

March 9, 1953.  
Labor. *Rec.*

*Indef Party 3/23*

House File 412  
By ARMSTRONG.

Passed House, Date.....  
Vote: Ayes..... Nays.....  
Passed Senate, Date.....  
Vote: Ayes..... Nays.....  
Approved .....

## A BILL FOR

An Act to amend chapter eighty-five (85), Code 1950, relating to workmen's compensation, by creating an industrial accident fund, and to make an appropriation therefor.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 Section 1. Chapter eighty-five (85), Code 1950, is hereby  
2 amended by adding thereto the following new sections:  
3 1. Creation of industrial accident fund: Moneys received  
4 a part of fund: Payments from fund. There is hereby created a  
5 fund to be known as the industrial accident fund, which fund  
6 shall be held by the state treasurer and by him deposited in  
7 such banks as are authorized to receive deposits of general  
8 funds of the state. All moneys received by the commission  
9 hereunder shall be by it paid forthwith to the treasurer of state  
10 and shall become a part of the industrial accident fund. All  
11 payments authorized by this act, including all salaries, clerk  
12 hire and all other expenses, shall be made from the industrial  
13 accident fund. There is hereby appropriated out of the general  
14 fund to the industrial accident fund the sum of one million  
15 dollars (\$1,000,000.00) to cover claims made during the period of  
16 and organization of such fund. Such appropriation shall be  
establishment

17 considered a loan and shall be repaid to the general fund of  
18 the state of Iowa on or before July 4, 1955.

19 2. Employers subject to act to make payments to commission.  
20 From and after July 4, 1954, every employer subject to this act  
21 shall pay to the commission on or before the fifteenth day of  
22 each month a percentage of his total payroll for the preceding  
23 calendar month of workmen subject to this act (according to the  
24 standard rates established by the National Council on  
25 Compensation Insurance).

26 3. Ninety-eight days prior to July 4, 1955, the commissioner  
27 shall determine the rates in accordance with standard rates  
28 established by the National Council on Compensation Insurance  
29 and shall make available such information upon application  
30 by the employer. Employers entitled to experience rating: Rate  
31 of contribution: Change of ownership or employer, etc.: Rule in  
32 case of injury by third person: Fiscal year defined. When an  
33 employer has been a contributor to the industrial accident fund  
34 for a period of one full fiscal year, such employer shall be  
35 entitled to an experience rating. The rate of contribution to  
36 the fund of an employer who is entitled to an experience rating  
37 shall be determined according to the provisions of this section.  
38 If the total amount paid out of the industrial accident fund or  
39 set apart therefrom, as hereinafter provided, on account of  
40 injuries sustained by the workmen of an employer together with  
41 all costs incidental to such claims is less than fifty percent  
42 of the contribution to said fund by such employer during the

43 period since the employer became subject to this act, the rate  
44 of contribution of such employer during the following fiscal year  
45 shall be reduced by forty percent of the amount hereinbefore  
46 prescribed:

47 Where such amount is fifty percent and less than fifty-five  
48 percent of the contributions, the rate shall be reduced by twenty-  
49 five percent;

50 Where such amount is fifty-five percent and less than sixty  
51 percent of the contributions, the rate shall be reduced by  
52 twenty percent;

53 Where such amount is sixty percent and less than sixty-  
54 five percent of the contributions, the rate shall be reduced  
55 by fifteen percent:

56 Where such amount is sixty-five percent and less than  
57 seventy percent of the contributions, the rate shall be reduced  
58 by ten percent;

59 Where such amount is seventy percent and less than eighty  
60 percent of the contributions, the rate shall be base;

61 Where such amount is eighty percent and less than eighty-  
62 five percent, the rate shall be increased by five percent:

63 Where such amount is eighty-five percent and less than  
64 ninety percent, the rate shall be increased by ten percent:

65 Where such amount is ninety percent and less than ninety-  
66 five percent, the rate shall be increased by fifteen percent;

67 Where such amount is ninety-five percent and less than one  
68 hundred percent, the rate shall be increased by twenty percent;

69 Where such amount is one hundred percent, or more, the  
70 rate shall be increased by thirty percent.

71 The rate of contribution of an employer for each succeeding  
72 fiscal year shall be determined, as provided in this section,  
73 from the time such employer first became subject to this act,  
74 but for not more than the preceding five fiscal years; provided,  
75 however, that no employer shall be entitled to an experience  
76 rating unless within the preceding five fiscal years such employer  
77 has been a contributor to the industrial accident fund for at  
78 least one full fiscal year.

79 If, during the time for which the experience rating is  
80 determined, the contribution of any employer averages less than  
81 fifty dollars per fiscal year for each fiscal year during which  
82 the employer operated subject to this act, the contribution for  
83 such employer for the ensuing fiscal year shall be at base rate.  
84 For the purpose of determining the experience rating, as  
85 provided in this section, the amount paid out or set aside on  
86 account of an accident resulting in the fatal injury or  
87 permanent total disability of a workman shall be deemed to be  
88 the average amount paid out and set aside on account of all  
89 such injuries during the preceding five fiscal years.

90 To the end that no employer shall evade the burden imposed  
91 by an unfavorable experience, or be denied the benefits of a  
92 favorable experience, in all cases where there has been a  
93 change (a) in ownership or employer; (b) in the operation of a  
94 plant; or (c) of interest of the employer, the commission shall

95 have authority to determine whether such change justifies a new  
96 experience rating or a continuance of the experience rating  
97 existing prior to such change. It is the purpose of this  
98 section that there shall be no change in experience rating  
99 because of change of ownership or employer unless there has  
100 been a substantial change in both ownership and management.

101 If the commission shall find that the injury to workman  
102 was due wholly or in part to a third person not employed by  
103 such injured workman's employer, and if such third person was  
104 at the time of causing the injury in the course of an employment  
105 subject to this act, the commission, for experience rating, may  
106 charge the cost of such injury or allocate any part thereof to  
107 the employer of such third person.

108 The words "fiscal year" employed in this section mean the  
109 period of time commencing on July 4 and ending on the succeeding  
110 July 3.

111 4. Annual determination of total liability against fund:  
112 Credits to employers. Annually on July 1, the commission shall  
113 determine the total liability existing against the industrial  
114 accident fund, and if it finds the industrial accident fund  
115 amounts to a sum sufficient to cover all liability, together  
116 with a surplus of five hundred thousand dollars (\$500,000.00), aside  
117 reserves in the emergency and catastrophe funds, the commission  
118 shall place to the credit of each employer contributing fifty  
119 dollars (\$50.00) or more to the fund during the preceding twelve  
120 on account of contributions required by this act to be paid months,

121 during that time, such proportion of the surplus paid into the  
122 accident fund during that period as his contribution is to the  
123 total contribution of all employers paid into the accident fund  
124 for the preceding twelve months.

125 5. Catastrophe fund: Investments: Catastrophe defined: Claims  
126 chargeable against fund: Cost of catastrophe for experience  
127 rating: When benefits payable from fund. There is hereby created  
128 a fund to be known as the "catastrophe fund". The commission  
129 shall transfer to such fund monthly one and one-half percent of  
130 the total monthly contributions received from employers and  
131 workmen until such time as, in the judgment of the commission,  
132 such fund shall be sufficiently large to cover the catastrophe  
133 hazard. The catastrophe fund shall be maintained at a sum of  
134 at least one hundred thousand dollars (\$100,000.00). The commission  
135 may reduce the percentage of monthly receipts to be transferred  
136 to the catastrophe fund, if the moneys in said catastrophe fund  
137 are sufficient to cover the catastrophe hazard. Such fund shall  
138 be invested in the same manner as the investment of moneys in  
139 the segregated accident fund. The interest earnings from  
140 investments of the catastrophe fund shall be credited to the  
141 industrial accident fund.

142 A single accident causing the death or permanent total  
143 disability of more than one workman of an employer shall be  
144 known as a catastrophe. The cost of all claims arising from a  
145 catastrophe shall be charged to the catastrophe fund. For the  
146 purpose of determining the experience rating of the employer,

147 the entire cost of a catastrophe shall be deemed to be the  
148 average amount per claim paid out and set aside on account of  
149 fatal injuries and permanent total disabilities during the  
150 preceding five fiscal years.

151 The commission may authorize the payment of other  
152 compensation benefits from the catastrophe fund if the  
153 industrial accident fund becomes exhausted.

154 6. Change of rates of contribution. The commission shall  
155 have authority annually to readjust, increase or decrease the  
156 rates of contributions of all employers subject to this act.  
157 Any such readjustment, increase or decrease shall be made not  
158 later than March 15 and shall become effective July 4 next  
159 following, and shall be based upon the hazard of each  
160 classification of industry as defined by the annual rate manual  
161 of the National Council on Compensation Insurance.

162 7. Interest and penalties on default in payment of  
163 contributions: Action by commission: Employer to display notice  
164 of default. When any payment of contribution required by this  
165 act to be made by an employer on his own account or on account  
166 of workmen in his employ becomes due, interest at the rate of  
167 one percent per month or fraction thereof shall be added to  
168 the amount of such payment commencing with the first day of the  
169 month following the date upon which such payment became due.  
170 If any employer shall fail to make payment of contributions  
171 required hereunder within ten days after a written demand by  
172 the commission, such employer shall be in default and shall be

173 subject to a penalty of ten percent of the amount of such  
174 contribution then due. The amount of such contribution at any  
175 time due, together with interest thereon, and penalty for  
176 nonpayment thereof, may be collected by the commission in the  
177 same action.

178 Every employer in default, as provided in this section,  
179 hereby is required, upon receipt of notice thereof, to display  
180 such notice of default by posting same in a place accessible to  
181 his workmen in such manner as to inform his workmen of such  
182 default. Any employer who shall fail to post notice of default,  
183 as herein provided, shall be guilty of a misdemeanor and, upon  
184 conviction thereof, shall be punished by a fine of not less  
185 than twenty-five dollars (\$25.00), nor more than one hundred dollars  
186 (\$100.00).

187 When any employer is in default, as provided in this section,  
188 such employer shall not be entitled to any of the benefits of  
189 this act, but shall be liable to the injured workman, or to  
190 those claiming under him in case of death, as he would have  
191 been prior to the passage of this act.

191 8. Deposit by employers with commission, or bond in lieu  
192 thereof: Refund of deposit or cancellation of bond in certain  
193 cases: Injunction against further employment by employer not  
194 complying with law: Notice and hearing in injunction suit. All  
195 employers, except political subdivisions of the state, engaged  
196 in a hazardous occupation and subject to the provisions of this  
197 act, or hereafter becoming subject thereto, shall deposit, on or  
198 before July 4, 1954, or at the time such employer first employs

199 workmen under the provisions of this act, and keep on deposit with  
200 the commission a sum equal to the contributions due the commission  
201 upon his estimated payroll for a period of three months. The  
202 commission may, in its discretion and in lieu of such deposit,  
203 accept a bond to secure payment of contributions to become due  
204 the accident fund. The deposit or the posting of the bond, as  
205 provided in this section, shall not relieve the employer from  
206 making contributions to the accident fund based on his actual  
207 payroll, as provided by section three. In the event that an  
208 employer shall cease to be an employer under the provisions of  
209 this act, the commission shall, upon receipt of all payments due  
210 the accident fund based on the actual payroll, refund to the  
211 employer any and all of such deposit remaining to the employer's  
212 credit and shall cancel any bond given in compliance herewith.  
213 The circuit court of the county in which an employer resides or  
214 in which he employs workmen, in the event such employer fails  
215 to comply with the provisions of this act, and upon the commencement  
216 of a suit by the commission for that purpose, shall enjoin such  
217 employer from further employing workmen under the provisions of  
218 this act until such employer has complied with this section.  
219 Upon filing of a suit for such purpose by the commission, the  
220 court shall set a day for hearing and shall cause notice thereof  
221 to be served upon the employer, and said hearing shall be not less  
222 than five nor more than fifteen days from the service of such  
223 notice.

224 9. Liability for contributions by contractor on account of

225 hazardous occupation prior to notice of contract to commission.  
226 If any person shall let a contract and the person to whom the  
227 contract was let, while performing the contract, shall engage in  
228 a hazardous occupation as an employer subject to this act at the  
229 plant of the person letting the contract, upon premises owned,  
230 leased or controlled by such person or upon premises where such  
231 person is conducting his business, the person letting the contract  
232 shall be liable to the industrial accident fund for the payment  
233 of all contributions to such fund on account of the performance  
234 of the contract or any subcontract thereunder which shall accrue  
235 before written notice of the contract and the name and address  
236 of the person to whom it was let has been filed with the  
237 commission.

238 10. Contributions and amounts due accident fund preferred  
239 claims. All contributions, interest charges, penalties or amounts  
240 due the industrial accident fund from any employer, as provided  
241 in this act, and all judgments recovered by the commission  
242 against any employer under any of the provisions of this act,  
243 shall be deemed preferred to all general claims in all bankruptcy  
244 proceedings, trustee proceedings, proceedings for the  
245 administration of estates and receiverships involving the  
246 employer liable therefor of the property of such employer.

247 11. Lien for amounts due from employer on account of labor  
248 performed: Proceedings to enforced lien. A lien hereby is  
249 created in favor of the commission upon all real property  
250 within this state and any structure or improvement thereon and

251 upon any mine, lode, deposit, mining claim, or any road, tramway,  
252 trail, flume, ditch, pipe line, building, or other structure  
253 or equipment on or pertaining thereto, upon which labor shall  
254 be performed by the workmen of any employer subject to this act,  
255 in a sum equal to the amount at any time due from such employer  
256 to the commission on account of labor performed thereon by the  
257 workmen of such employer, together with interest and penalty.  
258 The commission shall also have a lien on real or personal  
259 property of the employer used in connection with the employment  
260 on which contributions are due, in a sum equal to the amount at  
261 any time due from any employer subject to this act on account of  
262 labor performed by the workmen of such employer, together with  
263 interest and penalty. The lien hereby created shall be prior  
264 to all other liens and encumbrances, except labor liens. In  
265 order to avail itself of the lien hereby created the commission  
266 shall, within sixty days after the employer is in default, as  
267 provided in section eight, file with the county clerk of the  
268 county within which such property shall then be situated a  
269 statement in writing describing the property upon which a lien  
270 is claimed and stating the amount of the lien claimed by the  
271 commission. If a lien is claimed on real property not then  
272 owned by the employer, such statement must be filed within sixty  
273 days from the completion of the work. The commission shall,  
274 within six months from the filing of the statement, commence a  
275 suit to cause such lien to be foreclosed in the manner provided  
276 by law for the foreclosure of other liens on real or personal

277 property.

278 12. Lien for contributions due: Notice of lien, contents,  
279 *filing and recording: Priority: Release of lien on execution of*  
280 *bond: Suit to foreclose. If any employer liable for the payment*  
281 *of contributions to the industrial accident fund shall be placed*  
282 *in default as provided by section eight, the amount due said*  
283 *fund, including interest and penalty, shall be a lien in favor*  
284 *of the state industrial accident commission upon all property,*  
285 *whether real or personal, belonging to such employer and shall*  
286 *attach upon the filing of a notice of claim of lien with the*  
287 *county clerk of the county in which the property is located.*  
288 *The notice of lien claim shall contain a true statement of the*  
289 *demand, after deducting all just credits and offsets, and the*  
290 *default of such employer. The county clerk shall record said*  
291 *claim of lien in a book kept for that purpose, which record*  
292 *shall be indexed as deeds and other conveyances are required by*  
293 *law to be indexed, and for which he shall receive the same fees*  
294 *as are allowed by law for recording deeds and other instruments.*  
295 *The lien hereby created shall be prior to all liens and*  
296 *encumbrances recorded subsequent to the filing of notice of claim*  
297 *of lien, except taxes and labor liens. The employer against*  
298 *whose property such lien has been filed may cause his property*  
299 *to be released by filing with the county clerk of the county*  
300 *wherein such lien is recorded a bond in a sum double of the*  
301 *amount claimed in said lien, executed by a surety company*  
302 *licensed to do business in Iowa or by two freeholders of the*

303 state of Iowa, having the qualifications of bail upon arrest,  
304 to be approved by the circuit judge of the district in which  
305 said lien is filed, or in the event of his absence from the  
306 county in which said lien is filed, then by the county judge  
307 of said county, running to the state industrial accident  
308 commission and conditioned for the payment of all damages, costs,  
309 charges and disbursements that may be recovered by the state  
310 industrial accident commission against such employer or that  
311 may be found to be a lien upon or against the property of such  
312 employer, the clerk shall issue to such employer a certificate  
313 stating that the bond is substituted in lieu of the property of  
314 said employer and that the lien on said property is forever  
315 released and discharged and a marginal entry of said release and  
316 bond shall be made in the lien docket containing the original  
317 record of statement of claim, and if the state industrial accident  
318 commission establishes the validity of its lien by a suit to  
319 foreclose the same, it shall be entitled to judgment or decree  
320 against the sureties upon said bond. The lien hereby created  
321 may be foreclosed by a suit in the circuit court in the manner  
322 provided by law for the foreclosure of other liens on real or  
323 personal property. Unless a suit is instituted by the commission  
324 to foreclose such lien within two years from the date of filing,  
325 the lien shall expire.

326 13. Acceptance of warrants or certificates of indebtedness  
327 of state or political subdivision in payment of contributions:  
328 Transfer to segregated accident fund. The commission may, in

329 its discretion, except from the state or any political subdivision  
330 thereof, its lawfully issued warrants or certificates of  
331 indebtedness in payment of any contributions due to the industrial  
332 accident fund. Any warrants or certificates of indebtedness so  
333 received by the commission shall become a part of the industrial  
334 accident fund.

335 14. Disbursements out of funds to be on warrants: Liability  
336 of treasurer of state in respect to funds. Disbursements for  
337 administrative expenses from the industrial accident fund, shall  
338 be made only upon warrants drawn by the treasurer of state upon  
339 vouchers duly approved by the commission.

340 The treasurer of state shall be liable on his official bond  
341 for the safe custody of the moneys and securities of the  
342 industrial accident fund.

343 15. This fund is established for the purpose of paying  
344 claims which such employer may incur under the provisions of  
345 this chapter. The employer shall, within five days of notice  
346 of such liability, notify the commission of such claim. The  
347 commission shall have the power and authority to prescribe forms,  
348 rules and regulations, not inconsistent with the provisions of  
349 this chapter, necessary to carry out and effectuate its purposes.

#### EXPLANATION OF H. F. 412

No legislature passes a law for the purpose of creating profit. The lawmakers of Iowa, in 1913, did not adopt the workmen's compensation law to create insurance business, rather the purpose of the law was to provide financial assistance to the injured worker and to protect the employer from expensive litigation. Employers agreed to insure their employes through a mutual nonprofit insurance fund but this idea has long since been dropped and workmen's compensation today is underwritten either through insurance companies or by self-insurers. This has caused the law to become expensive and has restricted needed improvements. As living costs increased, many states have met this problem by establishing a nonprofit state insurance fund. This bill will set up such a fund for the benefit of Iowa employers and wage earners covered by the workmen's compensation law.