

SENATE BILL NO. 2175

Introduced by

Senator Vedaa

Representatives Louser, Thomas

1 A BILL ~~for an Act to create and enact section 65-05-09.6 of the North Dakota Century Code,~~
2 ~~relating to notices of disability benefit reduction.~~ ~~for an Act to amend and reenact section~~
3 ~~65-05-09.1 of the North Dakota Century Code, relating to notice of social security offset.~~ for an
4 Act to create and enact section 65-05-09.6 of the North Dakota Century Code, relating to
5 notices of disability benefit reduction.

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

7 ~~SECTION 1. AMENDMENT. Section 65-05-09.1 of the North Dakota Century Code is~~
8 ~~amended and reenacted as follows:~~

9 ~~65-05-09.1. Social security offset.~~

10 ~~1. When an injured employee, or spouse or dependent of an injured employee, is eligible~~
11 ~~for and is receiving permanent total or temporary total disability benefits under section~~
12 ~~65-05-09, and also is also eligible for, is receiving, or will receive, benefits under title II~~
13 ~~of the Social Security Act [42 U.S.C. 423], the aggregate benefits payable under~~
14 ~~section 65-05-09 must be reduced, but not below zero, by an amount equal as nearly~~
15 ~~as practicable to one-half of such federal benefit. The federal benefit, or primary~~
16 ~~insurance amount, must be determined by the social security administration. The~~
17 ~~amount to be offset must equal the primary insurance amount rounded to the next~~
18 ~~lowest dollar less credit for either the entire amount of attorney's fees and costs, or the~~
19 ~~fees and costs paid to an authorized representative of the employee as allowed by the~~
20 ~~social security administration, withheld from past due social security benefits or paid~~
21 ~~directly by the claimant for representation before the social security administration.~~
22 ~~The amount of the offset computed by the organization initially must remain the same~~
23 ~~throughout the period of eligibility and may not be affected by any increase or~~
24 ~~decrease in federal benefits.~~

1 ~~2. Any injured employee, or dependent of an injured employee, receiving permanent total~~
2 ~~or temporary total disability benefits under section 65-05-09 and whose benefits are~~
3 ~~offset as provided herein in this section, is not eligible for any escalation of benefits~~
4 ~~which would adversely affect the organization's right to offset workforce safety and~~
5 ~~insurance benefits against social security benefits, as provided for in this chapter. This~~
6 ~~offset will become effective on January 1, 1980, provided that it the offset meets the~~
7 ~~criteria necessary to allow states to offset federal benefits under title II of the Social~~
8 ~~Security Act [42 U.S.C. 424a]. Providing further that:~~

9 ~~1. a. If the receipt of social security benefits results in an overpayment of temporary or~~
10 ~~permanent total disability benefits by the organization, a refund of any~~
11 ~~overpayment must be made by the injured employee or that overpayment must~~
12 ~~be taken from future disability benefits, permanent partial impairment awards, or~~
13 ~~personal reimbursements on the current claim or any future claim filed, at a~~
14 ~~recovery rate to be determined by the organization.~~

15 ~~2. b. If a claim has been accepted on an aggravation basis and the injured worker is~~
16 ~~eligible for social security benefits, the organization's offset must be~~
17 ~~proportionally calculated.~~

18 ~~3. c. If any person described in this section refuses to authorize the release of~~
19 ~~information concerning the amount of benefits payable under the Social Security~~
20 ~~Act, the organization's estimate of the amount is deemed to be correct until the~~
21 ~~actual amount is established and no adjustment may be made for any period of~~
22 ~~time covered by the refusal.~~

23 ~~3. The organization shall notify the injured employee, spouse, or dependent of an~~
24 ~~injured employee by mail, sent to the last known address of the employee, spouse, or~~
25 ~~dependent, when the aggregate benefits payable under section 65-05-09 are subject~~
26 ~~to reduction to offset federal benefits the injured employee is eligible for, is receiving,~~
27 ~~or will receive under title II of the Social Security Act [42 U.S.C. 423]. The organization~~
28 ~~shall mail the notice one year, six months, and three months before the reduction~~
29 ~~occurs.~~

30 **SECTION 1.** Section 65-05-09.6 of the North Dakota Century Code is created and enacted
31 as follows:

1 **65-05-09.6. Notice of disability benefit reduction.**

2 The organization shall notify the injured employee, spouse, or dependent of an injured
3 employee by mail, sent to the last-known post office address of the employee, spouse, or
4 dependent, when disability benefits are subject to reduction as a result of application of section
5 65-05-09.3. To the extent possible, the organization shall provide written notice no less than
6 six months and three months before the mandatory reduction under this section.