

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1145

Introduced by

Representatives D. Johnson, Steiner, Guggisberg

Senators Oehlke, Wanzek, Robinson

1 A BILL for an Act to amend and reenact sections 18-04-02, 18-04-04.1, 18-04-05, 23-46-05,
2 26.1-01-07.5, and 26.1-03-17 of the North Dakota Century Code, relating to use of insurance
3 premium tax collections for firefighting; to provide a continuing appropriation; and to declare an
4 emergency.

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

6 **SECTION 1. AMENDMENT.** Section 18-04-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **18-04-02. City auditor or secretary of rural fire department to file certificate with state**
9 **fire marshal and insurance commissioner - Report to budget section.**

- 10 1. On or before the thirty-first day of October in each year, the auditor or secretary of any
11 city or rural fire department that has an organized fire department shall file with the
12 state fire marshal and with the insurance commissioner the auditor's or secretary's
13 certificate stating the existence of the fire department, the date of its organization, the
14 number of fire engines, hook and ladder trucks, and the system of water supply in use
15 by the department, with such other facts as the state fire marshal or commissioner
16 may require.
- 17 2. A certified city fire department, certified rural fire department, or certified fire protection
18 district receiving funds under section 18-04-05 shall file an annual report with the state
19 fire marshal detailing the expenditure of the funds. The state fire marshal shall present
20 a biennial report to the budget section of the legislative management summarizing the
21 expenditures by certified city fire departments, certified rural fire departments, and
22 certified fire protection districts of funds received under section 18-04-05.

23 **SECTION 2. AMENDMENT.** Section 18-04-04.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **18-04-04.1. InsuranceFire insurance tax distribution fund - Continuing appropriation.**

2 The fire insurance tax distribution fund is a special fund in the state treasury. The portion of
3 the revenue provided in sectiontransferred or deposited in this fund under sections 26.1-03-17
4 must be deposited in the fundand 26.1-01-07.5 is appropriated on a continuing basis for
5 disbursement as provided in this chapter and chapter 23-46, subject to legislative appropriation.

6 **SECTION 3. AMENDMENT.** Section 18-04-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **18-04-05. Amount due cities, rural fire protection districts, or rural fire departments -**
9 **Transfer to firefighters death benefit fund - Disbursement to North Dakota firefighter's**
10 **association - Payments by insurance commissioner.**

- 11 1. The insurance commissioner shall disburse funds in the fire insurance tax distribution
12 fund as provided under this section.
- 13 2. The insurance commissioner shall transfer an amount of up to fifty thousand dollars
14 per biennium, as may be necessary, to the firefighters death benefit fund for
15 distribution under chapter 18-05.1.
- 16 3. The insurance commissioner shall disburse eight hundred thousand dollars per
17 biennium to the North Dakota firefighter's association for uses authorized under
18 chapter 18-03.
- 19 4. The insurance commissioner shall compute the amounts due to the certified city fire
20 departments, certified rural fire departments, or certified fire protection districts entitled
21 to benefits under this chapter on or before October first of each year. The insurance
22 commissioner shall allocate one-half of the biennial legislative appropriationan amount
23 equal to one hundred percent of the total premium tax collected for fire, allied lines,
24 homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and
25 crop hail insurance, less the amount transferred to the firefighters death benefit fund
26 and the amount distributed to the North Dakota firefighter's association for distribution
27 under this sectionsubsection, to each eligible city not within a certified fire protection
28 district, each certified rural fire protection district organized under this title, and each
29 rural fire department certified by the state fire marshal, and pay the amount allocated
30 in September of each year. The allocation must be made in proportion to the amount
31 of insurance company premiums received by insurance companies pursuant to section

1 26.1-03-17 for policies for fire, allied lines, homeowner's multiple peril, farmowner's
2 multiple peril, commercial multiple peril, and crop hail insurance on property within the
3 city, certified rural fire protection district, or area served by the certified rural fire
4 department to the total of those premiums for those policies in the state.

5 5. After July 30, 2015, a certified city fire department, certified rural fire department, or
6 certified fire protection district does not qualify for an allocation of a distribution under
7 subsection 4 and must be excluded from that allocation for any taxable year during
8 which the governing body of the certified fire department or certified fire protection
9 district did not levy at least two mills for fire protection purposes or provide the certified
10 fire department or certified fire protection district an equivalent amount of funding in
11 dollars from property taxes levied within the service area of the certified fire
12 department or certified fire protection district.

13 **SECTION 4. AMENDMENT.** Section 23-46-05 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **23-46-05. State financial assistance for emergency medical services - Emergency**
16 **medical services insurance tax distribution fund - Distribution limit.**

17 The emergency medical services insurance tax distribution fund is a special fund in the
18 state treasury. Subject to legislative appropriation, the portion of revenue provided in section
19 26.1-03-17 must be transferred from the insurance tax distribution fund to the emergency
20 medical services insurance tax distribution fund for disbursement as provided in this chapter.

21 During the first year of the biennium, the state department of health may not distribute more
22 than ~~one million two hundred fifty thousand dollars~~ one-half of the biennial legislative
23 appropriation for state financial assistance for emergency medical services.

24 **SECTION 5. AMENDMENT.** Section 26.1-01-07.5 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **26.1-01-07.5. Fire district maps - Insurance applications to show fire district in which**
27 **property is located - Penalty.**

28 Before December first of each year, the insurance commissioner shall publish maps of the
29 fire districts of the state for use by insurers under this section for the following calendar year.

30 The state firefighter's association and the state fire marshal shall assist the insurance

31 commissioner in preparing the maps. After December 31, 1993, no insurer may issue or renew

1 a policy for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial
2 multiple peril, or crop hail insurance coverage for property in this state unless the application
3 identifies each fire district in which the insured property is located. The application must identify
4 the property and insured value of the property located within each fire district if the policy
5 provides coverage for property that is not all within a single district. For purposes of this section,
6 "fire district" means rural fire protection district, city, or area served by a certified rural fire
7 department. An insurer that is found by the commissioner to be in violation of this section is
8 subject to a penalty of one hundred dollars for each violation to be deposited in the fire
9 insurance tax distribution fund. The insurance commissioner may adopt rules necessary for
10 administration of this section, including rules governing preparation, charges for, and use of
11 maps under this section.

12 **SECTION 6. AMENDMENT.** Section 26.1-03-17 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **26.1-03-17. Commissioner to collect premium tax - Insurance companies generally -**
15 **Computation - Credits - Penalty - Estimated tax - Continuing appropriation.**

16 1. Before issuing the annual certificate required by law, the commissioner shall collect
17 from every stock and mutual insurance company, nonprofit health service corporation,
18 health maintenance organization, and prepaid legal service organization, except
19 fraternal benefit and benevolent societies, doing business in this state, a tax on the
20 gross amount of premiums, assessments, membership fees, subscriber fees, policy
21 fees, service fees collected by any third-party administrator providing administrative
22 services to a group that is self-insured for health care benefits, and finance and
23 service charges received in this state during the preceding calendar year, at the rate of
24 two percent with respect to life insurance, one and three-fourths percent with respect
25 to accident and health insurance, and one and three-fourths percent with respect to all
26 other lines of insurance. This tax does not apply to considerations for annuities. The
27 total tax is payable on or before March first following the year for which the tax is
28 assessable. ~~Collections from this tax, except for collections deposited in the~~
29 ~~firefighters death benefit fund, must be deposited in~~ If the due date falls on a Saturday
30 or legal holiday, the tax is payable on the next succeeding business day.

- 1 a. The insurance tax distribution fund is a special fund in the state treasury. The
2 insurance commissioner shall deposit in the insurance tax distribution fund the
3 revenue provided in this section for disbursement as provided in this section.
- 4 b. Annually, the commissioner shall transfer from the insurance tax distribution fund
5 to the fire insurance tax distribution fund created under section 18-04-04.1 all
6 collections from this tax from the following policies: fire, allied lines, homeowner's
7 multiple peril, farmowner's multiple peril, and commercial multiple peril.
- 8 c. Annually, the commissioner shall transfer from the insurance tax distribution fund
9 to the emergency medical services insurance tax distribution fund for use as
10 provided under section 18-04-04.1 but not in chapter 23-46 an amount
11 exceeding not to exceed one-half of the biennial amount appropriated from
12 revenues collected under this subsection for distribution under sections 18-04-05-
13 and 23-46-04 chapter 23-46 in any fiscal year. Collections
- 14 d. Annually, collections from this tax exceeding the collections transferred to the fire
15 insurance tax distribution fund and the sum of the amount deposited in transferred
16 to the emergency medical services insurance tax distribution fund and the
17 amount deposited in the firefighters death benefit fund each fiscal year must be
18 deposited in transferred from the insurance tax distribution fund to the general
19 fund in the state treasury. If the due date falls on a Saturday or legal holiday, the
20 tax is payable on the next succeeding business day.
- 21 2. An insurance company, nonprofit health service corporation, health maintenance
22 organization, or prepaid legal service organization subject to the tax imposed by
23 subsection 1 is entitled to a credit against the tax due for the amount of any
24 assessment paid as a member of a comprehensive health association under
25 subsection 3 of section 26.1-08-09 for which the member may be liable for the year in
26 which the assessment was paid, a credit as provided under section 26.1-38.1-10, a
27 credit against the tax due for an amount equal to the examination fees paid to the
28 commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19.6, 26.1-03-22,
29 26.1-17-32, and 26.1-18.1-18, and a credit against the tax due for an amount equal to
30 the ad valorem taxes, whether direct or in the form of rent, on that proportion of
31 premises occupied as the principal office in this state for over one-half of the year for

- 1 which the tax is paid. The credits under this subsection must be prorated on a
2 quarterly basis and may not exceed the total tax liability under subsection 1.
- 3 3. Any company failing to pay the tax imposed by subsection 1, within the time required,
4 is subject to a penalty of one hundred dollars plus twenty-five dollars per day,
5 excepting the first day after the tax became due. Any company failing to file the
6 appropriate tax statement required by rule if the tax is zero is subject to a penalty of
7 twenty-five dollars per day for each day's neglect not to exceed five hundred dollars.
8 The commissioner, if satisfied that the delay was excusable, may waive, and if paid,
9 issue a premium tax credit for all or any part of the penalty and interest.
- 10 4. Every stock and mutual insurance company, nonprofit health service corporation,
11 health maintenance organization, and prepaid legal service organization, except
12 fraternal benefit or benevolent societies, doing business in this state required to pay
13 premium taxes in this state shall make and file a statement of estimated premium
14 taxes. The statement and payment must be made on a quarterly basis as prescribed
15 by the commissioner. Failure of a company to make payments of at least one-fourth of
16 the total tax paid during the previous calendar year, or eighty percent of the actual tax
17 for the quarter being reported of the current calendar year, shall subject the company
18 to the penalty and interest provided in subsection 3.
- 19 5. If an amount of tax, penalty, or interest has been paid which was not due under the
20 provisions of this section, a refund may be issued to the taxpayer who made the
21 erroneous payment. The refund is allowed as a credit against any tax due or to
22 become due under this section or as a cash refund, at the discretion of the
23 commissioner. The taxpayer who made the erroneous payment shall present a claim
24 for refund to the commissioner not later than two years after the due date of the return
25 for the period for which the erroneous payment was made.
- 26 6. In lieu of the tax required by subsection 1, the commissioner shall collect from each
27 entity subject to this section an annual filing fee in the amount of two hundred dollars,
28 provided the total tax liability of the entity pursuant to subsection 1 is less than two
29 hundred dollars. No annual filing fee is due or may be collected from an entity if its
30 total tax liability pursuant to subsection 1 is in excess of two hundred dollars. The
31 annual filing fee may be reduced by any credits available pursuant to subsections 2

1 and 5. Failure of a company to pay the two hundred dollar filing fee subjects the
2 company to the penalty as provided in subsection 3.

3 **SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.