

**SENATE BILL NO. 2257**

Introduced by

Senators Heitkamp, Nething

Representatives Amerman, DeKrey

1 A BILL for an Act to create and enact a new section to chapter 65-02 of the North Dakota  
2 Century Code, relating to creation of an advisory board for workforce safety and insurance; to  
3 amend and reenact subsection 1 of section 21-10-01, subsections 7 and 13 of section  
4 65-01-02, sections 65-02-01, 65-02-30, and 65-04-19.3, subdivision b of subsection 3 of section  
5 65-05-29, and section 65-05.1-08 of the North Dakota Century Code, relating to reference to  
6 the workforce safety and insurance board of directors; and to repeal sections 65-02-03.1,  
7 65-02-03.2, and 65-02-03.3 of the North Dakota Century Code, relating to the workforce safety  
8 and insurance board of directors.

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

10 **SECTION 1. AMENDMENT.** Subsection 1 of section 21-10-01 of the North Dakota  
11 Century Code is amended and reenacted as follows:

12 1. The North Dakota state investment board consists of the governor, the state  
13 treasurer, the commissioner of university and school lands, the director of  
14 workforce safety and insurance, the insurance commissioner, three members of  
15 the teachers' fund for retirement board or the board's designees who need not be  
16 members of the fund as selected by that board, and three of the elected members  
17 of the public employees retirement system board as selected by that board. The  
18 executive director of workforce safety and insurance may appoint a designee;  
19 ~~subject to approval by the workforce safety and insurance board of directors,~~ to  
20 attend the meetings, participate, and vote when the director is unable to attend.  
21 The teachers' fund for retirement board may appoint an alternate designee with full  
22 voting privileges to attend meetings of the state investment board when a selected  
23 member is unable to attend. The public employees retirement system board may  
24 appoint an alternate designee with full voting privileges from the public employees

1 retirement system board to attend meetings of the state investment board when a  
2 selected member is unable to attend. The members of the state investment board,  
3 except elected and appointed officials and the executive director of workforce  
4 safety and insurance or the executive director's designee, are entitled to receive as  
5 compensation sixty-two dollars and fifty cents per day and necessary mileage and  
6 travel expenses as provided in sections 44-08-04 and 54-06-09 for attending  
7 meetings of the state investment board.

8 **SECTION 2. AMENDMENT.** Subsections 7 and 13 of section 65-01-02 of the North  
9 Dakota Century Code are amended and reenacted as follows:

10 7. "Board" means the workforce safety and insurance advisory board ~~of directors~~.

11 13. "Director" means the executive director of the organization.

12 **SECTION 3. AMENDMENT.** Section 65-02-01 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **65-02-01. Workforce safety and insurance - ~~Director~~ Executive director - Division**  
15 **directors.** The organization must be maintained for the administration of this title. The ~~board~~  
16 governor shall appoint the executive director of the organization. The director is subject to the  
17 supervision and direction of the ~~board~~ governor and serves at the pleasure of the ~~board~~  
18 governor. The appointment must be on a nonpartisan, merit basis, in accordance with chapter  
19 54-42. The governor shall set the compensation and prescribe the duties of the director. The  
20 director may appoint the director of any division established by the director. The appointment of  
21 a division director must be on a nonpartisan, merit basis.

22 **SECTION 4.** A new section to chapter 65-02 of the North Dakota Century Code is  
23 created and enacted as follows:

24 **Workforce safety and insurance advisory board - Composition - Compensation -**  
25 **Duties.** The director shall appoint a workforce safety and insurance advisory board composed  
26 of an equal number of employer representatives and employee representatives who may be  
27 regarded fairly as representative because of the representative's vocation, employment, or  
28 affiliations, and members representing the general public as the director may designate. The  
29 board shall aid the organization in formulating policies, discussing problems related to the  
30 administration of the organization, and in assuring impartiality and freedom from political  
31 influence in the solution of these problems. The members of the board may be reimbursed for

1 expenses in the amounts provided by law for state officials but must serve without further  
2 compensation except as may be authorized and fixed by the organization by rule. The  
3 organization shall provide staff services to the board. The board shall assist the organization in  
4 formulating policies and discussing problems related to the administration of the organization,  
5 including adoption of rules, establishment of fees, determination of employer premium rates,  
6 maintenance of the solvency of the workforce safety and insurance fund, and provision of  
7 rehabilitation services. The board may make recommendations and proposals for consideration  
8 by the director.

9           **SECTION 5. AMENDMENT.** Section 65-02-30 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **65-02-30. Independent performance evaluation - Organization development of**  
12 **performance measurements - Continuing appropriation.** Biennially, the director shall  
13 request the state auditor to select a firm with extensive expertise in workforce safety and  
14 insurance practices and standards to complete a performance evaluation of the functions and  
15 operations of the organization during that biennium. This may not be construed to require the  
16 firm to be a certified public accounting firm. As determined necessary by the state auditor, but  
17 at least once every other biennium, the biennial independent performance evaluation must  
18 evaluate departments of the organization to determine whether the organization is providing  
19 quality service in an efficient and cost-effective manner; evaluate the effectiveness of safety  
20 and loss prevention programs under section 65-03-04; and evaluate the board to determine  
21 whether the board is operating within section ~~65-02-03.3~~ and within the board's bylaws 4 of this  
22 Act. The firm's report must contain recommendations for departmental improvement or an  
23 explanation of why no recommendations are being made. The director, ~~the chairman of the~~  
24 ~~board~~, and a representative of the firm shall present the evaluation report and any action taken  
25 to the legislative council's legislative audit and fiscal review committee and to the house and  
26 senate industry, business and labor standing committees during the next regular session of the  
27 legislative session following the performance evaluation. The director shall provide a copy of  
28 the performance evaluation report to the state auditor. The organization shall develop and  
29 maintain comprehensive, objective performance measurements. These measurements must  
30 be evaluated as part of the independent performance evaluation performed under this section.

1 Money in the workforce safety and insurance fund is appropriated on a continuing basis for the  
2 payment of the expense of conducting the performance evaluation.

3 **SECTION 6. AMENDMENT.** Section 65-04-19.3 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **65-04-19.3. Premium calculation programs - Authority.** ~~Upon approval of its board~~  
6 ~~of directors, the~~ The organization may create and implement actuarially sound employer  
7 premium calculation programs, including dividends, group insurance, premium deductibles, and  
8 reimbursement for medical expense assessments. Programs created or modified under this  
9 section are not subject to title 28-32 and may include requirements or incentives for the early  
10 reporting of injuries. An employer with a deductible policy under this section, who chooses to  
11 pursue a third-party action under section 65-01-09 after an injured worker and the organization  
12 have chosen not to pursue the third-party action, may keep one hundred percent of the  
13 recovery obtained, regardless of the expense incurred in covering the injury and regardless of  
14 any contrary provision in section 65-01-09. If the employer pursues the third-party action  
15 pursuant to this section, neither the organization nor the injured worker has any liability for  
16 sharing in the expense of bringing that action.

17 **SECTION 7. AMENDMENT.** Subdivision b of subsection 3 of section 65-05-29 of the  
18 North Dakota Century Code is amended and reenacted as follows:

19 b. An adjudication by the organization or by order of ~~the board or~~ any court, if  
20 the final decision is that the payment was made under an erroneous  
21 adjudication, in which cases the recipient shall repay it or recoupment of any  
22 unpaid amount may be made from any future payments due to the recipient  
23 on any claim with the organization;

24 **SECTION 8. AMENDMENT.** Section 65-05.1-08 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **65-05.1-08. Workforce safety and insurance educational revolving loan fund -**  
27 **Continuing appropriation.**

28 1. The organization may establish a revolving loan fund to provide a low-interest loan  
29 to an individual who has suffered a compensable injury. The loan must be used to  
30 pursue an education at an accredited institution of higher education or an institution  
31 of technical education. In order to be eligible for a loan under this section, an

1 individual must have obtained a high school diploma or its equivalent and either  
2 must be ineligible for retraining under this chapter or must have exhausted training  
3 and education benefits. The Bank of North Dakota and the organization shall  
4 establish eligibility requirements and make application determinations based on the  
5 established criteria. The application must require an applicant to demonstrate a  
6 viable education plan that will enable the individual to achieve gainful employment.

7 2. The total amount loaned annually under this section may not exceed two million  
8 five hundred thousand dollars. The maximum amount payable on behalf of an  
9 applicant may not exceed fifty thousand dollars and must be payable within five  
10 years. A loan must be repaid within a period not to exceed twenty years at an  
11 interest rate of one percent below the Bank of North Dakota's prime interest rate.  
12 The organization shall pay the Bank of North Dakota a negotiated fee for  
13 administering and servicing loans under this section. At the ~~board's~~ director's  
14 discretion, moneys to establish and maintain the revolving loan fund must be  
15 appropriated from the organization's workforce safety and insurance fund. The  
16 revolving loan fund is a special fund and must be invested pursuant to section  
17 21-10-06. Investment income and collections of interest and principal on loans  
18 made from the revolving loan fund are appropriated on a continuing basis to  
19 maintain the fund and provide loans in accordance with this section. The ~~board~~  
20 director, as determined necessary, may transfer uncommitted moneys of the  
21 revolving loan fund to the workforce safety and insurance fund.

22 **SECTION 9. REPEAL.** Sections 65-02-03.1, 65-02-03.2, and 65-02-03.3 of the North  
23 Dakota Century Code are repealed.