

Introduced by

Senator Schneider

1 A BILL for an Act to amend and reenact subsection 12 of section 65-05-12.2 of the North
2 Dakota Century Code, relating to workers' compensation permanent impairment determinations;
3 and to provide for application.

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

5 **SECTION 1. AMENDMENT.** Subsection 12 of section 65-05-12.2 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 12. If there is a medical dispute regarding the percentage of an injured employee's
8 permanent impairment, all relevant medical evidence must be submitted to an
9 independent doctor who has not treated the employee and who has not been
10 consulted by the organization in relation to the injury upon which the impairment is
11 based.

12 a. The organization shall establish a list of doctors who have the training and
13 experience necessary to conduct an evaluation of permanent impairment and to
14 apply the sixth edition of the American medical association's "Guides to the
15 Evaluation of Permanent Impairment". The organization shall define, by rule, the
16 process by which the organization shall choose an independent doctor or doctors
17 to review a disputed permanent impairment evaluation or rating. The

18 b. If the decision of the independent doctor or doctors chosen under this process is
19 not less than the lowest nor greater than the highest rating in dispute, the
20 decision of the independent doctor or doctors is presumptive evidence of the
21 degree of permanent impairment of the employee which can only be rebutted by
22 clear and convincing evidence. If the decision of the independent doctor or
23 doctors is less than the lowest rating, the previous lowest rating is presumptive
24 evidence of the degree of permanent impairment of the employee. If the decision

1 of the independent doctor or doctors is greater than the highest rating, the
2 previous highest rating is presumptive evidence of the degree of permanent
3 impairment of the employee. Presumptive evidence under this subdivision may
4 be rebutted by clear and convincing evidence.

5 c. This subsection does not impose liability on the organization for an impairment
6 award for a rating of impairment for a body part or condition the organization has
7 not determined to be compensable as a result of the injury.

8 d. The employee bears the expense of witness fees of the independent doctor or
9 doctors if the employee disputes the findings of the independent doctor or
10 doctors.

11 **SECTION 2. APPLICATION.** This Act applies to all permanent partial impairment
12 evaluations performed on or after the effective date of this Act.