

SENATE BILL NO. 2114
with House Amendments
SENATE BILL NO. 2114

Sixty-second
Legislative Assembly
of North Dakota

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.

12 **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 mail
23 an administrative order including its findings of fact, conclusions of law, and order, in
24 response to the petition for reconsideration. The organization may serve an

1 administrative order on any decision made by informal internal review without first
2 issuing a notice of decision and receiving a request for reconsideration.

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

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

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

9 **65-05-20.1. Scholarship fund - Rules.**

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

1 scholarship award. There is no right to reconsideration, rehearing, or appeal from any decision
2 regarding the award, denial, or amount of a scholarship.

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

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

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

30 **SECTION 6. AMENDMENT.** Subsection 4 of section 65-05.1-04 of the North Dakota
31 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
31 to 50 <u>49</u> miles	20

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

3 **SECTION 8. AMENDMENT.** Subsection 1 of section 65-05.1-08 of the North Dakota
4 Century Code is amended and reenacted as follows:

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

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

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

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

29 The amendment provided for in section 8 of this Act pertaining to applications for
30 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.