Sixty-second Legislative Assembly of North Dakota

Introduced by

- 1 A BILL for an Act to amend and reenact sections 26.1-03-17, 26.1-17-10, and 50-06-19 of the
- 2 North Dakota Century Code, relating to exempting major medical expense insurance premiums
- 3 from the insurance premium tax.

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

5 **SECTION 1. AMENDMENT.** Section 26.1-03-17 of the North Dakota Century Code is 6 amended and reenacted as follows:

- 26.1-03-17. Commissioner to collect premium tax Insurance companies
   generally Computation Credits Penalty Estimated tax.
- 9 Before issuing the annual certificate required by law, the commissioner shall collect 1. 10 from every stock and mutual insurance company, nonprofit health service 11 corporation, health maintenance organization, and prepaid legal service 12 organization, except fraternal benefit and benevolent societies, doing business in 13 this state, a tax on the gross amount of premiums, assessments, membership fees, 14 subscriber fees, policy fees, service fees collected by any third-party administrator 15 providing administrative services to a group that is self-insured for health care 16 benefits, and finance and service charges received in this state during the 17 preceding calendar year, at the rate of two percent with respect to life insurance. 18 one and three fourths percent with respect to accident and health insurance, and 19 one and three-fourths percent with respect to all other lines of insurance. This tax 20 does not apply to considerations for annuities and major medical expense 21 insurance policies. The total tax is payable on or before March first following the 22 year for which the tax is assessable. Collections from this tax, except for 23 collections deposited in the firefighters death benefit fund, must be deposited in the 24 insurance tax distribution fund under section 18-04-04.1 but not in an amount

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1 exceeding one-half of the biennial amount appropriated for distribution under 2 sections 18-04-05 and 23-40-05 in any fiscal year. Collections from this tax in an 3 amount of up to fifty thousand dollars per biennium, as may be necessary, are 4 appropriated on a continuing basis for deposit in the firefighters death benefit fund 5 for distribution under chapter 18-05.1. Collections from this tax exceeding the sum 6 of the amount deposited in the insurance tax distribution fund and the amount 7 deposited in the firefighters death benefit fund each fiscal year must be deposited 8 in the general fund in the state treasury. If the due date falls on a Saturday or legal 9 holiday, the tax is payable on the next succeeding business day.

An insurance company, nonprofit health service corporation, health maintenance
 organization, or prepaid legal service organization subject to the tax imposed by
 subsection 1 is entitled to a credit against the tax due for the amount of any
 assessment paid as a member of a comprehensive health association under
 subsection 3 of section 26.1-08-09 for which the member may be liable for the year
 in which the assessment was paid, a credit as provided under section

- 26.1-38.1-10, a credit against the tax due for an amount equal to the examination
  fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02,
- 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and 26.1-18.1-18, and a credit against the
  tax due for an amount equal to the ad valorem taxes, whether direct or in the form
  of rent, on that proportion of premises occupied as the principal office in this state
  for over one-half of the year for which the tax is paid. The credits under this
  subsection must be prorated on a quarterly basis and may not exceed the total tax
  liability under subsection 1.
- 24 3. Any company failing to pay the tax imposed by subsection 1, within the time 25 required, is subject to a penalty of one hundred dollars plus twenty-five dollars per 26 day, excepting the first day after the tax became due. Any company failing to file 27 the appropriate tax statement required by rule if the tax is zero is subject to a 28 penalty of twenty-five dollars per day for each day's neglect not to exceed five 29 hundred dollars. The commissioner, if satisfied that the delay was excusable, may 30 waive, and if paid, issue a premium tax credit for all or any part of the penalty and 31 interest.

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1 4. Every stock and mutual insurance company, nonprofit health service corporation, 2 health maintenance organization, and prepaid legal service organization, except 3 fraternal benefit or benevolent societies, doing business in this state required to 4 pay premium taxes in this state shall make and file a statement of estimated 5 premium taxes. The statement and payment must be made on a quarterly basis as 6 prescribed by the commissioner. Failure of a company to make payments of at 7 least one-fourth of the total tax paid during the previous calendar year, or eighty 8 percent of the actual tax for the guarter being reported of the current calendar year, 9 shall subject the company to the penalty and interest provided in subsection 3. 10 5. If an amount of tax, penalty, or interest has been paid which was not due under the 11 provisions of this section, a refund may be issued to the taxpayer who made the 12 erroneous payment. The refund is allowed as a credit against any tax due or to 13 become due under this section or as a cash refund, at the discretion of the 14 commissioner. The taxpayer who made the erroneous payment shall present a 15 claim for refund to the commissioner not later than two years after the due date of 16 the return for the period for which the erroneous payment was made. 17 In lieu of the tax required by subsection 1, the commissioner shall collect from each 6. 18 entity subject to this section an annual filing fee in the amount of two hundred

19dollars, provided the total tax liability of the entity pursuant to subsection 1 is less20than two hundred dollars. No annual filing fee is due or may be collected from an21entity if its total tax liability pursuant to subsection 1 is in excess of two hundred22dollars. The annual filing fee may be reduced by any credits available pursuant to23subsections 2 and 5. Failure of a company to pay the two hundred dollar filing fee24subjects the company to the penalty as provided in subsection 3.

SECTION 2. AMENDMENT. Section 26.1-17-10 of the North Dakota Century Code is
 amended and reenacted as follows:

27

26.1-17-10. Nonprofit corporation tax exempt - Insurance premium tax - Law

28 governing charitable organizations applicable. Every nonprofit health service corporation is

29 a charitable and benevolent organization and is exempt from taxation by the state or any

30 political subdivision thereof, except that the tax imposed by section 26.1-03-17 is applicable to

31 a corporation subject to this chapter and the real property of a nonprofit health service

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- 1 corporation is subject to ad valorem taxes and special assessments for special improvements.
- 2 Except as otherwise provided in this chapter, the laws of this state relating to and affecting
- 3 nonprofit charitable and benevolent corporations are applicable to all nonprofit health service
- 4 corporations writing health service contracts.

5 SECTION 3. AMENDMENT. Section 50-06-19 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-06-19. Exemption from insurance premium tax.** No tax otherwise due under

- 8 section 26.1-03-17 may be required of a stock or mutual an insurance company, nonprofit
- 9 health service corporation, or health maintenance organization with respect to service fees
- 10 collected by any third-party administrator providing administrative services or premiums,
- 11 capitation payments, or policy fees paid by the department for coverage or services provided to
- 12 a recipient of benefits.