

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1283
(Representatives Carlson, Boucher, Poolman)
(Senators Kinnoin, Krebsbach, G. Nelson)

AN ACT to amend and reenact sections 65-05-17, 65-05-20.1, 65-05-26, and 65-05.2-02 of the North Dakota Century Code, relating to increasing workers' compensation death benefits; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-05-17. Weekly compensation allowances for death claims. If death results from an injury under the conditions specified in section 65-05-16, the fund shall pay to the following persons, for the periods specified, ~~a weekly compensation:~~

1. To the decedent's spouse or to the guardian of the children of the decedent, an amount equal to ~~sixty six and two thirds percent of the weekly wage of the decedent, not to exceed the state's average weekly wage in effect at the time of the death~~ the benefit rate for total disability under section 65-05-09. These benefits continue until the death or remarriage of the decedent's spouse; or, if the surviving children of the decedent are under the care of a guardian, until those children no longer meet the definition of "child" in this title. If there is more than one guardian for the children who survive the decedent, the bureau shall divide the death benefits equally among the children and shall pay benefits to the children's guardians. ~~Total weekly death benefits paid may not be less than sixty percent of the maximum weekly death benefits payable.~~ Total death benefits, including supplementary benefits, paid on any one claim may not exceed one hundred ninety-seven thousand dollars. All recipients of benefits under this subsection are eligible for benefits at the rate provided in this section, regardless of the date of death of the deceased employee.
2. To each child of the deceased employee, the amount of ten dollars per week. This rate must be paid to each eligible child regardless of the date of death. The bureau may pay the benefit directly to the child of the deceased employee or to the surviving parent or guardian of the child. Dependency allowance may not be reduced by the percentage of aggravation.
3. In addition to the payments provided under subsections 1 and 2, ~~the bureau shall make a payment in the sum of six twelve hundred dollars to the decedent's spouse or the guardian of the children of the decedent and two four hundred dollars for each dependent child.~~ Where there is more than one guardian of the decedent's surviving children, the six twelve hundred dollars must be divided equally among the children and paid to the children's guardians.

SECTION 2. AMENDMENT. Section 65-05-20.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-05-20.1. (Effective through July 31, 2001) Scholarship fund - Rules. The bureau may establish a scholarship fund to provide scholarships for the spouse and dependent children of a worker who dies as a result of a compensable work-related injury, if the spouse and children have received benefits under section 65-05-17. The bureau may also grant scholarships to injured workers for whom the bureau determines a scholarship would be beneficial and appropriate because of exceptional circumstances as determined by the bureau. 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 one hundred ~~fifty~~ thousand dollars. The maximum amount payable on behalf of an applicant is ~~one three thousand five hundred~~ dollars per year for no more than five years. Scholarships must be awarded by a panel chosen by the bureau. The bureau 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 3. AMENDMENT. Section 65-05-26 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-05-26. Burial expenses. If death benefits are payable under section 65-05-16, the fund shall pay to the facility handling the funeral arrangements of the deceased employee burial expenses not to exceed ~~five~~ six thousand ~~five hundred~~ dollars.

SECTION 4. AMENDMENT. Section 65-05.2-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-05.2-02. Supplementary benefits - Amount. A claimant who is eligible for supplementary benefits and who is receiving permanent total disability benefits, or death benefits regardless of the date of death, is entitled to receive a weekly supplementary benefit that, when added to the weekly permanent total disability benefit or death benefit, results in a combined benefit of at least sixty percent of the state's average weekly wage on July first of each year. An annual recalculation of supplementary benefits may not result in a rate less than the previous rate. If a claim has been accepted on an aggravation basis under section 65-05-15 and the claimant is eligible for supplementary benefits, the claimant's supplementary benefit must be proportionally calculated.

SECTION 5. EFFECTIVE DATE. Eligibility for the increased benefit rate pursuant to the changes in subsection 1 of section 1 and in section 4 of this Act is prospective only, beginning with the effective date of this Act. Injured workers receiving benefits under subsection 1 of section 65-05-17 and also receiving supplementary benefits under section 65-05.2-02 are not eligible for the increased benefit rate provided in subsection 1 of section 1.

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 Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1283.

House Vote: Yeas 92 Nays 0 Absent 6

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State