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## **Testimony of the NYS American Academy of Pediatrics (NYS AAP), District II Expanding 75% Wholesale Tobacco Tax to Alternative Nicotine Products**

### **Joint Legislative Budget Hearing on Taxes February 26, 2026 State Fiscal Year 2027 Executive Budget**

To: Senate Finance Committee Chair Krueger, Assembly Ways and Means Chair Pretlow and Members of the Legislature:

The New York State American Academy of Pediatrics, representing over 4,000 practicing pediatricians statewide, writes to express staunch support the Governor's proposal to increase taxes on alternative nicotine products. This measure, when paired with expanded enforcement power to inspect retailers selling illegal products – will reduce the epidemic of nicotine addiction seen in our state's middle and high school students.

Alternative nicotine products, such as e-cigarettes, vapes and nicotine pouches are frequently used by teenage children. Data from the Centers for Disease Control and Prevention (CDC) 2024 National Youth Tobacco Survey noted 2.25 million children (8.1%) currently use any tobacco product (1). This includes 1.58 million (10.1%) high school students and roughly 640,000 middle school-aged students (5.4%) nationwide (1). Of the tobacco products used by teens, e-cigarettes and nicotine pouches are the most popular. Over 1.63 million high school students (5.9%) and 410,000 (3.5%) middle schoolers use e-cigarettes – with flavored products, such as fruit, candy, and menthol -- favored by roughly 90% of these children, (1, 2).

Sadly, New York State has higher-than-average rates of tobacco use among teens. According to the New York State Department of Health, teen use of tobacco is 17%, with 13% using flavored e-cigarettes as their preferred nicotine product (3). While robust public health messaging and school-based education have contributed to both state-based decreases in the percentage of students using e-cigarettes and tobacco since 2018 – rates of use among NYS teens remains excessively high compared to the remainder of the country indicating tens of thousands of our teenagers are exposed or addicted to nicotine (4).

An exception to this general trend, however, remains the meteoric rise in the popularity of flavored nicotine pouches. Flavored pouch use, including FDA-authorized products like Zyn has increased or remained constant annually since 2016, a concerning trend per the CDC. (5, 6).

Children are the most price-sensitive users of nicotine. Expanding tobacco taxes is a well-known and evidenced-based public health strategy to reduce youth nicotine use. Over 4 decades of public health data analyzing combustible cigarettes illustrates a strong correlation between increased tobacco taxes and the percentage of teens using these products. For every 10% increase in price, youth smoking rates are reduced by ~ 6-7% (7). A \$1.00 tax increase can reduce youth smoking participation by 3-6 percentage points (8). The 2009 federal tax increase on cigarettes was associated with an 8.3% reduction in the sales of cigarettes (7, 9). Finally, the public health benefits of increasing nicotine product taxation are exponential when the costs of preventing or forestalling tobacco-related illnesses are assessed.

Critics of this proposal will note the Food and Drug Administration has authorized several e-cigarettes and pouches (Zyn and on!) under the premarket tobacco application process, citing their potential role in mitigating combustible cigarette use and express concern an increase in price will deter attempts to quit combustible cigarettes among adults (10). However, it should be noted that even with the suggested tax, these products will remain financially favorable to a pack of combustible cigarettes.

Reducing the burden of teen vaping and nicotine use will provide life-long health benefits for children. The harm of nicotine exposure in middle and high school-age children is well-documented. Nicotine exposure in adolescents can worsen symptoms of stress, anxiety and depression (11). Further, the teen brain is not fully mature, and thus more susceptible to developing addiction. It is well known that 95% of life-long cigarette users began smoking before age 21 (12). Further, non-combustible nicotine use in childhood is associated with a 4-8x increased risk of cigarette use and a 2-3x increased risk of marijuana use in adulthood. (13, 14)). Long-term effects of nicotine use have been studied in the context of other nicotine devices and include: an increased risk of cardiovascular disorders, including hypertension, higher risk of gastrointestinal and kidney disease, a decrease in immune response and reduced reproductive health (15).

However, taxation can only serve as a deterrent to underage nicotine use so long as illegal products are not available as cheap alternatives. Therefore, this proposal must also be met with the Governor's additional requests for increased penalties for violations of New York State's ban on the sale of flavored vape products. Passed in 2020, this landmark prohibition allowed New York to join a then-handful of states who prioritized the health of children. However, in the 6 years since passage, enforcement loopholes have eroded the power of health department inspectors to levy penalties on retailers selling illegal products. Unlike liquor inspections, health departments must announce inspections, can only observe products in plain sight and cannot fine retailers if they have a sign noting the products are sold out-of-state.

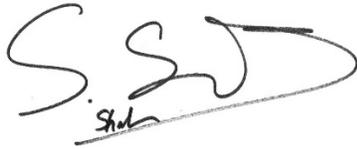
It is unsurprising these illegal products, which include pouches such as Velo and Rogue-- are omnipresent. An audit of tobacco retailers in 3 cities, including New York City, found roughly 30% of all retailers carried these products, with the availability (60.5%) of highest in convenience stores (16).

As the primary caretakers of children statewide, we urge the legislature to enact these common-sense public health reforms. E-cigarettes, nicotine pouches and other alternative nicotine products are fueling an epidemic of addiction in our teens, and there is virtually no medical guidance on how to care for youth with nicotine addiction, forcing pediatricians who support these families to base treatments on adult guidelines –plans based on less potent forms of nicotine and absent understanding of the adolescent brain's unique biology.

Increasing taxation of vape and nicotine products, when paired with substantial fines and the increased inspection power to identify illegal retailers will provide an outsize benefit in reducing youth nicotine use, and will assist with reducing the state's already high burden of nicotine use in children.

Please do not hesitate to contact me with you have any questions regarding these important measures.

Thank you,

A handwritten signature in black ink, appearing to read 'S. Shah', with a horizontal line underneath.

Shetal Shah MD FAAP, on behalf of the New York State American Academy of Pediatrics  
Past President, New York Chapter 2, American Academy of Pediatrics  
Executive Committee, American Academy of Pediatrics Section on Neonatal Perinatal Medicine

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