

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2351

Introduced by

Senators Christenson, Every

Representative S. Kelsh

1 A BILL for an Act to amend and reenact section 65-05-09.2 of the North Dakota Century Code,
2 relating to workers' compensation social security retirement offset.

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

4 **SECTION 1. AMENDMENT.** Section 65-05-09.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **65-05-09.2. Retirement offset prohibited.** If an employee is entitled to permanent
7 ~~total~~ disability benefits and social security retirement benefits under 42 U.S.C. sections 402 and
8 405, the ~~aggregate wage-loss benefits payable under this title must be determined in~~
9 ~~accordance with this section. The employee's social security retirement offset must equal forty~~
10 ~~percent of the calculated ratio of the employee's average weekly wages, as calculated on the~~
11 ~~commencement of the first, or recurrent, disability under section 65-05-09, to the current state's~~
12 ~~average weekly wage. Any offset calculated cannot exceed forty percent of the employee's~~
13 ~~weekly social security retirement benefit. If a claim has been accepted on an aggravation basis~~
14 ~~and the employee is eligible for social security benefits, the bureau's offset must be~~
15 ~~proportionally calculated. An overpayment must be recouped in the same manner as set forth~~
16 ~~in section 65-05-09.1 bureau may not offset the employee's benefits based on receipt of these~~
17 social security retirement benefits. This section applies to an employee who becomes entitled
18 to and receives social security retirement benefits after June 30, 1989, and before August 1,
19 1995, or who receives social security retirement benefits that have been converted from social
20 security disability benefits by the social security administration after June 30, 1989, and before
21 August 1, 1995. ~~A conversion by the bureau from offsetting an employee's social security~~
22 ~~disability benefits to offsetting an employee's social security retirement benefits under this~~
23 ~~section may not result in a decrease in the aggregate amount of benefits the employee receives~~
24 ~~from both sources.~~