Initiated Statutory Measure No. 4

PETITION TITLE

This initiated measure provides for a new veterans' tobacco trust fund in North Dakota Century Code Chapter 37-14 to fund certain veterans' programs. It would also create and amend provisions in Chapter 57-36, including creating new definitions of inhalation devices, liquid nicotine, and tobacco products; prohibiting dealers from being distributors and requiring distributors to keep additional records; setting requirements for registration of liquid nicotine dealers and regulating the alteration of liquid nicotine; and providing increases in the excise tax for tobacco products and in the levy and assessment of taxes on cigarettes. The measure would allocate revenues received by the tax commissioner among the State's general fund, the veterans' tobacco trust fund, and the community health trust fund, and would provide an appropriation. The measure would also increase the separate and additional tax on cigarette sales and create an inventory tax on cigarettes and tobacco products. Finally, the measure would repeal two provisions of current law related to an excise tax on cigarettes and the exemption for taxes on cigarettes and tobacco products given to occupants of the State's veterans home and the state hospital.

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF THE MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-14 of the North Dakota Century Code is created and enacted as follows:

Veterans' tobacco tax trust fund.

The veterans' tobacco tax trust fund is a permanent trust fund of the state of North Dakota and consists of moneys transferred or credited to the fund from the taxation of cigarettes and tobacco products, and all income earned from investment of the moneys in the fund. Investment of the fund is the responsibility of the state investment board. All moneys in this fund shall be utilized for programs of benefit and service to veterans or their dependents, and shall be appropriated to the administrative committee on veterans' affairs for expenditure on programs consistent with a strategic plan as developed and approved by the administrative committee on veteran's affairs.

SECTION 2. AMENDMENT. Section 57-36-01 of the North Dakota Century Code is amended and reenacted as follows:

57-36-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Chewing tobacco" means any leaf tobacco that is intended to be placed in the mouth.
2. "Cigar" means any roll of tobacco wrapped in tobacco.
3. "Cigarette" means any roll for smoking made wholly or in part of tobacco or processed tobacco and encased in any material except tobacco. "Cigarette" also means any product of a cigarette-making machine.
4. "Cigarette-making machine" means a machine used for commercial purposes to process tobacco into a roll or tube, formed or made from any material other than tobacco, at a production rate of more than five rolls or tubes per minute.

5. "Consumer" means any person who has title to or possession of cigarettes~~, cigars, pipe tobacco,~~ or ~~other~~ tobacco products in storage, for use or other consumption in this state.
6. "Dealer" includes any person other than a distributor who is licensed and engaged in the business of selling cigarettes, cigarette papers, ~~cigars, pipe tobacco, or other~~ tobacco products, or any product of a cigarette-making machine.
7. "Distributor" includes any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, ~~cigars, pipe tobacco,~~ or ~~other~~ tobacco products, including any person engaged in combining, altering, or mixing a solution containing liquid nicotine with any other substance, or importing into this state cigarettes, cigarette papers, ~~cigars, pipe tobacco,~~ or ~~other~~ tobacco products, for the purpose of distribution and sale thereof to dealers~~ and retailers~~.
8. "Inhalation device" means any product that, through electronic, mechanical, chemical, or other means, can be used to deliver aerosolized or vaporized nicotine or any substance derived from tobacco through inhalation. Inhalation device includes any component, part, or accessory of such device, whether or not sold separately. Inhalation device does not include cigarettes as defined in this chapter or in subsection 4 of section 51-25-01, and does not include any drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act [52 Sta. 1040; 21 U.S.C. 301 et seq.].
9. "Licensed dealer" means a dealer licensed under the provisions of this chapter.
10. "Licensed distributor" means a distributor licensed under the provisions of this chapter.
11. ~~"Other tobacco products" means snuff and chewing tobacco~~ "Liquid nicotine" means any liquid, gel, solution, or other non-solid or non-gas that contains nicotine made or derived in any way from tobacco. All liquid nicotine is presumed to be derived from tobacco unless the person demonstrates, at the person's sole expense and to the satisfaction of the tax commissioner, that the nicotine was made or derived from sources other than tobacco.
12. "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability company, trust, or association however formed.
13. "Pipe tobacco" means any processed tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.
14. "Sale" or "sell" applies to gifts, exchanges, and barter.
15. ~~"Snuff"~~ "Smokeless tobacco" means any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth, including snuff and snus.
16. "Storage" means any keeping or retention of cigarettes~~, cigars, pipe tobacco,~~ or ~~other~~ tobacco products for use or consumption in this state.
17. "Tobacco product" means any product containing, made, or derived from tobacco, including any product containing nicotine derived from tobacco, that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. Tobacco product includes cigars, pipe tobacco, chewing tobacco, liquid nicotine, smokeless tobacco, other kinds and forms of tobacco. Tobacco product does not include cigarettes as defined in this chapter, and does not include any drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act [52 Sta. 1040; 21 U.S.C. 301 et seq.]. Tobacco product also does not include a packaged product sold as a singular unit, including a packaged product that contains an inhalation device, in which no tobacco or nicotine derived from tobacco is present. For the purposes of this chapter, if a packaged product contains any tobacco or nicotine derived from tobacco, the entire packaged product shall be a tobacco product.
18. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes~~, cigars, pipe tobacco,~~ or ~~other~~ tobacco products.

SECTION 3. AMENDMENT. Section 57-36-02 of the North Dakota Century Code is amended and reenacted as follows:

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

Each person engaged in the business of selling cigarettes, cigarette papers, ~~snuff, cigars,~~ or tobacco products in this state, including any distributor or dealer, must secure a license from the attorney general before engaging or continuing to engage in business. A separate application and license is required for each distributor at each outlet or place of business within the state, and a separate dealer's license is required for each retail outlet when a person owns or controls more than one place of business dealing in cigarettes, cigarette papers, ~~snuff, cigars,~~ or tobacco products. ~~No retailer will~~ A licensed dealer may not be granted a distributor's license. A licensed distributor may not apply for or be granted a ~~distributor's~~ dealer's license ~~except a retailer who, in the usual course of business, performed a distributor's or wholesaler's function for at least one year prior to filing the license application~~ unless the applicant has held a valid distributor license for one year. The application prescribed by the attorney general must include the name and address of the applicant, the address and place of business, the type of business, and other information as required for the proper administration of this chapter. Each application for a wholesale or distributor's outlet license must be accompanied by a fee of twenty-five dollars and a surety bond approved by the attorney general. Each application for a dealer's outlet license must be accompanied by a fee of fifteen dollars. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one licensee in any fiscal year. A distributor's license does not authorize the holder to make retail sales. Each license issued must be prominently displayed on the premises covered by the license.

SECTION 4. Section 57-36-02.1 of the North Dakota Century Code is created and enacted as follows:

57-36-02.1. Registration of liquid nicotine dealers.

Each dealer engaged in the business of selling liquid nicotine shall register with the office of the attorney general. The registration form prescribed by the attorney general must include the name and address of the registrant, the address and place of business, the type of business, and other information as required by the proper administration of this chapter. A separate registration is required for each retail outlet when a person owns or controls more than one place of business dealing in liquid nicotine.

SECTION 5. AMENDMENT. Section 57-36-04 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 6. AMENDMENT. Section 57-36-05 of the North Dakota Century Code is amended and reenacted as follows:

57-36-05. Unlawful to sell without license. – Unlawful to alter liquid nicotine without distributor license.

1. A dealer or distributor may not sell cigarettes, cigarette papers, ~~snuff, cigars,~~ or tobacco products in this state at wholesale or at retail unless a license has been issued to that dealer or distributor as prescribed

by this chapter, and a person may not sell, offer for sale, or possess with the intent to sell, any cigarettes, cigarette papers, ~~snuff, cigars,~~ or tobacco products without such license.

2. A licensed dealer may not mix, alter, or combine a solution containing liquid nicotine with any other substance in this state.
3. A person may not mix, alter, or combine a solution containing liquid nicotine with any other substance in this state for the purpose of distributing and selling the solution to a licensed distributor or licensed dealer unless a distributor license has been issued to that person as prescribed by this chapter.

SECTION 7. AMENDMENT. Section 57-36-09 of the North Dakota Century Code is 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,~~ 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,~~ or ~~other~~ tobacco products shall keep and preserve for one year all invoices of cigarettes, cigarette papers, ~~cigars, pipe tobacco,~~ 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,~~ 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 other than solutions containing liquid nicotine, the records must ~~also~~ include the net weight in ounces, as listed by the manufacturer. For sales of solutions containing liquid nicotine, the records must include all measurements of weight or volume listed by the manufacturer or distributor.

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,~~ 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 other than solutions containing liquid nicotine, each licensed distributor shall also report to the tax commissioner the net weight in ounces, as listed by the manufacturer. For sales of solutions containing liquid nicotine, each licensed distributor shall report to the tax commissioner all measurements of weight or volume listed by the manufacturer or distributor, and for solutions containing liquid nicotine that the licensed distributor mixed with any other solution in this state, the volume in milliliters distributed or sold by the distributor. 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 per-mitted 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 or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

SECTION 8. AMENDMENT. Section 57-36-09.1 of the North Dakota Century Code is amended and reenacted as follows:

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

Records of all deliveries of shipments of cigarettes and ~~snuff~~ tobacco products from a licensed public warehouse to persons within this state must be kept by the warehouse and be available to the tax commissioner for inspection. They must show the name and address of the consignee, the date, the quantity of cigarettes~~, snuff, cigars,~~ or ~~other~~ tobacco products delivered, the volume of all solutions containing liquid nicotine distributed, and such other information as the tax commissioner may require. These records must be preserved for one year from the date of delivery of the cigarettes~~, snuff, cigars,~~ or ~~other~~ tobacco products.

SECTION 9. AMENDMENT. Section 57-36-25 of the North Dakota Century Code is amended and reenacted as follows:

57-36-25. ~~Cigars and pipe~~ Tobacco products - Excise tax on wholesale purchase price - ~~Other tobacco products - Excise tax on weight -~~ Penalty - Reports - Collection - Allocation of revenue.

~~1.~~ 1. There is hereby levied and assessed upon all ~~cigars and, pipe~~ tobacco products sold in this state an excise tax at the rate of ~~twenty-eight~~ fifty-six percent of the wholesale purchase price at which such ~~cigars and, pipe~~ tobacco products are purchased by distributors. For the purposes of this section, the term "wholesale purchase price" shall mean the established price for which a manufacturer sells ~~cigars or, pipe~~ tobacco products to a distributor exclusive of any discount or other reduction.

~~2. There is levied and assessed upon all other tobacco products sold in this state an excise tax at the following rates:~~

~~a. Upon each can or package of snuff, sixty cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.~~

~~b. On chewing tobacco, sixteen cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.~~

~~For purposes of this subsection, the tax on other tobacco products is computed based on the net weight as listed by the manufacturer.~~

~~3.~~ 2. The proceeds of the taxes imposed under this section, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the fifteenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licenseed distributor and such returns accompanied with remittance shall be filed before the fifteenth day of the month following the month for which the returns are filed.

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

~~5.~~ 4. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury ~~to the credit of the general fund~~ for transfer and allocation pursuant to section 57-36-31.

SECTION 10. AMENDMENT. Section 57-36-26 of the North Dakota Century Code is amended and reenacted as follows:

57-36-26. ~~Cigars, pipe tobacco, and other tobacco~~ Tobacco products - Excise tax payable by dealers - Reports - Penalties - Collection - Allocation of revenue.

1. There is levied and assessed, upon all ~~cigars and, pipe~~ tobacco products purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate ~~of twenty-~~

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

2. If ~~cigars, pipe tobacco, or other~~ tobacco products have been subjected already to a tax by any other state in respect to their sale in an amount less than the tax imposed by this section, the provisions of this section apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in the other state is ~~twenty~~ fifty percent of the wholesale purchase price or more, then no tax is due on the article. The provisions of this subsection apply only if the other state allows a tax credit with respect to the excise tax on ~~cigars, pipe tobacco, or other~~ tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.
3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section is subject to a penalty of five dollars or a sum equal to five percent of the tax due, whichever is greater, plus one percent of the tax for each month of delay or fraction thereof excepting the month within which the return was required to be filed or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
4. All moneys received by the tax commissioner under the provisions of this section must be transmitted to the state treasurer at the end of each month and deposited in the state treasury ~~to the credit of the general fund~~ for transfer and allocation pursuant to section 57-36-31.

SECTION 11. AMENDMENT. Section 57-36-27 of the North Dakota Century Code is amended and reenacted as follows:

57-36-27. Consumer's use tax - Cigarettes - Reports - Remittances.

1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:
   a. On cigarettes weighing not more than three pounds [1360.78 grams] per thousand, five mills on each such cigarette.
   b. On cigarettes weighing more than three pounds [1360.78 grams] per thousand, five and one-half mills on each such cigarette.
2. This tax does not apply if the tax imposed by section 57-36-~~06~~32 has been paid.
3. On or before the tenth day of each calendar quarter, every consumer who during the preceding calendar quarter, has acquired title or possession of cigarettes for use or storage in this state, upon which cigarettes the tax imposed by section 57-36-~~06~~32 has not been paid, shall file a return with the tax commissioner showing the quantity of cigarettes so acquired. The return must be made upon a form furnished and prescribed by the tax commissioner and must contain such other information as the tax

commissioner may require. The return must be accompanied by a remittance for the full unpaid tax liability shown by it.

4. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to the tax commissioner's best judgment and information.
5. In case any consumer required to pay the tax levied by this section fails to file a return or remit the tax as herein required, the tax commissioner has the authority to make an assessment of tax against the consumer according to the commissioner's best judgment and information.
6. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests thereto, hearings thereon, interest and penalties, and collections of taxes are applicable to consumers under this section in like manner as though set out in full herein.

SECTION 12. AMENDMENT. Section 57-36-28 of the North Dakota Century Code is amended and reenacted as follows:

57-36-28. Consumer's use tax -- ~~Cigars, pipe tobacco, and other~~ Tobacco products -- Reports -- Remittances.

1. A tax is imposed upon the use or storage by consumers of ~~cigars, pipe tobacco, and other~~ tobacco products in this state, and upon those consumers, at the rates indicated in section 57-36-25.
2. This tax does not apply if the tax imposed by sections 57-36-25 or 57-36-26 has been paid. ~~and it does not apply to cigars, pipe tobacco, or other tobacco products exempt under section 57-36-24.~~
3. On or before the tenth day of each calendar quarter, every consumer who, during the preceding calendar quarter, has acquired title to or possession of ~~cigars, pipe tobacco, or other~~ tobacco products for use or storage in this state, upon which products the tax imposed by either section 57-36-25 or 57-36-26 has not been paid, shall file a return with the tax commissioner showing the quantity of such products so acquired. For sales of ~~other~~ tobacco products, the return must also include the net weight in ounces, as listed by the manufacturer. For solutions containing liquid nicotine, the return must include all measurements of weight in ounces and liquids in milliliters, as listed by the manufacturer or distributor. The return must be made upon a form furnished and prescribed by the tax commissioner and must contain such other information as the tax commissioner may require. The return must be accompanied by a remittance for the full unpaid tax liability shown by it.
4. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to the tax commissioner's best judgment and information.
5. If any consumer required to pay the tax levied by this section fails to file a return or remit the tax as required, the tax commissioner shall make an assessment of tax against the consumer according to the tax commissioner's best judgment and information.
6. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests, hearings, interest and penalties, and collections of taxes apply to consumers under this section.

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

57-36-29. Correction of errors.

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

SECTION 14. AMENDMENT. Section 57-36-31 of the North Dakota Century Code is amended and reenacted as follows:

57-36-31. Transfer and allocation of revenues - Appropriation.

1. All moneys received by the tax commissioner under the provisions of this chapter must be transmitted to the state treasurer at the end of each month and deposited in the state treasury ~~to the credit of the general fund, except~~ as ~~hereinafter~~ provided in this section.
2. All moneys received from the levy and assessment of ~~one and one-half~~ two mills on each of the classes of cigarettes provided in this chapter are appropriated and must be distributed on or before the thirtieth day of June and the thirty-first day of December of each year on a per capita basis to the incorporated cities for such purposes as are now or may be hereafter authorized by law, the allocation to be based upon the population of each incorporated city according to the last official federal census, or the census taken in accordance with the provisions of chapter 40-02 in the case of a city incorporated subsequent to the last federal census~~,~~ and warrants must be drawn payable to the treasurers of such cities.
3. All moneys received by the tax commissioner under this chapter from the levy and assessment of twenty mills on each of the classes of cigarettes provided in this chapter and fifty percent of all moneys received from the levy and assessment of excise taxes on tobacco products shall be credited to the state's general fund.
4. All moneys received by the tax commissioner under this chapter from forty-four mills of the tax on each of the classes of cigarettes and twenty-five percent of all moneys received from the levy and assessment of excise taxes on tobacco products shall be credited to the veterans' tobacco tax trust fund. Funds appropriated by this section may supplement but may not supplant any funding that, in the absence of this chapter, would be or has been provided by the legislature for the same or similar purposes.
5. All moneys received by the tax commissioner under this chapter from forty-four mills of the tax on each of the classes of cigarettes and twenty-five percent of all moneys received from the levy and assessment of excise taxes on tobacco products shall be credited to the community health trust fund and appropriated as specified in this subsection. Funds appropriated by this section may supplement but may not supplant any funding that, in the absence of this chapter, would be or has been provided by the legislature for the same or similar purposes.
    a. Seventy percent of the revenues deposited in the community health trust fund pursuant to this section are appropriated consistent with a comprehensive plan for the support of behavioral health services as developed and approved by the North Dakota behavioral health planning council, and;
    b. Twenty percent of the revenues deposited in the community health trust fund pursuant to this section are appropriated and must be distributed on or before the thirtieth day of June and the thirty-first day of December of year, ten percent of the distribution in equal amounts to each county and ninety percent on a per capita basis to the counties, the allocation to each to be based upon the population of each county according to the most recent official federal census. The county treasurer shall distribute all moneys received under this section to the public health unit serving that county for the delivery of the essential local health unit services established by the state health council, and;
    c. Ten percent of the revenues deposited in the community health trust fund pursuant to this section are appropriated to the department of health for the support of chronic disease detection, prevention, treatment, and control.
6. No moneys allocated under this chapter shall supplant any funding that, in the absence of this chapter, would be or has been deposited in the Tobacco Prevention and Control Trust Fund as set forth in section 54-27-25, for the executive committee's implementation of the purposes in chapter 23-42.

SECTION 15. AMENDMENT. Section 57-36-32 of the North Dakota Century Code is amended and reenacted as follows:

57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited.

There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~seventeen~~ one hundred ten mills on each cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, corporation, or limited liability company shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying the tax thereon to the state tax commissioner. All of the moneys ~~collected by the state treasurer under this section shall be credited to the state general fund~~ received by the tax commissioner under the provisions of this section must be transmitted to the state treasurer at the end of each month and deposited in the state treasury for transfer and allocation pursuant to section 57-36-31.

SECTION 16. AMENDMENT. Section 57-36-33 of the North Dakota Century Code is amended and reenacted as follows:

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

Except as otherwise provided in this chapter:

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

SECTION 17. Section 57-36-34 of the North Dakota Century Code is created and enacted as follows:

57-36-34. Inventory Tax on Cigarettes or Tobacco Products.

For any cigarettes or tobacco products on which a tax pursuant to this chapter has already been paid that is in the possession or control of a distributor, wholesaler, retailer or any other person in the business of distributing or selling cigarettes or tobacco products on the effective date of an increase in the tax rate on that cigarette or tobacco product, the distributor, wholesaler, retailer or other person shall, to fully comply with the tax rate increase, make a tax payment equal to the new tax rate on the cigarettes or tobacco products minus the amount of tax already paid on that cigarette or tobacco product. These payments shall be made to the tax commissioner within thirty days of the effective day of the tax rate increase and shall be submitted along with a report, in such form as the tax commissioner may prescribe, describing all the subject cigarettes or tobacco products in the possession or control of the distributor, wholesaler, retailer or other person on the effective date of the tax rate increase and showing the related tax payments due. Any tax payments pursuant to this paragraph made later than thirty days after the effective date of the tax rate increase shall include interest at the rate of two percent per month or fraction of a month from the date the tax payment was due until the date that the tax payment is received by the tax commissioner. Any tax payments pursuant to this section received by the tax commissioner within twenty days of the tax rate increase may be reduced by one percent.

SECTION 18. REPEALS. Sections 57-36-06 and 57-36-24 of the North Dakota Century Code are repealed.