

Sixtieth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2205

Introduced by

Senators Fischer, J. Lee, Mathern

Representatives Hawken, Price, Weisz

1 A BILL for an Act to create and enact a new section to chapter 50-09 of the North Dakota  
2 Century Code, relating to employment of special assistant attorneys general; to amend and  
3 reenact sections 14-09-09.10 and 35-34-01, subsection 3 of section 50-01.2-00.1, sections  
4 50-03-10 and 50-09-01, subsection 16 of section 50-09-02, and sections 50-09-03, 50-09-08,  
5 50-09-33, 50-24.1-03.1, and 50-24.1-03.2 of the North Dakota Century Code, relating to state  
6 administration of the child support enforcement program; to repeal section 50-09-34 of the  
7 North Dakota Century Code, relating to administration of child support enforcement activities; to  
8 provide for a transfer of employees and equipment; to provide for payment and transfer of  
9 unused leave; to provide for a transfer of budgeted funds and unexpended child support  
10 incentive funds; to provide an appropriation; and to provide a continuing appropriation.

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

12 **SECTION 1. AMENDMENT.** Section 14-09-09.10 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **14-09-09.10. Definitions.** For the purposes of this chapter, unless the context or  
15 subject matter otherwise requires:

- 16 1. "Arrears registry" means the registry maintained under section 50-09-02.7.
- 17 2. "Business day" means every day that is not a Saturday or legal holiday.
- 18 3. "Child support" means payments for the support of children and combined  
19 payments for the support of children and spouses or former spouses, however  
20 denominated, if the payment is required by the order of a court or other  
21 governmental agency having authority to issue such orders.
- 22 4. "Child support agency" means the ~~county social service board, any combination of~~  
23 ~~county social service boards, or any entity created by a county social service board~~  
24 ~~or any combination of county social service boards,~~ department of human services

- 1 in execution of ~~the county social service board's~~ its duties under ~~subsection 5 of~~  
2 ~~section 50-09-03~~ pursuant to the state plan submitted under chapter 50-09 in  
3 conformance with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat.  
4 2351; 42 U.S.C. 651 et seq.].
- 5 5. "Delinquent" means a situation which occurs on the first working day after the day  
6 upon which a child support payment was identified as due and unpaid, and the  
7 total amount of unpaid child support is at least equal to the amount of child support  
8 payable in one month.
- 9 6. "Disposable income" means gross income less deductions required by law for  
10 taxes and social security.
- 11 7. "Employer" means income payer.
- 12 8. "Health insurance" includes fees for service, health maintenance organization,  
13 preferred provider organization, comprehensive health association plan, accident  
14 and health insurance policies, group health plans as defined in section 607(1) of  
15 the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat.  
16 281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical  
17 coverage may be provided in a policy, plan, or contract which may legally be sold  
18 or provided in this state.
- 19 9. "Income" means any form of payment, regardless of source, owed to an obligor,  
20 including any earned, unearned, taxable or nontaxable income, workforce safety  
21 and insurance benefits, disability benefits, unemployment compensation benefits,  
22 annuity and retirement benefits, but excluding public assistance benefits  
23 administered under state law.
- 24 10. "Income payer" means any person, partnership, firm, corporation, limited liability  
25 company, association, political subdivision, or department or agency of the state or  
26 federal government owing income to an obligor and includes an obligor if the  
27 obligor is self-employed.
- 28 11. "Monthly support obligation" means an amount of child support ordered by a court  
29 or administrative tribunal in a proceeding to establish or modify a child support  
30 obligation, including amounts that are deferred for payment at a later date. The  
31 term is defined without regard to any amount of child support that an obligor is

1 required to pay to avoid being held in contempt of court. If an amount of past-due  
2 support has been ordered as a lump sum rather than determined on a monthly  
3 basis, "monthly support obligation" means one hundred sixty-eight dollars.

4 12. "Obligee" means a person, including a state or political subdivision, to whom a  
5 duty of support is owed.

6 13. "Obligor" means any person owing a duty of support.

7 14. "Past-due support" means child support that is not paid by the earlier of:

8 a. The date a court order or an order of an administrative process established  
9 under state law requires payment to be made; or

10 b. The last day of the month or other period the payment was intended to cover.

11 15. "Payday" means the day upon which the income payer pays or otherwise credits  
12 the obligor.

13 ~~16. "Public authority" means the department of human services in execution of its~~  
14 ~~duties pursuant to the state plan submitted under chapter 50-09 in conformance~~  
15 ~~with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C.~~  
16 ~~651 et seq.].~~

17 ~~17. "System implementation date" means the date the public authority certifies to the~~  
18 ~~secretary of state and the legislative council that the statewide automated data~~  
19 ~~processing system, established under section 50-09-02.1, is operating.~~

20 **SECTION 2. AMENDMENT.** Section 35-34-01 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **35-34-01. Definitions.** For purposes of this chapter:

23 1. "Account" has the meaning provided in section 50-09-01.

24 2. "Child support" has the meaning provided in section 14-09-09.10.

25 3. "Child support agency" has the meaning provided in section 14-09-09.10.

26 4. "Financial institution" has the meaning provided in section 50-09-01.

27 ~~4.~~ 5. "Obligee" has the meaning provided in section 14-09-09.10.

28 ~~5.~~ 6. "Obligor" has the meaning provided in section 14-09-09.10.

29 ~~6.~~ 7. "Past-due support" has the meaning provided in section 14-09-09.10.

30 ~~7.~~ ~~"Public authority" has the meaning provided in section 14-09-09.10.~~

31 8. "Vehicle" has the meaning provided in section 39-01-01.

1           9. "Vessel" has the meaning provided in section 20.1-01-02.

2           **SECTION 3. AMENDMENT.** Subsection 3 of section 50-01.2-00.1 of the North Dakota  
3 Century Code is amended and reenacted as follows:

4           3. "Locally administered economic assistance programs" means those primary  
5 economic assistance programs that need to be accessible to all citizens of the  
6 state through a county social service office and include:

- 7           a. Temporary assistance for needy families;  
8           b. ~~Child support enforcement programs;~~  
9           e. ~~Programs established under section 50-06-01.8;~~  
10          e. Employment and training programs;  
11          e. c. Child care assistance programs;  
12          f. d. Medical assistance, including early periodic screening, diagnosis, and  
13 treatment;  
14          g. e. Food stamp programs, including employment and training programs;  
15          h. f. Refugee assistance programs;  
16          i. g. Basic care services;  
17          j. h. Energy assistance programs; and  
18          k. i. Information and referral.

19          **SECTION 4. AMENDMENT.** Section 50-03-10 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21          **50-03-10. County commissions to make recommendations.** Before August first of  
22 each year, the boards of county commissioners of the counties shall make a collective  
23 recommendation to the department concerning the distribution between counties, of the social  
24 service block grant funds and the general fund equivalents of social service block grant funds  
25 available to the department for distribution to county social service boards. The department  
26 shall consider the recommendation of the county commissioners in determining the distribution  
27 to the county social service boards, in the following calendar year, of the social service block  
28 grant funds and the general fund equivalents of social service block grant funds available to the  
29 department for that purpose. ~~The department shall distribute child support incentive funds~~  
30 ~~according to a formula that promotes performance and consistency in child support~~  
31 ~~enforcement activities throughout the state.~~

1           **SECTION 5. AMENDMENT.** Section 50-09-01 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **50-09-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
4 requires:

- 5           1. "Account" means a demand deposit account, checking or negotiable withdrawal  
6           order account, share account, share draft account, savings account, time deposit  
7           account, securities account, money market mutual fund account, or any other  
8           account or arrangement that reflects an owner's share or similar equity interest  
9           issued by an entity that is registered as an investment company under the federal  
10          investment company laws, to the extent the owner is permitted to redeem the  
11          share or interest by an order for payment to a third party.
- 12          2. "Assistance" means money payments with respect to, or goods and services  
13          provided for dependent children, including payments for the care of unmarried  
14          mothers or fathers and their infants.
- 15          3. "Child support" has the meaning provided in section 14-09-09.10.
- 16          4. ~~"Child support agency" has the meaning provided in section 14-09-09.10.~~
- 17          ~~5.~~ "County agency" means the county social service board in each of the counties of  
18          the state.
- 19          ~~6.~~ 5. "Dependent child" means any needy child who is described in a state plan for aid  
20          and services to needy families submitted pursuant to title IV-A.
- 21          ~~7.~~ 6. "Financial institution" means:
  - 22               a. A depository institution, as defined in section 3(c) of the Federal Deposit  
23               Insurance Act [12 U.S.C. 1813(c)];
  - 24               b. An institution-affiliated party, as defined in section 3(u) of the Federal Deposit  
25               Insurance Act [12 U.S.C. 1813(u)];
  - 26               c. Any federal credit union or state credit union, as defined in section 101 of the  
27               Federal Credit Union Act [12 U.S.C. 1752], including an institution-affiliated  
28               party of such a credit union, as defined in section 206(r) of the Federal Credit  
29               Union Act [12 U.S.C. 1786(r)]; and

1 d. Any benefit association, insurance company, safe deposit company,  
2 securities intermediary, money market mutual fund, or similar entity  
3 authorized to do business in the state.

4 ~~8.~~ 7. "Obligor" has the meaning provided in section 14-09-09.10.

5 ~~9.~~ 8. "Past-due support" has the meaning provided in section 14-09-09.10.

6 ~~10.~~ 9. "Secretary" means the secretary of the United States department of health and  
7 human services.

8 ~~11.~~ 10. "Securities account" has the meaning provided in section 41-08-41.

9 ~~12.~~ 11. "Securities intermediary" has the meaning provided in section 41-08-02, but does  
10 not include a clearing corporation.

11 ~~13.~~ 12. "State agency" means the North Dakota department of human services.

12 ~~14.~~ 13. "Title IV-A" means title IV-A of the Social Security Act, as adopted by title I of  
13 Pub. L. 104-193 [110 Stat. 2110 et seq.; 42 U.S.C. 601 et seq.].

14 ~~15.~~ 14. "Title IV-B" means title IV-B of the Social Security Act [Pub. L. 90-248, title II,  
15 sec. 240(c); 81 Stat. 911; 42 U.S.C. 620 et seq.], as amended.

16 ~~16.~~ 15. "Title IV-D" means title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat.  
17 2351; 42 U.S.C. 651 et seq.].

18 ~~17.~~ 16. "Title IV-E" means title IV-E of the Social Security Act [Pub. L. 96-272, title I,  
19 sec. 101(a)(1); 94 Stat. 501; 42 U.S.C. 670 et seq.], as amended.

20 ~~18.~~ 17. "Work activity" means any activity permitted or required to be treated as work for  
21 purposes of calculating a work participation rate.

22 **SECTION 6. AMENDMENT.** Subsection 16 of section 50-09-02 of the North Dakota  
23 Century Code is amended and reenacted as follows:

24 16. Act as the official agency of the state in the administration of the child support  
25 enforcement program and medical support enforcement program in conformity with  
26 title IV-D ~~and to direct and supervise county administration of that program.~~ In  
27 administering the child support enforcement and medical support enforcement  
28 programs, the state agency may contract with any public or private agency or  
29 person to discharge the state agency's duties and must maintain an office in each  
30 of the eight planning regions of the state.

1           **SECTION 7. AMENDMENT.** Section 50-09-03 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **50-09-03. Duties of county agency.** In the administration of assistance under this  
4 chapter, a county agency shall:

- 5           1. Administer the temporary assistance for needy families program in its county,  
6           subject to the rules of the state agency.
- 7           2. Report to the state agency at such times and in such manner and form as the state  
8           agency, from time to time, may direct.
- 9           3. Submit annually to the board of county commissioners of each county a budget  
10           containing an estimate and supporting data, setting forth the amount of money  
11           needed to carry out the provisions of this chapter.
- 12           4. Cooperate with juvenile courts and licensed children's agencies.
- 13           5. ~~Administer the child support enforcement program under the direction and~~  
14           ~~supervision of the state agency in conformity with title IV-D. In administering the~~  
15           ~~program, the county agency shall have the authority to contract with any public or~~  
16           ~~private agency or person to discharge their child support enforcement duties.~~
- 17           6-. Administer child and family services under the direction and supervision of the  
18           state agency in conformity with title IV-B.
- 19           7- 6. Administer federal payments for foster care and adoption assistance under the  
20           direction and supervision of the state agency in conformity with title IV-E.

21           **SECTION 8. AMENDMENT.** Section 50-09-08 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **50-09-08. Investigations - Power of county agencies, state agency, and**  
24 **employees.**

- 25           1. In the investigation of applications under the provisions of this chapter, the county  
26           agencies, the state agency, and the officials and employees of such agencies  
27           charged with the administration and enforcement of this chapter may:
  - 28           4- a. Conduct examinations-;
  - 29           2- b. Require the attendance of witnesses and the production of books, records,  
30           and papers-; and



1 support enforcement programs. Any attorney who represents the state agency under this  
2 chapter must be a special assistant attorney general appointed by the attorney general under  
3 section 54-12-08. The salary and expenses of each special assistant attorney general must be  
4 paid by the state agency. An appointment under this section is revocable at the pleasure of the  
5 attorney general.

6 **SECTION 11. AMENDMENT.** Section 50-24.1-03.1 of the North Dakota Century Code  
7 is amended and reenacted as follows:

8 **50-24.1-03.1. Duties of county agency.** In the administration of the medical  
9 assistance program, a county agency shall:

- 10 ~~1. Administer the medical support enforcement program under the direction and~~  
11 ~~supervision of the department of human services. In administering the program~~  
12 ~~the county agency shall have the authority to contract with any public or private~~  
13 ~~agency or person to discharge their medical support enforcement duties.~~  
14 ~~2. Make an investigation~~ investigate and record the circumstances of each applicant  
15 or recipient of assistance, in order to ascertain the facts supporting the application,  
16 or the granting of assistance, and ~~shall~~ obtain such other information as may be  
17 required by the rules and regulations of the department of human services.

18 **SECTION 12. AMENDMENT.** Section 50-24.1-03.2 of the North Dakota Century Code  
19 is amended and reenacted as follows:

20 **50-24.1-03.2. Investigations - Power of county agencies, department, and**  
21 **employees.**

- 22 1. In the investigation of applications under the provisions of this chapter, the county  
23 agencies, the department of human services, and the officials and employees of  
24 such agencies charged with the administration and enforcement of this chapter  
25 may:
- 26 ~~1.~~ a. Conduct examinations; <sub>i</sub>  
27 ~~2.~~ b. Require the attendance of witnesses and the production of books, records,  
28 and papers; and  
29 ~~3.~~ c. Make application to the district court of the county to compel the attendance  
30 of witnesses and the production of books, records, and papers.



1 effective date of this Act, must be transferred to the control and custody of the department of  
2 human services. Prior to the transfer of budgeted funds under section 16 of this Act, a regional  
3 child support agency shall pay the employer's share of any premium that is necessary to  
4 continue any existing health insurance coverage for an employee who is transferred under this  
5 section for one month after the effective date of this Act.

6 **SECTION 15. PAYMENT AND TRANSFER OF UNUSED LEAVE.** On the effective  
7 date of this Act, each employee who is transferred under this Act may elect to transfer some or  
8 all of the employee's unused annual and sick leave balances to the state. Any compensation to  
9 the employee for leave that is not transferred is the responsibility of the counties served by the  
10 regional child support enforcement agency from which the employee was transferred. The  
11 current value of any leave that is transferred under this section must be deposited in the state  
12 general fund by the counties served by the regional child support enforcement agency from  
13 which the employee was transferred. As used in this section, "current value" of transferred  
14 annual leave is determined by multiplying each employee's hourly salary by the number of  
15 transferred hours of unused annual leave. The "current value" of transferred sick leave is  
16 determined by multiplying each employee's hourly salary by the number of transferred hours of  
17 unused sick leave, and then by multiplying the total for each employee by twenty percent plus  
18 one percent for every year of continuous service, not to exceed a total of thirty percent for those  
19 with ten years of continuous service or more. Any amounts owed to the state or an employee  
20 under this section are due on February 1, 2008, and may not be deducted from the amounts  
21 transferred under section 16 of this Act. Any leave that is transferred under this section  
22 becomes a responsibility of the state at the payment rate in effect for all state employees.

23 **SECTION 16. TRANSFER OF BUDGETED FUNDS AND UNEXPENDED CHILD**  
24 **SUPPORT INCENTIVE FUNDS - APPROPRIATION.** On the effective date of this Act, the  
25 remaining balance of budgeted funds for each regional child support enforcement agency for  
26 calendar year 2007 and the balance of all unexpended child support incentive funds shall be  
27 transferred to the department of human services and are appropriated to the department of  
28 human services for the purpose of operating the eight regional child support enforcement  
29 agencies for the biennium beginning July 1, 2007, and ending June 30, 2009.

30 **SECTION 17. LEGISLATIVE COUNCIL CORRECTION OF STATUTORY**  
31 **REFERENCES.** The legislative council may correct references to county, local, or regional

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- 1 child support agencies, to the state child support agency, and to the public authority as they
- 2 pertain to the provision of child support enforcement or medical support enforcement services,
- 3 or any variation of these terms as appropriate, in the North Dakota Century Code and in any
- 4 measure enacted by the sixtieth legislative assembly.