

Sixty-second  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2114**

Introduced by

Industry, Business and Labor Committee

(At the request of Workforce Safety and Insurance)

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 of  
2 the North Dakota Century Code, relating to background checks for potential workforce safety  
3 and insurance job applicants; to amend and reenact subsection 3 of section 65-04-32,  
4 subdivision h of subsection 8 of section 65-05-07, section 65-05-20.1, subsection 2 of section  
5 65-05-28, subsection 4 of section 65-05.1-04, subdivision b of subsection 2 of section  
6 65-05.1-06.1, and subsection 1 of section 65-05.1-08 of the North Dakota Century Code,  
7 relating to service of administrative orders by regular mail, nonpayment of weight loss and  
8 smoking programs unless ordered by the organization, eligibility for the scholarship program,  
9 travel reimbursements for injured workers, work trial and work search, payment of mileage  
10 during training programs, and eligibility for the revolving loan fund; and to provide for  
11 application.

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

13 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota  
14 Century Code is created and enacted as follows:

15 Workforce safety and insurance for a final applicant for a specified occupation  
16 with workforce safety and insurance as designated by the director, or for  
17 contractors who may have access to confidential information as designated by  
18 the director.

19 **SECTION 2. AMENDMENT.** Subsection 3 of section 65-04-32 of the North Dakota Century  
20 Code is amended and reenacted as follows:

- 21 3. Within sixty days after receiving a petition for reconsideration, unless settlement  
22 negotiations are ongoing, the organization shall serve on the parties by certified regular  
23 mail a notice of decision reversing the previous decision or, in accordance with the  
24 North Dakota Rules of Civil Procedure, an administrative order including its findings of

fact, conclusions of law, and order, in response to the petition for reconsideration. The organization may serve an administrative order on any decision made by informal internal review without first issuing a notice of decision and receiving a request for reconsideration.

**SECTION 3. AMENDMENT.** Subdivision h of subsection 8 of section 65-05-07 of the North Dakota Century Code is amended and reenacted as follows:

h. Aids or programs primarily intended to help the employee lose weight or stop smoking unless ordered by the organization.

**SECTION 4. AMENDMENT.** Section 65-05-20.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-20.1. Scholarship fund - Rules.**

The organization may establish a scholarship fund to provide scholarships for the spouse and dependent ~~children~~ child of a worker who dies as a result of a compensable work-related injury, if the spouse and ~~children~~ child have received benefits under section 65-05-17. The organization may also grant scholarships for the spouse and child of an injured worker deemed to be catastrophically injured as defined in subdivision c of subsection 2 of section 65-05.1-06.1 and the child meets the definition of child at the time of the initial scholarship application. The organization may also grant scholarships to injured workers for whom the organization determines a scholarship would be beneficial and appropriate because of exceptional circumstances, or upon successful completion of a rehabilitation program contemplated under subdivision g of subsection 4 of section 65-05.1-01, as determined by the organization. Scholarships are payable to an accredited institution of higher education or an institution of technical education on behalf of a student attending that institution. The total amount awarded annually in scholarships may not exceed ~~three~~ five hundred thousand dollars. The maximum amount payable on behalf of an applicant is ~~four~~ ten thousand dollars per year for no more than five years, except that ~~scholarships awarded on the basis of exceptional circumstances may not exceed ten thousand dollars per year for more than five years, per applicant~~ the combined retraining and scholarship periods for applicants successfully completing a rehabilitation program under subdivision g of subsection 4 of section 65-05.1-01 may not exceed five years. Scholarships must be awarded by a panel chosen by the organization. The organization shall adopt rules establishing selection criteria and obligations associated with the program and

1 identifying information an applicant is required to submit to determine an appropriate  
2 scholarship award. There is no right to reconsideration, rehearing, or appeal from any decision  
3 regarding the award, denial, or amount of a scholarship.

4 **SECTION 5. AMENDMENT.** Subsection 2 of section 65-05-28 of the North Dakota Century  
5 Code is amended and reenacted as follows:

6 2. Travel and other personal reimbursement for seeking and obtaining medical care is  
7 paid only upon request of the injured employee. All claims for reimbursement must be  
8 supported by the original vendor receipt, when appropriate, and must be submitted  
9 within one year of the date the expense was incurred or reimbursement must be  
10 denied. Reimbursement must be made at the organization reimbursement rates in  
11 effect on the date of incurred travel or expense. The calculation for reimbursement for  
12 travel by motor vehicle must be calculated using miles actually and necessarily  
13 traveled. Providing further that:

- 14 a. Payment for mileage or other travel expenses may not be made when the  
15 distance traveled is less than fifty miles [80.47 kilometers] one way, unless the  
16 total mileage equals or exceeds two hundred miles [321.87 kilometers] in a  
17 calendar month;
- 18 b. All travel reimbursements are payable at the rates at which state employees are  
19 paid per diem and mileage, except that the organization may pay no more than  
20 actual cost of ~~meals and~~ lodging, if actual cost is less;
- 21 c. Reimbursement may not be paid for travel other than that necessary to obtain the  
22 closest available medical or hospital care needed for the injury. If the injured  
23 employee chooses to seek medical treatment outside a local area where care is  
24 available, travel reimbursement may be denied;
- 25 d. Reimbursement may not be paid for the travel and associated expenses incurred  
26 by the injured employee's spouse, children, or other persons unless the  
27 employee's injury prevents travel alone and the inability is medically  
28 substantiated; and
- 29 e. Other expenses, including telephone calls and car rentals are not reimbursable  
30 expenses.

**SECTION 6. AMENDMENT.** Subsection 4 of section 65-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

4. If the first appropriate rehabilitation option under subsection 4 of section 65-05.1-01 is return to the same, modified, or alternative occupation, or return to an occupation that is suited to the employee's education, experience, and marketable skills, the employee is responsible to make a good-faith work trial or work search. If the employee fails to perform a good-faith work trial or work search, the organization may not pay additional disability benefits unless the employee meets the criteria for reapplying for benefits required under subsection 1 of section 65-05-08. If the employee meets the burden of proving that the employee made a good-faith work trial or work search and that the work trial or work search was unsuccessful due to the injury, the organization shall reevaluate the employee's vocational rehabilitation claim. When the first appropriate vocational rehabilitation option is identified for an employee, the organization shall notify the employee of the obligation to make a good-faith work search or good-faith work trial, and provide information to the employee regarding reinstatement of benefits if the work search or work trial is unsuccessful.

**SECTION 7. AMENDMENT.** Subdivision b of subsection 2 of section 65-05.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

- b. The rehabilitation allowance must include, as chosen by the employee, an additional thirty percent of the rehabilitation allowance for expenses associated with maintaining a second domicile or for travel associated with attendance at a school or training institution when it is necessary for the employee to travel at least twenty-five miles [40.23 kilometers] one way. Travel must be calculated from the employee's residence to the school or training institution. If it is necessary for an employee to travel less than twenty-five miles one way to a school or training institution, the employee may qualify for an additional rehabilitation allowance as determined in accordance with the following schedule:

	Percentage increase in rehabilitation allowance
Round-trip mileage	
Under 10 miles	0
10 to 30 miles	10

1 31 to ~~50~~49 miles 20

2 Travel must be calculated from the employee's residence to the school or training  
3 institution.

4 **SECTION 8. AMENDMENT.** Subsection 1 of section 65-05.1-08 of the North Dakota

5 Century Code is amended and reenacted as follows:

6 1. The organization may establish a revolving loan fund to provide a low-interest loan to  
7 an injured employee or to a surviving spouse or ~~dependent~~ child of an injured  
8 employee whose death resulted from a compensable injury under section 65-05-16; or  
9 to the spouse or child of an injured employee deemed to be catastrophically injured as  
10 defined in subdivision c of subsection 2 of section 65-05.1-06.1 and the child meets  
11 the definition of child at the time of the initial loan application; or to the spouse or child  
12 of an injured employee deemed to be eligible for permanent total disability benefits as  
13 defined in section 65-01-02 and the child meets the definition of child at the time of the  
14 initial loan application. The loan must be used to pursue an education at an accredited  
15 institution of higher education or an institution of technical education. In order to be  
16 eligible for a loan under this section, an individual must have obtained a high school  
17 diploma or its equivalent and either must be ineligible for retraining under this chapter  
18 or must have exhausted training and education benefits. The Bank of North Dakota  
19 and the organization shall establish eligibility requirements and make application  
20 determinations based on the established criteria. The application must require an  
21 applicant to demonstrate a viable education plan that will enable the individual to  
22 achieve gainful employment.

23 **SECTION 9. APPLICATION.** Scholarships granted and increased amounts payable as  
24 provided for in section 4 of this Act apply to all applications received and rehabilitation programs  
25 completed on or after the effective date of this Act.

26 The amendment provided for in section 5 of this Act applies to expenses submitted on or  
27 after the effective date of this Act.

28 The amendment provided for in section 6 of this Act applies to all claims regardless of date  
29 of injury.

30 The amendment provided for in section 8 of this Act pertaining to applications for  
31 low-interest educational loans for the spouse or child of an injured worker deemed to be

1 catastrophically injured applies to all applications received on or after the effective date of this  
2 Act.

3 The amendment provided for in section 8 of this Act pertaining to applications for  
4 low-interest educational loans applies to the spouse or child of an injured employee whose  
5 claim was filed on or after January 1, 2006, and has been deemed permanently and totally  
6 disabled.