



February 27, 2024

The Honorable Vernon Criss, Chair
The Honorable John Hardy, Vice-Chair
Honorable Members, House Finance Committee

Dear Chair Criss, Vice-Chair Hardy and Members of the House Finance Committee,

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write to express our strong support of House Bill 5535, a bill that would distinctly define heated tobacco products and apply an excise tax at an appropriate rate, understanding the benefits of smoke-free alternatives.

As an organization whose primary mission is to advocate for taxpayers, we are passionate about dispelling the myth that this proposed legislation creates a new tax. This legislation would clarify that smoke-free tobacco products are not cigarettes for taxation purposes and set a tax of 60 cents per pack on Federal Drug Administration-approved heated tobacco products.

It is clear that heated tobacco products are innovative solutions for smokers transitioning toward significantly less harmful alternatives. As you probably know, the new heated tobacco products hitting West Virginia markets do not burn tobacco, resulting in a smoke-free product that releases significantly less harmful chemicals. Heated tobacco products contain nicotine without the harmful chemicals found in traditional tobacco products intended for smoking.

Encouraging healthy, smoke-free lives is an admirable goal and the passage of HB 5535 facilitates achieving that long-term goal. Sadly, not defining or establishing the appropriate taxation of heated tobacco products through legislation will have the opposite effect and result in the unintended consequence of allowing tax policy to fall into the hands of unelected, bureaucratic regulators.

Failure to pass HB 5535 also opens the door for market disruption for small business owners across West Virginia. For example, taxing smoke-free tobacco alternatives at the same rate as combustible cigarettes would potentially result in consumers seeking more affordable options in neighboring states, such as Virginia or Kentucky, which have already passed legislation that defines heated tobacco products and sets a lower tax rate than combustible cigarettes.

In summary, this bill is a courtesy to public health, establishes a fair excise tax rate, makes small businesses competitive with those across state lines and incentivizes the consumer to make healthier decisions.

National Taxpayers Union strongly believes HB 5535 will encourage West Virginians to live healthier lives by helping those who struggle with smoking addictions. We urge you to stand

with taxpayers and support defining heated tobacco products and establishing a reasonable excise tax rate.

Sincerely,

Leah Vukmir
Senior Vice President of State Affairs
National Taxpayers Union
lvukmir@ntu.org

Jessica Ward
Senior Director of State Affairs
National Taxpayers Union
jward@ntu.org