

2011 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2114

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2114
January 11, 2011
12737

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to background check for potential workforce safety and insurance job applicants

Minutes:

See attached testimony

Chairman Senator Klein opened the hearing on SB 2114 relating to background check for potential workforce safety and insurance job applicants.

Jodi Bjornson, General Counsel of Workforce Safety and Insurance (WSI). See attached testimony, in support of this bill.

Chairman Klein: We have been doing certified letter, and now we're going to just mail it?

Jodi Bjornson: We have. It is inconsistent in our administrative order process, we have some. The bulk of our administrative orders are in the claims side, and there bring issues by regular mail with an affidavit of mailing, and its' just want, one to provide some consistency two, I think it is overkill. Its' working on the claims side, I don't need to know that we need to know that we need to bear that expense. And then to keep it consistent so all orders are issued the same.

Jodi Bjornson: Continued with testimony

Chairman Klein: Jodi, are we up against the cap at \$300,000 or are we just trying to make sure.

Jody Bjornson: We're not. But we would like give out, **Chairman Klein:** We have applicants, but we haven't burned up the \$300,000. **Jody Bjornson:** No. there is some cushion there. However, with new people on board, adding those additional applicants, we want to make sure that we have sufficient amount for some outstanding money. **Chairman Klein:** And we think we'll get some additional, we should be able to get additional people on board when we go back to the catastrophically injured and that other category. **Jody Bjornson:** That's our hope. In addition if we're going to raise the \$4000 amount to \$10,000 it going to eat up some too.

Jody Bjornson: "Eat up" is the technical term.

Senator Andrist: Do you have a question? No.

Senator Schneider: Under Section 3, regarding the underlined language on last ordered by the organization, just out of curiosity, is there any way an injured worker could be non-compliant with WSI if he or she didn't lose weight or stop smoking?

Jodi Bjornson: Potentially, if it is needed to get that person surgery if they are sitting out there and can't have that surgery on stability benefits and we say look, you have to go and try to get the medical care that you need. Refer to Section-5 reasonable care. Section 6 refers to "work trial" and "work search" to look for that alternative employment. Section 7 refers to mileage grid, for mileage reimbursement; Section 8, opportunity for low-interest educational loan fund; Section 9, goes into the application or effective dates.

Chairman Klein: Jody, 2006 is where, that will be our starting point? Pertaining to applications for low- interest loans to spouses and children, whose claim was filed on or after January 1 and had been deemed permanently and totally disabled, so 2006 forward, that permanent total population will be covered under this bill. So it is retro-active to some extent.

Senator Laffen: How do you determine whether you're eligible for scholarship or a low interest loan? Is one better than the other or typically all of our kids if they need to go to college, you loan a lot of the money. So what's the benefit of the scholarships, why would you give a scholarship?

Jody Bjornson: Under the scholarship program you don't pay it back. It is a gift to go and get your education. This is the biggest benefit between a scholarship and a loan. The loan they are paying back to the Bank of North Dakota, it is a cooperative effort between WSI and the Bank of North Dakota. They have been great to work with and help us Sheppard these loans through. They actually administer the loan for us and it's a pretty good process and benefit for the injured worker in that I think the interest rates is very low, its one percentage point between underneath the banks prime interest rate set. They have twenty years to pay it back, so there are some real benefits when you're comparing to other loans in the private sector or the government for that matter. So, as to whom they apply, they each would have, for the injured worker, who has gone through one hundred and four weeks of retraining and wants to go forward. Why not apply for the scholarship? That is a great example of someone who would utilize that route. However the loan, maybe they won't qualify for the scholarship route and Jody will see if she can get a low interest loan to pay back for twenty years to pay back. It's situational depending upon that injured workers situation. Both are good programs and have their place.

Senator Nodland: Jody, on the fiscal impact, you have about eight points here that we are going to expand the program, and yet when I read that, it says, approximately seventy-five to one hundred fifty thousand per year, however, we don't anticipate it to increase to have yet a significant impact to the state wide premium and reserve levels. How can we say that large of an increase of all these programs is only going to potentially could cost that much?

Jody Bjornson: It is amazing the numbers we work with. It seems like a lot of money to me, but in the big scheme of things, I think we are looking at about one million dollars or so

to raise premium percentages for the prospective year about one percent. So, one hundred thousand dollar increase to our actuaries who look at the big picture in the fund with a billion dollars that's the language they use to us, that it is insignificant. Where exactly those dividing lines are and when it becomes significant, I really don't know that answer.

Senator Nodland: Well, my other question is, but I can't believe it, that we're only talking seventy-five to one hundred fifty thousand with all the additional benefits that you're offering here. Maybe that's fresh; I am assuming that it is correct?

Jody Bjornson: I am pretty comfortable with our person who does the actuarial impact and I think where that seventy-five thousand was just from the scholarship entries. **Senator Nodland:** To me alone that would take care of that. But all the other additional benefits, **Jody:** Yes, there are in the big scheme of things, not making a significant impact on the funds in the actuarial terms. **Senator Nodland:** Right, okay.

Chairman Klein: Jody, going back to Senator Laffen's question, so if I injured or I have a child and I were killed, they are now eligible. I was killed on my way home from the legislature, okay, by the way were covered under Worker's Comp, they then either have an opportunity to file for a scholarship but also if they were denied a scholarship they had a n opportunity to be into the other pool to try and get a low interest loan? **Jody Bjornson:** Mr. Chairman: That is absolutely correct. **Chairman Klein:** Okay. So we have two pools of cash, one for scholarships, and one for low interest loans so we can tap either one, or attempt to work one and then the other or together. Because may cost more than the scholarship. **Jody Bjornson:** Mr. Chairman, that's exactly right. Its' depending upon where you are in your life and your situation you may qualify for one, the other, neither or both. You're absolutely right.

Senator Laffen: Is that to any school, any college, and any state? **Jody Bjornson:** Good question. We do itemize which colleges, was in those provisions that we will support. I don't have it off the top of my head right now; I can look it up for you. **Senator Klein:** You can't go back to Harvard, sorry. **Chairman Klein:** You can get back to Senator Laffen on that? **Jody Bjornson:** I sure can, I will look that up, but there are certain criteria that apply.

Senator Nodland: Jody, back to Section 2 about the certified mail or regular mail, you're saying the majority, or all or anything that you send out is now only with regular mail and this is the only one with certified mail? **Jody Bjornson:** Yes, Mr. Chairman and **Senator Nodland:** With respect to our administrative orders, we issue about fifteen hundred administrative orders on claims decisions a year and they're all going by regular mail. We issue about five hundred administrative orders on the employers' services side and they all have to be certified mail. Yes, if I understand your question, that's correct, there the only ones issued certified.

Senator Klein: Anyone else here in support of 2114?

Leroy Volk: Mr. Chairman and Committee members: I am mostly supportive of 2114, for the record we need your name. The only thing I would more change is to mileage on this because you have people driving from Mandan to Bismarck going to college, women, and its only a few miles but it still adds up especially this time of the year when you let you car idle, gas is \$3.00 some cents a gallon where your short on money, sure you get some

money but its isn't going to be enough to cover everything for these injured women or injured people to go to college to get more. I know that your digging into your own pocketbook the way it is, its' the mileage. The certified letters, I would say that we should have them all the time because a lot of times Workman's Comp says well you received the letter, I have never received it. You know, if it's an important letter, we should have it certified.

Senator Klein: So Leroy, you're kind of in mild opposition, we are still taking supporters, but I just sense a little. Leroy: I see some things on the bill I would like being changed on it.

Senator Klein: Any questions for Leroy? Thank you.

Senator Klein: Anyone else here in support of 2114?

Bill Shalhoob: Represents the North Dakota Chamber in WSI hearings. I also represent five local chambers and seven employer associations. I have a list but I didn't prepare any written testimony for this bill so if wouldn't mind I will pass out the list of people I am representing. We are also in support of this bill. I think the employer groups have supported changes which have increased benefits in every legislative session. We see this as reasonable places to go, given the status of the fund and things like that, so we would also support this bill.

Chairman Klein: Any questions for Bill? Anyone else here in support of 2114 or is anyone here in opposition of 2114? Closed hearing on SB2114.

FISCAL NOTE
 Requested by Legislative Council
 03/11/2011

Amendment to: SB 2114

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2009-2011 Biennium | | 2011-2013 Biennium | | 2013-2015 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2009-2011 Biennium | | | 2011-2013 Biennium | | | 2013-2015 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposal provides for background checks; clarifies when weight loss and smoking cessation aids can be paid; expands eligibility for the scholarship and revolving loan programs; increases scholarship awards; and provides clarification in other areas.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
 2011 LEGISLATION
 SUMMARY OF ACTUARIAL INFORMATION

BILL NO: SB 2114 w/ House Amendments

BILL DESCRIPTION: Workforce Safety & Insurance (WSI) Bill

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation provides for background checks for certain, potential WSI employees and contractors who may have access to confidential information; allows for an administrative order to be issued without first issuing an informal decision; clarifies when weight loss and smoking cessation aids or programs can be paid; expands eligibility for the scholarship program to include spouses and children of the catastrophically injured and to include those who have successfully completed a retraining program; increases the annual cap that the organization can award in scholarships from \$300,000 to \$500,000; increases the maximum scholarship amount payable per applicant per year from \$4,000 per year to \$10,000 per year; streamlines the personal reimbursement process for injured workers; provides consistency in statutory language regarding work trial and work search; corrects a minor oversight in the mileage reimbursement chart within the rehabilitation allowance statute; and expands eligibility for the educational revolving loan fund to include spouses and children of the catastrophically injured and to include spouses and children of those deemed permanently and totally disabled.

FISCAL IMPACT: It is anticipated that the enhancements to the scholarship program will serve to increase costs for this program by approximately \$75,000 to \$150,000 per year. However, we don't anticipate these increases or the other provisions of this legislative proposal to have a significant impact to statewide premium or reserve levels.

DATE: March 11, 2011

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

| | | | |
|----------------------|----------------|-----------------------|------------|
| Name: | John Halvorson | Agency: | WSI |
| Phone Number: | 328-6016 | Date Prepared: | 03/11/2011 |

FISCAL NOTE

Requested by Legislative Council
12/30/2010

Bill/Resolution No.: SB 2114

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2009-2011 Biennium | | 2011-2013 Biennium | | 2013-2015 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2009-2011 Biennium | | | 2011-2013 Biennium | | | 2013-2015 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

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The proposal provides for background checks; modifies certain mailing requirements; clarifies when weight loss and smoking cessation aids can be paid; expands eligibility for the scholarship and revolving loan programs; increases scholarship awards; and provides clarification in other areas.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2011 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: SB 2114

BILL DESCRIPTION: Workforce Safety & Insurance (WSI) Bill

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation provides for background checks for certain, potential WSI employees and contractors who may have access to confidential information; allows for the mailing of employer-related decisions by regular mail rather than certified mail and allows for an administrative order to be issued without first issuing an informal decision; clarifies when weight loss and smoking cessation aids or programs can be paid; expands eligibility for the scholarship program to include spouses and children of the catastrophically injured and to include those who have successfully completed a retraining program; increases the annual cap that the organization can award in scholarships from \$300,000 to \$500,000; increases the maximum scholarship amount payable per applicant per year from \$4,000 per year to \$10,000 per year; streamlines the personal reimbursement process for injured workers; provides consistency in statutory language regarding work trial and work search; corrects a minor oversight in the mileage reimbursement chart within the rehabilitation allowance statute; and expands eligibility for the educational revolving loan fund to include spouses and children of the catastrophically injured and to include spouses and children of those deemed

permanently and totally disabled.

FISCAL IMPACT: It is anticipated that the enhancements to the scholarship program will serve to increase costs for this program by approximately \$75,000 to \$150,000 per year. However, we don't anticipate these increases or the other provisions of this legislative proposal to have a significant impact to statewide premium or reserve levels.

DATE: January 4, 2011

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

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|----------------------|----------------|-----------------------|------------|
| Name: | John Halvorson | Agency: | WSI |
| Phone Number: | 328-6016 | Date Prepared: | 01/04/2011 |

FISCAL NOTE

Requested by Legislative Council
12/30/2010

Bill/Resolution No.: SB 2114

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|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2009-2011 Biennium | | | 2011-2013 Biennium | | | 2013-2015 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

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B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2011 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: SB 2114

BILL DESCRIPTION: Workforce Safety & Insurance (WSI) Bill

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation provides for background checks for certain, potential WSI employees and contractors who may have access to confidential information; allows for the mailing of employer-related decisions by regular mail rather than certified mail and allows for an administrative order to be issued without first issuing an informal decision; clarifies when weight loss and smoking cessation aids or programs can be paid; expands eligibility for the scholarship program to include spouses and children of the catastrophically injured and to include those who have successfully completed a retraining program; increases the annual cap that the organization can award in scholarships from \$300,000 to \$500,000; increases the maximum scholarship amount payable per applicant per year from \$4,000 per year to \$10,000 per year; streamlines the personal reimbursement process for injured workers; provides consistency in statutory language regarding work trial and work search; corrects a minor oversight in the mileage reimbursement chart within the rehabilitation allowance statute; and expands eligibility for the educational revolving loan fund to include spouses and children of the catastrophically injured and to include spouses and children of those deemed

permanently and totally disabled.

FISCAL IMPACT: The enhancements to the scholarship program will serve to increase costs for this program, however, we don't anticipate these increases or the other provisions of this legislative proposal to have a significant impact to statewide premium or reserve levels.

DATE: December 17, 2010

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

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|----------------------|----------------|-----------------------|------------|
| Name: | John Halvorson | Agency: | WSI |
| Phone Number: | 328-6016 | Date Prepared: | 12/30/2010 |

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2114
1/12/2011
Job Number 12829

Conference Committee

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| Committee Clerk Signature | <i>Eva Luttrell</i> |
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Explanation or reason for introduction of bill/resolution:

Relating to background check for potential workforce safety and insurance job applicants

Minutes:

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| Vote Taken |
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Chairman Klein: Opened the meeting on SB 2114. This is enhancements of scholarships and loans, corrected a typo on the miles.

Senator Nodland: Motioned for a do pass.

Senator Murphy: Seconded the motion.

Vote Taken: Yes – 7 No – 0

Senator Nodland to carry the bill

Date: 1/12/2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2114

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Nodland Seconded By Senator Murphy

| Senators | Yes | No | Senators | Yes | No |
|--------------------------|-----|----|-----------------------|-----|----|
| Chairman Jerry Klein | ✓ | | Senator Mac Schneider | ✓ | |
| VC George L. Nodland | ✓ | | Senator Murphy | ✓ | |
| Senator John Andrist | ✓ | | | | |
| Senator Lonnie J. Laffen | ✓ | | | | |
| Senator Oley Larsen | ✓ | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nodland

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2114: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2114 was placed on the Eleventh order on the calendar.

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2114

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2114
March 7, 2011
15041

Conference Committee

Committee Clerk Signature

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Background checks for potential workforce safety and insurance job applicants; 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

Minutes:

Chairman Keiser: Opens the hearing on SB 2114.

Jody Bjornson~General Counsel-WSI: (See attached testimony 1).

Representative M Nelson: The notices that are sent by regular mail, do the claimants lose any rights if they don't respond by a certain time?

Jody Bjornson: Right now all of our claims decisions are notice of decisions. We have about 30,000 each year that are issued by regular mail, not certified. The smaller pools of decisions on the employer services side, somewhere from 400 to 500, are certified. There are instances where somebody doesn't get it, we will look at it, technically, if they don't get it, theoretically they are done or they can't appeal further. It has worked very well on the claims side.

Representative Frantsvog: On the top of page 2, do you never mail a notice of decision?

Jody Bjornson: We, by and large, issue a notice of decision in every single case. The statute on the claims side gives us the opportunity to be flexible but we have the discretion.

Representative Frantsvog: The notice of decision will have to be provided at some point in time, even if it is litigated?

Jody Bjornson: It doesn't eliminate the do process requirements that they get notice of what we are saying and an opportunity to be heard. Absolutely.

Chairman Keiser: There seems to be a significant material difference between the time period and the impact. At the start, by certifying the mail, we are going to maximize the attempt to inform the claimant of the decision and that starts the clock. That's up front,

that's before they are engaged at that point, but 99% of our people, once they file a claim, they don't understand what happens after that. This notice of decision is the first official reaction from the agency. The notice of a change in the claim by regular mail is coming afterwards once you've been engaged in the system. Shouldn't the notification be different?

Jody Bjornson: No, I don't think so, because we deal with our injured worker every single step of the way. Some may be notice of decision; some may not be, only when it's going to affect a tangible benefit, does due process come into play. That could be two or three years down the road.

Chairman Keiser: I understand that but when it comes, it's important.

Jody Bjornson: I think the situation right now on the claims side of the house; they are all being issued by regular mail. All we want to do is parallel those two procedures so our employer services decisions get issued by regular mail too. By and large, it's not an issue, it's efficient and it makes sense.

Chairman Keiser: Let's go to the next section of your testimony.

Jody Bjornson: Continues reading section three of her testimony.

Chairman Keiser: Any questions? Talked about a claimant who was very much injured needing a full fusion for his back. The procedure was approved but wasn't allowed. He was a very heavy smoker and they will not do surgery because it will not heal properly. What this section is doing is clarifying.

Representative Ruby: In the case of weight loss, if you order the weight loss, do you pay for it?

Jody Bjornson: I can get the particulars for you but I'm not sure.

Jody Bjornson: Reads section four of her testimony.

Representative Frantsvog: How do you determine what kind of education you can get?

Jody Bjornson: Under the scholarship, there is an application process that we have in administrative rule that governs the process and they would have to meet the criteria of the formal selection process committee.

Representative Frantsvog: Do you mean the institution?

Jody Bjornson: Yes, with the institution WSI has a formal selection process committee.

Representative M Nelson: Page 2, line 17, you talk about the scholarship and child, the definition of child, what does that mean?

Jody Bjornson: Child is defined in our definition section in statute.

Chairman Keiser: You do change the language in this, is that just a technical change because it's going from dependent child to child.

Jody Bjornson: A dependent child is redundant by definition.

Representative N Johnson: When you say institution, did you mean the institution of WSI or is it the institution of higher education?

Jody Bjornson: WSI administers the scholarship program and all the money awarded for the scholarship. We formally extend the scholarship awards. It has nothing to do with the board of higher education.

Representative Frantsvog: The institution of higher education is the one that works with them to determine the program they are going into or do you work with them?

Jody Bjornson: It would be a collective effort. Up front, we would work directly, we approve the program, it's more direct between WSI and the applicant.

Chairman Keiser: There is an application and form process. The individual informs WSI what they are interested in and WSI says yes or no. How broad has the experience on the program have to be?

Jody Bjornson: What we have in the statute is that it's has to be a accredited institution of higher education or an institution of technical education. Therefore, it does narrow it down but if it meets those criteria, they have met one of the terms of eligibility.

Representative Kreun: In section four, it talks about an injured worker deemed to be catastrophically injured and workers who successfully completed two years of rehabilitation training program who wish to pursue a four-year degree, does that include children as well?

Jody Bjornson: Good question, that itself is for retaining candidates for the injured worker, it's for retraining.

Representative Nathe: Do they have to re-apply every year?

Jody Bjornson: I believe that our rule does require that you re-apply every year.

Representative Nathe: Is there a grade level they have to keep up?

Jody Bjornson: Yes, I think it's a C level, a 2.0 on a 4.0 scale.

Chairman Keiser: What is the fiscal note for this portion of the bill?

Jody Bjornson: The only fiscal impact quantifiable is this portion of the bill.

Representative Kreun: The bill would allow WSI to grant an additional three years to injured workers to obtain a four-year degree, so they could go five years to get four?

Jody Bjornson: That's absolutely correct.

Jody Bjornson: Continues reading section five of her testimony.

Vice Chairman Kasper: Line 14 & 15, page 3, they must travel more than 50 miles, with today's cost of gasoline, people living outside the city limits, why do we have a limitation at all to be reimbursed?

Jody Bjornson: I believe those were the lines drawn for efficiency purposes. We revisited this last session and actually easing it up. Mr. Chairman may know about it more than I do.

Chairman Keiser: You are correct.

Jody Bjornson: Continues reading section six of her testimony.

Chairman Keiser: This is a technical amendment.

Jody Bjornson: That's correct.

Chairman Keiser: Could you share the definition of what "good faith" is.

Jody Bjornson: In working with work trial and work search, this area works with our vocational rehab, if you are able to go back to some type of work, the law requires you make a good faith work trial or work search. That is a reasonable, concerted effort to find or maintain employment.

Jody Bjornson: Continues reading section seven of her testimony.

Vice Chairman Kasper: We will cover for rehab but not for medical care, what's the difference? Why isn't it a nightmare for rehab?

Jody Bjornson: The pool is smaller. In rehab, some of these folks have to maintain a second domicile.

Chairman Keiser: Vocational rehab is not physical rehab. It's education and they are doing a full load.

Jody Bjornson: Continues to finish the home stretch of her testimony.

Representative M Nelson: The catastrophically injured determination, but basically leaves the entire determination to WSI in a non-appealable form, doesn't it?

Jody Bjornson: It is defined for us in the vocation rehab statute.

Representative M Nelson: I'm thinking of a different section.

Representative Ruby: What is the percentage of default of this loan fund?

Jody Bjornson: I believe we have had one out of seven loans extended.

Representative Frantsvog: What interest rate do you charge?

Jody Bjornson: Statute requires one percent below the BND prime interest rate.

Chairman Keiser: There is not a fiscal note portion associated with that?

Jody Bjornson: It's not significant enough to impact.

Bill Shalhoob~North Dakota Chamber: We also support this bill for injured workers and we urge the committee for a do pass.

Chairman Keiser: Anyone else here to testify in support, in opposition, in the neutral position? Closes the hearing, what are the wishes of the committee?

Vice Chairman Kasper: I would like to chew on this 50-mile limit requirement for seeking medical care.

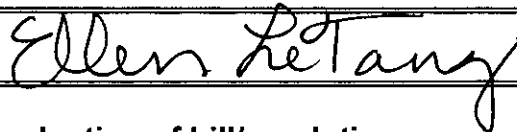
2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2114
March 9, 2011
15203

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Background checks for potential workforce safety and insurance job applicants; 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

Work Session Minutes:

Chairman Keiser: Opens the work session on SB 2114.

Vice Chairman Kasper: I talked about the fact that when someone is having medical care, they do not receive mileage reimbursement unless it's 50 miles or greater but when they are doing rehab, they do. I wanted to know if we would consider moving that 50 miles to 20 or 25 miles?

Chairman Keiser: We did address this issue and that is when we made the changes for vocational rehab and we looked at both at the time. The number of medical is very high and is about 95% of all the claims and vocational education is 5%, it was overwhelming. When I drive to my doctor, BCBS will make the payment but they won't pay me to drive and it is tax deductible. Good, bad, or indifferent, that was the rational.

Representative Gruchalla: Didn't we arrive at the situation, if you drive back and forth to work anyway, you choose to live there as part of your life.

Chairman Keiser: That was part of testimony as well.

Representative Amerman: There was something about travel, it used to be from city to city, then it changed from point of origin, we did some things in there.

Chairman Keiser: That was a bill from last session. Prior before the last session, you were reimbursed for travel from the edge of your city to the edge of the other city because we knew that mileage. Now, with GPS systems and all of the mapping that goes on today, you can get a good accurate measurement from house to where ever.

Representative Ruby: The other difference between the two is dealing with the rehab is a lesser mileage but travel for medical expense, it's 50 miles, but it says that unless the total mileage equals or exceeds 200 miles in a calendar month.

Representative Ruby: Moves a Do Pass.

Representative Kreun: Second.

Chairman Keiser: Further discussion?

Chairman Keiser: My other issue is with notification by mail. I'm going to vote no because of that. There is a real difference between being notified of a denial versus being notified in the system after a change. That is going to have a lot of issues. Certified mail is the way to go.

Vice Chairman Kasper: We could still amend the bill.

Representative Ruby: Withdraws his motion.

Representative Kreun: Second.

Representative Ruby: It would be removing section two?

Chairman Keiser: Removing the overstrike on "certified" and remove "regular" and the new language. With that motion, I could support the bill.

Representative Boe: We have to specify in there the type of notification?

Chairman Keiser: The best for them will be easiest.

Representative Ruby: Moves the amendment.

Vice Chairman Kasper: Second.

Voice vote taken, motion carried.

Chairman Keiser: We have SB 2114 as Amended before us.

Representative M Nelson: On page2, line 17, the child at the time of the initial scholarship application. I'm not comfortable with the wording of the time with the initial scholarship application. I can't come up with the answer to give them a little flexibility.

Vice Chairman Kasper: We could say if the child age 22 or below which gives you a little leeway.

Representative Kreun: I understand your concern, but in some point in time of their life, they have to become responsible for what they have to do. I feel that is a responsible age.

Representative Amerman: There is good stuff in this bill but the administrative order with the notice of decision, I'm apprehensive about that. Do you feel the drinking age of 18 is old enough then?

Representative Ruby: The intent is not to have it so broad, if someone became injured and you are a child, I think you are considered a child at the time of the injury. If they were 17 and chose not to go to college but decided to go at age 20, that is too open, it leaves it too broad and open. They have to understand that if they want to accept that scholarship, they have to apply within the age they qualify. I'm ok with it. I think its appropriate language.

Vice Chairman Kasper: I think the intent of the definition is with child, with the new health reform act, a child is 26 if they are in college. If you are in school right now, you could be 25 and you get a scholarship. If you are not in school right now and you are 18, no scholarship, that's the problem. The definition of a child is very broad.

Chairman Keiser: Currently parents can claim a child on health insurance, now up to 26. How long can you claim your child on taxes? Up to 24 if they are in school and you are responsible for 51% or more. This is one of the best programs we've ever had. It's underutilized. This is for someone who has died while working; it's now being expanded to people who are on total, permanent disabilities and for their kids. We want to look at this program for who it serves and recognize that wouldn't be there to provide that support. This is a great thing because we are picking up spouses and children and adding these two new categories.

Representative Amerman: We could tweak it, but it comes down to communications from WSI to make sure the injured worker, this is how it is and how it works.

Representative Ruby: If we pass this now in its form, if something got missed, we could go back and correct that. I see this as broadening of benefits and it's worthy.

Representative Ruby: Moves a Do Pass as Amended.

Representative Nathe: Second.

Chairman Keiser: Further questions? I'm going to commit and ask WSI to track this and see if there are any problems that develop.

Roll call was taken for a Do Pass as Amended on SB 2114 with 12 yeas, 0 nays, 2 absent and the carrier is Representative Frantsvog.

Date: March 9, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2114

House House Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Kreun

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------------|-----|----|--------------------------|-----|----|
| Chairman Keiser | | | Representative Amerman | | |
| Vice Chairman Kasper | | | Representative Boe | | |
| Representative Clark | | | Representative Gruchalla | | |
| Representative Frantsvog | | | Representative M Nelson | | |
| Representative N Johnson | | | | | |
| Representative Kreun | | | | | |
| Representative Nathe | | | | | |
| Representative Ruby | | | | | |
| Representative Sukut | | | | | |
| Representative Vigesaa | | | | | |

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

withdraw motion

March 09, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2114

Page 1, line 22, remove the overstrike over "~~certified~~"

Page 1, line 22, remove "regular"

Page 1, line 23, remove "a notice of decision reversing the previous decision or, in accordance with the"

Page 1, line 24, remove "North Dakota Rules of Civil Procedure."

Renumber accordingly

Date: March 9, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2114

House House Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Kasper

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------------|-----|----|--------------------------|-----|----|
| Chairman Keiser | | | Representative Amerman | | |
| Vice Chairman Kasper | | | Representative Boe | | |
| Representative Clark | | | Representative Gruchalla | | |
| Representative Frantsvog | | | Representative M Nelson | | |
| Representative N Johnson | | | | | |
| Representative Kreun | | | | | |
| Representative Nathe | | | | | |
| Representative Ruby | | | | | |
| Representative Sukut | | | | | |
| Representative Vigesaa | | | | | |

voice vote - motion carried

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

line 22, 23, 24

Date: March 9, 2011

Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2114

House House Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Nathe

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------------|-----|----|--------------------------|-----|----|
| Chairman Keiser | ✓ | | Representative Amerman | ✓ | |
| Vice Chairman Kasper | Ab | | Representative Boe | ✓ | |
| Representative Clark | ✓ | | Representative Gruchalla | ✓ | |
| Representative Frantsvog | ✓ | | Representative M Nelson | ✓ | |
| Representative N Johnson | ✓ | | | | |
| Representative Kreun | ✓ | | | | |
| Representative Nathe | ✓ | | | | |
| Representative Ruby | ✓ | | | | |
| Representative Sukut | ✓ | | | | |
| Representative Vigesaa | Ab | | | | |

Total Yes 12 No 0

Absent 2

Floor Assignment Rep Frantsvog

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2114: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2114 was placed on the Sixth order on the calendar.

Page 1, line 22, remove the overstrike over "certified"

Page 1, line 22, remove "regular"

Page 1, line 23, remove "a notice of decision reversing the previous decision or, in accordance with the"

Page 1, line 24, remove "North Dakota Rules of Civil Procedure."

Renumber accordingly

2011 TESTIMONY

SB 2114

2011 Senate Bill No. 2114
Testimony before the Senate Industry, Business, and Labor Committee
Presented by: Jodi Bjornson, General Counsel
Workforce Safety & Insurance
January 11, 2011

Mr. Chairman, Members of Committee:

My name is Jodi Bjornson, General Counsel of Workforce Safety & Insurance (WSI). I am here on behalf of WSI to testify in support of this bill, and to provide information to the Committee to assist in making its determination.

SECTION 1. Subsection 2 of section 12-60-24 of the North Dakota Century Code allows the bureau of criminal investigation to provide each agency listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter. Currently, subsection 2 provides a list of several agencies who are allowed to request a statewide and nationwide criminal history record check on potential job applicants who have applied for a job with the agency. This bill proposes a new subdivision to 12-60-24 to simply add Workforce Safety and Insurance to the list of agencies, similar to Job Service North Dakota, the Bank of North Dakota, and other agencies already on the list.

SECTION 2. Subsection 3 of section 65-04-32 refers to the mailing of administrative orders deriving from a policyholder services decision on employer accounts. The proposed amendment simply changes the language in 65-04-32 to mirror the same language contained within subsection 5 of section 65-01-16, which is the section referring to the mailing of administrative orders deriving from

a claims decision for injured workers. Section 65-01-16 allows the mailing of an administrative order from a claims decision to be mailed by regular mail, and, allows the issuance of an administrative order without first issuing a notice of decision. The proposed amendment to subsection 3 of section 65-04-32 allows the mailing of an administrative order from policyholder services to be issued by regular mail instead of certified mail, and, allows the issuance of an administrative order from policyholder services without first issuing a notice of decision.

SECTION 3. The proposed amendment to subdivision h of subsection 8 of section 65-05-07 is to add the phrase *unless ordered by the organization* after the terms "weight loss and smoking programs." By adding this phrase, WSI will now have the flexibility and discretion to pay for weight loss and smoking cessation programs, if found to be necessary in the course of treatment. Smoking cessation is often a requirement for certain medical procedures. Currently, the way the law is written, WSI may not pay for these programs.

SECTION 4. Section 65-05-20.1 currently allows WSI to provide scholarships for the spouse and dependent children of a worker who dies as a result of a compensable injury. This bill expands eligibility to a larger group and increases the amounts awarded. This bill allows WSI to grant a scholarship to spouses and children of an injured worker deemed to be catastrophically injured, and also to injured workers who successfully complete a two-year rehabilitation training program under WSI's rehabilitation statutes, and who wish to pursue a four-year degree. WSI's rehabilitation statutes limit a rehabilitation allowance for school retraining programs to two years, except in cases of catastrophic injury. This bill would allow WSI to grant an additional three years to injured workers who meet the requirements and wish to have the opportunity to obtain a four-year degree. Of the top 40 "in-demand" jobs within the state of North Dakota, 5 require

Masters/Doctoral degrees, 25 require Bachelors degrees, 2 require Associates degrees, and 8 require on-the-job training or work experience in a related occupation.

This section also increases the annual cap the organization can award in scholarships from \$300,000 to \$500,000. It also increases the maximum scholarship amount payable per applicant from \$4,000 per year to \$10,000 per year.

SECTION 5. Subsection 2 of section 65-05-28 currently reads that all personal reimbursement requests made by injured workers for travel expenses must include the original vendor receipt. By adding the phrase *when appropriate*, WSI will now have the ability to pay meal expenses at state employee per diem rates without requiring receipts. This is the standard for state employees, and will make it easier for the injured worker.

SECTION 6. Subsection 4 of section 65-05.1-04 has been amended to provide consistency with the terms "work trial" and "work search", which are used together throughout the entire paragraph with the exception of the second sentence. This bill simply corrects this oversight and adds the term "work search" to the second sentence, where the term work trial already exists.

SECTION 7. Subdivision b of subsection 2 of section 65-05.1-06.1 currently contains a typographical error in the mileage graph. To obtain a 20% rehabilitation allowance for mileage reimbursement while attending school, an injured worker must travel 31 to 49 miles roundtrip for school, not 31 to 50 miles, as it currently states. A simple correction is needed to change "31 - 50 miles" to "31 – 49" miles.

SECTION 8. The proposed change to subsection 1 of section 65-05.1-08 expands the eligibility for a low-interest educational loan to a larger group. This bill would make two additional groups eligible for the loan program: 1) spouses and children of injured employees deemed to be catastrophically injured, and 2) spouses and children of injured employees deemed to permanently and totally disabled. Currently, the statute allows only spouses and children of injured employees whose death resulted from a compensable injury to apply for a low-interest education loan. The reason for adding these two additional groups is because the spouses and children of catastrophically injured employees and of permanently and totally disabled employees face similar life challenges as the spouses and children of injured employees who have died as a result of a compensable injury.

SECTION 9. This is the Application or Effective Date section. Please note the difference in effective dates regarding the low-interest educational loans between catastrophic claims in Section 8 (applications received on or after August 1, 2011), and permanent total disability claims in Section 8 (claims filed on or after January 1, 2006, and deemed permanently and totally disabled). On January 1, 2006, the definition of permanent total disability changed. Therefore, when applying for the low-interest education loan under the permanent total disability classification, WSI will be providing the loan to those injured employees who have been deemed permanently and totally disabled using the same standard for all applicants.

This concludes my testimony and at this time I would be happy to answer any questions that you may have.

2011 Senate Bill No. 2114
Testimony before the House Industry, Business, and Labor Committee
Presented by: Jodi Bjornson, General Counsel
Workforce Safety & Insurance
March 7, 2011

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