

**SENATE BILL NO. 2424**

Introduced by

Senators Lee, B. Stenehjem

Representatives Price, Svedjan

1 A BILL for an Act to amend and reenact subsections 8, 9, and 11 of section 26.1-36.3-07 of the  
2 North Dakota Century Code, relating to the small employer health reinsurance program.

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

4 **SECTION 1. AMENDMENT.** Subsections 8, 9, and 11 of section 26.1-36.3-07 of the  
5 North Dakota Century Code are amended and reenacted as follows:

- 6 8. A small employer carrier may reinsure with the program as provided for in this  
7 subsection:
- 8 a. With respect to a basic health benefit plan or a standard health benefit plan,  
9 the program shall reinsure the level of coverage provided and, with respect to  
10 other plans, the program shall reinsure up to the level of coverage provided in  
11 a basic or standard health benefit plan.
  - 12 b. A small employer carrier may reinsure an entire employer group within sixty  
13 days after the group's coverage begins under a health benefit plan.
  - 14 c. A small employer carrier may reinsure an eligible employee or dependent  
15 within sixty days after coverage begins with the small employer. A newly  
16 eligible employee or dependent of the reinsured small employer may be  
17 reinsured within sixty days after the coverage begins.
  - 18 d. (1) The program may not reimburse a reinsuring carrier with respect to the  
19 claims of a reinsured employee or dependent until the carrier has  
20 incurred an initial level of claims for the employee or dependent as set  
21 by the board. The board shall establish retention levels of reinsuring  
22 carriers for reinsurance under this chapter and section 26.1-36-37.2 at  
23 ~~an amount of not less than fifty thousand dollars nor greater than one~~  
24 ~~hundred thousand dollars.~~ A reinsuring carrier's liability under this

1 paragraph may not exceed the maximum limit established by the board  
2 in a calendar year for a reinsured individual.

3 (2) The board annually shall adjust the initial level of claims and the  
4 maximum limit to be retained by the carrier to reflect increases in costs  
5 and utilization within the standard market for health benefit plans within  
6 the state. The adjustment may not be less than the annual change in  
7 the medical component of the consumer price index for all urban  
8 consumers of the department of labor, bureau of labor statistics, unless  
9 the board proposes and the commissioner approves a lower adjustment  
10 factor.

11 e. A reinsuring carrier may terminate reinsurance with the program for one or  
12 more of the reinsured employees or dependents of a small employer on any  
13 anniversary of the health benefit plan.

14 f. A reinsuring carrier or small employer carrier shall apply all managed care  
15 and claims handling techniques, including utilization review, individual case  
16 management, preferred provider provisions, and other managed care  
17 provisions or methods of operation consistently with respect to reinsured and  
18 nonreinsured business.

19 9. a. The board, as part of the plan of operation, shall establish a method for  
20 determining premium rates to be charged by the program for reinsuring small  
21 employers and individuals pursuant to this section. The method must include  
22 a system for classification of small employers that reflects the types of case  
23 characteristics commonly used by small employer carriers in the state. The  
24 method must provide for the development of base reinsurance premium rates  
25 which must be multiplied by the factors set forth in subdivision b to determine  
26 the premium rates for the program. The board shall establish the base  
27 reinsurance premium rates, subject to the approval of the commissioner, and  
28 shall set the rates at levels which reasonably approximate gross premiums  
29 charged to small employers by small employer carriers for health benefit plans  
30 with benefits similar to the standard health benefit plan, adjusted to reflect  
31 retention levels required under this chapter and section 26.1-36-37.2.

- 1           b. ~~Premiums for the program are:~~
- 2                 (1) ~~An entire small employer group may be reinsured for a rate that is not~~
- 3                 ~~greater than one and one half times the base reinsurance premium rate~~
- 4                 ~~for the group established under this section.~~
- 5                 (2) ~~An eligible employee or dependent may be reinsured for a rate that is~~
- 6                 ~~not greater than five times the base reinsurance premium rate for the~~
- 7                 ~~individual established under this section.~~
- 8           e. The board shall review the method established under subdivision a,
- 9                 periodically, including the system of classification and any rating factors, to
- 10                assure that it reasonably reflects the claims experience of the program. The
- 11               board may propose changes to the method. The changes are subject to the
- 12               approval of the commissioner.
- 13           e. c. The board may consider adjustments to the premium rates charged by the
- 14               program to reflect the use of effective cost containment and managed care
- 15               arrangements.
- 16        11. a. Prior to March first of each year, the board shall determine and report to the
- 17               commissioner the program net loss for the previous calendar year, including
- 18               administrative expenses and incurred losses for the year, taking into account
- 19               investment income and other appropriate gains and losses.
- 20           b. Any net loss for the year must be recouped by assessments of small
- 21               employer carriers.
- 22               (1) The board shall establish, as part of the plan of operation, a formula by
- 23               which to make assessments against small employer carriers. ~~The~~
- 24               ~~assessment formula must be based on:~~
- 25               (a) ~~Each small employer carrier's share of the total number of small~~
- 26               ~~group enrollees covered in the preceding calendar year from~~
- 27               ~~health benefit plans delivered or issued for delivery to small~~
- 28               ~~employers in this state by small employer carriers; and~~
- 29               (b) ~~Each small employer carrier's share of the total number of small~~
- 30               ~~group enrollees covered in the preceding calendar year from~~
- 31               ~~newly issued health benefit plans delivered or issued for delivery~~

1                                    ~~during the calendar year to small employers in this state by small~~  
2                                    ~~employer carriers.~~

3                                    (2) ~~The formula established under this subdivision may not result in any~~  
4                                    ~~small employer carrier having an assessment share that is less than~~  
5                                    ~~fifty percent nor more than one hundred fifty percent of the proportion of~~  
6                                    ~~the small employer carrier's total premiums earned in the preceding~~  
7                                    ~~calendar year from health benefit plans delivered or issued for delivery~~  
8                                    ~~to small employers in this state by small employer carriers to the total~~  
9                                    ~~premiums earned in the preceding calendar year from health benefit~~  
10                                   ~~plans delivered or issued for delivery to small employers in this state by~~  
11                                   ~~all small employer carriers.~~

12                                   (3) With the approval of the commissioner, the board may change the  
13                                   assessment formula established under this subdivision as appropriate.  
14                                   The board may provide for the shares of the assessment base  
15                                   attributable to total number of small employer group enrollees and to  
16                                   the previous year's total to vary during a transition period.

17                                   (4) (3) Subject to the approval of the commissioner, the board shall make an  
18                                   adjustment to the assessment formula for small employer carriers that  
19                                   are approved health maintenance organizations which are federally  
20                                   qualified under 42 U.S.C. 300, et seq., to the extent, if any, that  
21                                   restrictions are placed on them that are not imposed on other small  
22                                   employer carriers.

23                                   c. (1) Before ~~March~~ May first of each year, the board shall determine and file  
24                                   with the commissioner an estimate of the assessments needed to fund  
25                                   the losses incurred by the program in the previous calendar year.

26                                   (2) If the board determines the assessments needed to fund the losses  
27                                   incurred by the program in the previous calendar year will exceed five  
28                                   percent of total premiums earned in the previous calendar year from  
29                                   health benefit plans delivered or issued for delivery to small employers  
30                                   in this state by small employer carriers, the board shall evaluate the  
31                                   operation of the program and report its findings, including any

1 recommendations for changes to the plan of operation, to the  
2 commissioner within ninety days following the end of the calendar year  
3 in which the losses were incurred. The evaluation must include an  
4 estimate of future assessments and consideration of the administrative  
5 costs of the program, the appropriateness of the premiums charged, the  
6 level of insurer retention under the program and the costs of coverage  
7 for small employers. If the board fails to file a report with the  
8 commissioner within ninety days following the end of the applicable  
9 calendar year, the commissioner may evaluate the operations of the  
10 program and implement amendments to the plan of operation the  
11 commissioner determines necessary to reduce future losses and  
12 assessments.

13 d. If assessments exceed net losses of the program, the excess must be held at  
14 interest and used by the board to offset future losses or to reduce program  
15 premiums. As used in this subdivision, "future losses" includes reserves for  
16 incurred but not reported claims.

17 e. The board shall determine each small employer carrier's proportion of the  
18 assessment annually based on ~~annual statements and other reports~~  
19 ~~determined necessary by the board and filed by the small employer carriers~~  
20 ~~with the board~~ the small employer data report form to be filed with the  
21 department on March fifteenth of each year.

22 f. The plan of operation must provide for the imposition of an interest penalty for  
23 late payment of assessments.

24 g. A small employer carrier may seek from the commissioner a deferment from  
25 all or part of an assessment imposed by the board. The commissioner may  
26 defer all or part of the assessment of a small employer carrier if the  
27 commissioner determines that payment of the assessment would place the  
28 small employer carrier in a financially impaired condition. If all or part of an  
29 assessment against a small employer carrier is deferred, the amount deferred  
30 must be assessed against the other participating carriers in a manner  
31 consistent with the basis for assessment set forth in this subsection. The

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- 1 small employer carrier receiving the deferment remains liable to the program
- 2 for the amount deferred and may not reinsure any individuals or groups with
- 3 the program until it pays the assessments.