

**HOUSE BILL NO. 1150**

Introduced by

Representative M. Klein

Senator J. Klein

(At the request of the Workers Compensation Bureau)

1 A BILL for an Act to amend and reenact section 65-02-03.1, 65-02-30, and 65-03-04 of the  
2 North Dakota Century Code, relating to the term of office of members and membership of the  
3 workers compensation bureau board of directors and biennial performance evaluations of the  
4 functions and operations of the workers compensation bureau; and to provide for application.

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

6 **SECTION 1. AMENDMENT.** Section 65-02-03.1 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **65-02-03.1. Workers compensation board of directors - Appointment.**

- 9 1. ~~Beginning September 1, 1997, the initial board of directors shall consist of the~~  
10 ~~members on the state advisory council on December 15, 1996. The initial board~~  
11 ~~shall submit to the governor a list of three names of potential candidates for each~~  
12 ~~of the employer member positions and the medical association position. From~~  
13 ~~each list the governor shall select an individual to fill the member position of the~~  
14 ~~subsequent board. An organization that is statewide in scope and which through~~  
15 ~~its affiliates embraces a cross section and a majority of organized labor in this state~~  
16 ~~shall submit to the governor a list of three names of potential candidates for one of~~  
17 ~~the three employee positions. The governor shall select an individual to fill this~~  
18 ~~organized labor employee member position, and the governor shall appoint two~~  
19 ~~individuals to fill the remaining two employee positions. The subsequent board is~~  
20 ~~effective January 1, 1998.~~
- 21 2. After ~~December 31, 1997~~ the effective date of this Act, the board consists of ~~ten~~  
22 eleven members. The appointment and replacement of the members must ensure  
23 that:

- 1 a. Six board members represent employers in this state that maintain active  
2 accounts with the bureau, at least one of which must be a participant in the  
3 risk management program, at least two of which must be employers with  
4 annual premiums greater than twenty-five thousand dollars, at least one of  
5 which must be an employer with an annual premium of ten thousand dollars  
6 but less than twenty-five thousand dollars, and at least one of which must be  
7 an employer with an annual premium of less than ten thousand dollars.
- 8 b. Three members represent employees; at least one member must have  
9 received workers' compensation benefits; and at least one member must  
10 represent organized labor.
- 11 c. One ~~nonvoting~~ member is a member of the North Dakota medical association.
- 12 d. One member is a member at large who must be a resident of this state and at  
13 least twenty-one years of age.
- 14 ~~3.~~ 2. Board members shall serve ~~six-year~~ four-year terms, except ~~of the initial board~~  
15 ~~members, an employee representative and two employer representatives shall~~  
16 ~~serve only through December 31, 1998; an employee representative and two~~  
17 ~~employer representatives shall serve only through December 31, 2000; and an~~  
18 ~~employee representative, two employer representatives, and the medical~~  
19 ~~association representative shall serve only through December 31, 2002, as~~  
20 ~~determined by lot to initiate a cycle that results in three members' terms expiring on~~  
21 ~~December thirty first of each even-numbered year, and beginning~~ the initial term of  
22 office of the member at large to be appointed upon the effective date of this Act  
23 expires on December 31, 2006, and the term of office of the medical association  
24 member whose term of office became effective January 1, 2003, expires on  
25 December 31, 2006. The governor shall make the necessary appointments to  
26 ensure the term of office of members begins on January first of each  
27 odd-numbered year. Board members may not serve more than ~~two~~ three  
28 consecutive terms. A departing member representing an employer must be  
29 replaced by a member representing an employer, most of whose employees are in  
30 a different rate classification than those of the employer represented by the  
31 departing member. The governor shall appoint the replacement member for a

1 departing employer representative or medical association representative from a list  
2 of three candidates submitted by the board. The governor shall select the  
3 replacement member for the departing organized labor employee representative  
4 from a list of three names of potential candidates submitted by an organization that  
5 is statewide in scope and which through its affiliates embraces a cross section and  
6 a majority of organized labor in this state, ~~and the~~. The governor shall select the  
7 replacement member for a departing nonorganized labor employee representative.  
8 The governor shall appoint the replacement member for the member at large from  
9 a list of three candidates submitted by the board. Vacancies in the membership of  
10 the board must be filled for the unexpired term by appointment by the governor as  
11 provided in this subsection.

12 **SECTION 2. AMENDMENT.** Section 65-02-23 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **65-02-23. Workers' compensation fraud unit - Continuing appropriation.** The  
15 bureau shall establish a workers' compensation fraud unit. The bureau may employ  
16 investigators and licensed attorneys, or contract with a private investigator whenever feasible or  
17 cost effective, to investigate and review any alleged case of fraud against the fund by  
18 employers, injured workers, or providers of medical or other services, including activities  
19 described under section 65-04-33 or 65-05-33. The unit shall refer cases of fraud to the bureau  
20 for the imposition of administrative penalties and may refer them to the appropriate authorities  
21 for prosecution. Money in the workers' compensation fund is appropriated on a continuing  
22 basis for payment of costs associated with identifying, preventing, and investigating employer or  
23 provider fraud. ~~The biennial independent performance evaluation of the bureau must evaluate~~  
24 ~~and report on the effectiveness of these expenditures.~~ The bureau may establish a process to  
25 charge investigative costs against the rate class of an employer being investigated and to credit  
26 any recoveries to that rate class.

27 **SECTION 3. AMENDMENT.** Section 65-02-30 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **65-02-30. Independent performance evaluation - Bureau development of**  
30 **performance measurements - Continuing appropriation.** Biennially, the director shall  
31 request the state auditor to select a firm with extensive expertise in workers' compensation

1 practices and standards to complete a performance evaluation of the functions and operations  
2 of the bureau during that biennium. This may not be construed to require the firm to be a  
3 certified public accounting firm. The evaluation must evaluate ~~the~~ departments of the bureau  
4 as determined necessary by the state auditor in consultation with the board to determine  
5 whether the bureau is providing quality service in an efficient and cost-effective manner. The  
6 firm also shall conduct a performance evaluation of the board to determine whether the board is  
7 operating within section 65-02-03.3 and within the board's bylaws. The firm's report must  
8 contain recommendations for departmental improvement or an explanation of why no  
9 recommendations are being made. The director, the chairman of the board, and a  
10 representative of the firm shall present the evaluation report and any action taken to the  
11 legislative council's legislative audit and fiscal review committee and to the house and senate  
12 industry, business and labor standing committees during the next regular session of the  
13 legislative session following the performance evaluation. The director shall provide a copy of  
14 the performance evaluation report to the state auditor. The bureau shall develop and maintain  
15 comprehensive, objective performance measurements. These measurements must be  
16 evaluated as part of the independent performance evaluation performed under this section.  
17 Money in the workers' compensation fund is appropriated on a continuing basis for the payment  
18 of the expense of conducting the performance evaluation.

19 **SECTION 4. AMENDMENT.** Section 65-03-04 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **65-03-04. Safety programs.** The bureau shall create and operate work safety and loss  
22 prevention programs to protect the health of covered employees and the financial integrity of  
23 the fund, including programs promoting safety practices by employers and employees through  
24 education, training, consultation, grants, or incentives. ~~The biennial independent performance~~  
25 ~~evaluation of the bureau must evaluate and report on the effectiveness of these programs.~~

26 **SECTION 5. APPLICATION OF ACT.** The reduction in the term of office from six  
27 years to four years in section 2 of this Act does not affect the term of office of a member  
28 appointed before the effective date of this Act, except as provided in section 2 of this Act.