% from an already high tax rate.

Based on my experience as Chief of Criminal Investigations in California, this tax differential will cause adult tobacco consumers to seek out cheaper sources of cigarettes and change their attitude regarding paying taxes. This may begin with casual smuggling. That could be a neighbor going to North Dakota and offering to pick up some cigarettes for friends. However, there will be too much money involved for it to stay casual for long. There could also be issues with any tribal sales as this tax differential will also be present on tribal lands.

For example, a 20' U-Haul type truck that goes to North Dakota and brings back a load of North Dakota tax paid cigarettes will have an excise tax advantage in Minnesota of nearly \$850,000. The trunk of a Ford Taurus can bring back cigarettes with an excise tax advantage of over \$16,000.¹ This is significant money.

In addition to this, the Mackinac Center for Public Policy completed a study on cigarette smuggling for each state. Using 2018 data Minnesota was rated at 35.8%. Meaning that approximately 36% of the consumption of cigarettes in Minnesota was from outside of the state.² This number will only go up if this proposal is adopted.

I saw no language in these bills to address this issue and I am fairly certain the Revenue Department is not currently equipped to handle this type of issue.

If this does occur, your revenue from this tax increase would be further impacted in a negative manner.

Impact on Adult Consumers and Retailers of Tobacco Products

This proposal to raise the excise tax on cigarettes to \$4.04 per pack is a 33% increase from and already high excise tax rate.

This is significant and material increase for hard-working Minnesotans. The CDC estimates that 15% of Minnesota's population are smokers. Therefore, this entire tax increase will fall on this small percentage of the population. In addition, the majority of these smokers are in the lower income brackets. For example, 27% of smokers have incomes less than \$15,000 and only 10% of smokers in Minnesota earn more than \$50,000 per year.³ Most of this increase will fall on those that can least afford it.

According to the National Association of Convenience Stores, tobacco is the top revenue generator, accounting for 38.8% of in-store sales nationwide.⁴ Increasing the

¹ Based on cargo sizes from <https://www.uhaul.com/Trucks> and <https://www.ford.com/cars/taurus/models/taurus-sho/> and the tax rates from Missouri Department of Revenue.

² Mackinac Center for Public Policy, Updated Research Quantifies Relationship Between Cigarette Taxes and Smuggling New York has highest smuggling rate; Michigan ranks 14th Monday, May 20, 2019

³ Centers for Disease Control and Prevention, *Behavioral Risk Factor Surveillance System; Prevalence and Trends Data; Nationwide (States and DC) - 2019 Tobacco Use*, Centers for Disease Control and Prevention, at <https://www.cdc.gov/brfss/brfssprevalence/index.html>.

⁴ NACS State of the Industry Report -2019, National Association of Convenience Stores, 33rdEdition, Table 9A.

excise tax could hurt legitimate retailers when adult tobacco consumers shift purchases across state lines or to other outlets, such as the Internet. This would negatively affect Minnesota's more than 5,300 retailers.⁵

For the reasons I have outlined I believe that these proposed excise tax increases should not be adopted.

Thank you for your time and I will be happy to try to answer any questions.

⁵ Retail locations based on internal PMUSA data and rounded to nearest 10.