

WORKMEN'S COMPENSATION

CHAPTER 503

SENATE BILL NO. 2103

(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

INFORMATION FURNISHED TO SECRETARY OF STATE

AN ACT to amend and reenact section 65-04-15 of the North Dakota Century Code to include the Secretary of State.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-04-15 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-04-15. INFORMATION IN EMPLOYER'S REPORTS CONFIDENTIAL - PENALTY IF EMPLOYEE OF BUREAU DIVULGES INFORMATION.) The information contained in an employer's report to the bureau shall be for the exclusive use and information of the bureau in the discharge of its official duties and shall not be open to the public nor used in any court in any action or proceeding pending therein unless the bureau is a party thereto. The information contained in such report, however, may be tabulated and published by the bureau in statistical form for the use and information of the state departments and of the public. Any person in the employ of the bureau who, while acting as an employee of the bureau, shall divulge to any person other than an officer or employee of the bureau any information secured by him in respect to the transactions, property, or business of any company, firm, corporation, person, association, copartnership, or public utility, shall be guilty of a misdemeanor and, upon conviction thereof, shall be disqualified from holding any appointment with the bureau.

The workmen's compensation bureau may upon request of the state tax commissioner, the secretary of state, or the unemployment compensation division of the employment security bureau furnish to them a list or lists of employers showing only the names, addresses and workmen's compensation bureau file identification numbers of such employers, provided that any such list so furnished shall be used by the tax commissioner, the secretary of state, or the employment security bureau only for the purpose of administering their duties.

Approved March 8, 1973

CHAPTER 504

SENATE BILL NO. 2282
(Stroup, Rait, Roen)

COVERAGE FOR COAL MINERS

AN ACT to amend and reenact section 65-05-05 of the North Dakota Century Code, relating to workmen's compensation coverage for coal miners who are disabled and to dependents of coal miners who have died as a result of pneumoconiosis; and to provide such benefits as required by the Federal Coal Mine Health and Safety Act of 1969 and amendments thereto.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-05. PAYMENTS MADE TO INSURED EMPLOYEES INJURED IN COURSE OF EMPLOYMENT AND TO THEIR DEPENDENTS.) The bureau shall disburse the fund for the payment of compensation and other benefits as provided in this chapter to employees, or to their dependents in case death has ensued, who:

1. Are subject to the provisions of this title;
2. Are employed by employers who are subject to this title; and
3. Have been injured in the course of their employment.

Where the injury is sustained outside the state of North Dakota and compensation is claimed and received through some other state act no compensation shall be allowed under this title.

The bureau shall provide such additional coverage, allow such additional time for claims to be filed, and pay such additional compensation and other benefits in excess of the coverage, filing time, and benefits otherwise provided in this title, as may be required by the Federal Coal Mine Health and Safety Act of 1969 and amendments thereto, for any coal miner, his widow, or dependents who, due to the disability or death of such coal miner as the result of pneumoconiosis, would be entitled to claim benefits under such federal Act; provided, however, that such pneumoconiosis was contacted or aggravated as the result of employment as a coal miner in the state of North Dakota.

The bureau shall adopt such reasonable rules and regulations and enter into such agreements necessary to comply with section 421 of said federal Act.

CHAPTER 505

SENATE BILL NO. 2112
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

WEEKLY COMPENSATION FOR
TOTAL DISABILITY

AN ACT to amend and reenact section 65-05-09 of the North Dakota Century Code, providing for a weekly compensation equal to sixty percent of the average weekly wage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-09 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-09. TEMPORARY OR PERMANENT DISABILITY - WEEKLY AND AGGREGATE COMPENSATION.) If an injury causes temporary, or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to sixty percent of the average weekly wage in this state, computed to the next highest dollar, as shall be determined on July first of each year by the unemployment compensation division of the North Dakota employment security bureau. In case of temporary or permanent total disability, there shall be paid to such disabled employee an additional sum of five dollars per week for each dependent child under the age of eighteen years living or unborn at the date of the injury, or born during the period of disability; and for each child over eighteen years and incapable of self-support due to physical or mental disability and whose maintenance is the responsibility of the claimant. Dependency awards for the children may be made direct to either parent at the discretion of the bureau. In no case shall the combined compensation and dependency award exceed the net wage, after deductions for taxes, earned by the claimant at the time of the injury, except in the case of volunteer firemen and volunteer civil defense trainees. When a claimant who is permanently and totally disabled, and must be maintained in a nursing home or similar facility, has no dependent parent, spouse, or children, part or all of his weekly compensation may be used by the bureau to help defray the cost of such care.

Approved March 10, 1973

CHAPTER 506

SENATE BILL NO. 2104
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

WEEKLY COMPENSATION FOR
PERMANENT PARTIAL DISABILITY

AN ACT to amend and reenact sections 65-05-12 and 65-05-13 of the North Dakota Century Code, providing for weekly compensation in the amount of forty dollars.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-12 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-12. PERMANENT PARTIAL DISABILITY - WEEKLY COMPENSATION - TIME PAID.) If the injury causes permanent partial disability, other than scheduled injuries, as elsewhere provided in this chapter, the percentage which such disability bears to total disability shall be determined, and the fund shall pay to the disabled employee a weekly compensation in the sum of forty dollars per week for the following periods:

For a one percent disability.....	5 weeks;
For a ten percent disability.....	50 weeks;
For a twenty percent disability.....	100 weeks;
For a thirty percent disability.....	150 weeks;
For a forty percent disability.....	200 weeks;
For a fifty percent disability.....	250 weeks;
For a sixty percent disability.....	300 weeks;
For a seventy percent disability.....	350 weeks;
For an eighty percent disability.....	400 weeks;
For a ninety percent disability.....	450 weeks;

However, where an injured employee is earning a salary which at sixty-six and two-thirds percent of said salary did not produce an award of forty dollars per week the difference between forty dollars per week and sixty-six and two-thirds percent of the actual salary be charged to the fund, and not to the risk of the employer. This proviso shall also apply to payments made under 65-05-13.

SECTION 2. AMENDMENT.) Section 65-05-13 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-13. SCHEDULED INJURIES - PERMANENT LOSS OF MEMBER - WEEKLY COMPENSATION - TIME COMPENSATION PAYABLE.) If the injury causes the loss of a member, the fund shall pay to the disabled employee a weekly compensation equal to forty dollars per week for the following periods:

1.	For loss of arm at shoulder.....	250 weeks;
2.	For loss of arm at or above elbow...	220 weeks;
3.	For loss of hand at or above wrist..	200 weeks;
4.	For loss of thumb.....	65 weeks;
5.	For loss of second or distal phalange of thumb.....	28 weeks;
6.	For loss of first finger.....	40 weeks;
7.	For loss of middle or second phalange of first finger.....	28 weeks;
8.	For loss of third or distal phalange of first finger.....	22 weeks;
9.	For loss of second finger.....	30 weeks;
10.	For loss of middle or second phalange of second finger.....	22 weeks;
11.	For loss of third or distal phalange of second finger.....	14 weeks;
12.	For loss of third finger.....	20 weeks;
13.	For loss of middle or second phalange of third finger.....	16 weeks;
14.	For loss of third or distal phalange of third finger.....	10 weeks;
15.	For loss of fourth finger.....	16 weeks;
16.	For loss of middle or second phalange of fourth finger.....	12 weeks;
17.	For loss of third or distal phalange of fourth finger.....	6 weeks;
18.	For loss of leg at hip.....	234 weeks;
19.	For loss of leg at or above knee....	195 weeks;
20.	For loss of foot at or above ankle..	150 weeks;
21.	For loss of great toe.....	30 weeks;
22.	For loss of second or distal phalange of great toe.....	18 weeks;
23.	For loss of any other toe.....	12 weeks;
24.	For loss of middle or second phalange of any other toe.....	10 weeks;
25.	For loss of third or distal phalange of any other toe.....	7 weeks;
26.	For loss of an eye.....	150 weeks;
27.	For loss of hearing in one ear.....	50 weeks;
28.	For loss of hearing in both ears....	200 weeks;

The amount paid for the loss of more than one finger of one hand shall not exceed the amount provided in this schedule for the loss of a hand. For the loss of the metacarpal bone, of the palm, together with the corresponding thumb or finger ten weeks shall be added to the number of weeks of payment. The permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg, or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, arm, hand, foot, leg or eye, and compensation for partial loss of use of said parts shall be allowed on a percentage basis. Twenty-five percent additional shall be

allowed as compensation for the loss of use of the master hand or any member or members thereof. The loss of any part of a phalange shall be considered equal to the loss of the entire phalange. If any employee dies from some independent cause, the right of any compensation payable under section 65-05-12 or this section, unpaid at the date of his death shall survive and pass to his dependent spouse, minor children, parents, or his estate and in that order named.

Recovery under this section shall bar an additional award of permanent partial disability for the same injury, as elsewhere provided in this chapter.

Approved March 10, 1973

CHAPTER 507

SENATE BILL NO. 2111
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

WEEKLY COMPENSATION FOR DEATH CLAIMS

AN ACT to amend and reenact section 65-05-17 of the North Dakota Century Code, changing the amount of weekly compensation for death claims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-17 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read 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 widow the amount of forty-three dollars and fifty cents until her death or remarriage;
2. To the widower if he was wholly dependent upon the support of the deceased employee at the time of her death the amount of forty-three dollars and fifty cents until his death or remarriage;
3. To each surviving child or issue of said deceased employee born within ten months after the employee's date of death the amount of seven dollars until such child dies, marries, or reaches the age of eighteen years, or if such child is incapable of self-support until it becomes capable of self-support. The bureau in its discretion may make such payment directly to such surviving child or issue of the deceased employee or to the surviving parent or guardian of such child or issue.

In addition to the awards herein the commissioners shall make an award in the sum of three hundred dollars to the widow of the deceased and one hundred dollars for each dependent child, and such additional award shall be charged to the bureau general fund.

Approved March 24, 1973

CHAPTER 508

HOUSE BILL NO. 1110
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

NONDEPENDENCY PAYMENTS

AN ACT to amend and reenact section 65-05-19 of the North Dakota Century Code, providing for nondependency payments to dependent and nondependent children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-19 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-19. PROVIDING NONDEPENDENCY PAYMENTS IN CERTAIN CASES.) If the death of an employee with no surviving spouse or dependent children results from an injury within the time limited in section 65-05-16, the bureau shall pay a lump sum of one thousand dollars to the surviving parent, or in equal shares to the surviving parents. In the event that neither parent is living, the sum provided herein shall be paid in equal shares to the surviving nondependent children of the deceased, and if there are none, then to the deceased employee's living brothers and sisters. Where there are no living brothers or sisters, the sum herein shall be paid in equal shares to the surviving grandparents, if any, of the deceased employee.

Approved March 10, 1973

CHAPTER 509

HOUSE BILL NO. 1109
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

SETTLEMENT TO WIDOW UPON REMARRIAGE

AN ACT to amend and reenact section 65-05-21 of the North Dakota Century Code, changing the number of weeks of compensation paid to the widow.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-21. MARRIAGE SETTLEMENT TO WIDOW.) If a widow who receives compensation under the provisions of section 65-05-17, subsection 1, remarries, there shall be paid to her a lump sum equal to one hundred four weeks' compensation. If, prior to such marriage, such widow has received a partial lump sum settlement which covers all or any portion of the said one hundred four weeks following her marriage, the amount of such partial lump sum settlement which covers all or any part of the said one hundred four weeks following her marriage shall be deducted from such marriage settlement, and the widow shall receive only the remainder, if any, over and above such deduction. Any judgment annulling such marriage shall not reinstate the right of such widow to compensation if the action for annulment is instituted more than six months after the marriage.

Approved March 14, 1973

CHAPTER 510

HOUSE BILL NO. 1125

(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

ACCEPTING COMPENSATION AFTER MARRIAGE

AN ACT to amend and reenact section 65-05-24 of the North Dakota Century Code, relating to penalty for accepting compensation after marriage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-24. ACCEPTING COMPENSATION AFTER MARRIAGE - PENALTY.) If any person entitled to compensation under this chapter whose compensation ceases upon his or her marriage, fails to notify the bureau of such marriage within sixty days, such person shall be guilty of a misdemeanor.

Approved March 3, 1973

CHAPTER 511

SENATE BILL NO. 2102
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

BURIAL EXPENSES

AN ACT to amend and reenact section 65-05-26 of the North Dakota Century Code to provide an increase in burial expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-26 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-26. BUREAU BURIAL EXPENSES.) If death results from an injury within six years, the fund shall pay to the personal representatives of the deceased employee burial expenses not to exceed seven hundred fifty dollars.

Approved March 10, 1973

CHAPTER 512

HOUSE BILL NO. 1111

(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

MAXIMUM PAYABLE WITHOUT PROBATE

AN ACT to amend and reenact section 65-05-27 of the North Dakota Century Code, relating to an increased amount that the bureau may pay without probate proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-27. BUREAU WITHOUT PROBATE PROCEEDINGS MAY PAY SPOUSE OF DECEASED CLAIMANT SUM DUE DECEASED - MAXIMUM PAYMENT.) If a compensation claimant dies, the bureau, without probate proceedings, may pay to the spouse of such claimant, if living, or in the event of his or her death or incompetency, to any adult person who has assumed or paid the expenses of the last illness or funeral expense of the said claimant, the amount actually due claimant's estate, not to exceed the sum of one thousand dollars.

Approved March 10, 1973

CHAPTER 513

HOUSE BILL NO. 1119

(Committee on Industry, Business and Labor)

(At the request of the Workmen's Compensation Bureau)

REFUSAL TO REASONABLY PARTICIPATE
IN MEDICAL EXAMINATION

AN ACT to amend and reenact section 65-05-28 of the North Dakota Century Code, providing that no compensation be paid when claimant refuses to reasonably participate under certain conditions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-05-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-28. EXAMINATION OF INJURED EMPLOYEE - PAID EXPENSES - NO COMPENSATION PAID FOR REFUSAL TO REASONABLY PARTICIPATE.) After suffering an injury, an employee, as frequently and at such times and places as reasonably may be required, shall submit himself to examination by a duly qualified physician designated or approved by the bureau. The employee may have a duly qualified physician designated and paid by him present to participate in such examination. In case of any disagreement between physicians making an examination on the part of the bureau and the employee's physician, the bureau shall appoint an impartial physician duly qualified who shall make an examination and shall report thereon to the bureau. The employee, in the discretion of the bureau, may be paid his reasonable traveling and other expenses and loss of wages incurred in submitting to any such examination. If the employee refuses to submit himself for, or in any way obstructs, any examination, or refuses to reasonably participate in medical treatments or a rehabilitation program or fails to accept reasonable employment when he is able to do so, his right to claim compensation under this title shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues, and the period of such refusal or obstruction shall be deducted from the period for which compensation is payable to him.

Approved March 3, 1973

CHAPTER 514

SENATE BILL NO. 2205
(Lee)

COVERAGE FOR VOLUNTEERS AND
SELF-EMPLOYED PERSONS

AN ACT to amend and reenact section 65-07-01 of the North Dakota Century Code, to include self-employed persons and members of volunteer organizations, and sections 65-07-02 and 65-07-03 of the North Dakota Century Code, redefining insurance, and section 65-07-04 of the North Dakota Century Code to include self-employed persons and members of volunteer organizations under benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-07-01. EMPLOYER, SELF-EMPLOYED AND VOLUNTEERS MAY SECURE COVERAGE.) Any employer, or self-employed person, by special contract with the bureau, may secure insurance protection against injuries to his own person or for his own death when such injury or death occurs in the course of his work in an industry in which he has secured such protection against injuries to his employees. In addition, any volunteer organization, not otherwise provided for under this title, may contract with the bureau for such insurance protection for its own members while such members are engaged in the specific activity provided for in such contract.

SECTION 2. AMENDMENT.) Section 65-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-07-02. BUREAU MAY REFUSE TO CONTRACT FOR COVERAGE.) The bureau, on receipt of an application for insurance, shall determine whether or not the applicant is a good insurance risk and may deny such special contract if in its opinion it is to the best interests of the fund so to do.

SECTION 3. AMENDMENT.) Section 65-07-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-07-03. DETERMINATION OF "WEEKLY WAGE" FOR PREMIUM PURPOSES.) If the bureau enters into a contract for insurance

under this chapter, the premium for such protection shall be based on a reasonable weekly wage for employees in the same class of industry. Such reasonable weekly wage shall not amount to less than one thousand eight hundred and twenty dollars per annum nor more than two thousand five hundred dollars per annum and shall be determined by the bureau.

SECTION 4. AMENDMENT.) Section 65-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-07-04. BENEFITS.) Any person or member of an organization which has contracted for insurance protection under the provisions of this chapter shall be entitled to the same compensation as is provided by this title in the case of the injury or death of an employee.

Approved March 19, 1973

CHAPTER 515

SENATE BILL NO. 2170

(Committee on Industry, Business and Labor)

(At the request of the Workmen's Compensation Bureau)

WORKMEN'S COMPENSATION PROVISIONS

AN ACT to amend and reenact section 65-09-01 of the North Dakota Century Code relating to liability of uninsured employer; section 65-09-02 of the 1971 Supplement to the North Dakota Century Code relating to time for filing original claims for compensation and employer to furnish payroll report; section 65-09-03 of the North Dakota Century Code relating to order of bureau to contain amount of premium and penalty, filing of record of proceedings and entering judgment; section 65-09-04 of the North Dakota Century Code relating to determination of premiums, penalties and interest on wages to be paid by employer; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-09-01. LIABILITY OF UNINSURED EMPLOYER FOR INJURY TO EMPLOYEES - COMMON-LAW DEFENSES NOT AVAILABLE.) Any employer subject to the provisions of this title who fails to comply with the provisions of chapter 65-04, shall be liable to his employees for damages suffered by reason of injuries sustained in the course of employment, and also shall be liable to the personal representatives of such employees where death results from such injuries. The employer shall not avail himself in such action of the following common law defenses:

1. The defense of the fellow-servant rule;
2. The defense of the assumption of risk; or
3. The defense of contributory negligence.

The employer shall be liable for the premiums provided for in this title.

SECTION 2. AMENDMENT.) Section 65-09-02 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-09-02. APPLICATION FOR COMPENSATION - HEARING - TIME FOR FILING - PAYROLL REPORT.) Any employee whose employer has failed to comply with the provisions of chapter 65-04, who has been injured in the course of his employment, wheresoever such injury has occurred, or his dependents in case death has ensued, in lieu of proceedings against his employer by civil action in court, may file his application with the bureau for an award of compensation in accordance with the terms of this title. All original claims for compensation for disability or death under this chapter shall be made within sixty days after such injury or death. For any reasonable cause shown the bureau may allow original claims for disability or death to be made at any time within one year. The bureau shall hear and determine such application for compensation in like manner as in other claims before the bureau. After the filing of such claim by said injured employee, or his dependents, in case of death, unless waived by the claimant and employer, the bureau shall set a date for a hearing on said claim and notice of said hearing shall be served by registered or certified mail on all interested parties, except that the service on the employer shall be made in the manner now provided for the service of a summons in a civil action and said hearing shall be held upon at least ten days' notice. At such hearing witnesses shall be heard for and in behalf of the claimant and employer and any interested party. The employer shall be required to furnish to the bureau at the hearing all of such employers payroll records for the preceding six years. This information shall be furnished to the bureau even though the employer has not appeared at the hearing or has waived further proceedings.

SECTION 3. AMENDMENT.) Section 65-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-09-03. AWARD - NOTICE - PREMIUM - JUDGMENT.) If the testimony adduced at the hearing on a claim is sufficient to substantiate the prayer of the claimant, the bureau shall make findings and conclusions of law and shall make an order of award and copies of said findings, conclusions, and order shall be served upon the claimant, the employer, and all interested parties by registered or certified mail, except that the service upon the employer shall be made in the manner now provided for the service of a summons in a civil action. The employer, in like manner and at the same time, shall be served with a notice that if he, within thirty days, shall fail to perfect an appeal therefrom to the district court in the manner provided by law for such appeal, the bureau will make an order which shall contain the amount of premium and penalty due the bureau in accordance with section 65-09-04, by the employer. If the employer within thirty days shall fail to pay the amount ordered by the bureau or perfect an appeal as to said amount therefrom to the district court in the manner provided by law for such appeal the bureau shall present a petition to the district court having jurisdiction on the matter, containing the original findings of fact, conclusions of law, and order for award in said matter and presenting to such court proof of the amount due to the bureau and of the failure of the employer to pay such amount or to take an appeal therefrom, and the said court will be asked to enter a judgment in favor of the state of North Dakota

for the benefit of the bureau and against the employer together with reasonable costs and attorneys fees allowed by the bureau. Upon the court making its order for judgment there shall be filed with the clerk of the district court of the county in which the employer resides, if he is an individual, or in the county where it has its principal place of business, if the employer is a corporation, a certified record of the proceedings had before the bureau and thereupon the judgment will be entered upon the docket of the district court of said county as a judgment in favor of the state of North Dakota for the benefit of the bureau and against the employer and shall have the full force and effect of a judgment of such court. No exemptions except absolute exemptions shall be allowed against any levy under executions pursuant to any judgment recovered in such action.

SECTION 4. AMENDMENT.) Section 65-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-09-04. PREMIUMS AND PENALTIES TO BE PAID BY EMPLOYER.) Any employer who was uninsured at the time of the injury of his employee for which the bureau has made an award under 65-09-03 shall be entitled to the benefits of this title but shall be liable for any premiums plus penalties and interest due on such premiums plus a penalty of two hundred dollars and twenty-five percent of all premiums due or paid in the preceding six years. Such penalties for employers shall be in lieu of any other penalties provided by law and may be reduced within the absolute discretion of the bureau, provided that the bureau shall not reduce the amount due from any employer to an amount which is less than the actual cost of the claim plus the premiums and the penalty on such premiums.

Approved March 28, 1973

CHAPTER 516

HOUSE BILL NO. 1175
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

BOILER INSPECTION

AN ACT to amend and reenact sections 65-12-01, 65-12-02, 65-12-04, 65-12-04.1, 65-12-05, 65-12-06, 65-12-07, 65-12-08, 65-12-09, 65-12-10, and 65-12-11 of the North Dakota Century Code, relating to boiler inspector, definition of boiler, boiler inspections, data report, violations; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-01. CHIEF BOILER INSPECTOR, DEPUTY INSPECTORS - APPOINTMENT - JURISDICTION.) The commissioners of the North Dakota workmen's compensation bureau shall appoint a chief boiler inspector and such deputy inspectors as necessary in accordance with the provisions of section 65-02-05. The chief boiler inspector shall have jurisdiction over all boilers in this state except as otherwise provided.

SECTION 2. AMENDMENT.) Section 65-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-02. QUALIFICATIONS OF CHIEF BOILER INSPECTOR, DEPUTY INSPECTORS.) No person shall be eligible to the office of chief boiler inspector unless he:

1. Has had at least ten years experience in the construction, maintenance or repair of high pressure boilers as a mechanical engineer, steam engineer, boilermaker or boiler inspector within five years immediately preceding his appointment.
2. Shall hold a certificate of competency issued by the national board of boiler and pressure vessel inspectors or shall obtain such certificate within one year after date of appointment by the bureau.

3. Shall not be directly or indirectly interested in the manufacture or sale of boilers or steam machinery or articles used in the construction or maintenance of engines or boilers.
4. The workmen's compensation bureau shall establish qualifications for deputy inspectors.

SECTION 3. AMENDMENT.) Section 65-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-04. GENERAL REQUIREMENT - BOILER DEFINED.) Every boiler, as herein defined, used or destined to be used in any establishment in this state shall be constructed, installed, and maintained so as to comply with the North Dakota boiler rules and regulations.

The term "boiler" shall mean a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. It shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

SECTION 4. AMENDMENT.) Section 65-12-04.1 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-04.1. EXEMPT BOILERS - INSPECTION OF EXEMPT BOILERS.) Nothing in this chapter shall be construed to apply to:

1. Boilers subject to federal inspection or under federal control.
2. Boilers located on farms and used solely for agricultural purposes.
3. Heating boilers which are located in private residences or in apartment houses of less than six family units.
4. Hot water supply boilers with not more than two hundred thousand BTU per hour input and pressure not exceeding one hundred sixty pounds per square inch gauge or temperatures not exceeding two hundred fifty degrees fahrenheit.
5. Portable steam cleaners of the type in common use in garages.

Any exempt boiler may be inspected by the chief boiler inspector when the owner, his agent, or the user of such boiler makes written request for inspection to the North Dakota workmen's compensation bureau.

Fees shall be imposed as provided in section 65-12-11 for inspections done pursuant to this chapter.

SECTION 5. AMENDMENT.) Section 65-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-05. SPECIAL INSPECTOR COMMISSION.) Upon the written request of:

1. Any insurance company authorized to insure boilers in this state against loss from explosion; or
2. Any self-insured company who has employees for the purpose of inspecting its own boilers in this state;

a special inspector commission may be issued by the bureau to an inspector in the employ of said company, provided that such inspector shall have previously passed the examination prescribed by the National Board of Boiler and Pressure Vessel Inspectors.

All inspections made by a special inspector must be performed in accordance with this chapter and a complete report of such inspections must be filed with the bureau in the time, manner and form as prescribed by the bureau.

The chief boiler inspector may, at his discretion, inspect any boiler to which a special inspector commission applies.

The bureau may, for cause, suspend or revoke any special inspector commission.

SECTION 6. AMENDMENT.) Section 65-12-06 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-06. CERTIFICATE OF INSPECTION - CERTIFICATE TO BE POSTED.) A certificate of inspection for each boiler inspected shall be issued by the bureau upon payment direct to the bureau of a fee of three dollars. Such inspection certificate shall be valid for a period of not more than twelve months for power boilers and twenty-four months for low pressure boilers except that a two-month grace period shall be extended for any certificate. Upon written request from a special inspector, the chief boiler inspector may, at his discretion, issue a short term certificate. No certificate of inspection shall be issued for any boiler not in a safe condition to be

operated. The inspection fees for the inspection of noninsured boilers must be paid before a certificate of inspection is issued.

Each certificate of inspection shall be posted conspicuously under glass in the boiler room or adjacent to such boiler.

SECTION 7. AMENDMENT.) Section 65-12-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-07. CERTIFICATE OF INSPECTION REQUIRED - PENALTY.) It shall be unlawful for any person, firm, partnership or corporation to willfully operate a boiler in this state without a valid certificate of inspection. Such operation of a boiler shall constitute a misdemeanor on the part of the owner, user or operator thereof and shall be punishable by a fine not exceeding five hundred dollars or imprisonment not to exceed six months, or both. Each day of such unlawful operation shall be deemed a separate offense.

SECTION 8. AMENDMENT.) Section 65-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-08. RULES AND REGULATIONS AND PENALTY FOR VIOLATION.) The bureau shall promulgate rules and regulations for the safe and proper installation, use, operation and inspection of boilers subject to this chapter. Any owner or user of a boiler who fails or refuses to comply with such rules and regulations shall be guilty of a misdemeanor.

SECTION 9. AMENDMENT.) Section 65-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-09. MANUFACTURER'S DATA REPORT.) The manufacturer must provide the bureau with manufacturer's data report. This data sheet together with the stamp on the boiler shall be the record denoting that the boiler has been constructed in accordance with the rules and regulations as specified in section 65-12-08 signed by an authorized inspector.

SECTION 10. AMENDMENT.) Section 65-12-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-10. INSPECTION OF BOILERS.) Each boiler used or proposed to be used within this state, except boilers exempt in section 65-12-04.1 shall be thoroughly inspected as to their construction, installation, condition and operation as established by the North Dakota boiler rules and regulations.

SECTION 11. AMENDMENT.) Section 65-12-11 of the 1971 Supplement to the North Dakota Century Code is hereby amended

and reenacted to read as follows:

65-12-11. INSPECTION FEES.) The owner or user of a boiler required by this chapter to be inspected by the boiler inspector, shall pay to the bureau, upon completion of inspection, fees in accordance with the following schedule:

1. Internal inspections of power boilers:
 - a. Not more than one hundred square feet of heating surface.....seven dollars;
 - b. Over one hundred and not more than two thousand five hundred square feet of heating surface.....fifteen dollars;
 - c. Over two thousand five hundred square feet of heating surface..... twenty-five dollars.
2. Internal inspections of low pressure heating boilers:
 - a. Boilers without a manhole.....seven dollars;
 - b. Boilers with a manhole....,fifteen dollars.
3. External inspections of all boilers..... seven dollars.
4. Boilers used exclusively for exhibition purposes.....five dollars.

Not more than twenty-five dollars shall be charged or collected for any and all inspections, as above, of any boiler in any one year except for special inspections made upon request as hereafter provided. All other inspections made by the boiler inspector including shop inspections and special inspections when requested by the owner or user of a boiler, shall be charged for on the scale applicable to an internal inspection plus any additional expenses incurred in connection therewith.

Approved March 12, 1973