

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2170

Introduced by

Senators Carlisle, Kilzer

Representative Maragos

1 A BILL for an Act to amend and reenact sections 65-05-26 and 65-05-38 of the North Dakota  
2 Century Code, relating to workers' compensation burial expenses and benefits for a surviving  
3 spouse; and to provide for application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 65-05-26 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **65-05-26. Burial, cremation, or funeral expenses.**

- 8 1. If death benefits are payable under section 65-05-16, the fund shall pay to the facility  
9 handling the burial, cremation, or funeral arrangements of the deceased employee  
10 burial expenses an amount not to exceed ten thousand dollars.
- 11 2. In the case of the death of an injured employee who at the time of death was receiving  
12 permanent total disability benefits or additional benefits payable that were converted  
13 from permanent total disability benefits, the organization shall pay to the facility  
14 handling the burial, cremation, or funeral arrangements of the deceased employee an  
15 amount not to exceed ten thousand dollars. This subsection does not apply unless the  
16 decedent's injury:
- 17 a. Occurred after July 31, 1995; or
- 18 b. Occurred before August 1, 1995, and the decedent had a date of first disability or  
19 recurrent disability date commencing after July 31, 1995.
- 20 3. Benefits are not payable under subsection 2 if benefits are payable under  
21 subsection 1.

22 **SECTION 2. AMENDMENT.** Section 65-05-38 of the North Dakota Century Code is  
23 amended and reenacted as follows:

1       **65-05-38. Death of permanently and totally disabled employee - Surviving spouse.**

2       1. In the case of the death of an injured employee who is receiving permanent total  
3       disability benefits, or additional benefits payable, if the injured employee was  
4       permanently and totally disabled for at least ten years and was married to the  
5       surviving spouse for at least ten years, the decedent's surviving spouse is eligible to  
6       receive no more than six months of the decedent's permanent total disability benefits,  
7       supplementary benefits, and additional benefits payable in the same manner as the  
8       deceased spouse would have been entitled to receive the benefits. A surviving spouse  
9       is eligible for benefits under this ~~section~~subsection if the organization approved the  
10      decedent for home health care services and reimbursed the surviving spouse for  
11      providing the home health care services.

12      2. In the case of the death of an injured employee who is receiving permanent total  
13      disability benefits or additional benefits payable, if the injured employee was  
14      permanently and totally disabled for at least ten years and was married to the  
15      surviving spouse for at least ten years, the decedent's surviving spouse is eligible to  
16      receive no more than six months of the decedent's permanent total disability benefits,  
17      supplementary benefits, and additional benefits payable in the same manner as the  
18      deceased spouse would have been entitled to receive the benefits. A surviving  
19      spouse is not eligible to receive benefits under this subsection unless the decedent's  
20      injury occurred:

21      a. After July 31, 1995; or

22      b. Before August 1, 1995, and the decedent has a date of first disability or recurrent  
23      disability date commencing after July 31, 1995.

24      3. The surviving spouse is not eligible for benefits under this section if the surviving  
25      spouse is eligible for benefits under section 65-05-16. The surviving spouse is not  
26      eligible for benefits under subsection 2 if the surviving spouse is eligible for benefits  
27      under subsection 1. The eligibility of the surviving spouse to receive benefits under  
28      this section terminates upon the remarriage of the surviving spouse.

29      **SECTION 3. APPLICATION.** This Act applies to deaths that occur on or after the effective  
30      date of this Act.