

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the  
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,  
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1296  
(Representatives Carlson, Boucher, Berg)  
(Senators G. Nelson, Solberg)

AN ACT to create and enact a new section to chapter 65-03 and a new section to chapter 65-04 of the North Dakota Century Code, relating to protecting the health of employees through workplace safety programs and to workers' compensation premium calculation programs; to amend and reenact sections 65-02-13.1 and 65-04-17.1 of the North Dakota Century Code, relating to expenditures by the workers compensation bureau for extraterritorial coverage and other states' insurance and to retrospective rating; to provide an appropriation; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 65-02-13.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-13.1. Expenditures by bureau for reinsurance and extraterritorial coverage and other states' insurance - Report to budget section in annual financial audit.** There is appropriated out of the workers' compensation fund, as a continuing appropriation, an amount necessary to allow the bureau to establish a program of reinsurance and a program of extraterritorial coverage and other states' insurance. The bureau may execute a contract for reinsurance ~~which is~~ and a contract for extraterritorial coverage and other states' insurance binding on the bureau and the reinsurer contracting party. The term identified in the contract may extend past the end of the biennium in which ~~the a~~ contract under this section is executed. The independent annual financial audit report on the bureau shall report to the legislative council's budget section annually on any contract negotiated between the bureau and an insurer for reinsurance executed pursuant to this section.

**SECTION 2.** A new section to chapter 65-03 of the North Dakota Century Code is created and enacted as follows:

**Safety programs.** The bureau shall create and operate work safety and loss prevention programs to protect the health of covered employees and the financial integrity of the fund, including programs promoting safety practices by employers and employees through education, training, consultation, grants, or incentives. The biennial independent performance audit of the bureau must evaluate and report on the effectiveness of these programs.

**SECTION 3.** A new section to chapter 65-04 of the North Dakota Century Code is created and enacted as follows:

**Premium calculation programs - Authority.** Upon approval of its board of directors, the bureau may create and implement by emergency rulemaking actuarially sound employer premium calculation programs, including dividends, group insurance, premium deductibles, and reimbursement for medical expense assessments. Programs under this section may be created or modified by emergency rulemaking and must include requirements or incentives for the early reporting of injuries.

**SECTION 4. AMENDMENT.** Section 65-04-17.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-17.1. Retrospective rating pilot program.** The bureau may establish a pilot program to provide retrospective rating ~~to an employer whose annual workers' compensation premium is two hundred fifty thousand dollars or more.~~ The bureau may not require an employer to participate in the program, but it may refuse to allow an employer to participate when it determines that refusal is appropriate. The bureau shall establish formulas, based on sound actuarial principles, for premium calculation under the program. Sections 65-04-01, 65-04-04, and 65-04-04.2 do not apply to

retrospective premiums allowed under this section. Any moneys held by the bureau for future claim payments must accrue interest at a reasonable rate as determined by the bureau. The bureau may execute a contract with an employer to establish a retrospective rating plan for that employer. The contract is binding on the employer and the bureau for the term identified in the contract. The term identified in the contract may extend past the end of the biennium in which the contract is executed but the term may not exceed ten years. ~~The bureau may not enter any contract under this section after June 30, 1999.~~ The bureau shall determine the amount of the deposit premium to be paid by an employer participating in the program. The amount of the deposit premium must be based on current rates, payroll, and experience rate factors. The bureau shall establish the maximum premium liability of a participating employer. The maximum premium is not subject to the limitations of section 65-04-17. The bureau may provide refunds from the workers' compensation fund when it is determined appropriate under the retrospective rating formula established. The bureau shall provide any refund due within thirty days after the date of the retrospective premium valuation. The bureau may impose a penalty if an employer fails to pay additional premium due within thirty days after the retrospective premium valuation. The bureau may require an employer to provide a bond, letter of credit, or other security approved by the bureau to guarantee payment of future employer obligations incurred by a retrospective rating plan. The bureau may charge an employer participating in the program a nonrefundable surcharge for the purpose of assisting retirement of any unfunded liability of the fund.

**SECTION 5. APPROPRIATION.** There is hereby appropriated out of the workers' compensation fund the sum of \$1,856,603 to the bureau for the purpose of defraying the expenses of operating workplace safety and loss prevention programs, for the biennium beginning July 1, 1999, and ending June 30, 2001. The bureau may employ no more than seven additional full-time equivalent positions for the workplace safety and loss prevention programs and may contract for the provision of risk management services.

**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1296 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas        90            Nays        3            Absent      5

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        46            Nays        0            Absent      3

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1999,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State