

Sixty-third
Legislative Assembly
of North Dakota

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 18-04-04.1, 18-04-05, 23-46-05, 26.1-01-07.5,
2 and 26.1-03-17 of the North Dakota Century Code, relating to use of insurance premium tax
3 collections for firefighting; and to provide a continuing appropriation.

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

5 **SECTION 1. AMENDMENT.** Section 18-04-04.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **18-04-04.1. ~~Insurance~~Fire insurance tax distribution fund - Continuing appropriation.**

8 The fire insurance tax distribution fund is a special fund in the state treasury. The portion of
9 the revenue provided in section collected and deposited in this fund under sections 26.1-03-17
10 must be deposited in the fund and 26.1-01-07.5 is appropriated on a continuing basis for
11 disbursement as provided in this chapter and chapter 23-46, subject to legislative appropriation.

12 **SECTION 2. AMENDMENT.** Section 18-04-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **18-04-05. Amount due cities, rural fire protection districts, or rural fire departments -**
15 **Transfer to firefighters death benefit fund - Disbursement to North Dakota firefighter's**
16 **association - Payments by insurance commissioner.**

17 1. The insurance commissioner shall disburse funds in the fire insurance tax distribution
18 fund as provided under this section.

19 2. The insurance commissioner shall transfer an amount of up to fifty thousand dollars
20 per biennium, as may be necessary, to the firefighters death benefit fund for
21 distribution under chapter 18-05.1.

22 3. The insurance commissioner shall disburse eight hundred thousand dollars per
23 biennium to the North Dakota firefighter's association for uses authorized under
24 chapter 18-03.

1 4. The insurance commissioner shall compute the amounts due to the city fire
2 departments, certified rural fire departments, or fire protection districts entitled to
3 benefits under this chapter on or before October first of each year. The insurance
4 commissioner shall allocate one-half of the ~~biennial legislative appropriation available~~
5 funds for distribution under this ~~section~~subsection to each eligible city not within a fire
6 protection district, each rural fire protection district organized under this title, and each
7 rural fire department certified by the state fire marshal, and pay the amount allocated
8 in September of each year. The allocation must be made in proportion to the amount
9 of insurance company premiums received by insurance companies pursuant to section
10 26.1-03-17 for policies for fire, allied lines, homeowner's multiple peril, farmowner's
11 multiple peril, commercial multiple peril, and crop hail insurance on property within the
12 city, rural fire protection district, or area served by the certified rural fire department to
13 the total of those premiums for those policies in the state.

14 **SECTION 3. AMENDMENT.** Section 23-46-05 of the North Dakota Century Code is
15 amended and reenacted as follows:

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

18 The emergency medical services insurance tax distribution fund is a special fund in the
19 state treasury. Subject to legislative appropriation, the portion of revenue provided in section
20 26.1-03-17 must be deposited in the fund for disbursement as provided in this chapter. During
21 the first year of the biennium, the state department of health may not distribute more than one
22 million two hundred fifty thousand dollars of the biennial legislative appropriation for state
23 financial assistance for emergency medical services.

24 **SECTION 4. 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 5. 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. CollectionsIf the due date falls on a Saturday or legal holiday, the tax is
29 payable on the next succeeding business day.

30 a. At least quarterly, the commissioner shall deposit in the fire insurance tax
31 distribution fund created under section 18-04-04.1 all collections from this tax

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

1 appropriate tax statement required by rule if the tax is zero is subject to a penalty of
2 twenty-five dollars per day for each day's neglect not to exceed five hundred dollars.
3 The commissioner, if satisfied that the delay was excusable, may waive, and if paid,
4 issue a premium tax credit for all or any part of the penalty and interest.

5 4. Every stock and mutual insurance company, nonprofit health service corporation,
6 health maintenance organization, and prepaid legal service organization, except
7 fraternal benefit or benevolent societies, doing business in this state required to pay
8 premium taxes in this state shall make and file a statement of estimated premium
9 taxes. The statement and payment must be made on a quarterly basis as prescribed
10 by the commissioner. Failure of a company to make payments of at least one-fourth of
11 the total tax paid during the previous calendar year, or eighty percent of the actual tax
12 for the quarter being reported of the current calendar year, shall subject the company
13 to the penalty and interest provided in subsection 3.

14 5. If an amount of tax, penalty, or interest has been paid which was not due under the
15 provisions of this section, a refund may be issued to the taxpayer who made the
16 erroneous payment. The refund is allowed as a credit against any tax due or to
17 become due under this section or as a cash refund, at the discretion of the
18 commissioner. The taxpayer who made the erroneous payment shall present a claim
19 for refund to the commissioner not later than two years after the due date of the return
20 for the period for which the erroneous payment was made.

21 6. In lieu of the tax required by subsection 1, the commissioner shall collect from each
22 entity subject to this section an annual filing fee in the amount of two hundred dollars,
23 provided the total tax liability of the entity pursuant to subsection 1 is less than two
24 hundred dollars. No annual filing fee is due or may be collected from an entity if its
25 total tax liability pursuant to subsection 1 is in excess of two hundred dollars. The
26 annual filing fee may be reduced by any credits available pursuant to subsections 2
27 and 5. Failure of a company to pay the two hundred dollar filing fee subjects the
28 company to the penalty as provided in subsection 3.