

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1038
(Legislative Council)
(Workers' Compensation Review Committee)

AN ACT to create and enact a new section to chapter 65-05 of the North Dakota Century Code, relating to workers' compensation additional benefits payable; to amend and reenact subsection 5 of section 65-05-07 and sections 65-05-16, 65-05.1-08, and 65-05.2-01 of the North Dakota Century Code, relating to workers' compensation benefits for the catastrophically injured, additional benefits payable, death benefits, supplemental benefits, loans for education; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 65-05-07 of the North Dakota Century Code is amended and reenacted as follows:

5. If the injured employee sustained a catastrophic injury, as defined in chapter 65-05.1:
 - a. The organization may not pay more than an amount not to exceed fifty thousand dollars to provide permanent additions, remodeling, or adaptations to real estate it determines necessary for a worker who sustains a catastrophic injury as defined in chapter 65-05.4. The fifty thousand dollar limit is for the life of the injured employee, regardless of any subsequent claim. This subsection subdivision does not allow the organization to purchase any real estate or motor vehicles.
 - b. The organization may pay an amount not to exceed one hundred thousand dollars to provide the most cost-effective, specially equipped motor vehicle or vehicle adaptations it determines medically necessary. The organization may establish factors to be used in determining whether a specially equipped motor vehicle or adaptation is necessary. Under this subdivision, the organization may not pay for insurance of or maintenance of the motor vehicle. Within the dollar limit and under this subdivision, the organization may pay for vehicle or adaptation replacement purchases. The dollar limit is for the life of the injured employee, regardless of any subsequent claim.

SECTION 2. A new section to chapter 65-05 of the North Dakota Century Code is created and enacted as follows:

Additional benefit payable - Alternative calculation.

1. This section applies to an injured employee who has a claim for which:
 - a. A compensable injury was incurred before August 1, 1995;
 - b. The date of first disability or the date of successful reapplication under subsection 1 of section 65-05-08 was after July 31, 1995; and
 - c. The injured employee received a determination of permanent and total disability before August 1, 2007.
2. An injured employee who meets the requirements of subsection 1 is entitled to an alternative calculation of additional benefits payable instead of the calculation provided for under section 65-05-09.4. For the limited purpose of this alternative calculation, the

organization shall use the calculation established under section 65-05-09.4 and shall consider that the injured employee's pre-August 1, 1995, date of injury is also the injured employee's date of first disability.

SECTION 3. AMENDMENT. Section 65-05-16 of the North Dakota Century Code is amended and reenacted as follows:

65-05-16. Death benefits payable.

1. The organization may pay benefits under this chapter in the case of the death of an injured employee as the direct result of an injury sustained in the course of the injured employee's employment when:
 - a. If there has been no disability preceding death, the death occurs within one year after the date of the injury;
 - b. If there has been disability preceding death, the death occurs within one year after the cessation of disability resulting from the injury; ~~or~~
 - c. If there has been disability ~~which that~~ has continued to the time of death, the death occurs within six years after the date of injury; or
 - d. If there has been disability that has continued to the time of death, the death occurs more than six years after the date of injury, and the injured employee has been designated catastrophically injured as defined under section 65-05.1-06.1.
2. The organization may not pay death benefits unless a claim is submitted within two years of the death and:
 - a. The death is a direct result of an accepted compensable injury; or
 - b. If ~~no~~ a claim was not submitted by the deceased, the claim for death benefits is submitted within two years of the injury.

SECTION 4. AMENDMENT. Section 65-05.1-08 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The organization may establish a revolving loan fund to provide a low-interest loan to an ~~individual who has suffered a compensable injury~~ injured employee or to a surviving spouse or dependent child of an injured employee whose death resulted from a compensable injury under section 65-05-16. The loan must be used to pursue an education at an accredited institution of higher education or an institution of technical education. In order to be eligible for a loan under this section, an individual must have obtained a high school diploma or its equivalent and either must be ineligible for retraining under this chapter or must have exhausted training and education benefits. The Bank of North Dakota and the organization shall establish eligibility requirements and make application determinations based on the established criteria. The application must require an applicant to demonstrate a viable education plan that will enable the individual to achieve gainful employment.
2. The total amount loaned annually under this section may not exceed two million five hundred thousand dollars. The maximum amount payable on behalf of an applicant may not exceed fifty thousand dollars and must be payable within five years. A loan must be repaid within a period not to exceed twenty years. A loan must be repaid at an interest rate established by the organization which may not exceed the rate of one percent below the Bank of North Dakota's prime interest rate. The organization shall pay the Bank of

North Dakota a negotiated fee for administering and servicing loans under this section. At the board's discretion, moneys to establish and maintain the revolving loan fund must be appropriated from the organization's workforce safety and insurance fund. The revolving loan fund is a special fund and must be invested pursuant to section 21-10-06. Investment income and collections of interest and principal on loans made from the revolving loan fund are appropriated on a continuing basis to maintain the fund and provide loans in accordance with this section. The board, as determined necessary, may transfer uncommitted moneys of the revolving loan fund to the workforce safety and insurance fund.

SECTION 5. AMENDMENT. Section 65-05.2-01 of the North Dakota Century Code is amended and reenacted as follows:

65-05.2-01. Eligibility for supplementary benefits.

1. A For claims filed before January 1, 2006, a workforce safety and insurance claimant who is receiving permanent total disability benefits, or death benefits, and who has been receiving disability or death benefits for a period of seven consecutive years is eligible for supplementary benefits. Eligibility for supplementary benefits under this subsection lasts as long as the claimant is entitled to permanent total disability benefits or death benefits.
2. For claims filed after December 31, 2005, a workforce safety and insurance claimant who is receiving permanent total disability benefits or death benefits and who has been receiving disability or death benefits for a period of at least three consecutive years is eligible for supplementary benefits. Eligibility for supplementary benefits under this subsection lasts as long as the claimant is entitled to permanent total disability benefits or death benefits.

SECTION 6. APPLICATION. Section 1 of this Act applies to all purchases and repairs that take place on or after the effective date of this Act, and section 3 of this Act applies to claims for death benefits filed on or after the effective date of this Act.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1038 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 91 Nays 1 Absent 2

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State