

**SENATE BILL NO. 2384
with House Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2384

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 money or other
10 valuable consideration to the other party in return for the right to receive payments
11 in the future. The term does not mean an employee benefit that qualifies for
12 favorable tax treatment under the Internal Revenue Code or a plan described in
13 the Internal Revenue Code as a retirement plan under which contributions must
14 end and withdrawals begin by age seventy and one-half.
- 15 2. The purchase of an annuity, an instrument purporting to be an annuity, or any
16 other arrangement that meets the definition of annuity in subsection 1 is
17 considered an uncompensated assignment or transfer of assets under section
18 50-24.1-02, resulting in a penalty under the applicable rules established by the
19 department of human services unless the following criteria are met:
 - 20 a. The annuity is irrevocable and cannot be assigned to another person.
 - 21 b. The annuity is purchased from an insurance company or other commercial
22 company that sells annuities as part of the normal course of business.
 - 23 c. The annuity provides substantially equal monthly payments of principal and
24 interest and does not have a balloon or deferred payment of principal or

- 1 interest. Payments will be considered substantially equal if the total annual
2 payment in any year varies by five percent or less from the payment in the
3 previous year.
- 4 d. The annuity will return the full principal and interest within the purchaser's life
5 expectancy as determined by the department of human services.
- 6 e. The monthly payments from the annuity, unless specifically ordered otherwise
7 by a court of competent jurisdiction, do not exceed the maximum monthly
8 income amount allowed for a community spouse as determined by the
9 department pursuant to 42 U.S.C. 1396r-5.