

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to create and enact a new section to chapter 57-01, a new subsection to
2 section 57-01-02.1, a new subsection to section 57-38-30.5, and a new subsection to section
3 57-40.3-04 of the North Dakota Century Code, relating to minimum tax payments and refunds,
4 offsets of overpaid local option taxes from future distributions, the effect of the expiration of the
5 federal research tax credit on the state income tax credit for research and experimental
6 expenditures, and exemptions from motor vehicle excise tax; to amend and reenact
7 subsection 4 of section 5-01-17, subsection 4 of section 5-01-19, subsection 5 of section
8 5-01-21, sections 5-03-05 and 40-57.3-04, ~~subsection 10~~subsections 5, 6, 7, 10, 15, and 16 of
9 section 57-36-01, ~~section~~sections 57-36-02, 57-36-04, 57-36-05, 57-36-09, 57-36-09.1,
10 57-36-24, 57-36-25, 57-36-26, 57-36-28, 57-36-29, and 57-36-33, subsection 2 of section
11 57-38-62, ~~section~~sections 57-39.2-03.9, 57-40.2-03.2, and 57-40.2-11, and subsection 1 of
12 section 57-43.2-02 of the North Dakota Century Code, relating to tax reporting of domestic
13 wineries, domestic distilleries, and brewer taprooms, authority of the tax commissioner to adopt
14 rules, offsets of restaurant, restaurant and lodging, and city motor vehicle rental taxes from
15 future distributions, definition of tobacco products, taxation of tobacco products, estimated
16 income tax requirements for corporations, sales tax and use tax on tobacco products, articles
17 taxed in other states or political subdivisions of other states, and establishing energy per
18 volume equivalent of liquefied natural gas for special fuels tax purposes; and to provide an
19 effective date.

20 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

21 **SECTION 1. AMENDMENT.** Subsection 4 of section 5-01-17 of the North Dakota Century
22 Code is amended and reenacted as follows:

23 4. A domestic winery is subject to section 5-03-06 and shall report and pay
24 ~~annually~~quarterly to the tax commissioner the wholesaler taxes due on all wines sold

1 by the licensee at retail, including all wines shipped directly to consumers as set forth
2 in sections 5-03-07 and 57-39.6-02. The ~~annual~~quarterly wholesaler tax reports are
3 due ~~January~~on or before the fifteenth day of the year ~~following the year sales were~~
4 ~~made~~next succeeding month. When the fifteenth of ~~January~~day of the month falls on a
5 Saturday, Sunday, or legal holiday, the due date is the first working day thereafter. The
6 ~~report~~reports must provide such detail and be in a format as prescribed by the tax
7 commissioner. The tax commissioner may require that the ~~report~~reports be submitted
8 in an electronic format approved by the tax commissioner.

9 **SECTION 2. AMENDMENT.** Subsection 4 of section 5-01-19 of the North Dakota Century
10 Code is amended and reenacted as follows:

- 11 4. A domestic distillery is subject to section 5-03-06 and shall report and pay
12 ~~annually~~quarterly to the tax commissioner the wholesaler taxes due on all spirits sold
13 by the licensee at retail, including all spirits shipped directly to consumers as set forth
14 in sections 5-03-07 and 57-39.6-02. The ~~annual~~quarterly wholesaler tax reports are
15 due ~~January~~on or before the fifteenth day of the year ~~following the year sales were~~
16 ~~made~~next succeeding month. When the fifteenth day of the month falls on a Saturday,
17 Sunday, or legal holiday, the due date is the first working day after that day. The
18 ~~report~~reports must provide the detail and be in a format as prescribed by the tax
19 commissioner. The tax commissioner may require that the ~~report~~reports be submitted
20 in an electronic format approved by the tax commissioner.

21 **SECTION 3. AMENDMENT.** Subsection 5 of section 5-01-21 of the North Dakota Century
22 Code is amended and reenacted as follows:

- 23 5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay
24 ~~annually~~quarterly to the tax commissioner the wholesaler taxes due on all beer sold by
25 the licensee at retail or to a retail licensee, including all beer sold directly to consumers
26 as set forth in sections 5-03-07 and 57-39.6-02. The ~~annual~~quarterly wholesaler tax
27 reports are due ~~January~~on or before the fifteenth day of the year ~~following the year~~
28 ~~sales were made~~next succeeding month. When the fifteenth of ~~January~~day of the
29 month falls on a Saturday, Sunday, or legal holiday, the due date is the first working
30 day after that day. The ~~report~~reports must provide the detail and be in a format as

1 prescribed by the tax commissioner. The tax commissioner may require the
2 ~~report~~reports be submitted in an electronic format approved by the tax commissioner.

3 **SECTION 4. AMENDMENT.** Section 5-03-05 of the North Dakota Century Code is amended
4 and reenacted as follows:

5 **5-03-05. Tax commissioner to adopt rules - Appeal.**

6 The ~~state~~ tax commissioner, ~~pursuant to~~under chapter 28-32, shall adopt rules governing
7 retailers, ~~wholesalers~~licensees, direct shippers, and manufacturers necessary to carry out the
8 provisions of this title and to ensure efficient collection of beer and liquor taxes. All decisions of
9 the ~~state~~ tax commissioner are subject to court review.

10 **SECTION 5. AMENDMENT.** Section 40-57.3-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative**
13 **expenses allowed - Rules.**

14 The taxes imposed under this chapter are due and payable at the same time the taxpayer is
15 required to file a return under chapter 57-39.2 and must be collected and administered by the
16 ~~state~~ tax commissioner in accordance with the relevant provisions of chapter 57-39.2. The
17 taxpayer shall add the taxes imposed under this chapter to the sales, lease, or rental price and
18 shall collect the tax from the consumer. A retailer may not advertise or hold out or state to the
19 public, or to any consumer, directly or indirectly, that the taxes or any part of the taxes imposed
20 under this chapter shall be assumed, absorbed, or refunded by the taxpayer. The amount the
21 tax commissioner remits monthly to each city as taxes collected for that city's visitors' promotion
22 fund and visitors' promotion capital construction fund must be reduced by three percent as an
23 administrative fee necessary to defray the cost of collecting the taxes and the expenses incident
24 to collection. The administrative fee must be deposited in the general fund in the state treasury.
25 The tax commissioner shall adopt rules necessary for the administration of this chapter. The
26 penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1 specifically apply to
27 the filing of returns and administration of the taxes imposed under this chapter. The taxes
28 imposed under this chapter are not taxes subject to chapter 57-39.4. The tax commissioner may
29 offset future distributions of a tax imposed and collected under this chapter if there was a
30 previous overpayment of the tax distributed to the city. The tax commissioner, after consulting

1 the appropriate local political subdivision, may determine the offset amount and time period for
2 recovery of the overpayment of the tax distribution.

3 **SECTION 6.** A new section to chapter 57-01 of the North Dakota Century Code is created
4 and enacted as follows:

5 **Minimum refunds and collections.**

- 6 1. Except as otherwise provided in this title, a refund may not be made by the tax
7 commissioner to any taxpayer unless the amount to be refunded, including interest, is
8 at least five dollars. The tax commissioner shall transfer any amount that is not
9 refunded to a taxpayer under this subsection to the state treasurer for deposit in the
10 same manner as other revenue relating to the tax being administered.
11 2. A remittance of tax need not be made and any assessment or collection of tax may not
12 be made unless the amount is at least five dollars, including penalties and interest.

13 **SECTION 7.** A new subsection to section 57-01-02.1 of the North Dakota Century Code is
14 created and enacted as follows:

15 The tax commissioner may offset future distributions of a city's or county's tax imposed
16 and collected under chapters 40-05.1 or 11-09.1 if there was a previous overpayment
17 of the tax distributed to that city or county. The tax commissioner, after consulting the
18 appropriate local political subdivision, may determine the offset amount and time
19 period for recovery of the overpayment of the tax distribution.

20 ~~SECTION 8. AMENDMENT. Subsection 10 of section 57-36-01 of the North Dakota~~
21 ~~Century Code is amended and reenacted as follows:—~~

22 ~~—10.—"Other tobacco products" means snuff and chewing tobacco any product, not otherwise~~
23 ~~defined in this section, which is made up or composed of tobacco in whole or in part.~~

24 **SECTION 8. AMENDMENT.** Subsections 5, 6, 7, 10, 15, and 16 of section 57-36-01 of the
25 North Dakota Century Code are amended and reenacted as follows:

- 26 5. "Consumer" means any person who has title to or possession of cigarettes, cigars,
27 pipe tobacco, chewing tobacco, snuff, or other tobacco products in storage, for use or
28 other consumption in this state.
29 6. "Dealer" includes any person other than a distributor who is engaged in the business
30 of selling cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or
31 other tobacco products, or any product of a cigarette-making machine.

1 7. "Distributor" includes any person engaged in the business of producing or
2 manufacturing cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco,
3 snuff, or other tobacco products, or importing into this state cigarettes, cigarette
4 papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products, for
5 the purpose of distribution and sale thereof to dealers and retailers.

6 10. "Other tobacco products" means ~~snuff and chewing tobacco~~ any product, not
7 otherwise defined in this section, which is made up or composed of tobacco in whole
8 or in part. "Other tobacco products" do not include any electronic cigarette, electronic
9 cigar, electronic cigarillo, electronic pipe, or similar noncombustible product, or device
10 containing nicotine which employs a heating element, electronic circuit, or other
11 electronic, chemical, or mechanical means, regardless of shape or size, which can be
12 used to produce vapor from nicotine in a solution or other form, or any vapor cartridge
13 or other container of nicotine in a solution or other form that is intended to be used
14 with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or
15 similar product or device.

16 15. "Storage" means any keeping or retention of cigarettes, cigars, pipe tobacco, chewing
17 tobacco, snuff, or other tobacco products for use or consumption in this state.

18 16. "Use" means the exercise of any right or power incidental to the ownership or
19 possession of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or other
20 tobacco products.

21 **SECTION 9. AMENDMENT.** Section 57-36-02 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **57-36-02. Distributors and dealers to be licensed.**

24 Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars,
25 pipe tobacco, chewing tobacco, or other tobacco products in this state, including any distributor
26 or dealer, must secure a license from the attorney general before engaging or continuing to
27 engage in business. A separate application and license is required for each distributor at each
28 outlet or place of business within the state, and a separate dealer's license is required for each
29 retail outlet when a person owns or controls more than one place of business dealing in
30 cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco
31 products. No retailer will be granted a distributor's license except a retailer who, in the usual

1 course of business, performed a distributor's or wholesaler's function for at least one year prior
2 to filing the license application. The application prescribed by the attorney general must include
3 the name and address of the applicant, the address and place of business, the type of
4 business, and other information as required for the proper administration of this chapter. Each
5 application for a wholesale or distributor's outlet license must be accompanied by a fee of
6 twenty-five dollars and a surety bond approved by the attorney general. Each application for a
7 dealer's outlet license must be accompanied by a fee of fifteen dollars. A reinstatement fee of
8 fifty dollars is required in addition to the annual license fee for each license renewal applied for
9 after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one
10 licensee in any fiscal year. A distributor's license does not authorize the holder to make retail
11 sales. Each license issued must be prominently displayed on the premises covered by the
12 license.

13 **SECTION 10. AMENDMENT.** Section 57-36-04 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **57-36-04. Revocation of license - Penalty.**

16 The attorney general may revoke the license of any dealer or distributor for failure to comply
17 with any of the provisions of this chapter, or any of the rules or regulations prescribed by the tax
18 commissioner or the attorney general. When a license has been legally revoked, no license
19 may be issued again to the licensee for a period of one year thereafter. A person may not sell
20 any cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco
21 products after that person's license has been revoked as provided in this chapter.

22 **SECTION 11. AMENDMENT.** Section 57-36-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **57-36-05. Unlawful to sell without license.**

25 A dealer or distributor may not sell cigarettes, cigarette papers, snuff, cigars, pipe tobacco,
26 chewing tobacco, or other tobacco products in this state at wholesale or at retail unless a
27 license has been issued to that dealer or distributor as prescribed by this chapter, and a person
28 may not sell, offer for sale, or possess with the intent to sell, any cigarettes, cigarette papers,
29 snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products without such license.

30 **SECTION 12. AMENDMENT.** Section 57-36-09 of the North Dakota Century Code is
31 amended and reenacted as follows:

57-36-09. Records to be kept by distributors and reports made - Penalty.

Distributors shall keep records and make reports relating to purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products made by them, and must be punished for failure so to do, as follows:

1. Each distributor who shall dispose of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products shall keep and preserve for one year all invoices of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products purchased by the distributor and shall permit the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner, to inspect and examine all taxable merchandise, invoices, receipts, books, papers, and memoranda as may be deemed necessary by the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner in determining the amount of the tax as may be yet due. Each person selling or otherwise disposing of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products as a distributor shall keep a record of all sales made within the state showing the name and address of the purchaser and the date of sale. For sales of other tobacco products, the records must also include the net weight in ounces, as listed by the manufacturer.
2. On or before the fifteenth day of each month, each licensed distributor, on such form as the state tax commissioner shall prescribe, shall report to the tax commissioner all purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products made from or to any persons either within or without this state during the preceding month. For sales of other tobacco products, each licensed distributor shall also report to the tax commissioner the net weight in ounces, as listed by the manufacturer. The tax levied by this chapter is payable monthly and must be remitted to the tax commissioner by each licensed distributor on or before the fifteenth day of the month following the monthly period.
3. Any person failing to file any prescribed form or return or to pay any tax within the time required or permitted by this section is subject to a penalty of five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return

1 or the tax became due. The tax commissioner, if satisfied that the delay was
2 excusable, may waive all or any part of the penalty. The penalty must be paid to the
3 tax commissioner and disposed of in the same manner as are other receipts under this
4 chapter.

5 **SECTION 13. AMENDMENT.** Section 57-36-09.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-36-09.1. Warehouse - Record of deliveries and shipments.**

8 Records of all deliveries of shipments of cigarettes ~~and~~, cigars, pipe tobacco, chewing
9 tobacco, snuff, or other tobacco products from a licensed public warehouse to persons within
10 this state must be kept by the warehouse and be available to the tax commissioner for
11 inspection. They must show the name and address of the consignee, the date, the quantity of
12 cigarettes, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products delivered,
13 and such other information as the tax commissioner may require. These records must be
14 preserved for one year from the date of delivery of the cigarettes, snuff, cigars, pipe tobacco,
15 chewing tobacco, or other tobacco products.

16 **SECTION 14. AMENDMENT.** Section 57-36-24 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **57-36-24. Exemptions.**

19 All gift cigarettes, snuff, cigars, pipe tobacco, chewing tobacco, and other tobacco products,
20 not for resale, which are given to the North Dakota veterans' home or the North Dakota state
21 hospital for distribution to the occupants thereof, are exempt from the excise taxes levied under
22 this chapter.

23 **SECTION 15. AMENDMENT.** Section 57-36-25 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **57-36-25. Cigars and pipe tobacco - Excise tax on wholesale purchase price -**
26 **~~Other~~Snuff, chewing tobacco, and other tobacco products - Excise tax on weight -**
27 **Penalty - Reports - Collection - Allocation of revenue.**

- 28 1. There is hereby levied and assessed upon all cigars and pipe tobacco sold in this
29 state an excise tax at the rate of twenty-eight percent of the wholesale purchase price
30 at which such cigars and pipe tobacco are purchased by distributors. For the purposes
31 of this section, the term "wholesale purchase price" shall mean the established price

- 1 for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any
2 discount or other reduction.
- 3 2. There is levied and assessed upon snuff, chewing tobacco, and all other tobacco
4 products sold in this state an excise tax at the following rates:
- 5 a. Upon each can or package of snuff, sixty cents per ounce and a proportionate tax
6 at the like rate on all fractional parts of an ounce.
- 7 b. On chewing tobacco, sixteen cents per ounce and a proportionate tax at the like
8 rate on all fractional parts of an ounce.
- 9 c. On other tobacco products, twenty-eight percent of the wholesale purchase price.
10 For purposes of this subsection, the tax on ~~other tobacco products~~ snuff and chewing
11 tobacco is computed based on the net weight as listed by the manufacturer.
- 12 3. The proceeds of the taxes imposed under this section, together with such forms of
13 return and in accordance with such rules and regulations as the tax commissioner may
14 prescribe, shall be remitted to the tax commissioner by the distributor on a calendar
15 quarterly basis on or before the fifteenth day of the month following the quarterly
16 period for which paid. The tax commissioner shall, however, have authority to
17 prescribe monthly returns upon the request of the licensee distributor and such returns
18 accompanied with remittance shall be filed before the fifteenth day of the month
19 following the month for which the returns are filed.
- 20 4. Any person failing to file any prescribed form or return or to pay any tax within the time
21 required or permitted by this section is subject to a penalty of five percent of the
22 amount of tax due or five dollars, whichever is greater, plus interest of one percent of
23 the tax per month or fraction of a month of delay except the first month after the return
24 or the tax became due. The tax commissioner, if satisfied that the delay was
25 excusable, may waive all or any part of the penalty. The penalty must be paid to the
26 tax commissioner and disposed of in the same manner as are other receipts under this
27 chapter.
- 28 5. All moneys received by the tax commissioner under the provisions of this section shall
29 be transmitted to the state treasurer at the end of each month and deposited in the
30 state treasury to the credit of the general fund.

1 **SECTION 16. AMENDMENT.** Section 57-36-26 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-36-26. Cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products -**
4 **Excise tax payable by dealers - Reports - Penalties - Collection - Allocation of revenue.**

- 5 1. There is levied and assessed, upon all cigars and pipe tobacco purchased in another
6 state and brought into this state by a dealer for the purpose of sale at retail, an excise
7 tax at the rate of twenty-eight percent of the wholesale purchase price and, upon all
8 chewing tobacco, snuff, and other tobacco products purchased in another state and
9 brought into this state by a dealer for the purpose of sale at retail, an excise tax at the
10 rates indicated in section 57-36-25, at the time the products were brought into this
11 state. For the purposes of this section, the term "wholesale purchase price" means the
12 established price for which a manufacturer sells cigars or pipe tobacco to a distributor
13 exclusive of any discount or other reduction. However, the dealer may elect to report
14 and remit the tax on the cost price of the products to the dealer rather than on the
15 wholesale purchase price. The proceeds of the tax, together with the forms of return
16 and in accordance with any rules and regulations the tax commissioner may prescribe,
17 must be remitted to the tax commissioner by the dealer on a monthly basis on or
18 before the fifteenth day of the month following the monthly period for which it is paid.
19 The tax commissioner shall have the authority to place any dealer on an annual
20 remittance basis when in the judgment of the tax commissioner the operations of the
21 dealer merit that remittance period. In addition, the tax commissioner shall have the
22 authority to permit the consolidation of the filing of a dealer's return when the dealer
23 has more than one location and thereby would be required to file more than one
24 return.
- 25 2. If cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products have been
26 subjected already to a tax by any other state in respect to their sale in an amount less
27 than the tax imposed by this section, the provisions of this section apply, but at a rate
28 measured by the difference only between the rate fixed in this section and the rate by
29 which the previous tax upon the sale was computed. If the tax imposed in the other
30 state is twenty percent of the wholesale purchase price or more, then no tax is due on
31 the article. The provisions of this subsection apply only if the other state allows a tax

1 credit with respect to the excise tax on cigars, pipe tobacco, chewing tobacco, snuff, or
2 other tobacco products imposed by this state which is substantially similar in effect to
3 the credit allowed by this subsection.

4 3. Any person failing to file any prescribed forms of return or to pay any tax within the
5 time required by this section is subject to a penalty of five dollars or a sum equal to
6 five percent of the tax due, whichever is greater, plus one percent of the tax for each
7 month of delay or fraction thereof excepting the month within which the return was
8 required to be filed or the tax became due. The tax commissioner, if satisfied that the
9 delay was excusable, may waive all or any part of the penalty. The penalty must be
10 paid to the tax commissioner and disposed of in the same manner as are other
11 receipts under this chapter.

12 4. All moneys received by the tax commissioner under the provisions of this section must
13 be transmitted to the state treasurer at the end of each month and deposited in the
14 state treasury to the credit of the general fund.

15 **SECTION 17. AMENDMENT.** Section 57-36-28 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-36-28. Consumer's use tax - Cigars, pipe tobacco, chewing tobacco, snuff, and**
18 **other tobacco products - Reports - Remittances.**

- 19 1. A tax is imposed upon the use or storage by consumers of cigars, pipe tobacco,
20 chewing tobacco, snuff, and other tobacco products in this state, and upon those
21 consumers, at the rates indicated in section 57-36-25.
- 22 2. This tax does not apply if the tax imposed by section 57-36-25 or 57-36-26 has been
23 paid and it does not apply to cigars, pipe tobacco, chewing tobacco, snuff, or other
24 tobacco products exempt under section 57-36-24.
- 25 3. On or before the tenth day of each calendar quarter, every consumer who, during the
26 preceding calendar quarter, has acquired title to or possession of cigars, pipe tobacco,
27 chewing tobacco, snuff, or other tobacco products for use or storage in this state, upon
28 which products the tax imposed by either section 57-36-25 or 57-36-26 has not been
29 paid, shall file a return with the tax commissioner showing the quantity of such
30 products so acquired. For sales of other tobacco products, the return must also
31 include the net weight in ounces, as listed by the manufacturer. The return must be

- 1 made upon a form furnished and prescribed by the tax commissioner and must
2 contain such other information as the tax commissioner may require. The return must
3 be accompanied by a remittance for the full unpaid tax liability shown by it.
- 4 4. As soon as practicable after any return is filed, the tax commissioner shall examine the
5 return and correct it, if necessary, according to the tax commissioner's best judgment
6 and information.
- 7 5. If any consumer required to pay the tax levied by this section fails to file a return or
8 remit the tax as required, the tax commissioner shall make an assessment of tax
9 against the consumer according to the tax commissioner's best judgment and
10 information.
- 11 6. All of the provisions of this chapter relating to corrections of returns, deficiency
12 assessments, protests, hearings, interest and penalties, and collections of taxes apply
13 to consumers under this section.

14 **SECTION 18. AMENDMENT.** Section 57-36-29 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **57-36-29. Correction of errors.**

- 17 1. If it appears that as a result of a mistake an amount of tax, penalty, or interest has
18 been paid which was not due under the provisions of this chapter, then such amount
19 becomes due under this chapter, and the amount must be credited or refunded to
20 such person or firm by the tax commissioner.
- 21 2. Whenever a distributor destroys cigarettes, cigars, pipe tobacco, chewing tobacco,
22 snuff, or other tobacco products accidentally, or intentionally, because of staleness or
23 other unfitness for sale, a credit or refund must be given to the wholesaler under the
24 terms and conditions prescribed by the tax commissioner.

25 **SECTION 19. AMENDMENT.** Section 57-36-33 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **57-36-33. Penalties for violation of chapter.**

28 Except as otherwise provided in this chapter:

- 29 1. Any person who violates any provision of this chapter is guilty of a class A
30 misdemeanor.

- 1 | 2. All cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other
2 | tobacco products in the possession of the person who violates any provision of this
3 | chapter, or in the place of business of the person, may be confiscated by the tax
4 | commissioner as provided under section 57-36-14 and forfeited to the state. Any
5 | cigarette-making machine that is maintained or operated in violation of sections
6 | 57-36-05.3, 57-36-05.4, or 57-36-06.1 must be confiscated by the tax commissioner
7 | and forfeited to the state in accordance with chapter 29-31.1.

8 | **SECTION 20.** A new subsection to section 57-38-30.5 of the North Dakota Century Code is
9 | created and enacted as follows:

10 | For any taxable year in which the federal research tax credit provisions of section 41
11 | of the Internal Revenue Code are ineffective, the provisions of section 41 of the
12 | Internal Revenue Code [26 U.S.C. 41] referenced in this section have the same
13 | meaning and application as provided in section 41 of the Internal Revenue Code, as
14 | amended through the most recent taxable year in which the provisions were in effect.

15 | **SECTION 21. AMENDMENT.** Subsection 2 of section 57-38-62 of the North Dakota
16 | Century Code is amended and reenacted as follows:

- 17 | 2. A corporation shall, at the time prescribed in this chapter, pay estimated tax for the
18 | current taxable year if the corporation's estimated tax can reasonably be expected to
19 | exceed five thousand dollars and if the corporation's net tax liability for the
20 | immediately preceding taxable year exceeded five thousand dollars. If payment of
21 | estimated tax is required, the corporation shall, at the time prescribed in this chapter,
22 | pay the lesser of the following:
- 23 | a. ~~Ninety~~An amount which, when added to the corporation's withholding, equals
24 | ninety percent of the corporation's current taxable year's net tax liability.
- 25 | b. ~~One~~An amount which, when added to the corporation's withholding, equals one
26 | hundred percent of the corporation's net tax liability for the immediately preceding
27 | taxable year.

28 | **SECTION 22. AMENDMENT.** Section 57-39.2-03.9 of the North Dakota Century Code is
29 | amended and reenacted as follows:

1 **57-39.2-03.9. Sales tax on tobacco products.**

2 Notwithstanding any other provision of law, the sales taxes imposed by this chapter apply to
3 the gross receipts of retailers from all sales at retail of cigarettes, cigars, pipe tobacco, chewing
4 tobacco, snuff, and other tobacco products. For purposes of this section, "gross receipts" from
5 the sale of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products
6 includes any other taxes imposed on ~~such~~the merchandise or its use or on the retail or other
7 sale of ~~such~~the merchandise.

8 **SECTION 23. AMENDMENT.** Section 57-40.2-03.2 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-40.2-03.2. Use tax on tobacco products.**

11 Notwithstanding any other provision of law, the use taxes imposed by this chapter apply to
12 the storage, use, or consumption in this state of cigarettes, cigars, pipe tobacco, chewing
13 tobacco, snuff, and other tobacco products, provided that gross receipts from the sale ~~thereof~~
14 cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products mean and
15 include any other taxes imposed on ~~such~~the merchandise or its use or on the retail or other sale
16 ~~thereof~~of the merchandise.

17 **SECTION 24. AMENDMENT.** Section 57-40.2-11 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-40.2-11. ~~Articles taxed~~ Tax paid on articles in other states or political subdivisions**
20 **of other states.**

21 If tax has been paid on any article or tangible personal property ~~has been subjected already~~
22 ~~to a tax by~~in any other state or political subdivision thereof in respect to its sale or use in an
23 amount less than the tax imposed by this chapter, the provisions of this chapter apply, but at a
24 ~~rate measured by~~in an amount equal to the difference ~~only~~ between the ~~rate fixed in~~tax imposed
25 by this chapter and the ~~rate by which the previous tax upon the sale or use was computed~~tax
26 paid in the other state or political subdivision thereof. If the tax ~~imposed~~paid in ~~such~~the other
27 state or political subdivision thereof is the same or more, then no tax is due on such article. The
28 provisions of this section apply only if such other state or political subdivision thereof allows a
29 tax credit with respect to the retail sales and use taxes imposed by this state which is
30 substantially similar in effect to the credit allowed by this section. The tax commissioner may

1 require the taxpayer to provide written proof from the other state or political subdivision that the
2 tax was legally due and paid.

3 **SECTION 25.** A new subsection to section 57-40.3-04 of the North Dakota Century Code is
4 created and enacted as follows:

5 Any damaged motor vehicle transferred to an insurance company in the settlement of
6 an insurance claim.

7 **SECTION 26. AMENDMENT.** Subsection 1 of section 57-43.2-02 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 1. Except as otherwise provided in this chapter, an excise tax of twenty-three cents per
10 gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in
11 this state. For the purpose of determining the tax upon compressed natural gas and
12 liquefied natural gas under this section, one hundred twenty cubic feet [3.40 cubic
13 meters] of compressed natural gas, and one and seven-tenths gallons [6.44 liters] of
14 liquefied natural gas is equal to one gallon [3.79 liters] of other special fuel.

15 **SECTION 27. EFFECTIVE DATE.** Sections ~~40~~20 and ~~44~~21 of this Act are effective for
16 taxable years beginning after December 31, 2014. Sections ~~8, 12, 24~~ and ~~13~~25 of this Act are
17 effective for taxable periods beginning after June 30, 2015. Sections 4, 5, 6, 7, 8, 9, 10, 11, 12,
18 13, and 14, 15, 16, 17, 18, 19, 22, 23, and 26 of this Act are effective on July 1, 2015. Sections
19 1, 2, and 3 of this Act are effective for taxable years beginning after December 31, 2015.