

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2114
(Industry, Business and Labor Committee)
(At the request of Workforce Safety and Insurance)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

3. Within sixty days after receiving a petition for reconsideration, unless settlement negotiations are ongoing, the organization shall serve on the parties by certified mail 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 identifying information an applicant is required to submit to determine an appropriate scholarship award. There is no right to reconsideration, rehearing, or appeal from any decision regarding the award, denial, or amount of a scholarship.

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

2. Travel and other personal reimbursement for seeking and obtaining medical care is paid only upon request of the injured employee. All claims for reimbursement must be supported by the original vendor receipt, when appropriate, and must be submitted within one year of the date the expense was incurred or reimbursement must be denied. Reimbursement must be made at the organization reimbursement rates in effect on the date of incurred travel or expense. The calculation for reimbursement for travel by motor vehicle must be calculated using miles actually and necessarily traveled. Providing further that:
 - a. Payment for mileage or other travel expenses may not be made when the distance traveled is less than fifty miles [80.47 kilometers] one way, unless the total mileage equals or exceeds two hundred miles [321.87 kilometers] in a calendar month;
 - b. All travel reimbursements are payable at the rates at which state employees are paid per diem and mileage, except that the organization may pay no more than actual cost of ~~meals and~~ lodging, if actual cost is less;
 - c. Reimbursement may not be paid for travel other than that necessary to obtain the closest available medical or hospital care needed for the injury. If the injured employee chooses to seek medical treatment outside a local area where care is available, travel reimbursement may be denied;
 - d. Reimbursement may not be paid for the travel and associated expenses incurred by the injured employee's spouse, children, or other persons unless the employee's injury prevents travel alone and the inability is medically substantiated; and
 - e. Other expenses, including telephone calls and car rentals are not reimbursable 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:

Round-trip mileage	Percentage increase in rehabilitation allowance
Under 10 miles	0
10 to 30 miles	10
31 to 50 49 miles	20

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

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

- 1. The organization may establish a revolving loan fund to provide a low-interest loan to an 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; or to the spouse or child of an injured employee 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 loan application; or to the spouse or child of an injured employee deemed to be eligible for permanent total disability benefits as defined in section 65-01-02 and the child meets the definition of child at the time of the initial loan application. 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.

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

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

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

The amendment provided for in section 8 of this Act pertaining to applications for low-interest educational loans for the spouse or child of an injured worker deemed to be catastrophically injured applies to all applications received on or after the effective date of this Act.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2114.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 91 Nays 0 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State