

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2384
(Senators Schobinger, Brown, J. Lee)
(Representatives Price, Svedjan, Thoreson)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to the effect on medical assistance eligibility of transfers involving annuities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Transfers involving annuities.

1. For purposes of this section, "annuity" means a policy, certificate, contract, or other arrangement between two or more parties whereby one party pays money or other valuable consideration to the other party in return for the right to receive payments in the future. The term does not mean an employee benefit that qualifies for favorable tax treatment under the Internal Revenue Code or a plan described in the Internal Revenue Code as a retirement plan under which contributions must end and withdrawals begin by age seventy and one-half.
2. The purchase of an annuity, an instrument purporting to be an annuity, or any other arrangement that meets the definition of annuity in subsection 1 is considered an uncompensated assignment or transfer of assets under section 50-24.1-02, resulting in a penalty under the applicable rules established by the department of human services unless the following criteria are met:
 - a. The annuity is irrevocable and cannot be assigned to another person.
 - b. The annuity is purchased from an insurance company or other commercial company that sells annuities as part of the normal course of business.
 - c. The annuity provides substantially equal monthly payments of principal and interest and does not have a balloon or deferred payment of principal or interest. Payments will be considered substantially equal if the total annual payment in any year varies by five percent or less from the payment in the previous year.
 - d. The annuity will return the full principal and interest within the purchaser's life expectancy as determined by the department of human services.
 - e. The monthly payments from the annuity, unless specifically ordered otherwise by a court of competent jurisdiction, do not exceed the maximum monthly income amount allowed for a community spouse as determined by the department pursuant to 42 U.S.C. 1396r-5.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2384.

Senate Vote: Yeas 44 Nays 0 Absent 3

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State