

Introduced by

Senators Schobinger, Brown, J. Lee

Representatives Price, Svedjan, Thoreson

1 A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota
2 Century Code, relating to the effect on medical assistance eligibility of transfers involving
3 annuities.

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

5 **SECTION 1.** A new section to chapter 50-24.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Transfers involving annuities.**

- 8 1. For purposes of this section, annuity means a policy, certificate, contract, or other
9 arrangement between two or more parties whereby one party pays a lump sum of
10 money or other valuable consideration to the other party in return for the right to
11 receive payments in the future.
- 12 2. The purchase of an annuity, an instrument purporting to be an annuity, or any other
13 arrangement that meets the definition of annuity in subsection 1 is considered an
14 uncompensated assignment or transfer of assets under section 50-24.1-02,
15 resulting in a penalty under the applicable rules established by the department of
16 human services unless the following criteria are met:
- 17 a. The annuity is irrevocable and cannot be assigned to another person.
- 18 b. The annuity is purchased from an insurance company or other commercial
19 company that sells annuities as part of the normal course of business.
- 20 c. The annuity provides substantially equal monthly payments of principal and
21 interest and does not have a balloon or deferred payment of principal or
22 interest. Payments will be considered substantially equal if the total annual
23 payment in any year varies by five percent or less from the payment in the
24 previous year.

- 1 d. The annuity will return the full principal and interest within the purchaser's life
2 expectancy as determined by life expectancy tables published by the
3 department of human services.
- 4 e. The monthly payments from the annuity, unless specifically ordered otherwise
5 by a court of competent jurisdiction, do not exceed the maximum monthly
6 income amount allowed for a community spouse as determined by the
7 department pursuant to 42 U.S.C. 1396r.