

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1133

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, subsections 5, 6, 7, 10, 15, and 16 of section
9 57-36-01, sections 57-36-02, 57-36-04, 57-36-05, 57-36-09, 57-36-09.1, 57-36-24, 57-36-25,
10 57-36-26, 57-36-28, 57-36-29, and 57-36-33, subsection 2 of section 57-38-62, sections
11 57-39.2-03.9, 57-40.2-03.2, and 57-40.2-11, and subsection 1 of section 57-43.2-02 of the North
12 Dakota Century Code, relating to tax reporting of domestic wineries, domestic distilleries, and
13 brewer taprooms, authority of the tax commissioner to adopt rules, offsets of restaurant,
14 restaurant and lodging, and city motor vehicle rental taxes from future distributions, definition of
15 tobacco products, taxation of tobacco products, estimated income tax requirements for
16 corporations, sales tax and use tax on tobacco products, articles taxed in other states or
17 political subdivisions of other states, and establishing energy per volume equivalent of liquefied
18 natural gas for special fuels tax purposes; and to provide an effective date.

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

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

- 22 4. A domestic winery is subject to section 5-03-06 and shall report and pay
- 23 annually~~quarterly~~ to the tax commissioner the wholesaler taxes due on all wines sold
- 24 by the licensee at retail, including all wines shipped directly to consumers as set forth

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

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

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

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

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

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

3 **5-03-05. Tax commissioner to adopt rules - Appeal.**

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

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

10 **40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative**
11 **expenses allowed - Rules.**

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

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

3 **Minimum refunds and collections.**

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

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

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

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

- 20 5. "Consumer" means any person who has title to or possession of cigarettes, cigars,
21 pipe tobacco, chewing tobacco, snuff, or other tobacco products in storage, for use or
22 other consumption in this state.
23 6. "Dealer" includes any person other than a distributor who is engaged in the business
24 of selling cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or
25 other tobacco products, or any product of a cigarette-making machine.
26 7. "Distributor" includes any person engaged in the business of producing or
27 manufacturing cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco,
28 snuff, or other tobacco products, or importing into this state cigarettes, cigarette
29 papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products, for
30 the purpose of distribution and sale thereof to dealers and retailers.

- 1 10. "Other tobacco products" means snuff and chewing tobacco any product, not
2 otherwise defined in this section, which is made up or composed of tobacco in whole
3 or in part. "Other tobacco products" do not include any electronic cigarette, electronic
4 cigar, electronic cigarillo, electronic pipe, or similar noncombustible product, or device
5 containing nicotine which employs a heating element, electronic circuit, or other
6 electronic, chemical, or mechanical means, regardless of shape or size, which can be
7 used to produce vapor from nicotine in a solution or other form, or any vapor cartridge
8 or other container of nicotine in a solution or other form that is intended to be used
9 with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or
10 similar product or device.
- 11 15. "Storage" means any keeping or retention of cigarettes, cigars, pipe tobacco, chewing
12 tobacco, snuff, or other tobacco products for use or consumption in this state.
- 13 16. "Use" means the exercise of any right or power incidental to the ownership or
14 possession of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or other
15 tobacco products.

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

18 **57-36-02. Distributors and dealers to be licensed.**

19 Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars,
20 pipe tobacco, chewing tobacco, or other tobacco products in this state, including any distributor
21 or dealer, must secure a license from the attorney general before engaging or continuing to
22 engage in business. A separate application and license is required for each distributor at each
23 outlet or place of business within the state, and a separate dealer's license is required for each
24 retail outlet when a person owns or controls more than one place of business dealing in
25 cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco
26 products. No retailer will be granted a distributor's license except a retailer who, in the usual
27 course of business, performed a distributor's or wholesaler's function for at least one year prior
28 to filing the license application. The application prescribed by the attorney general must include
29 the name and address of the applicant, the address and place of business, the type of
30 business, and other information as required for the proper administration of this chapter. Each
31 application for a wholesale or distributor's outlet license must be accompanied by a fee of

1 twenty-five dollars and a surety bond approved by the attorney general. Each application for a
2 dealer's outlet license must be accompanied by a fee of fifteen dollars. A reinstatement fee of
3 fifty dollars is required in addition to the annual license fee for each license renewal applied for
4 after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one
5 licensee in any fiscal year. A distributor's license does not authorize the holder to make retail
6 sales. Each license issued must be prominently displayed on the premises covered by the
7 license.

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

10 **57-36-04. Revocation of license - Penalty.**

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

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

19 **57-36-05. Unlawful to sell without license.**

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

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

27 **57-36-09. Records to be kept by distributors and reports made - Penalty.**

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

- 1 1. Each distributor who shall dispose of cigarettes, cigarette papers, cigars, pipe tobacco,
2 chewing tobacco, snuff, or other tobacco products shall keep and preserve for one
3 year all invoices of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco,
4 snuff, or other tobacco products purchased by the distributor and shall permit the state
5 tax commissioner, and assistants, authorized agents, or representatives of the state
6 tax commissioner, to inspect and examine all taxable merchandise, invoices, receipts,
7 books, papers, and memoranda as may be deemed necessary by the state tax
8 commissioner, and assistants, authorized agents, or representatives of the state tax
9 commissioner in determining the amount of the tax as may be yet due. Each person
10 selling or otherwise disposing of cigarettes, cigarette papers, cigars, pipe tobacco,
11 chewing tobacco, snuff, or other tobacco products as a distributor shall keep a record
12 of all sales made within the state showing the name and address of the purchaser and
13 the date of sale. For sales of other tobacco products, the records must also include the
14 net weight in ounces, as listed by the manufacturer.
- 15 2. On or before the fifteenth day of each month, each licensed distributor, on such form
16 as the state tax commissioner shall prescribe, shall report to the tax commissioner all
17 purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, chewing
18 tobacco, snuff, or other tobacco products made from or to any persons either within or
19 without this state during the preceding month. For sales of other tobacco products,
20 each licensed distributor shall also report to the tax commissioner the net weight in
21 ounces, as listed by the manufacturer. The tax levied by this chapter is payable
22 monthly and must be remitted to the tax commissioner by each licensed distributor on
23 or before the fifteenth day of the month following the monthly period.
- 24 3. Any person failing to file any prescribed form or return or to pay any tax within the time
25 required or permitted by this section is subject to a penalty of five percent of the
26 amount of tax due or five dollars, whichever is greater, plus interest of one percent of
27 the tax per month or fraction of a month of delay except the first month after the return
28 or the tax became due. The tax commissioner, if satisfied that the delay was
29 excusable, may waive all or any part of the penalty. The penalty must be paid to the
30 tax commissioner and disposed of in the same manner as are other receipts under this
31 chapter.

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

3 **57-36-09.1. Warehouse - Record of deliveries and shipments.**

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

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

14 **57-36-24. Exemptions.**

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

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

21 **57-36-25. Cigars and pipe tobacco - Excise tax on wholesale purchase price -**
22 **~~Other~~Snuff, chewing tobacco, and other tobacco products - Excise tax on weight -**
23 **Penalty - Reports - Collection - Allocation of revenue.**

- 24 1. There is hereby levied and assessed upon all cigars and pipe tobacco sold in this
25 state an excise tax at the rate of twenty-eight percent of the wholesale purchase price
26 at which such cigars and pipe tobacco are purchased by distributors. For the purposes
27 of this section, the term "wholesale purchase price" shall mean the established price
28 for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any
29 discount or other reduction.
- 30 2. There is levied and assessed upon snuff, chewing tobacco, and all other tobacco
31 products sold in this state an excise tax at the following rates:

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

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

1 **57-36-26. Cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products -**
2 **Excise tax payable by dealers - Reports - Penalties - Collection - Allocation of revenue.**

3 1. There is levied and assessed, upon all cigars and pipe tobacco purchased in another
4 state and brought into this state by a dealer for the purpose of sale at retail, an excise
5 tax at the rate of twenty-eight percent of the wholesale purchase price and, upon all
6 chewing tobacco, snuff, and other tobacco products purchased in another state and
7 brought into this state by a dealer for the purpose of sale at retail, an excise tax at the
8 rates indicated in section 57-36-25, at the time the products were brought into this
9 state. For the purposes of this section, the term "wholesale purchase price" means the
10 established price for which a manufacturer sells cigars or pipe tobacco to a distributor
11 exclusive of any discount or other reduction. However, the dealer may elect to report
12 and remit the tax on the cost price of the products to the dealer rather than on the
13 wholesale purchase price. The proceeds of the tax, together with the forms of return
14 and in accordance with any rules and regulations the tax commissioner may prescribe,
15 must be remitted to the tax commissioner by the dealer on a monthly basis on or
16 before the fifteenth day of the month following the monthly period for which it is paid.
17 The tax commissioner shall have the authority to place any dealer on an annual
18 remittance basis when in the judgment of the tax commissioner the operations of the
19 dealer merit that remittance period. In addition, the tax commissioner shall have the
20 authority to permit the consolidation of the filing of a dealer's return when the dealer
21 has more than one location and thereby would be required to file more than one
22 return.

23 2. If cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products have been
24 subjected already to a tax by any other state in respect to their sale in an amount less
25 than the tax imposed by this section, the provisions of this section apply, but at a rate
26 measured by the difference only between the rate fixed in this section and the rate by
27 which the previous tax upon the sale was computed. If the tax imposed in the other
28 state is twenty percent of the wholesale purchase price or more, then no tax is due on
29 the article. The provisions of this subsection apply only if the other state allows a tax
30 credit with respect to the excise tax on cigars, pipe tobacco, chewing tobacco, snuff, or

1 other tobacco products imposed by this state which is substantially similar in effect to
2 the credit allowed by this subsection.

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

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

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

16 **57-36-28. Consumer's use tax - Cigars, pipe tobacco, chewing tobacco, snuff, and**
17 **other tobacco products - Reports - Remittances.**

18 1. A tax is imposed upon the use or storage by consumers of cigars, pipe tobacco,
19 chewing tobacco, snuff, and other tobacco products in this state, and upon those
20 consumers, at the rates indicated in section 57-36-25.

21 2. This tax does not apply if the tax imposed by section 57-36-25 or 57-36-26 has been
22 paid and it does not apply to cigars, pipe tobacco, chewing tobacco, snuff, or other
23 tobacco products exempt under section 57-36-24.

24 3. On or before the tenth day of each calendar quarter, every consumer who, during the
25 preceding calendar quarter, has acquired title to or possession of cigars, pipe tobacco,
26 chewing tobacco, snuff, or other tobacco products for use or storage in this state, upon
27 which products the tax imposed by either section 57-36-25 or 57-36-26 has not been
28 paid, shall file a return with the tax commissioner showing the quantity of such
29 products so acquired. For sales of other tobacco products, the return must also
30 include the net weight in ounces, as listed by the manufacturer. The return must be
31 made upon a form furnished and prescribed by the tax commissioner and must

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

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

15 **57-36-29. Correction of errors.**

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

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

26 **57-36-33. Penalties for violation of chapter.**

27 Except as otherwise provided in this chapter:

- 28 1. Any person who violates any provision of this chapter is guilty of a class A
29 misdemeanor.
- 30 2. All cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other
31 tobacco products in the possession of the person who violates any provision of this

1 chapter, or in the place of business of the person, may be confiscated by the tax
2 commissioner as provided under section 57-36-14 and forfeited to the state. Any
3 cigarette-making machine that is maintained or operated in violation of sections
4 57-36-05.3, 57-36-05.4, or 57-36-06.1 must be confiscated by the tax commissioner
5 and forfeited to the state in accordance with chapter 29-31.1.

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

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

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

15 2. A corporation shall, at the time prescribed in this chapter, pay estimated tax for the
16 current taxable year if the corporation's estimated tax can reasonably be expected to
17 exceed five thousand dollars and if the corporation's net tax liability for the
18 immediately preceding taxable year exceeded five thousand dollars. If payment of
19 estimated tax is required, the corporation shall, at the time prescribed in this chapter,
20 pay the lesser of the following:

- 21 a. ~~Ninety~~An amount which, when added to the corporation's withholding, equals
22 ninety percent of the corporation's current taxable year's net tax liability.
23 b. ~~One~~An amount which, when added to the corporation's withholding, equals one
24 hundred percent of the corporation's net tax liability for the immediately preceding
25 taxable year.

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

28 **57-39.2-03.9. Sales tax on tobacco products.**

29 Notwithstanding any other provision of law, the sales taxes imposed by this chapter apply to
30 the gross receipts of retailers from all sales at retail of cigarettes, cigars, pipe tobacco, chewing
31 tobacco, snuff, and other tobacco products. For purposes of this section, "gross receipts" from

1 the sale of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products
2 includes any other taxes imposed on ~~such~~the merchandise or its use or on the retail or other
3 sale of ~~such~~the merchandise.

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

6 **57-40.2-03.2. Use tax on tobacco products.**

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

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

15 **57-40.2-11. ~~Articles taxed~~Tax paid on articles in other states or political subdivisions**
16 **of other states.**

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

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

1 Any damaged motor vehicle transferred to an insurance company in the settlement of
2 an insurance claim.

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

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

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