

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2125

Introduced by

Industry, Business and Labor Committee

(At the request of the Workers Compensation Bureau)

1 A BILL for an Act to create and enact a new section to chapter 65-05 of the North Dakota
2 Century Code, relating to additional benefits for recipients of workers' compensation disability
3 benefits; to amend and reenact section 65-05-09.3 of the North Dakota Century Code, relating
4 to discontinuance of workers' compensation benefits upon retirement; and to provide for
5 retroactive application.

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

7 **SECTION 1.** A new section to chapter 65-05 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Additional benefit payable.** If an injured employee's benefits cease under
10 subsection 2 of section 65-05-09.3, the bureau shall pay to that employee every twenty-eight
11 days a benefit based on the length of time the injured employee received disability benefits
12 during the term of that claim. The bureau shall pay the injured employee's additional benefits
13 until the employee's death or for a period of time not to exceed the total length of time the
14 employee received disability benefits under sections 65-05-08, 65-05-08.1, 65-05-09, and
15 65-05-10, and a vocational rehabilitation allowance under chapter 65-05.1, for that claim,
16 whichever occurs first. The benefit is based on the disability benefit that was discontinued
17 under subsection 2 of section 65-05-09.3, which is the injured employee's compensation rate
18 less any applicable social security offset. The percentage of that final payment payable as the
19 additional benefit is:

20	<u>At least 1 year and less than 3 years of disability</u>	<u>5 percent of weekly benefit</u>
21	<u>At least 3 years and less than 5 years of disability</u>	<u>10 percent of weekly benefit</u>
22	<u>At least 5 years and less than 7 years of disability</u>	<u>15 percent of weekly benefit</u>
23	<u>At least 7 years and less than 9 years of disability</u>	<u>20 percent of weekly benefit</u>
24	<u>At least 9 years and less than 11 years of disability</u>	<u>25 percent of weekly benefit</u>

1	<u>At least 11 years and less than 13 years of disability</u>	<u>30 percent of weekly benefit</u>
2	<u>At least 13 years and less than 15 years of disability</u>	<u>35 percent of weekly benefit</u>
3	<u>At least 15 years and less than 17 years of disability</u>	<u>40 percent of weekly benefit</u>
4	<u>At least 17 years and less than 20 years of disability</u>	<u>45 percent of weekly benefit</u>
5	<u>Twenty or more years of disability</u>	<u>50 percent of weekly benefit.</u>
6	<u>However, the bureau shall pay to an injured employee who has been determined to be</u>	
7	<u>catastrophically injured as defined by subdivision c of subsection 2 of section 65-05.1-06.1 an</u>	
8	<u>additional benefit, until the death of the employee, equal to one hundred percent of the final</u>	
9	<u>payment of the disability benefit that was discontinued under subsection 2 or 3 of section</u>	
10	<u>65-05-09.3.</u>	

11 **SECTION 2. AMENDMENT.** Section 65-05-09.3 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **65-05-09.3. Retirement presumption - Termination of benefits upon retirement.**

- 14 1. An employee who has retired or voluntarily withdrawn from the labor force and who
15 is, at that time, was not eligible to receive temporary total disability, temporary
16 partial disability, or permanent total disability benefits, or a rehabilitation allowance
17 from the bureau is presumed retired from the labor market. The presumption may
18 be rebutted by a preponderance of the evidence; however, the subjective
19 statement of an employee that the employee is not retired is not sufficient in itself
20 to rebut objective evidence of retirement.
- 21 2. An injured employee ~~who is receiving permanent total, temporary total, or~~
22 ~~temporary partial disability benefits, or rehabilitation benefits, and who begins~~
23 receiving social security retirement benefits or other retirement benefits in lieu of
24 social security retirement benefits, ~~or who is at least sixty-five years old and is~~
25 ~~eligible to receive social security retirement benefits or other retirement benefits in~~
26 ~~lieu of social security retirement benefits,~~ is considered to be retired. The bureau
27 may not pay any ~~permanent total, temporary total, or temporary partial disability~~
28 benefits, rehabilitation benefits, or ~~supplemental~~ supplementary benefits to an
29 employee who is considered retired; however, the ~~bureau is liable~~ employee
30 remains eligible for ~~payment of~~ medical benefits ~~and,~~ permanent partial impairment
31 benefits, and the additional benefit payable under section 1 of this Act. ~~An~~

~~employee who is determined to be catastrophically injured as defined by
subdivision c of subsection 2 of section 65-05.1-06.1 is not subject to this section.~~

3. The bureau retains liability for disability benefits, rehabilitation benefits, permanent partial impairment benefits, and medical benefits for an injured employee who is ~~eligible to receive~~ receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits, who is gainfully employed, and who suffers an injury arising out of and in the course of that employment. The bureau may not pay disability or rehabilitation benefits under this subsection for more than three years, subject to section 65-05-09.2.

4. This section applies to all persons who ~~retire or become eligible for~~ begin receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits after July 31, 1995.

SECTION 3. RETROACTIVE APPLICATION. Section 1 of this Act applies retroactively to August 1, 1995.