

**IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

Michael J. Haugen, Jacob Stutzman,  
Trent Barkus, and Brighter Future  
Alliance,

Petitioners,

v.

Alvin Jaeger, in his official  
capacity as North Dakota Secretary  
of State,

and

North Dakota Voters First, as the  
Sponsoring Committee of Measure 3,  
Respondents.

**SUPREME COURT NO.  
20200213**

APPENDIX TO RESPONDENT  
SPONSORING COMMITTEE  
OF MEASURE 3'S  
OPPOSITION TO PETITION

Appendix

Timothy Q. Purdon, #05392  
Robins Kaplan LLP  
1207 West Divide Ave., Suite 200  
Bismarck, ND 58501  
Phone: (701) 255-3000  
TPurdon@RobinsKaplan.com

*Attorney for the Sponsoring  
Committee of Measure 3*

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ALVIN A. JAEGER  
SECRETARY OF STATE

WEBSITE [sos.nd.gov](http://sos.nd.gov)



PHONE (701) 328-2900  
EMAIL [sos@nd.gov](mailto:sos@nd.gov)

**SECRETARY OF STATE**  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

April 30, 2020

Carol M Sawicki  
Chairperson  
Sponsoring Committee  
3110 Edgewood Drive N  
Fargo ND 58102-1643

Dear Ms. Sawicki,

In accordance with state law, the Secretary of State's office completed its review and approved the petition proof provided to this office which is related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

To place a constitutional initiative on the ballot, a sponsoring committee must deliver petitions to the Secretary of State containing the valid signatures of qualified North Dakota electors equal to at least 4% of the resident population of North Dakota (as determined by the most recent federal census). The minimum number of qualified signatures is 26,904.

According to North Dakota Century Code (N.D.C.C.) § 16.1-01-09(7), the signatures to place a measure on the ballot must be obtained within one year after the Secretary of State has approved the petition for circulation. The one-year period will end on Friday, April 30, 2021.

The North Dakota Constitution, Article III, Section 5, stipulates that an initiative petition must be submitted not less than one hundred twenty days before the statewide election at which the measure is placed on the ballot.

If the committee intends to have the measure placed on the ballot for the statewide election to be held on November 3, 2020, enough valid signatures must be submitted to the Secretary of State prior to midnight on Monday, July 6, 2020.

If the committee anticipates they will be submitting petitions to this office after 5:00 p.m., but prior to midnight, on the selected deadline date, please contact this office in advance so that a staff member is present to receive them. Upon receipt, the petitions will be reviewed according to the provisions of N.D.C.C. § 16.1-01-10.

Only qualified North Dakota electors may circulate petitions. The circulator must personally witness the signature applied to the petition by each qualified elector who signs the petition. The petition must remain in the physical possession of the qualified North Dakota circulator even though others (who may not be qualified electors in the State of North Dakota) are accompanying the circulator. A petition left unattended is an improperly circulated petition and is not counted.

A submitted petition will not be counted, if it was not circulated in its entirety as approved by this office. Before circulating, all pages of the petition must be securely fastened in the top left-hand corner.

An affidavit is on the last page of each petition whereby the circulator of the petition is required to swear (or affirm) before a notary public that he or she circulated the petition in the manner required by state law and that he or she witnessed each signature applied to the petition by a qualified elector. A petition is disqualified, if a member of the sponsoring committee, who is a notary, notarizes the signature of the circulator on the affidavit printed at the end of the petition.

Carol M Sawicki  
April 30, 2020  
Page 2

Improper signing and circulating practices may result in the disqualification of an entire individual petition. In addition, criminal penalties may apply. See N.D.C.C. § 16.1-01-12(1)(h)(i)(j)(o), N.D.C.C. § 16.1-01-12(2) and (3).

The law allows a circulator to be paid a salary and to be reimbursed for expenses. It is illegal, however, to pay a circulator based on the number of signatures obtained by that circulator. If the sponsoring committee does pay or offers to pay a circulator, N.D.C.C. § 16.1-01-12(1)(j) requires the sponsoring committee to notify the Secretary of State of its intentions prior to submitting any petitions to our office. For filing purposes, a form titled, Sponsoring Committee Statement of Intent of Remuneration (SFN 11516), is enclosed.

The sponsoring committee is required by N.D.C.C. § 16.1-01-12(1)(j) to comply with the campaign contribution reporting requirements in N.D.C.C., Chapter 16.1-08.1.

At the time when a Sponsoring Committee submits signed petitions to the Secretary of State, it will be required to comply with the following subsection of N.D.C.C. § 16.1-08.1-03.1(3).

"An initiative and referendum sponsoring committee also shall file a disclosure statement by the date the secretary of state approves the petition for circulation, and shall file an additional statement on the date the petitions containing the required number of signatures are submitted to the secretary of state for review. The statements required under this subsection must be in the same form as the year-end statements under section 16.1-08.1-02.4."

If you have questions or need additional information, please contact either Lee Ann Oliver, Election Specialist, at (701) 328-4146, (800) 352-0867, ext. 328-4146, through e-mail at [loliver@nd.gov](mailto:loliver@nd.gov) or me.

Sincerely,



Alvin A. Jaeger  
Secretary of State

Enclosures

Petition as Approved for Circulation

Petition Timeline

Sponsoring Committee Statement Intent of Remuneration SFN 11516

### Timeline for Constitutional Initiative Relating to

**Related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.**

**(as of April 30, 2020)**

Submitted to the Secretary of State for review and approval for circulation	<b>March 6, 2020</b>
Earliest date the law allows Secretary of State to approve the petition title	<b>Friday, March 13, 2020</b>
Latest date by which the Secretary of State must provide the petition title	<b>Tuesday, March 17, 2020</b>
Date that Secretary of State supplied Sponsoring Committee with petition title for petition along with a listing of corrections for the petition's format	<b>Tuesday, March 17, 2020</b>
Date that Sponsoring Committee returned petition to Secretary of State for review	<b>Wednesday, April 29, 2020</b>
Date that Secretary of State approved petition for circulation	<b>Thursday, April 30, 2020</b>
Deadline for submitting petition signatures to the Secretary of State (120 days before the election at which the measure is to appear on the ballot <u>or</u> one year from the date the petition is approved for circulation)	<b>2020 General Election – Prior to midnight on, July 6, 2020</b>  <b>One year from date petition was approved for circulation – April 30, 2021</b>
Number of signatures needed to place measure on ballot.	<b>26,904</b>
Contact person for the sponsoring committee	<p style="text-align: center;">Carol M Sawicki 3110 Edgewood Drive N Fargo ND 58102-1643 (701) 388-6957</p> <p style="text-align: center;"><b><u><a href="mailto:info@northdakotavotersfirst.org">info@northdakotavotersfirst.org</a></u></b></p>



**INITIATIVE/REFERRAL/RECALL PETITION  
SPONSORING COMMITTEE - STATEMENT ON  
INTENT OF REMUNERATION**  
SECRETARY OF STATE  
SFN 11516 (06-2016)

Secretary of State  
State of North Dakota  
600 E Boulevard Ave Dept 108  
Bismarck ND 58505-0500  
Telephone: (701) 328-4146  
Toll-Free: (800) 352-0867, option 6  
Fax: (701) 328-3413  
Website: [Vote.ND.Gov](http://Vote.ND.Gov)

Provisions pertaining to the statement of remuneration are found in North Dakota Century Code, Sections 16.1-01-12(j) and 16.1-08.1-03.13(7).

**INSTRUCTIONS**

**WHEN TO FILE**

This document must be filed within 180 days after the approval of a petition to initiate or refer a measure or to recall an official or after the submission of a petition to convene a grand jury as provided under N.D.C.C., Section 29-10.1-02.

**WHERE TO FILE**

This form must be filed with the Secretary of State.

1. Sponsoring committee representative name

2. Sponsoring committee name

3. Subject of petition

4A. Will circulators be or have circulators been paid for the circulation of petitions?

☐ Yes - Complete 4B

☐ No

4B. Total amount of money paid or expected to be paid to circulators

I, the undersigned, represent the above-named sponsoring committee. This statement is made to verify that all petition circulators, other than unpaid volunteers, working for or on behalf of the sponsoring committee and circulating the above-mentioned petition will be paid wages or salaries according to North Dakota Century Code, Section 16.1-01-12(j). I understand that any signatures obtained in violation of the law are void and may not be counted.

Signature

Date

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE,  
STATE OF NORTH DAKOTA**

*Approved  
Copy on file  
w/ SOS  
4/30/20*

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Carol M Sawicki, Chairperson  
3110 Edgewood Dr N  
Fargo ND 58102

Sheila A Lacy  
1009 Highway 52  
Fessenden ND 58438

David L Schwalbe  
9500 66th St NE  
Bismarck ND 58503

K Kay Kringlie  
607 5th Ave NW  
Valley City ND 58072

Howard Tweeten  
9521 41st St NE  
Bismarck ND 58503

Susan Westfall  
785 13th St W  
Dickinson ND 58601

Whitney Oxendahl  
823 3rd St N  
Fargo ND 58102

Charles Sawicki  
3110 Edgewood Dr N  
Fargo ND 58102

Cheryl Kary  
424 Ashwood Ave  
Bismarck ND 58504

Lois Ivers Altenburg  
1146 5th St N  
Fargo ND 58102

Joan Frankson  
4438 Oakcreek Dr So  
Fargo ND 58104

Jane A Williams  
3613 River Dr So  
Fargo ND 58104

Kathleen Tweeten  
9521 41st St NE  
Bismarck ND 58503

Joseph A Eiter Sr  
524 3rd St E  
West Fargo ND 58078

Mary C Tintes  
524 3rd St E  
West Fargo ND 58078

William S Patrie  
7201 Burnt Creek Loop  
Bismarck ND 58503

Mel Wenko  
10925 45B St SW  
Dickinson ND 58601

Carol A Rogne  
2619 Cobblestone Ct S  
Fargo ND 58103

Joy R Fisher  
4451 115th Ave SW  
Dickinson ND 58601

Larry Klundt  
1415 Canyon Drive  
Bismarck ND 58503

Linda M Steve  
648 Park St  
Dickinson ND 58601

Kathryn Lester  
3308 So 21st St  
Fargo ND 58104

Debra Greenwood  
1404B Empire Rd  
Dickinson ND 58601

Carol M Russell  
897 Southport Loop  
Bismarck ND 58504

Marcia J Patrie  
7201 Burnt Creek Loop  
Bismarck ND 58503

Katherine Amy Phillips  
1420 3rd Ave S  
Fargo ND 58103

Daniel R Rice  
1420 3rd Ave So  
Fargo ND 58103

Sheila Wiesz  
4745 8th St NE  
Bowdon ND 58418

Duane J Ehrens  
233 West Ave C  
Bismarck ND 58501

Nadine K Anderson  
3402 21st St South  
Fargo ND 58104

Tim Mathern  
433 16th Ave S  
Fargo ND 58103

Patricia Patrie  
4250 2nd St NE  
Bowdon ND 58418

Ellen Earle Chaffee  
9500 66th St NE  
Bismarck ND 58503

Karen K Ehrens  
233 West Ave C  
Bismarck ND 58501



## PETITION TITLE

This initiated measure would add a new section to and amend Section 2 of Article IV of the North Dakota Constitution. It would require ballots to be transmitted to qualified military-overseas electors by the sixty-first day before an election. It would require all voting machines to produce a paper record of each vote cast and the Secretary of State to conduct a random audit of election results and issue an audit report within 120 days of an election. It would establish a new process for open primary elections in which all electors would be allowed to vote the ballot regardless of political party affiliation; all candidates for each office would be listed on a single ballot; candidates would be allowed, but not required, to identify their political party; and, regardless of political party identification, the four candidates receiving the most votes would advance to the general election ballot for that office. No other candidates could appear except those nominated through the primary election. It would permit political parties to state on the ballot which candidates they endorse. It would allow voters in general elections to rank their first, second, third, and fourth choices of the candidates for each office and have the votes counted through a defined procedure until a candidate receives a majority of the votes cast for that office. It would require the Ethics Commission to draw legislative senatorial districts by unanimous vote, divide each senatorial district into two legislative house districts, hold eight public hearings on the proposed redistricting plan with two of the hearings held on two different American Indian Reservations, and follow certain criteria for the drawing of legislative districts. It would require the Secretary of State to provide the Ethics Commission with the tools and data necessary to draw the districts and the legislature to provide adequate funds for the duties of the Ethics Commission.

## 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 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 article of the Constitution of the State of North Dakota is created and enacted as follows:

#### Section 1. Help Our Heroes Vote.

In order to provide military-overseas voters with ample opportunity to vote, on or before the business day preceding the sixtieth day before an election, the secretary of state shall transmit ballots and balloting materials to all covered voters who submit a valid military-overseas ballot application. This shall apply for all elections covered in N.D.C.C. section 16.1-07-19.

#### Section 2. Secure Our Elections.

All voting machines must produce a paper record of each vote cast. Within sixty days of an election, the secretary of state shall audit all results of one or more randomly selected precinct in each legislative district. Within 120 days of an election, the secretary of state shall publish a report containing the results of the audit conducted under this section.

#### Section 3. Increase Voter Choice.

##### A. Open Primaries.

Open primaries shall be used for all primary elections for statewide, legislative assembly, and United States congressional offices.

All electors, regardless of party affiliation or lack of affiliation, shall be permitted to participate and vote in an open primary.



All candidates for each office in an open primary shall be listed on a single primary ballot.

Candidates in an open primary may choose to have their political party affiliation indicated on the ballot. Designation of a party affiliation by a candidate shall not constitute or imply the nomination, endorsement, or selection of the candidate by the political party designated.

Political parties may choose to have their candidate endorsements indicated on the ballot. Nothing in this section shall be interpreted as forcing a party to endorse a candidate or to prohibit a political party from nominating, endorsing, supporting, or opposing any candidate.

The four candidates for each office receiving the greatest numbers of votes cast in an open primary shall then appear on the general election ballot for that office. No other candidates shall appear on the general election ballot for an office to which this section applies. Should only four or fewer candidates for an office qualify for the open primary, no primary election will be held for that office and those candidates shall automatically appear on the general election ballot.

### **B. Instant Runoffs.**

Instant runoffs shall be used for all general elections for statewide, legislative assembly, and United States congressional office. The general election ballot shall therefore provide each elector the opportunity to mark one first-choice candidate, as well as one second-choice, one third-choice, and one fourth-choice candidate, should so many candidates qualify for the general election ballot. Marking more than a first-choice candidate shall not be required. If an elector does not mark any choices for an office, that shall not invalidate any other votes cast on that elector's ballot.

Under an instant runoff, votes shall first be counted based on first-choice rankings. If a candidate receives a majority of votes, they shall be declared the winner. If no candidate has received a majority of votes, the candidate with the fewest votes shall be eliminated, and any vote for that candidate shall be counted instead for the elector's next choice candidate, should a next choice be marked. This instant runoff process shall repeat until a candidate receives a majority of votes, when that candidate shall be declared the winner.

As used in this Constitution related to determining the winner of an election for statewide, legislative assembly, or United States congressional office, the word "vote" in the phrase "highest number of votes" refers to votes received by candidates at the conclusion of the instant runoff process described above.

### **Section 4. General Provisions.**

1. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate, safeguard, or expand, but not to hamper, restrict, or impair, this article. This article shall take effect thirty days after approval.

2. If any provision of this article is held to be invalid, either on its face or as applied to any person, entity, or circumstance, the remaining provisions, and the application thereof to any person, entity, or circumstance other than those to which it is held invalid, shall not be affected thereby.

\*\*\*\*\*

**SECTION 2. AMENDMENT.** Article IV, Section 2 is amended and reenacted as follows:

### **Section 2. Fair Legislative Districts.**

The intent of this section is to ensure that every North Dakota voter has the opportunity to cast a vote in a fairly and impartially drawn legislative district, and that the process of drawing legislative districts is open and transparent. The legislative assembly shall fix the number of senators and representatives, and After each decennial census of the United States, the Ethics Commission shall by unanimous vote divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The Ethics Commission shall appoint by unanimous vote impartial experts to assist the Ethics Commission in these duties. The Secretary of State shall promptly provide the Ethics Commission with data and tools necessary to perform duties related to the drawing of districts. The districts thus ascertained and determined after the 1990 federal decennial census shall continue until the adjournment of the first regular session after each federal decennial census, or until changed by law.



### **A. All Voters Equal**

The legislative assembly and Ethics Commission shall guarantee, as nearly as is practicable, that every elector is equal to every other elector in the state in the power to cast ballots for legislative candidates. A senator ~~and at least two representatives~~ must be apportioned to each senatorial district. Each senatorial district shall be subdivided into two House of Representatives districts of as equal population as is practicable, from which one representative shall each be elected and be elected at large or from subdistricts from those districts. The legislative assembly Ethics Commission may combine two senatorial districts only when a single member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of a single member senatorial district, and may provide for the election of senators at large and representatives at large ~~or from subdistricts from those districts.~~

### **B. Transparency and Public Comment for Drawing Legislative Districts.**

The Ethics Commission and commissioners shall conduct all business related to the drawing of districts in meetings open to the public, and shall hold eight public hearings throughout the state prior to finalizing any districts, including at least two meetings on two different American Indian Reservations. The public shall have opportunities to view, present testimony, and participate in all Ethics Commission hearings pertaining to the drawing of districts. All Ethics Commission materials, including all internal and external communications, pertaining to the drawing of districts shall be public records.

### **C. Criteria for Drawing Legislative Districts**

The Ethics Commission shall use the criteria below, in priority of the order listed, to draw districts:

1. Districts shall comply with the United States Constitution and applicable federal law;
2. Districts shall have as equal a number of inhabitants as is practicable;
3. Districts shall be geographically contiguous;
4. Districts shall not be not drawn with the intent or result of denying or abridging the equal opportunity of tribal, racial, or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons;
5. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party, and the place of residence of any incumbent or political candidate shall not be considered when drawing districts;
6. Districts, when considered on a statewide basis, shall not unduly advantage or disadvantage a political party;
7. Districts shall minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to tribal, racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates;
8. Districts shall not unnecessarily divide county, city, township, or Tribal boundaries;
9. Districts shall be reasonably compact;
10. Districts shall, to the extent practicable and after complying with the requirements above, maximize the number of politically competitive districts.

Ethics Commission approval of the drawing of new districts must be by unanimous vote. Upon unanimous approval of the Ethics Commission, the districts thus drawn shall become effective.

### **D. General Provisions**

1. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate, safeguard, or expand, but not to hamper, restrict, or impair, this article. This article shall take effect thirty days after approval.
2. If any provision of this article is held to be invalid, either on its face or as applied to any person, entity, or circumstance, the remaining provisions, and the application thereof to any person, entity, or circumstance other than those to which it is held invalid, shall not be affected thereby.
3. The legislative assembly shall provide adequate funds for the proper carrying out of the functions and duties of the Ethics Commission.

### INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers shall also legibly print their name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

### QUALIFIED ELECTORS

Month/Day /Year	<b>PRINTED</b> Name of Qualified Elector	<b>SIGNED</b> Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				

Month/Day /Year	<b>PRINTED</b> Name of Qualified Elector	<b>SIGNED</b> Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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31				
32				

Month/Day /Year	<b>PRINTED</b> Name of Qualified Elector	<b>SIGNED</b> Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
33				
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**State of North Dakota**

**County of** \_\_\_\_\_  
(county where signed)

I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I reside at  
(circulator)

\_\_\_\_\_  
(address);

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

\_\_\_\_\_  
(signature of circulator)

Subscribed and sworn to before me on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_, North Dakota  
(city)

(Notary Stamping Device)

\_\_\_\_\_  
(signature of notarial officer)



ALVIN A. JAEGER  
SECRETARY OF STATE

WEBSITE [sos.nd.gov](http://sos.nd.gov)



PHONE (701) 328-2900  
EMAIL [sos@nd.gov](mailto:sos@nd.gov)

**SECRETARY OF STATE**  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

August 11, 2020

Carol M Sawicki  
Chairperson  
Sponsoring Committee  
3110 Edgewood Drive N  
Fargo ND 58102-1643

Dear Ms. Sawicki,

On July 6, 2020, and prior to the 120-day deadline before the November 3, 2020, statewide election, as prescribed in the Constitution of North Dakota, Article III, Section 5, the sponsoring committee submitted petitions to the Secretary of State to place an initiated constitutional measure on the ballot. The measure pertains to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

As provided for in the Constitution of North Dakota, Article III, Section 9, a constitutional initiative is placed on the ballot if petitions have been submitted to the Secretary of State containing the signatures of qualified North Dakota "electors equal to four percent of the resident population of the state at the last federal decennial census". According to the most recent federal census, the number of valid signatures required is 26,904.

As further prescribed under the provisions of the state's constitution and its statutes, this office completed its review yesterday of the submitted petitions within the period prescribed by state law (N.D.C.C. § 16.1-01-10). Based upon the results of that review, it was determined that the sponsoring committee submitted petitions containing the valid signatures of qualified North Dakota electors exceeding the required number. See enclosed tally form.

Therefore, the measure will be placed on the ballot for the November 3, 2020, election. According to the provisions of N.D.C.C. § 16.1-06-09, it will be identified as Initiated Constitutional Measure No. 3.

If you have any questions or need additional information, please contact the Secretary of State's Elections Division at (701) 328-4146, or (800) 352-0867, ext. 328-4146, or via e-mail at [soselect@nd.gov](mailto:soselect@nd.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Alvin A. Jaeger".  
Alvin A. Jaeger  
Secretary of State

<b>Total Number of Signatures Required by North Dakota Constitution</b>	26,904
<b>Estimated Number of Signatures Submitted by Sponsoring Committee on June 29, 2020</b>	36,708
<b>Actual Number of Signatures Submitted by Sponsoring Committee on June 29, 2020</b>	36,824
<b>Summary of Rejected Signatures</b>	
<b>Petition Not Circulated in its Entirety</b>	20
<b>Inadequate Signature</b> (Examples of inadequate signatures are when a notary or circulator sign their own petition, the signature doesn't include a first or last name, a person signed the petition twice, signatures were obtained before the approval date of the petition or after the notarization date of the document, a person signed for another person, or the signer failed to print their name as required by law)	1808
<b>Out-of-State Address or missing both city and zip code</b>	242
<b>No Date (In the beginning or end of the petition)</b>	32
<b>Notary Errors</b> (Examples of notary errors are when a notary forgets to stamp the document, when the notary does not complete the entire notary venue, when the notary forgets to sign the document or when the notary writes in their wrong expiration date)	55
<b>Circulator Errors</b> (Example is when a circulator fails to fill in their complete residential address)	914
<b>Address Omissions</b>	1282
<b>Total Number of Rejected Signatures</b>	4,286
<b>Total Number of Signatures Accepted</b>	32,538
<b>Difference Between Required Number of Signatures and Accepted Number of Signatures</b>	5,634

- 841 signatures were disallowed on 25 petitions because the circulator was not a qualified North Dakota elector

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE,  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Kathleen M. Wrigley, Chairperson  
1443 Eagle Crest Loop  
Bismarck ND 58503

Amy Nitschke  
2011 Laforest Ave #5  
Bismarck ND 58503

Rachael Bucholz  
3340 Doubleday Drive  
Bismarck ND 58503

Amy Warnke  
2552 15th Ave NE  
Emerado ND 58228

Jane Greer  
1527 Northview Lane  
Bismarck ND 58501

Jessica K. Unruh  
2108 7th St. NE  
Beulah ND 58523

Nicole Peske  
715 Cody Dr.  
Bismarck ND 58503

Jonathan D. Krantz  
250 57th Ave NW  
Bismarck ND 58503

Robert W. Rost  
735 Central Plains Court  
Grand Forks ND 58201

Susan R. Schneider  
1342 Prairie View Drive  
Bismarck ND 58501

Tiffany Sundeen  
3909 21st St S  
Fargo ND 58104

Pamela Perleberg  
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Hankinson ND 58041

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## PETITION TITLE

This initiated measure would add a new section to Article I of the North Dakota Constitution to provide a number of rights for victims of crimes in this state in a manner no less vigorous than protections afforded to criminal defendants, including the rights of crime victims to be treated with respect, to be free from harassment, and to be protected from the accused. The measure would provide for the safety of crime victims in bail and release decisions and in protecting information that might be used to harass or locate crime victims. Crime victims would have the right to be present at certain court and related proceedings and to be heard concerning such matters as release, plea or sentencing of the accused, and parole and pardon matters and to be notified of any release or escape of the accused. Crime victims would have the right to provide information about the impact of the offender's conduct and to receive relevant reports or records including pre-sentence reports. The measure would also require prompt return of victims' property when no longer needed and to timely restitution.

## 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 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 Article I of the North Dakota Constitution is created and enacted as follows:

To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, and to ensure that crime victims' rights and interests are respected and protected by law in a manner no less vigorous than the protections afforded to criminal defendants and delinquent children, all victims shall be entitled to the following rights, beginning at the time of their victimization:

The right to be treated with fairness and respect for the victim's dignity.

The right to be free from intimidation, harassment and abuse.

The right to be reasonably protected from the accused and any person acting on behalf of the accused.

The right to have the safety and welfare of the victim and the victim's family considered when setting bail or making release decisions.

The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records.

The right to privacy, which includes the right to refuse an interview, deposition or other discovery request made by the defendant, the defendant's attorney, or any person acting on behalf of defendant, and to set reasonable conditions on the conduct of any such interaction to which the victim consents. Nothing in this section shall abrogate a defendant's Sixth Amendment rights under the United States Constitution nor diminish the State's disclosure obligations to a defendant.

The right to reasonable, accurate and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication and disposition, and any proceeding during which a right of the victim is implicated.

The right to be promptly notified of any release or escape of the accused.

The right to be heard in any proceeding involving release, plea, sentencing, adjudication, disposition or parole, and any proceeding during which a right of the victim is implicated.

The right, upon request, to confer with the attorney for the government.

The right to provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any pre-sentence or disposition investigation or compiling any pre-sentence investigation report or recommendation regarding, and to have any such information considered in any sentencing or disposition recommendations.

The right, upon request, to receive a copy of any report or record relevant to the exercise of a victim's right, except for those portions made confidential by law or unless a court determines disclosure would substantially interfere with the investigation of a case, and to receive a copy of any pre-sentence report or plan of disposition when available to defendant or delinquent child.

The right, upon request, to the prompt return of the victim's property when no longer needed as evidence in the case.

The right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government.

The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings.

The right, upon request, to be informed of the conviction, adjudication, sentence, disposition, place and time of incarceration, detention or other disposition of the offender, any scheduled release date of the offender, and the release of or the escape by the offender from custody or commitment.

The right, upon request, to be informed in a timely manner of all post-judgment processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole authority shall extend the right to be heard to any person harmed by the offender.

The right, upon request, to be informed in a timely manner of any pardon, commutation, reprieve or expungement procedures, to provide information to the Governor, the court, any pardon board and other authority in these procedures, and to have that information considered before a decision is made, and to be notified of such decision in advance of any release of the offender.

The right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in what is referred to as a Marsey's Card.

The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government upon request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, ensuring that no right is deprived without due process of law, and affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim's right shall be clearly stated on the record.

The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. All provisions of this section apply throughout criminal and juvenile justice processes and are self-enabling. This section does not create any cause of action for damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. If a victim is deceased, incompetent, incapacitated, or a minor, the victim's spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim that is substantially similar to a listed relationship, may also exercise these rights. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

### INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers shall also legibly print their name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

### QUALIFIED ELECTORS

Month /Day /Year	<b>PRINTED</b> Name of Qualified Elector	<b>SIGNED</b> Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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Month /Day /Year	<b>PRINTED</b> Name of Qualified Elector	<b>SIGNED</b> Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I reside at  
(printed name of circulator)

\_\_\_\_\_  
(complete residential address);

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

\_\_\_\_\_  
(signature of circulator)

**State of North Dakota** )  
 ) **ss.**  
**County of** \_\_\_\_\_ )  
(county where signed)

Subscribed and sworn to before me on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_, North Dakota  
(city)

(Notary Stamping Device)

\_\_\_\_\_  
(signature of notarial officer)

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE,  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Eric L. Johnson, Chairperson  
504 S. 6<sup>th</sup> St.  
Grand Forks, ND 58201

Alison M. Harrington  
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Bismarck, ND 58503

Holly A. Bower Eaton  
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Minot, ND 58701

Tim Mathern  
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Fargo ND 58103

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Mayville, ND 58257

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Durbin, ND 58059

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Bismarck, ND 58501

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West Fargo, ND 58078

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7511 Ellis Lane  
Horace, ND 58047

Jessica J. Arndt  
1329 Meredith Drive  
Bismarck, ND 58501

Melissa J. Henke  
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Mandan, ND 58554

Biron Baker  
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Reba Rebecca Mathern-Jacobson  
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Fargo, ND 58104

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Bismarck, ND 58503

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Minot, ND 58701

John Vastag  
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West Fargo, ND 58078

Pete Silbernagel  
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Casselton, ND 58012

Theresa Knox  
619 Oak St.  
Grand Forks, ND 58201

Kathryn Hogan  
710 S. University Dr.  
Fargo, ND 58103

Harold Goldsmith  
616 1<sup>st</sup> Ave NE  
Streeter, ND 58483

## 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 licensee 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-~~0632~~ 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-~~0632~~ 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.

### INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers shall also legibly print their name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

### QUALIFIED ELECTORS

Month/Day /Year	<b>PRINTED</b> Name of Qualified Elector	<b>SIGNED</b> Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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Month/Day /Year	<b>PRINTED</b> Name of Qualified Elector	<b>SIGNED</b> Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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**State of North Dakota**

**County of** \_\_\_\_\_  
(county where signed)

I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I reside at  
(circulator)

\_\_\_\_\_  
(address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

\_\_\_\_\_  
(signature of circulator)

Subscribed and sworn to before me on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_, North Dakota  
(city)

(Notary Stamping Device)

\_\_\_\_\_  
(signature of notarial officer)

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Chelsey Matter, Chairman  
713 16<sup>th</sup> Avenue Ct. W  
West Fargo, ND 58078

Amy Oksa  
1415 37<sup>th</sup> Street  
Dickinson, ND 58601

Carolyn R. Bodell  
1625 12 St. SW  
Minot, ND 58701

Candace K. Jenks  
1904 Highland Dr.  
Minot, ND 58703

Stephen L. Ricks  
900 20<sup>th</sup> Ave SW  
Minot, ND 58703

Andrew Hetland  
1720 Contessa Dr.  
Bismarck, ND 58503

John A. Fishpaw  
2501 Brookside Drive  
Minot, ND 58701

Debbie Paulson  
3110 Morgan Cr  
Bismarck, ND 58503

Alice Mann  
420 2<sup>nd</sup> St. NW  
Linton, ND 58552

Edgar Oliveira  
420 2<sup>nd</sup> St NW  
Linton, ND 58552

Darrell Williams  
933 26 St NW  
Minot, ND 58703

Joelle Thomas, RNC WHCNP  
8405 SE 23<sup>rd</sup> Street  
Buchanan, ND 58420

Rick Paulson  
3110 Morgan Cr  
Bismarck, ND 58503

Heather Tvedt Davis  
6500 Ct Rd 13 N  
Burlington, ND 58722

Mark Longmuir  
1201 11<sup>th</sup> Ave SW  
Minot, ND 58701

Erica Jorde DC  
214 3<sup>rd</sup> Street SW  
Towner, ND 58788

Stephen McDonough  
9501 Oak Drive  
Bismarck, ND 58503

Tammy Uleberg  
12901 30<sup>th</sup> St NW  
Minot, ND 58703

Frederick W. Jones  
1338 Hiawatha St.  
Minot, ND 58701

Herbert J. Wilson  
1244 W Coulee RD  
Bismarck, ND 58501

Amie Braunstadter  
305 Hillcrest Dr  
Minot, ND 58703

Stephen C. Stripe MD FAAFP  
2312 Crescent Dr  
Minot, ND 58703

Marisa Upton  
1733 Evergreen Ave  
Minot, ND 58701

Janet Maxson  
6 9<sup>th</sup> St SE  
Minot, ND 58701

Stephanie Guy Gruchalla  
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Fargo, ND 58102

Ronald Jay Seeley  
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Williston, ND 58801

Eric L. Johnson  
504 S. 6<sup>th</sup> St.  
Grand Forks, ND 58201

Christopher F. Kemp  
2212 9<sup>th</sup> Avenue E  
Williston, ND 58801

Char H. Manstrom  
1927 Adams Lane  
Bismarck, ND 58501

Mike Manstrom  
1927 Adams Lane  
Bismarck, ND 58501

James B Buhr  
613 Chautauqua Blvd.  
Valley City, ND 58072

Mary Simonson  
935 10<sup>th</sup> Ave NE  
Valley City, ND 58072

Ruth E Ganes  
930 2<sup>nd</sup> Ave NW  
Kenmare, ND 58746

Eric Ganes DDS  
930 2<sup>nd</sup> Ave NW  
Kenmare, ND 58746

## PETITION TITLE

This initiated measure would amend chapter 23-12 of the North Dakota Century Code to prohibit smoking, including the use of electronic smoking devices, in public places and most places of employment in this state, including certain outdoor areas. It also provides for notification and enforcement responsibilities, along with penalties for violations.

## 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 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. AMENDMENT.** Section 23-12-09 of the North Dakota Century Code is amended and reenacted to read as follows:

**23-12-09. Smoking in public places and places of employment – Definitions.** In sections 23-12-09 and 23-12-11, unless the context or subject matter otherwise requires:

1. “Bar” means a retail alcoholic beverage establishment licensed under chapter 5-02 that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages. The term includes a bar located within a hotel, bowling center, ~~or~~ restaurant, or other establishment that is not licensed primarily or exclusively to sell alcoholic beverages ~~if the bar is in a separately enclosed area.~~
2. “Business” means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and other entities where professional services are delivered.
3. “E-cigarette” means any electronic oral device, such as one composed of a heating element, battery and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e-pipe or under any other product, name or descriptor.
3. 4. “Employee” means an individual who is employed by an employer in consideration for direct or indirect monetary wages or profit, or an individual who volunteers services for an employer.
4. 5. “Employer” means an individual, business, or private club, including a municipal corporation or trust, or the state and its agencies and political subdivisions that employ the services of one or more individuals.
5. 6. “Enclosed area” means all space between a floor and a ceiling that ~~is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling~~ has thirty-three percent or more of the surface area of its perimeter bounded by opened or closed walls, windows or doorways. A wall includes any physical barrier regardless of whether it is open or closed, temporary or permanent, or contains openings of any kind, and includes retractable dividers and garage doors.
6. 7. “Health care facility” means any office or institution providing health care services, ~~including a hospital; clinic; ambulatory surgery center; outpatient care facility; nursing, basic, or assisted living facility and laboratory.~~ or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions. Some examples of health care facilities include hospitals; clinics; ambulatory surgery centers; outpatient care facilities; weight control clinics, nursing homes; homes for the aging or chronically ill; nursing, basic, long-term

or assisted living facilities; laboratories; and offices of any medical professional licensed under title 43 of the North Dakota Century Code, including all specialties and subspecialties in those fields. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, wards within health care facilities, and any mobile or temporary health care facilities.

7. 8. “Health care service” include means services provided by any health care facility. Some examples of health care services are medical, surgical, dental, vision, chiropractic, psychological and pharmaceutical services.

8. 9. “Place of employment” means an area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to, work areas, auditoriums, classrooms, conference rooms, elevators, employee cafeterias, employee lounges, hallways, meeting rooms, private offices, restrooms, temporary offices, vehicles and stairs. A private residence is not a place of employment unless it is used as a licensed child care, adult day care or health care facility.

9. 10. “Public place” means an enclosed area to which the public has access or in which the public is permitted, including a enters. Some examples of public places are publicly owned buildings, vehicles, or offices; , and enclosed areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including bars; bingo facilities; gambling and gaming facilities as defined in section 12.1-28-01; child care and adult day care facilities subject to licensure by the department of human services, including those operated in private homes when any child cared for under that license is present; convention facilities; educational facilities, both public and private; facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; financial institutions; health care facilities; hotels and motels including all rooms that are rented to guests; laundromats; any common areas in apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; private and semi-private nursing home rooms; museums, libraries, galleries, and aquariums; polling places; professional offices; public transportation facilities, including buses, trains, airplanes and similar aircraft, and taxicabs and similar vehicles such as towncars and limousines when used for public transportation, and ticket, boarding, and waiting areas of public transit depots facilities, including bus and train stations and airports; reception areas; restaurants; retail food production and marketing establishments; retail service establishments; retail stores including tobacco and hookah establishments; rooms, chambers, places of meeting or public assembly, including school buildings; services lines; shopping malls; sports arenas, including enclosed places in outdoor arenas; theaters; and waiting rooms.

—10. 11. “Publicly owned building, vehicle, or office” means a place or vehicle owned, leased, or rented by any state or political subdivision, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of taxes.

11. 12. “Restaurant” includes every building or other structure, or any part thereof, and all buildings in connection therewith that are kept, used, maintained, advertised, or held out to the public as a place where food is served, including .Some examples of restaurants include coffee shops, cafeterias, sandwich stands, private and public school cafeterias, kitchens, and catering facilities in which food is prepared on the premises for serving elsewhere, and a bar area within a restaurant.

12. “Retail tobacco store” means a retail store utilized primarily for the sale of tobacco product and accessories and in which the sale of other products is merely incidental.

13. “Shopping mall” means an enclosed public walkway or hall area that serves to connect retail or professional businesses.

14. “Smoking means possessing a lighted cigar, cigarette, pipe, weed, plant, or any other lighted tobacco product inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette which creates a vapor, in

any manner or any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Act.

15. ~~“Sports arena” means any facility or area, whether enclosed or outdoor, where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including an indoor or outdoor place where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events. Some examples of sports arenas include sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling centers.~~

16. ~~“Truckstop” means a roadside service station and restaurant that caters to truck drivers.~~

**SECTION 2. AMENDMENT.** Section 23-12-10 of the North Dakota Century Code is amended and reenacted as follows:

**23-12-10. Smoking restrictions – Exceptions – Retaliation – Application**

1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke free air, smoking is prohibited in all enclosed areas of:
  - a. Public places; and
  - b. Places of employment.
2. Smoking is prohibited within twenty feet of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas in which smoking is prohibited. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.
2. 3. The following areas are exempt from subsections 1 and 2:
  - a. Private residences, except those residences used when operating as a child care, adult day care or health care facility subject to licensure by the department of human services and when any child cared for under that license is present in that facility.
  - b. ~~Hotel and motel rooms, and other places of lodging, that are rented to guests and are designated as smoking rooms.~~
  - c. ~~Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under this section.~~
  - d. b. Outdoor areas of places of employment, except ~~a sports arena~~ those listed in subsection two.
  - e. c. Any area that is not commonly accessible to the public and which is part of an owner operated business having no employee other than the owner operator.
  - f. ~~Bars.~~
  - g. ~~Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.~~
  - h. ~~Separately enclosed areas in truckstops which are accessible only to adults.~~
3. 4. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited.
4. 5. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section. An employee who works in a setting where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other party. Violations of this subsection shall be a class B misdemeanor.

5. 6. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
6. 7. ~~Before October 1, 2007, the office of management and budget shall develop and implement a uniform policy regarding smoking restrictions with respect to the outdoor areas near the public entrances of all buildings on the state capitol grounds. Notwithstanding any other provision of this chapter, an owner, operator, manager or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.~~

**SECTION 3.** Section 23-12-10.1 of the North Dakota Century Code is created and enacted as follows:

**23-12-10.1. Responsibility of proprietors.** The owner, operator, manager or other person in control of a public place or place of employment where smoking is prohibited by this Act shall:

1. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
2. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
3. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited.
4. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises.
5. By the effective date of this Act, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place.
6. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager or employee shall not constitute a violation of the Act by the owner, operator, manager, or employee.

**SECTION 4. AMENDMENT.** Section 23-12-10.2 of the North Dakota Century Code is amended and reenacted as follows:

**23-12-10.2. Complaints and enforcement – City and county ordinances and home rule charters.**

1. State agencies with statutory jurisdiction over a state-owned building or office shall enforce section 23-12-10. These agencies include the fire marshal department, state department of health, department of human services, legislative council, and office of management and budget. ~~The agencies may mutually agree as to the manner in which enforcement is to be accomplished and may adopt administrative rules to ensure compliance with section 23-12-10, including referral of violations to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11.~~
2. A city or county ordinance, a city or county home rule charter, or an ordinance adopted under a home rule charter may not provide for less stringent provisions than those provided under sections 23-12-09 through 23-12-11. Nothing in this Act shall preempt or otherwise affect any other state or local tobacco control law that provides more stringent protection from the hazards of ~~environmental tobacco~~ secondhand smoke. This subsection does not preclude any city or county from enacting any ordinance containing penal language when otherwise authorized to do so by law.
3. The provisions of this Act shall be enforced by state's attorneys who may ask the North Dakota attorney general to adopt administrative rules to ensure compliance with this Act. State and local law enforcement agencies may apply for injunctive relief to enforce provisions of this Act.

**SECTION 5. AMENDMENT.** Section 23-12-11 of the North Dakota Century Code is amended and reenacted as follows:



### 23-12-11. Penalty

1. An individual who smokes in an area in which smoking is prohibited under section 23-12-10 is guilty of an infraction punishable by a fine not exceeding fifty dollars.
2. ~~An~~ Except as otherwise provided in section 23-12-10(5), an owner or other person with general supervisory responsibility over a public place or place of employment who willfully fails to comply with section 23-12-10 is guilty of an infraction, subject to a fine not to exceed one hundred dollars for the first violation, to a fine not to exceed two hundred dollars for a second violation within one year, and a fine not to exceed five hundred dollars for each additional violation within one year of the preceding violation.
3. In addition to the fines established by this section, violation of this Act by a person who owns, manages, operates or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
4. Violations of this Act are declared to be a public nuisance that may be abated by restraining order, preliminary or permanent injunction or other means provided by law.
5. Each day on which a violation of this Act occurs shall be considered a separate and distinct violation.

**SECTION 6.** Section 23-12-12 of the North Dakota Century Code is created and enacted as follows:

**23-12-12. Construction and severability.** This Act shall be construed liberally so as to further its purposes. The provisions of this Act are declared to be severable. If any provision, clause, sentence, or paragraph of this Act, or its application to any person or circumstances, shall be held invalid, that invalidity shall not affect the other provisions of this Act that can be given without the invalid provision or applications.

**SECTION 7. REPEAL.** Section 23-12-10.3 of the North Dakota Century Code is repealed.

**[23-12-10.3. Exceptions – Medical necessity.** 1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient’s attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff. 2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility.]

### INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

### QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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STATE OF NORTH DAKOTA )  
COUNTY OF \_\_\_\_\_ )  
(county where signed)

I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I reside at  
(circulator)

\_\_\_\_\_; that each signature contained on the attached petition was  
(address)

executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

\_\_\_\_\_  
(signature of circulator)

Subscribed and sworn to before me on \_\_\_\_\_, 2012, at \_\_\_\_\_, North Dakota.  
(city)

**(NOTARY SEAL/STAMP)**

\_\_\_\_\_  
(signature of notary)  
Notary Public  
My commission expires \_\_\_\_\_

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Karen Thunshelle, Chairman  
111 50<sup>th</sup> St. SW  
Minot, ND 58701

Melissa Lovelace  
11100 149<sup>th</sup> Ave. SE  
Sawyer, ND 58781

Amy Jo Johnson  
3206 Stonewall Dr.  
Bismarck, ND 58503

Tiffany Long  
600 18 St. NW  
Minot, ND 58703

Kristine Seabolt  
216 25<sup>th</sup> St. NW  
Minot, ND 58703

Alyssa Anderson  
2139 8<sup>th</sup> St. SE  
Dickinson, ND 58601

Shelley J. Lenz  
10249 6<sup>th</sup> Street SW  
Killdeer, ND 58640

Lawrence E. Crawford  
313 12<sup>th</sup> Ave. SW  
Minot, ND 58701

Glenn P. Belgarde II  
617 W. Meadow Lane  
Mandan, ND 58554

Tanya R. Hagel  
8370 32<sup>nd</sup> Ave. NW  
Lansford, ND 58750

Diane Lawlor  
719 N. 27<sup>th</sup> St.  
Bismarck, ND 58501

Leslie Hagert  
5196 6<sup>th</sup> Ave. N  
Grand Forks, ND 58203

Louis Pinkerton  
2209 Parkside Dr.  
Minot, ND 58701

Tim L. Gabel  
1309 12<sup>th</sup> St. SW  
Minot, ND 58701

Stephanie Merrill  
8101 22<sup>nd</sup> Ave. SE  
Bismarck, ND 58504

Lani L. Vincent  
19101 125<sup>th</sup> St. SE  
Sawyer, ND 58781

Jane M. Marum  
811 Johns Drive  
Mandan, ND 58554

JoDee F. Foss  
417 7<sup>th</sup> Ave. W  
Dickinson, ND 58601

Lindsay Oster  
1308 Golden Valley Ln.  
Minot, ND 58703

Sandra D. Kobs  
113 N. 7<sup>th</sup> St.  
New Salem, ND 58563

Peggy Jo Moore  
1196 Alder Avenue  
Dickinson, ND 58601

Ron Thunshelle, DVM  
111 50<sup>th</sup> St. SW  
Minot, ND 58701

Steve Smith  
P.O. Box 4125  
Bismarck, ND 58502

Juanita Revelette  
854 Dell Ave.  
Dickinson, ND 58601

Tricia Bearman  
6001 Highway 83 South  
Minot, ND 58701

Alison Larson-Smith  
P.O. Box 4125  
Bismarck, ND 58502

## PETITION TITLE

This initiated measure would create new section 36-21.1-02.1 to the North Dakota Century Code making it a class C felony for an individual to maliciously and intentionally harm a living dog, cat or horse and providing a court with certain sentencing options. The measure would not apply to production agriculture, or to lawful activities of hunters and trappers, licensed veterinarians, scientific researchers, or to individuals engaged in lawful defense of life or property.

## 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 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.** Section 36-21.1-02.1 of the North Dakota Century Code is created and enacted as follows:

### 36-21.1-02.1 Aggravated animal cruelty—Prevention of Extreme Cruelty to Dogs, Cats, and Horses Act

1. Any individual who maliciously and intentionally burns, poisons, crushes, suffocates, impales, drowns, blinds, skins, beats to death, drags to death, exsanguinates, disembowels, or dismembers any living dog, cat, or horse is guilty of a class C felony.
2. The prohibition in subsection 1 of this section does not apply to:
  - a. Hunting, trapping, fishing, or any other activity that requires a license or permit under chapter 20.1-03;
  - b. The marking of an animal for identification, and any other activity that is a usual and customary practice in production agriculture;
  - c. Examination, testing, individual treatment, operation, or euthanasia performed by or under the supervision of a licensed veterinarian;
  - d. Lawful medical or scientific research conducted at a public or private facility or laboratory by or under the direction of a qualified researcher;
  - e. Any lawful activity undertaken to protect a person's life or property from a serious threat caused by a dog, cat, or horse; and
  - f. Any other lawful activity exempt from the definition of "'cruelty' or 'torture'" contained in section 36-21.1-01.
3. In addition to any imprisonment or fine, or both, ordered pursuant to chapter 12.1-32, any individual who violates subsection 1 of this section also may, at the discretion of the court, be:
  - a. Ordered to undergo mandatory psychological or psychiatric evaluation and obtain psychological counseling, including counseling in responsible pet ownership or animal cruelty prevention, for which the person shall bear any costs incurred; and
  - b. Ordered not to own or possess a dog, cat, or horse for up to five years after the date of the sentencing.

## INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.



### QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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**INITIATIVE PETITION  
TO THE SECRETARY OF STATE  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

MK Heidi Heitkamp,  
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Mandan, ND 58554

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Minot, ND 58701

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Wahpeton, ND 58075

Sandra Ann Adams  
5004 S. Bay Drive,  
Mandan, ND 58554

Paul D Folden  
320 17th Ave N.,  
Wahpeton, ND 58075

Keith Johnson  
1016 Elbowoods Dr.,  
Hazen, ND 58545

Ellen Jarvi Arthur  
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Valley City, ND 58072

John M. Gruneth, DDS  
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Mandan, ND 58554

Lee Kaldor  
14 5th Ave SE,  
PO Box 215,  
Mayville, ND 58257

Robert W. Beattie  
401 Desiree Dr. ,  
Grand Fork, ND 58201

Wayne Harley Hinrichs  
23 4th Ave SE,  
Lidgerwood, ND 58053

David Rue Keehn  
1625 4th St N,  
Wahpeton, ND 58075

Douglas D. Berglund, MD  
222 N 7th Street,  
Bismarck, ND 58506

Jeffrey E. Hostetter  
5505 11th Ave.,  
Huff, ND 58554

Christopher F. Kemp  
1322 4th Ave E,  
Williston, ND 58801

William Brunsman  
910 Third Ave. East,  
Williston, ND 58801

Elizabeth A. Hughes  
6530 Island Drive,  
Bismarck, ND 58504

Alan Kenien  
2985 Peterson Parkway,  
Fargo, ND 58102

James B Buhr  
613 Chautauque Blvd.,  
Valley City, ND 58072

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Bismarck, ND 58504

Dale A. Klein  
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Mandan, ND 58554

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Valley City, ND 58072

William D. Hutchison  
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Grand Forks, ND 58203

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Minot, ND 58701

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Valley City, ND 58072

Eric Johnson  
1605 15th Ave. NE,  
Grand Fork, ND 58201

Valerie Kummer  
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Bismarck, ND 58501

Charles E Kupchella  
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Grand Forks, ND 58203

Karen Evelyn Larson  
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Bismarck, ND 58501

Joanne Luger  
455 Arabian Place,  
Bismarck, ND 58503

Kathleen Ann Mangskau  
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Bismarck, ND 58501

William Mayo  
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Wahpeton, ND 58075

Alisa Tamar Mitskog  
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Wahpeton, ND 58075

David H. Muggerud  
302 9th Ave. N. ,  
Hettinger, ND 58639

Nicholas B. Neumann  
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Lane,  
Bismarck, ND 58503

Amy E. Oksa  
1415 37th St. E. ,  
Dickinson, ND 58601

Daniel Ostlie  
821 Harwood Dr.  
Fargo, ND 58104

Javayne Oyloe  
712 4th St. W,  
Williston, ND 58801

Kathleen Perkerewicz  
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Bismarck, ND 58503

R.D. Pohlman  
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Grand Forks, ND 58201

Jeanne Prom  
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Doreen G Reinke  
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Wahpeton, ND 58075

Wanda J. Rose  
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Bismarck, ND 58504

Vicki Ann Rosenau  
521 4th Ave N.W.,  
Valley City, ND 58072

Rosellen M. Sand  
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Mandan, ND 58554

Kelly Schmidt  
210 9th Ave SW,  
Minot, ND 58701

S L Scott  
PO Box 565,  
Watford City, ND 58854

E. Jane Sinner  
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Fargo, ND 58104

George A. Sinner  
4492 Oakcreek Dr.,  
Fargo, ND 58104

Thomas R. Templeton, MD  
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Dickinson, ND 58601

Todd Twogood, MD  
513 Assiniboin Drive,  
Bismarck, ND 58503

Laura Weishoff  
5745 119 Ave NW,  
Ray, ND 58849

Robert M. Wentz  
8401 Briardale Dr. ,  
Bismarck, ND 58504

Theresa Joy Will  
3520 Webster Subdivision,  
Valley City, ND 58072

HD Wilson  
861 Shadyridge Court SE,  
Grand Forks, ND 58201

Herbert J. Wilson  
1244 W. Coulee Rd.,  
Bismarck, ND 58503

## BALLOT TITLE

This initiated measure would add seven new sections to the North Dakota Century Code and amend N.D.C.C. section 54-27-25 to establish a tobacco prevention and control advisory committee and an executive committee; develop and fund a comprehensive statewide tobacco prevention and control plan; and create a tobacco prevention and control trust fund to receive tobacco settlement dollars to be administered by the executive committee.

## 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 NO MATERIAL IS UNDERScored OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.**

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

**SECTION 1.** Seven new sections to the North Dakota Century Code are hereby created and enacted as follows:

**Definitions.** As used in this Act:

1. "Advisory committee" is the nine-member tobacco prevention and control advisory committee responsible to develop the comprehensive plan.
2. "Comprehensive plan" means a comprehensive statewide tobacco prevention and control program that is consistent with the centers for disease control best practices for comprehensive tobacco prevention and control programs and does not duplicate the work of the community health grant program created in chapter 23-28.
3. "Executive committee" means the three-member committee selected by the advisory committee and charged with implementation and administration of the comprehensive plan.
4. "Tobacco prevention and control fund" consists of all principal and interest of the tobacco prevention and control trust fund established by section 2 of this Act.

**Tobacco Prevention and Control Advisory Committee – Membership – Terms - Duties - Removal.**

1. The advisory board consists of nine North Dakota residents appointed by the governor for three year terms as follows:

- a. A practicing respiratory therapist familiar with tobacco related diseases;
- b. Four non-state employees that have demonstrated expertise in tobacco prevention and control;
- c. A practicing medical doctor familiar with tobacco related diseases;
- d. A practicing nurse familiar with tobacco related diseases;
- e. A youth between the ages of 14 and 21;
- f. A member of the public with a previously demonstrated interest in fostering tobacco prevention and control.

2. The governor shall select the youth and public member independently; the respiratory therapist from a list of three nominations provided by the North Dakota society for respiratory care; the four tobacco control experts from a list of two nominations per member provided by the North Dakota public health association's tobacco control section; the medical doctor from a list of three nominations provided by the North Dakota medical association; and the nurse from a list of three nominations provided by the North Dakota nurses association. The governor must make the appointments within three weeks of receiving the respective list of nominees. If the governor fails to make an appointment within three weeks the association that provided the list of nominees shall select the committee member. In the initial appointments for the advisory committee, the governor shall stagger the terms of the members so that the terms of three members expire each fiscal year and that three members are appointed each year by June 30. Accordingly, the governor's initial appointments must, in some instances, be for terms less than 3 years. The governor shall fill vacancies for the unexpired term as provided in this section.

3. No individual may serve more than two consecutive three-year terms; however terms of less than three years are not considered in determining an individual's eligibility for reappointment.
4. A quorum of the advisory committee is required to conduct business, but the advisory committee may conduct a meeting with less than a quorum present. A quorum is a majority of the members of the committee. Any action taken requires a vote of the majority of the members present at the meeting.
5. The advisory board shall:
  - a. Select the executive committee;
  - b. Fix the compensation of the advisory committee and the executive committee; however compensation may not exceed compensation allowed to the legislature. Advisory and executive committee members are entitled to reimbursement for mileage and expenses as provided for state officers in addition to any compensation provided;
  - c. Develop the initial comprehensive statewide tobacco prevention and control program that includes support for cessation interventions, community and youth interventions, and health communication; and
  - d. Evaluate the effectiveness of the plan and its implementation and, prior to April 1 of each year, propose any necessary changes to the plan to the executive committee.
6. The governor may remove any member of the advisory committee for malfeasance in office, but the advisory committee is not subject to section 54-07-01.2.
7. No nomination to, or member of, the advisory committee shall have any past or current affiliation with the tobacco industry or any industry, contractor, agent, or organization that engages in the manufacturing, marketing, distributing, sale, or promotion of tobacco or tobacco related products.

**Executive Committee.** The executive committee of the advisory committee consists of three individuals selected by the advisory committee from its membership. The term of each member is for three years. The initial terms of the members must be staggered so that one member serves a three-year term, one member serves a two-year term and one member serves a one-year term. The determination of initial terms shall be by lot. No individual may serve more than two consecutive three-year terms; however terms of less than three years are not considered in determining an individual's eligibility for reappointment. The advisory committee shall fill vacancies for the unexpired term. An individual selected to serve on the executive committee is no longer eligible to serve if they are not a member of the advisory committee. The executive committee is responsible for the implementation and administration of the comprehensive plan, including the appropriateness of expenditures to implement the comprehensive plan. The executive committee may seek the counsel and advice of the advisory committee in implementing the plan, but the executive committee is the final decision maker.

**Powers of the Executive Committee.** To implement the purpose of this Act and, in addition to any other authority granted elsewhere in this Act, to support its efforts and implement the comprehensive plan the executive committee may employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this Act.

**Development of the Comprehensive Plan.** The advisory committee must develop the initial comprehensive plan within 180 days of the initial meeting of the advisory committee. The comprehensive plan must be funded at a level equal to or greater than the centers for disease control recommended funding level. Funding for the comprehensive plan must supplement and may not supplant any funding that in the absence of this Act would be or has been provided for the community health trust fund or other health initiatives.

**Conflict of Interest.** No member of the advisory committee or of the executive committee who has a direct and substantial personal or pecuniary interest in a matter before them may vote or take any action on that matter.

**Audit.** At least once a biennium, the executive committee shall provide for an independent review of the comprehensive plan to assure that the comprehensive plan is consistent with the centers for disease control best practices. The executive committee shall report the results of that review to the governor and to the state health officer on or before September 1 in each odd numbered year.

**SECTION 2. Amendment.** Section 54-27-25 of the 2005 supplement to the North Dakota Century Code is hereby amended and reenacted as follows:

**54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.**

1. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under sections subsection IX (c)(1) (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. All Except as provided in subsection 2, moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment under subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:

1. a. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund of which a minimum of eighty percent must be used for tobacco prevention and control.

2. b. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.

3. c. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.

2. There is created in the state treasury a tobacco prevention and control trust fund. The fund consists of the tobacco settlement dollars obtained by the state under section IX (c) (2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be credited to the fund and deposited in the fund. Moneys received into the fund are to be administered by the executive committee for the purpose of creating and implementing the comprehensive plan. If in any biennium, the tobacco prevention and control trust fund does not have adequate dollars to fund a comprehensive plan, the treasurer shall transfer money from the water development trust fund to the tobacco prevention and control trust fund in an amount equal to the amount determined necessary by the executive committee to fund a comprehensive plan.

3. Transfers to the funds under this section must be made within thirty days of receipt by the tobacco settlement trust fund state.

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE, STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Chairman Roger Johnson 1908 N 2 <sup>nd</sup> St Bismarck ND 58501	Arthur A. Link 14651 27 <sup>th</sup> St NW Alexander ND 58831	William L Guy 3330 Prairiewood West Dr Fargo ND 58103	George A. Sinner 4492 Oakcreek Dr SW Fargo ND 58104
Mac Schneider 1920 1 <sup>st</sup> Ave N Grand Forks ND 58203	Aaron Krauter HC 1 Box 27 Regent ND 58650	Merle Boucher PO Box 7 Rolette ND 58366	Michael A. Every 131 3 <sup>rd</sup> St E Minnewaukan ND 58351
Christy Kronberg 10174 75 <sup>th</sup> Ave SE Forbes ND 58439	Kathi Gilmore 1950 Far West Drive Bismarck ND 58504	Wayne G. Sanstead 1120 S Columbia Dr Bismarck ND 58504	Michael Polovitz 2529 9 <sup>th</sup> Ave N Grand Forks ND 58203
Berrett Gall 828 N 31 St Bismarck ND 58501	T Dickson 9922 Island Road Bismarck ND 58503	George Gaukler PO Box 446 Valley City ND 58072	Daniel D. Schulz 800 Kennedy Court #8 Fargo ND 58102
Terri Folk 3521 Hwy 200A Center ND 58530	Daniel P. Hannaher 1213 South 7 <sup>th</sup> Street Fargo ND 58103	Rolland Redlin 1005 21 <sup>st</sup> St NW Minot ND 58703	Ryan M. Taylor 5435 13 <sup>th</sup> Ave NE Towner ND 58788
Joshua Swanson 1042 N University Fargo ND 58102	Benjamin A. Vig RR 2 Box 5 Aneta ND 58212	Dustin E. Lien 4638 92½ Ave SE Ypsilanti ND 58497	Scott D. Hanna 909 12 <sup>th</sup> Ave NE Apt. 3 Jamestown ND 58401
Melissa E. Van Hoff 505 Oxford St #3 Grand Forks ND 58203	Erin L. Hill 321 3 <sup>rd</sup> Ave E Ray ND 58849	Sonja Spitzer 24800 41 <sup>st</sup> St NE Wilton ND 58579	Chad E. Oban 1021 N 4 <sup>th</sup> St Bismarck ND 58501
Valerie Anderson 323 Winther St Ray ND 58849			

**BALLOT TITLE**

*This initiated measure would create a Bank of North Dakota administered program providing for partial reimbursement of student loan payments for employed North Dakota residents under thirty years of age who have graduated from accredited post-secondary schools. Reimbursement would be limited to \$1,000 per eligible resident per year for not more than five years. The measure would also provide an income tax credit of up to \$1,000 for employed North Dakota residents from twenty-one through twenty-nine years of age, for up to five years.*



**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 NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS  
ALL NEW MATERIAL WHICH IS BEING ADDED.**

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

**SECTION 1.** Chapter 15-62.4 of the North Dakota Century Code is created and enacted as follows:

**15-62.4-01. Student loan reimbursement – Administration – Student loan defined.** The Bank of North Dakota shall administer a program for reimbursement of student loan repayments by eligible residents of this state. For purpose of this chapter, “student loan” means a loan from a financial institution, governmental entity, or accredited postsecondary education institution to a student and which is used by that student for expenses of attendance at an accredited postsecondary education institution.

**15-62.4-02. Student loan reimbursement eligibility.** To be eligible for reimbursement under this chapter, an individual must be a graduate with at least a two-year degree from an accredited postsecondary education institution, must be less than thirty years of age at the end of the calendar year, and for at least one hundred eighty days at the end of the calendar year must be a resident of this state and engaged in gainful employment or self-employed in this state. Reimbursement under this chapter is limited to a maximum of one thousand dollars per individual per year for a period of not more than five years, beginning with the first year for which an individual claims reimbursement under this chapter. Expenditures eligible for reimbursement under this chapter are limited to repayment of principal and interest of a nondelinquent student loan.

**15-62.4-03. Student loan reimbursement.** Upon presentation to the Bank of North Dakota of a verified statement of eligibility from an applicant, with attached statements from the lender or lenders of the amount the applicant repaid on a student loan or student loans during the calendar year, the Bank of North Dakota shall reimburse the applicant for up to one thousand dollars of student loan repayment expenditures by the applicant during the calendar year. If the Bank of North Dakota is the lender, the applicant is not required to file a statement from the lender of the amount of the student loan repaid and reimbursement to the applicant must first be credited against the applicant’s unpaid balance of Bank of North Dakota student loans and any remaining amount must be paid to the applicant.

**SECTION 2.** A new subdivision of subsection 1 of section 57-38-01.2 of the North Dakota Century Code is created and enacted as follows:

**Youth retention credit.**

1. An individual is entitled to a credit against income tax liability as computed under section 57-38-29 or 57-38-30.3 if the individual is:
  - a. At least 21 years of age and less than thirty years of age at the end of the calendar year;
  - b. A resident of this state; and
  - c. Engaged in gainful employment or self-employment in this state for at least the last one hundred eighty days of the calendar year.
2. The credit under this section is limited to a maximum of one thousand dollars per individual per year for a period of not more than five years, beginning with the first year for which the individual claims the credit under this section. The credit may not exceed the individual’s tax liability under this chapter.

**SECTION 3.** A new subsection of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credit provided under section 2 of this Act.

**SECTION 4. EFFECTIVE DATE.** Section 1 of this Act is effective for loan repayments after December 31, 2002. Sections 2 and 3 of this Act are effective for taxable years beginning after December 31, 2002.

### INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition.

### QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Complete Residential Address, or Rural Route or General Delivery Address	City, State
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