

CO-SPONSORSHIP MEMORANDUM

TO: All Legislators

FROM: Senator Patrick Testin
Representative Chanz Green

DATE: July 8, 2025

RE: Co-Sponsorship of LRB 0945/1 and LRB 4041/1, relating to: the cigarette excise tax and cigarettes that involve heating tobacco without combustion

DEADLINE: Tuesday July 22nd , 2025 at 4:00 pm

Today, combustible cigarette smoking remains the leading cause of preventable disease and death in Wisconsin. According to the Campaign for Tobacco-Free Kids, combustible cigarette smoking is responsible for nearly 8,000 deaths and 30% of cancer deaths in Wisconsin each year, killing more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined. Sadly, the effects of combustible cigarettes are most pronounced among Wisconsin's most vulnerable populations. Smoking is most prevalent among adults of limited education, racial minorities, and older and lower-income Wisconsinites.

The U.S. Food and Drug Administration (FDA) and public health authorities around the globe have acknowledged that tobacco products exist on a continuum of risk, with smoke-free alternatives at the lower health risk end when compared to combustible cigarettes, the most harmful tobacco product.

Fortunately, new nicotine alternatives to combustible cigarettes are now available in the United States. In addition to more common smoke-free alternatives like vapor products and nicotine pouches, the FDA has authorized the first heated tobacco product as "appropriate for the protection of public health," and, further, "appropriate to promote the public health" as a modified risk tobacco product. Heated tobacco products heat, but do

not burn, real tobacco, replicating the experience of smoking at a much lower risk profile. Studies submitted to the FDA demonstrated that, while not risk-free, heated tobacco alternatives emit 90 to 95% fewer toxins compared to combustible cigarettes.

While new in the United States, data from countries where these products have been sold, such as Japan and Italy, show that well over half of legal age smokers have transitioned from using combustible cigarettes to heated tobacco products since they were introduced in these markets. Critically, even as popularity of heated tobacco products climbed in those markets, youth use remained very low.

We can best support tobacco harm reduction by enacting risk-proportionate taxation, whereby the most harmful products are taxed at the highest rate and lower-risk alternatives are taxed at a much lower rate. LRB 0945 and 4041 would take a critical step to enacting risk-based taxation in Wisconsin by ensuring that FDA-authorized heated tobacco products are taxed at a lower rate than combustible cigarettes.

Besides being good public health policy, this legislation is also prudent for Wisconsin's fiscal future. Beyond the substantial human costs, smoking also significantly contributes to financial burdens in Wisconsin, amounting to over \$3 billion in annual healthcare costs and nearly \$625 million in annual Medicaid expenses. Additionally, smoking leads to \$5.6 billion in lost productivity in Wisconsin each year. Smoking is a major cost contributor to the state, and encouraging adult smokers to switch will pay dividends in the future.

Wisconsin's smokers deserve access to affordable alternatives to combustible cigarettes and to ensure our tax code affirms that adults who switch to lower-risk products are making a better choice.

If you are interested in co-sponsoring, please reply to this email or contact Sen. Testin's office at 6-3123 or Rep. Green's office at 9174.

Analysis by the Legislative Reference Bureau

Current law imposes an excise tax on the sale of cigarettes in this state. The tax rate varies depending on the weight and length of the cigarettes. Current law defines a “cigarette” as any roll of tobacco wrapped in paper or any substance other than tobacco. Under current law, the tax rate on cigarettes weighing not more than 3 pounds per thousand, is 126 mills, plus 8 mills, on each cigarette. For cigarettes weighing more than 3 pounds per thousand, the rate is 252 mills on each cigarette, plus 16.8 mills on each such cigarette that is not more than 6.75 inches in length. For cigarettes weighing more than 3 pounds per thousand that are more than 6.75 inches in length, current law imposes an additional tax at the rate of 8 mills on each such cigarette, counting each 2.75 inches of length as one cigarette.

This bill modifies the excise tax on the sale of cigarettes so that current law applies to a cigarette that the bill defines as a roll of tobacco wrapped in paper or any substance other than tobacco that is intended for smoking by burning the tobacco. In addition, the bill imposes a separate excise tax on the sale of a cigarette that the bill defines as a roll of tobacco wrapped or contained within any substance other than tobacco that involves heating the tobacco without the combustion of the tobacco or other flammable material, not including a vapor product.

Under the bill, the rate of the excise tax on a cigarettes that involve heating without combustion weighing not more than 3 pounds per thousand, is 63 mills, plus 4 mills, on each cigarette. For cigarettes that involve heating without combustion weighing more than 3 pounds per thousand, the rate is 126 mills on each cigarette, plus 8.4 mills on each such cigarette that is not more than 6.75 inches in length. For cigarettes that involve heating without combustion weighing more than 3 pounds per thousand that are more than 6.75 inches in length, the bill imposes an additional tax at the rate of 4 mills on each such cigarette, counting each 2.75 inches of length as one cigarette.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.