

**HOUSE BILL NO. 1410**

Introduced by

Representatives Wald, Grande, Klein

Senator Wardner

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 offset for social security retirement benefits.

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.**

7 1. If an employee is entitled to permanent total disability benefits and social security  
8 retirement benefits under 42 U.S.C. sections 402 and 405, the aggregate  
9 wage-loss benefits payable under this title must be determined in accordance with  
10 this section.

11 2. The calculation of the employee's social security retirement offset must be based  
12 on the period of time the employee has received permanent total disability benefits.  
13 If on the date the employee becomes eligible to receive social security retirement  
14 benefits the employee has received permanent total disability for:

15 a. At least twenty years, there is no offset under this section.

16 b. At least fifteen years but less than twenty years, the offset must equal  
17 twenty-five percent of the calculated ratio of the employee's average weekly  
18 wages, as calculated on the commencement of the first, or recurrent, disability  
19 under section 65-05-09, to the current state's average weekly wage. Any  
20 offset calculated under this subdivision cannot exceed twenty-five percent of  
21 the employee's weekly social security retirement benefit.

22 c. Less than fifteen years, the offset must equal forty percent of the calculated  
23 ratio of the employee's average weekly wages, as calculated on the  
24 commencement of the first, or recurrent, disability under section 65-05-09, to

1                   the current state's average weekly wage. Any offset calculated under the  
2                   subdivision cannot exceed forty percent of the employee's weekly social  
3                   security retirement benefit.

4           3. If a claim has been accepted on an aggravation basis and the employee is eligible  
5           for social security benefits, the organization's offset must be proportionally  
6           calculated. An overpayment must be recouped in the same manner as set forth in  
7           section 65-05-09.1.

8           4. This section applies to an employee who becomes entitled to and receives social  
9           security retirement benefits after June 30, 1989, or who receives social security  
10          retirement benefits that have been converted from social security disability benefits  
11          by the social security administration after June 30, 1989. A conversion by the  
12          organization from offsetting an employee's social security disability benefits to  
13          offsetting an employee's social security retirement benefits under this section may  
14          not result in a decrease in the aggregate amount of benefits the employee receives  
15          from both sources.