

Introduced by

Energy and Natural Resources Committee

(At the request of the Adjutant General)

1 A BILL for an Act to amend and reenact subsection 2 of section 37-17.1-07.1 of the North
2 Dakota Century Code, relating to the state's hazardous chemical fee system.

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

4 **SECTION 1. AMENDMENT.** Subsection 2 of section 37-17.1-07.1 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 2. Establishment of funds.

7 a. There is created in the state treasury a nonlapsing restricted account to be
8 known as a state hazardous chemicals preparedness and response fund. The
9 fund consists of revenue collected from the state hazardous chemical fee system
10 and funds appropriated by the legislative assembly. Moneys in the fund shall be
11 appropriated biennially to the division of homeland security for carrying out the
12 purposes, goals, and objectives of SARA title III, and the state hazardous
13 chemicals preparedness and response program.

14 b. The county treasurer of each county shall establish a nonlapsing restricted
15 account, to be known as the county hazardous chemicals preparedness and
16 response account. The county hazardous chemicals preparedness and response
17 account consists of revenue from the state hazardous chemicals fee system,
18 county, federal or state funds, grants, and any private donations provided to
19 finance the county hazardous chemicals preparedness and response program.

20 c. The director of the division of homeland security shall set appropriate fees for the
21 state hazardous chemical fee system subject to the following:

22 (1) Changes to fees charged will take effect on January first;

23 (2) The director shall announce any fee increases a minimum of one year
24 before the effective date; and

1 (3) The director may consider economic conditions, the general economy, and
2 the availability of funds appropriated by the legislature to offset the costs of
3 administering the program when setting fees.

4 d. Each owner and operator of a facility, as defined in SARA title III, shall pay an
5 annual hazardous chemicals fee to the division of homeland security.

6 (1) The fee must be paid by March first of each year.

7 (2) The fee is ~~twenty-five dollars~~levied on a per chemical basis for each
8 chemical within the meaning of title 40, Code of Federal Regulations, part
9 355.20, or its successor which is required under section 312 of SARA title
10 III, to be listed on the hazardous chemical inventory form (tier II) which the
11 owner or operator must submit to the division. The federal requirements
12 must be used for completing the tier II form, including the threshold
13 amounts, as outlined in title 40, Code of Federal Regulations, part 20.

14 (3) The maximum fee for a facility under this section is ~~four hundred-~~
15 ~~seventy-five~~one thousand two hundred fifty dollars.

16 (4) The director of the homeland security division may impose fees for both late
17 filing of reports and late payment of fees: subject to the following:

18 (a) A late fee must equal the amount of the hazardous chemicals fee
19 owed under this subdivision: ;

20 (b) After six months the director shall process further violations under
21 willful violations in subsection 4: ;and

22 (c) A facility exempt from fees under this subdivision which is late filing
23 reports under this section may be subject to a late fee equal to the
24 amount the facility would be charged if it was not exempt.

25 (5) The division of homeland security shall transfer to the county hazardous
26 chemicals preparedness and response account one-half of the regular fees
27 collected from the state's hazardous chemicals fee system.

28 d.e. The owners or operators of family farm enterprises that are not engaged in the
29 retail or wholesale of hazardous chemicals and facilities owned by the state or
30 local governments are exempt from the fee under subdivision c. For purposes of

1 this section, the terms "family farm" and "farmer" have the same meaning as set
2 forth in section 6-09.11-01.

3 e.f. ~~The state~~State and county governments are authorized to accept and may
4 deposit grants, gifts, and federal funds into the hazardous chemicals
5 preparedness and response fund and accounts for the purpose of carrying out
6 the hazardous chemicals preparedness and response programs to include
7 training, exercising, equipment, response, and salaries, and local emergency
8 planning committee member stipends not to exceed thirty percent of state per
9 diem per meeting attended. In lieu of stipends the committee chairman may
10 provide a meal or refreshments other than alcoholic beverages.

11 f.g. "Hazardous chemical" means as defined in title 40, Code of Federal Regulations,
12 part 355.20 and title 29, Code of Federal Regulations, part 1910.1200.

13 g.h. The state hazardous chemicals fee system does not supersede a city fee system
14 for hazardous chemicals.