NTU
NATIONAL TAXPAYERS UNION

March 22, 2021

The Honorable Mike Lefor, Chairman
The Honorable George Keiser, Vice Chairman
House Committee on Industry, Business and Labor

Dear Chairman Lefor, Vice Chairman Keiser, and Members of the North Dakota House
Committee on Industry, Business and Labor:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy
organization, we are here to testify against SB 2170, an act which establishes prescription drug
price controls for patented pharmaceuticals. Despite well-meaning legislative intent and the
importance of prescription drug affordability, North Dakota patients and taxpayers will not be
well-served should the provisions of this bill become law.

The objective of SB 2170 is to reduce drug prices by granting authority to effectively cap the
amount that state-regulated insurance plans pay for prescription drugs that have been
subjectively deemed to be too costly. Unfortunately, regardless of its intent this legislation
creates adverse consequences which could limit the availability and development of prescription
options to North Dakota consumers during a time in which biopharmaceutical innovation is
needed more than ever.

SB 2170 will likely have a longstanding, detrimental effect on the development of
groundbreaking, life-saving medications. Explicitly, the legislation establishes government price
setting, basing the cost of prescription drugs on the policies and prices of the Canadian
government. It is rather notable that the legislation does not account for systemic flaws that
prevent discounts from directly flowing to patients and erroneously assumes that the price of a
drug is determined solely by one piece of the supply chain puzzle.

This legislation blatantly ignores the multiple stakeholders involved in determining what
consumers ultimately pay for medications and overlooks the role of consumer drug coverage. For
example, pharmacy benefit managers determine the terms of drug coverage for medications and
then exert influence over which prescription drugs are included on formularies based upon
rebates and discounts. NTU has previously expressed concern that negotiated rebates are not
always passed along to the consumer, effectively failing to offset patient costs at the point of

sale. This legislation would implement price controls while failing to address policies regarding other actors within the supply chain who set the price a patient pays.

Imparting price controls will invariably diminish research and development and will remove incentives that encourage manufacturers to pursue innovative prescription drug solutions. SB 2170 fails to consider that manipulating the economic structure through regulatory provisions or legislative decree often generates negative results. Research has consistently shown that patients in the United States are afforded earlier, less restrictive access to new drug therapies -- analysis confirmed by the U.S. Department of Health and Human Services. If lawmakers elect to artificially and arbitrarily reduce the price paid for prescription drugs, North Dakota will eventually have less access to innovative medications. Over the long run, that means taxpayers will face heavier burdens from government health programs forced to pay for more expensive treatments than drugs, such as surgeries and longer hospital stays.

The stated purpose of this legislation is to lower prescription drug prices and reduce out-of-pocket costs for North Dakota patients. NTU shares these goals with lawmakers and recognizes the challenges faced by patients and taxpayers. In consideration of our mutual goals, we strongly believe that imposing government-dictated price controls on prescription drugs will not lower drug prices and will ultimately decrease patient access and limit the innovation of new life saving medications.

We hope you stand with the patients and taxpayers of North Dakota and oppose this legislation. Thank you for your time and consideration of NTU's comments. Please reach out should you have any questions.

Sincerely,

Jess Ward
Director of State Affairs