



**Thomas A. Schatz, *President***  
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January 11, 2021

Chairman Robin Weisz  
North Dakota House Human Services Committee  
600 East Boulevard  
Bismarck, ND 58505-0360

Dear Chairman Weisz and Members of the House Human Services Committee,

On behalf of the 4,460 members and supporters of the Council for Citizens Against Government Waste (CCAGW) in North Dakota, I urge you to oppose HB 1032.

CCAGW is concerned that HB 1032, which is supposed to provide drug cost transparency, is nothing more than a fishing expedition that will fail to lower the costs of drugs in North Dakota. Instead, it will raise costs and burden pharmaceutical manufacturers, insurers, and pharmacy benefit managers with busy-work activities, and require the hiring of additional accountants and lawyers to provide information in a limited time frame. This will reduce the amount of money needed for research and development of drugs like the vaccines for COVID-19, and the additional costs of compliance will likely be passed on to consumers. The bill would also impose additional burdens on the state board of pharmacy.

Using the wholesale acquisition cost (WAC) to determine the 40 percent increase after five calendar years or the 10 percent-plus increase trigger for reporting a price hike is a faulty premise because it represents the list price and not what the patient usually pays. The reams of data that will be required to be reported is proprietary and could interfere with negotiations that drive down costs. The Federal Trade Commission (FTC) has acknowledged that disclosure of pricing information could undermine beneficial market forces within the industry, leading to higher, not lower prices. A July 2, 2015 FTC [policy paper](#) stated, "But transparency is not universally good. When it goes too far, it can actually harm competition and consumers. Some types of information are not particularly useful to consumers but are of great interest to competitors. We are especially concerned when information disclosures allow competitors to figure out what their rivals are charging, which dampens each competitor's incentive to offer a low price or increases the likelihood that they can coordinate on higher prices."

Supporters of a free market understand that the best approach to lowering prices of any product is an environment that fosters competition and innovation, not more regulation and government intervention. It takes 10 to 12 years and an average of [\\$2.6 billion](#) to get a new drug through the Food and Drug Administration (FDA) approval process. According to the FDA, [90 percent](#) of all drugs dispensed are generics. Rather than pursuing HB 1032, North Dakota legislators should ask their congressional delegation to continue to hold the FDA's feet to the fire to make sure that

generic drugs are approved in a timely manner. The FDA must also continue to adopt modern techniques that streamline and speed up clinical trials and approval processes. In addition, all levels of government should provide an environment that encourages the development of “[me-too](#)” drugs that provide competition for pharmaceuticals that are still under patent and provide more patient choice.

These actions would be a far more effective way to help bring down the price of prescription drugs than passing this legislation. Again, I urge you to vote against HB 1032.

Sincerely,

A handwritten signature in black ink that reads "Thomas Schatz". The signature is written in a cursive style and is enclosed within a thin black rectangular border.