Testimony of the National Academy for State Health Policy on SB 2170 - An Act to Create and Enact Chapter 19-03.7 of the North Dakota Century Code, Relating to Prescription Drug Costs; and to Provide a Penalty

Madam Chair and Members of the Committee,

My name is Drew Gattine and I am a Senior Policy Fellow at the National Academy for State Health Policy (NASHP). NASHP is a non-partisan forum of state policy makers that works to develop and implement innovative health care policy solutions at the state level. At NASHP we believe that when it comes to health care, the states are a tremendous source of innovative ideas and solutions. We approach our work by engaging and convening state leaders to solve problems. We conduct policy analysis and research and we provide technical assistance to states.

In 2017 NASHP created its Center for Drug Pricing to focus attention on steps that states can take to tackle the spiraling costs of prescription drugs and the impact it has on consumers, the overall cost of health care and state budgets. NASHP's Center for Drug Pricing develops model legislation for states and provides technical assistance and support to legislators and executive branch leaders who wish to move them forward. When these bills pass, NASHP continues to support states as they are implemented.

The bill before the Committee today, SB 2170, is based on one of NASHP's model bills. Because NASHP is not an advocacy organization we do not take a position "for" or "against" a bill but we do stand by to answer questions and provide technical support for sponsors and legislative committees.

I think we are all aware that when compared to citizens of other countries, Americans pay a lot more for prescription drugs and that the rising cost of prescription drugs is a huge driver in the overall annual increase in health care costs that Americans experience routinely. Other countries spend less for the same drugs because they set rates for prescription drugs. In the United States, rate setting is the norm for many health care services. Public programs like Medicaid or Medicare, and commercial payers routinely negotiate rates. But when it comes to prescription drugs, the United States has a very complicated payment and distribution system that is fundamentally rooted in the manufacturers dictating the price.

States could undertake to do this work themselves but the process of rate setting is complicated, labor intensive and would require a lot of work and up-front investment in resources. Most states don't have the infrastructure to do that work and for many it would be a barrier to build it, even though there is a potentially big pay-off. The good news is that other countries are already doing this analytical work and the results of that work are readily and publicly available for states to use.

NASHP Center for State Rx Drug Pricing

This bill directs North Dakota's Insurance Commissioner to determine the top 250 costliest drugs, using a list from the North Dakota Public Employees Retirement System as the benchmark. This list is then compared to publicly available information from the four most populous Canadian provinces (Ontario, Quebec, British Columbia, and Alberta) and directs that the lowest price becomes the reference rate for payers (state entities other than Medicaid, commercial payers and ERISA plans that chose to participate).

Referencing North Dakota rates to Canadian rates should lead to significant savings to the state and to commercial payers. NASHP stands willing to work with North Dakota to develop state specific savings estimates, but the chart below, using national data, demonstrates the magnitude of the possible savings:

Drug Name & Dosage Source: National Average Drug Acquisition Cost (NADAC) data	US Price (NADAC)	Canadian Reference Rate*	Price Difference	Savings off US Prices
Humira syringe (40 mg/0.8 ml) (arthritis, psoriasis, Crohn's)	$2,706.38	$541.29	$2,165.09	80%
1 ml of Enbrel (50 mg/ml syringe) (arthritis, psoriasis, Crohn's)	$1,353.94	$272.28	$1,081.66	80%
1 ml of Stelara (90 mg/1 ml syringe) (arthritis, psoriasis, Crohn's)	$21,331.28	$3,267.64	$18,063.64	85%
1 ml of Victoza (2-pak of 18 mg/3 ml pen)* (diabetes)	$103.44	$17.30	$86.14	83%
Truvada tablet (200 mg/300 mg) (PrEP for HIV)	$59.71	$19.78	$39.93	67%
Xeljanz tablet (5 mg) (rheumatoid arthritis)	$76.07	$17.50	$58.57	77%
Epicusa tablet (400 mg/100 mg) (hepatitis C)	$869.05	$541.32	$327.73	38%
Zytiga tablet (250 mg) (cancer)	$87.63	21.47	$66.16	75%

The bill requires that any savings generated by implementing the reference rates – whether generated by state entities or commercial health plans – be used to reduce the health care costs of the people of North Dakota.

As the Committee continues its work on this bill NASHP is available to support your work as necessary. Prior to drafting its latest round of model legislation, NASHP engaged with a team of legal experts to design legally sound approaches that can withstand the inevitable challenges from manufacturers and their allies. NASHP has made our legal analysis available on our website. (https://www.nashp.org/the-national-academy-for-state-health-policys-proposal-for-state-based-international-reference-pricing-for-prescription-drugs/). The NASHP website also contains other materials (Written Q&A, Blog Articles, etc.) that may be useful material for the Committee. Thank you.

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