

Sixtieth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1239

Introduced by

Representatives Amerman, Solberg

Senator Krauter

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

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

1           **SECTION 2. APPLICATION.** This Act applies to all workforce safety and insurance  
2 claimants who are eligible for benefits on or after the effective date of this Act regardless of the  
3 date of injury.