

**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; ~~and~~ to provide a continuing appropriation; and to declare  
4 | an 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 section ~~collected and transferred or deposited in this fund under sections~~  
4       26.1-03-17 ~~must be deposited in the fund~~ and 26.1-01-07.5 is appropriated on a continuing basis  
5       for disbursement as provided in this chapter and chapter 23-46, subject to legislative-  
6       appropriation.

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

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

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

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

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

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

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

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

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

28 **26.1-01-07.5. Fire district maps - Insurance applications to show fire district in which**  
29 **property is located - Penalty.**

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

1 The state firefighter's association and the state fire marshal shall assist the insurance  
2 commissioner in preparing the maps. After December 31, 1993, no insurer may issue or renew  
3 a policy for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial  
4 multiple peril, or crop hail insurance coverage for property in this state unless the application  
5 identifies each fire district in which the insured property is located. The application must identify  
6 the property and insured value of the property located within each fire district if the policy  
7 provides coverage for property that is not all within a single district. For purposes of this section,  
8 "fire district" means rural fire protection district, city, or area served by a certified rural fire  
9 department. An insurer that is found by the commissioner to be in violation of this section is  
10 subject to a penalty of one hundred dollars for each violation to be deposited in the fire  
11 insurance tax distribution fund. The insurance commissioner may adopt rules necessary for  
12 administration of this section, including rules governing preparation, charges for, and use of  
13 maps under this section.

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

16 **26.1-03-17. Commissioner to collect premium tax - Insurance companies generally -**  
17 **Computation - Credits - Penalty - Estimated tax - Continuing appropriation.**

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

- 1 ~~a. At least quarterly, the commissioner shall deposit in the fire insurance tax~~  
2 ~~distribution fund created under section 18-04-04.1 all collections from this tax~~  
3 ~~from the following policies: fire, allied lines, homeowner's multiple peril,~~  
4 ~~farmowner's multiple peril, and commercial multiple peril.~~
- 5 ~~b. Except for collections deposited in the fire insurance tax distribution fund,~~  
6 ~~collections from this tax, except for collections deposited in the firefighters death~~  
7 ~~benefit fund, must be deposited in~~ If the due date falls on a Saturday or legal  
8 holiday, the tax is payable on the next succeeding business day.
- 9 a. The insurance tax distribution fund is a special fund in the state treasury. The  
10 insurance commissioner shall deposit in the insurance tax distribution fund the  
11 revenue provided in this section for disbursement as provided in this section.
- 12 b. Annually, the commissioner shall transfer from the insurance tax distribution fund  
13 to the fire insurance tax distribution fund created under section 18-04-04.1 all  
14 collections from this tax from the following policies: fire, allied lines, homeowner's  
15 multiple peril, farmowner's multiple peril, and commercial multiple peril.
- 16 c. Annually, the commissioner shall transfer from the insurance tax distribution fund  
17 to the emergency medical services insurance tax distribution fund for use as  
18 provided under section 18-04-04.1 ~~chapter 23-46, but not in~~ chapter 23-46 an  
19 amount ~~exceeding~~ not to exceed one-half of the biennial amount appropriated  
20 from revenues collected under this subsection for distribution under sections  
21 18-04-05 and 23-46-04 ~~chapter 23-46~~ in any fiscal year.
- 22 ~~c. Collections~~
- 23 d. Annually, collections from this tax exceeding the ~~collections deposited~~  
24 ~~in~~ transferred to the fire insurance tax distribution fund and the sum of the amount  
25 ~~deposited in~~ transferred to the emergency medical services insurance tax  
26 distribution fund and the amount deposited in the firefighters death benefit fund  
27 each fiscal year must be ~~deposited in~~ transferred from the insurance tax  
28 distribution fund to the general fund in the state treasury. If the due date falls on a  
29 Saturday or legal holiday, the tax is payable on the next succeeding business  
30 day.

- 1       2.   An insurance company, nonprofit health service corporation, health maintenance  
2       organization, or prepaid legal service organization subject to the tax imposed by  
3       subsection 1 is entitled to a credit against the tax due for the amount of any  
4       assessment paid as a member of a comprehensive health association under  
5       subsection 3 of section 26.1-08-09 for which the member may be liable for the year in  
6       which the assessment was paid, a credit as provided under section 26.1-38.1-10, a  
7       credit against the tax due for an amount equal to the examination fees paid to the  
8       commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19.6, 26.1-03-22,  
9       26.1-17-32, and 26.1-18.1-18, and a credit against the tax due for an amount equal to  
10      the ad valorem taxes, whether direct or in the form of rent, on that proportion of  
11      premises occupied as the principal office in this state for over one-half of the year for  
12      which the tax is paid. The credits under this subsection must be prorated on a  
13      quarterly basis and may not exceed the total tax liability under subsection 1.
- 14      3.   Any company failing to pay the tax imposed by subsection 1, within the time required,  
15      is subject to a penalty of one hundred dollars plus twenty-five dollars per day,  
16      excepting the first day after the tax became due. Any company failing to file the  
17      appropriate tax statement required by rule if the tax is zero is subject to a penalty of  
18      twenty-five dollars per day for each day's neglect not to exceed five hundred dollars.  
19      The commissioner, if satisfied that the delay was excusable, may waive, and if paid,  
20      issue a premium tax credit for all or any part of the penalty and interest.
- 21      4.   Every stock and mutual insurance company, nonprofit health service corporation,  
22      health maintenance organization, and prepaid legal service organization, except  
23      fraternal benefit or benevolent societies, doing business in this state required to pay  
24      premium taxes in this state shall make and file a statement of estimated premium  
25      taxes. The statement and payment must be made on a quarterly basis as prescribed  
26      by the commissioner. Failure of a company to make payments of at least one-fourth of  
27      the total tax paid during the previous calendar year, or eighty percent of the actual tax  
28      for the quarter being reported of the current calendar year, shall subject the company  
29      to the penalty and interest provided in subsection 3.
- 30      5.   If an amount of tax, penalty, or interest has been paid which was not due under the  
31      provisions of this section, a refund may be issued to the taxpayer who made the

1           erroneous payment. The refund is allowed as a credit against any tax due or to  
2           become due under this section or as a cash refund, at the discretion of the  
3           commissioner. The taxpayer who made the erroneous payment shall present a claim  
4           for refund to the commissioner not later than two years after the due date of the return  
5           for the period for which the erroneous payment was made.

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

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