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Testimony from:
Marc Hyden, Director of State Government Affairs, the R Street Institute

Testimony on LB 149, "A BILL FOR AN ACT relating to vapor products."

March 4, 2019

General Affairs Committee

Chairman and members of the committee,

My name is Marc Hyden, and I am the Director of State Government Affairs for the R Street Institute, which is a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas. We have a keen focus on tobacco harm reduction advocacy, and therefore [LB 149](#) is of special interest to us.

It is currently illegal for Nebraskans under the age of 18 to [purchase or use](#) combustible cigarettes or nicotine vapor products. However, LB 149 seeks to raise the minimum age to buy and/or use electronic cigarettes to 21 years, while still permitting 18-year-olds to purchase traditional cigarettes. LB 149's goal is well-intentioned, but this legislation will have negative consequences.

First, e-cigarettes are unquestionably less harmful than combustible cigarettes. [Public Health England](#) has stated that they are at least 95 percent safer; the [American Cancer Society](#) has conceded that vaping is better than traditional cigarettes; and the [Office of the Surgeon General](#) has recognized that nicotine products exist on a continuum of risk with e-cigarettes at the lower end, near traditional nicotine replacement therapies, and combustible cigarettes at the highest end of the risk spectrum. Vaping presents a reduced risk because it does not employ the traditional cigarette combustion process that releases approximately 7,000 chemicals – some of which are highly carcinogenic.

Second, e-cigarettes have quickly become the [number one quit tool](#) in the United States, allowing an untold number of Americans to finally ditch cigarettes. Another study revealed that vaping products have helped [tens of thousands](#) of British citizens quit smoking. The importance of this cannot be overstated. Traditional tobacco usage is beyond dangerous. In fact, around [2,500 Nebraskans die](#) prematurely each year because of tobacco.



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By raising the vaping age to 21 and keeping the smoking age at 18, Nebraska is encouraging its young adults to participate in more hazardous activities. While concerns that e-cigarettes could encourage smoking later in life are understandable, they are unfounded. A recent [study](#) shows that e-cigarette use is much higher among young current smokers than never smokers.

Nebraska should not be in the business of actively promoting riskier behavior. Rather, the state should promote more prudent activities. Thankfully, Nebraska has tools at its disposal to do this. It is already illegal for youths under 18 to smoke traditional cigarettes and e-cigarettes, and it is illegal to sell to minors. These prohibitions simply must be enforced with increased vigor. Nebraska could go a few steps further, however, and prohibit vaping on K-12 campuses. And if the Legislature wishes to be even more proactive, Senators ought to consider raising the age to use any tobacco products to 21 years old – a proposal that the R Street Institute endorses.

The bottom line is that incentives matter. The state should not drive individuals toward smoking combustible cigarettes or impede their ability to quit by making it more difficult to obtain less harmful products.

Thank you for your time.

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