



February 10, 2026

Re: The Joint Legislative Budget Committee Hearing on Health/Medicaid

Chair Kreuger, Chair Pretlow, members of the committee:

Thank you for the opportunity to provide written testimony today.

My name is Jeffrey A. Singer. I am a Senior Fellow in Health Policy Studies at the Cato Institute. I am also a medical doctor specializing in general surgery and have been practicing that specialty in Phoenix, Arizona, for over 40 years. The Cato Institute is a 501(c)(3) non-partisan, non-profit, tax-exempt educational foundation dedicated to the principles of individual liberty, limited government, free markets, and peace. Cato scholars conduct independent research on a wide range of policy issues. To maintain its independence, the Cato Institute accepts no government funding. Cato receives approximately 80 percent of its funding through tax-deductible contributions from individuals. The remainder of its support comes from foundations, corporations, and the sale of books and other publications. The Cato Institute does not take positions on legislation.

I write to share my serious concern about a proposal to impose a 75 percent excise tax on nicotine pouches. While well-meaning, this policy could undermine tobacco harm reduction, encourage a black market, and harm the very New Yorkers — including current smokers — whom we aim to help.

### **Nicotine Pouches as a Harm-Reduction Tool**

Scientific evidence and public-health experience make a simple distinction: it is smoking — not nicotine itself — that causes the overwhelming majority of tobacco-related disease and death. The tar, carbon monoxide, and myriad toxicants produced by combustion are responsible for cancer, cardiovascular disease, and respiratory illness, not nicotine per se. Nicotine, like caffeine, is a psychoactive stimulant with well-known addictive potential, but it is relatively low-risk compared with tobacco smoke.<sup>1</sup>

Nicotine replacement therapies — gum, patches, and newer products like e-cigarettes and nicotine pouches — offer safer ways for nicotine-dependent adults to satisfy their dependence without exposing themselves to smoke. E-cigarettes have been shown in clinical research to be more effective than

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<sup>1</sup> <https://www.nhsinform.scot/healthy-living/stopping-smoking/reasons-to-stop/tobacco/>

traditional nicotine replacement therapies at helping smokers quit.<sup>2</sup> Newer oral nicotine products like pouches further expand less-harmful options by delivering nicotine without combustion and without inhalation of aerosol.

### **Taxation Risks Undermining Public Health Goals**

A punitive excise tax of 75 % on nicotine pouches will raise their price sharply relative to cigarettes and other nicotine products. That has predictable consequences:

- **It diminishes the economic incentive for current smokers to switch to a far safer alternative.** Price differences drive behavior; making pouches unaffordable pushes quitters back toward cigarettes or into illicit products.
- **It creates a market for unregulated or contraband products.** History shows that high taxes on legal alternatives do not reduce consumption — they drive it into unregulated channels where quality and safety are unknown. When Massachusetts banned menthol cigarettes, for example, research subsequently documented a surge in cigarette purchases in neighboring states and greater illicit activity.<sup>3</sup>
- **It unfairly burdens adult choice.** Adults who have decided — often after years of smoking — to embrace a lower-risk pathway should not be penalized for doing so.

### **Avoiding *Nicotinophobia*-Driven Policy**

We should be wary of policies driven by fear rather than evidence. In previous work, I've described how *nicotinophobia*— an irrational fear of nicotine divorced from scientific understanding — leads to policy proposals that harm public health by treating the delivery mechanism, rather than the actual harms, as the enemy.<sup>4</sup> Associating nicotine pouches with more dangerous substances simply because they contain nicotine risks repeating the mistakes of the past.

Adults should retain the right to make personal risk-benefit calculations about the products they choose. Laws that treat nicotine in all forms as equally harmful fail to acknowledge the significant difference between smoking combustible tobacco and using non-combustible nicotine delivery systems.<sup>5</sup>

### **Practical Public Health Over Statutory Excess**

New York has a compelling public health interest in reducing smoking rates. Our

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<sup>2</sup> <https://www.cato.org/commentary/why-attack-tobacco-harm-reduction>

<sup>3</sup> <https://www.cato.org/commentary/ban-fear-not-freedom-massachusetts-bill-misses-mark-nicotine>

<sup>4</sup> <https://www.cato.org/blog/what-causing-nicotinophobia>

<sup>5</sup> <https://www.cato.org/commentary/ban-fear-not-freedom-massachusetts-bill-misses-mark-nicotine>

policies should promote substitution to lower-risk products when suitable, rather than create economic barriers that push smokers back to cigarettes or into illegal markets. We should combine age-of-sale protections with reasonable taxation that doesn't make safer options excessively costly.

A 75 percent tax on nicotine pouches without solid evidence that such taxes mainly prevent youth from using them without discouraging adults from switching could do more harm than good.

## **Conclusion**

New York has a legitimate interest in reducing smoking-related disease and protecting public health. Policies that blur the distinction between combustible tobacco and substantially lower-risk nicotine alternatives risk working at cross-purposes with that goal. A steep excise tax on nicotine pouches would predictably make these products less accessible to adults who may otherwise smoke, while increasing incentives for unregulated and illicit markets.

This consideration is not trivial in scope. Even after decades of tobacco control efforts, roughly 1.5–1.6 million adults in New York State still smoke cigarettes, according to data from the New York State Department of Health's Behavioral Risk Factor Surveillance System.<sup>6</sup> For many of these individuals, non-combustible nicotine products — including pouches — may represent a potential off-ramp away from combustible tobacco use.

Experience with highly taxed or prohibited nicotine products suggests that when legal access becomes economically punitive, demand does not disappear — it migrates. Following state menthol cigarette bans and large cigarette tax differentials between jurisdictions, researchers have documented significant increases in cross-border purchasing and illicit trade.<sup>7 8</sup> These shifts do not eliminate consumption; they relocate it into markets where product standards, tax compliance, and age-verification safeguards are weaker or nonexistent. In that sense, policies designed to discourage use can inadvertently displace it into channels that are harder to monitor and less aligned with public-health goals. As lawmakers evaluate the governor's proposal, it is worth weighing whether imposing a 75 percent tax on a non-combustible nicotine product advances the state's interest in reducing smoking — or whether it risks discouraging harm-reducing substitution while fostering unintended market consequences.

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<sup>6</sup> [https://www.health.ny.gov/statistics/brfss/reports/docs/2024-09\\_brfss\\_cigarette\\_smoking.pdf](https://www.health.ny.gov/statistics/brfss/reports/docs/2024-09_brfss_cigarette_smoking.pdf)

<sup>7</sup> <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2801756>

<sup>8</sup> [https://www.nber.org/system/files/working\\_papers/w22577/w22577.pdf](https://www.nber.org/system/files/working_papers/w22577/w22577.pdf) ;  
<https://taxfoundation.org/data/all/state/cigarette-taxes-smuggling-state-2022/> ;  
<https://www.mackinac.org/pressroom/2023/higher-excise-taxes-lead-to-more-interstate-smuggling>

Evidence-based policy is most effective when it reflects the continuum of risk across nicotine products rather than treating all forms of nicotine use as functionally equivalent.

Thank you once again for considering my perspective on this important issue. I am pleased to provide additional information at the Committee's request.

Respectfully submitted,

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