# History of Insurance Premium Tax and the Distribution to Fire Departments in North Dakota

The Insurance Premium Tax has been a source of revenue for fire departments and fire districts for many years. Though every jurisdiction has a variety of funding options available, the distribution from the premium tax to the departments has historically been a significant component of that funding. The following is a brief history of the tax and distribution to the fire departments in the State of North Dakota.

The Insurance Premium Tax was established in 1887, before North Dakota was a state. Insurance Premiums were taxed at a rate of 2%. The revenue generated from the tax was distributed to any city, town or village with a qualified fire company having at least 15 members and “having management of at least one steam, hand or other fire engine, hook and ladder truck or hose cart.” Insurance companies were required to record which fire district provided the fire protection for the insured property. When the premium tax was collected the money was distributed to the fire district where the insurance policies were sold.

For the almost 100 years, few significant changes were made. A couple of notable changes were, in 1949, the amount of the distribution was made into a continuing appropriation based on the amount of tax collected and in 1979, Farmer’s Multi-peril was added to the lines dedicated to the fire service.

In 1983, a major change was made to the Century Code. The way the state was doing all insurance premium taxes was challenged by foreign insurance companies. Until this time, foreign companies (out of state) were charge a premium tax and domestic companies (in state) were charged corporate income tax. A law suit by the foreign companies challenged this practice and a judge declared it unconstitutional. This ruling provided the impetus to overhaul all the laws related to the insurance industry. Title 26 Insurance and portions of Title 6 – Banks and Banking, which were related to insurance, were all repealed. These were replaced Title 26.1- Insurance, which was a rewrite of all the laws related to the insurance industry. 18-04-04.1 was added to reference the new law in 26.1-03-17 which dealt specifically with all Insurance Premium Taxes and 26.1-03-17 references 18-04-04 concerning the portion of the Insurance Premium Tax distributed to the fire departments.

The results from this change were twofold. First, this change added to the fluctuation in funding. The early 1980’s brought changes to the insurance industry and economy that impact the amount of premium tax collected. This legislation was another change that impacted the revenue. Second, the change in the law took what had basically been pass-through funding for the fire service and included it with all other Insurance Premium Taxes that were added to the State General Fund. It became much easier to see this funding as coming from the State General Fund.

Because of the fluctuations in the fund, changes were made to stabilize the fund. In 1985, the continuing appropriation was removed and the legislature agreed to stabilize the fund at $5,200,000 per biennium. In 1989, the payments were set at no more than $2,600,000 per year instead of $5,200,000 per biennium. During a couple of these years, the tax distributed actually exceeded the tax collected.

The early 1990s saw the amount of tax revenue steadily increase and in 1993, the fire service asked that the distribution again be connected to the amount of money collected from the premium tax. Due to state budgeting challenges, a compromise was made that returned the continuing appropriation but only at a level of 84% of the premium tax collected. The amount of the distributions at 84% was approximately the level of funding for the previous 10 years, but this change allowed for increases in the future.

The very next year, another change to the insurance industry impacted the Insurance Premium Tax. The Supreme Court of the United States ruled that Federal Crop Insurance could no longer be taxed. This resulted in 27% decrease in the tax collected in 1995. Because of this, the 1995 legislature again removed the continuing appropriation and returned to the annual legislative appropriation of $2,600,000 per year, which equaled 101% of the revenue generated by the premium tax.

Since 1995, the only changes made to the law have dealt with funding. Though the amount of tax collected continued to increase over the next decade, the amount of the appropriation remained at $2,600,000. The result of this practice adversely affected fire service funding in relation to the amount of premium tax collected. In 2001, the North Dakota Firefighter Association (NDFA) pushed through legislation that streamlined its funding. Up until this time, the association was funded by dues from the individual fire departments. This change removed the required dues and used some of the excess in premium tax revenue to fund NDFA in the amount of $52,000 per year. In 2005, the fire service approached the legislature about increasing the distribution and the appropriation was increased to $3,100,000 per year. In 2009, NDFA’s funding was increased to $310,000 per year and in 2011 it was increased to $335,000 per year. Since 1995, the fire service distribution plummeted from 101% to 48% of the premium tax collected.

In summary, for almost 100 years, 100% of the amount of money collected from the Insurance Premium Tax on fire related insurance was distributed to fire departments and fire districts. For much of that time it was a continuing appropriation. When funding became unpredictable in the late 70s and early 80s the legislature stepped in to support the fund to provide the fire service with a reliable funding source. In the mid-90s, the legislature again stepped in to stabilize the fund so departments could have a dependable funding source. Since that time however, a large portion of the premium tax collected has not gone to the fire service. This history demonstrates the Insurance Premium Tax was intended to be collected for distribution to fire departments and fire districts to promote and maintain the fire service in North Dakota.

# Quick Reference Guide

1887 Tax established. Money distributed to city, town or village and passed on to qualified fire companies. Percentage established at 2.25 %

1899 Section added that directs warrant process for city or county auditors. A warrant is basically a bill sent by each jurisdiction to the State Treasurer for the amount of their distribution. (Repealed in 1971.)

1949 The amount of the distribution was made a continuing appropriation based on the amount of tax collected.

1979 Farmer’s Multi-peril added.

1983 Premium Tax collection removed from Title 18-Fire and placed in Title 26.1-Insurance.

1985 Hail insurance excluded.

1985 Continuing appropriation removed. Payments not to exceed 5.2 million per biennium.

1989 Payments not to exceed 2.6 million per year. Negotiated between Earl Pomeroy and Monk Gilman.

1. Payments set at 84% of tax collected. $2,600,000 limit is removed.
2. Supreme Court rules crop insurance cannot be taxed. Results in 27% decrease in tax collection in 1995.
3. Returned to legislative appropriation set at $2,600,000 annually.

2001 NDFA allotted $52,000; NDFA dues from departments eliminated.

2005 Appropriation increased to $3,100,000 annually. NDFA increased to $60,000 Negotiated by Lois Hartman

2009 NDFA increased to $310,000 2011 NDFA increased to $335,000