

**SECOND ENGROSSMENT
with House Amendments**

Sixtieth
Legislative Assembly
of North Dakota

REENGROSSED 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 and a new subdivision to
2 subsection 3 of section 57-15-01.1 of the North Dakota Century Code, relating to employment
3 of special assistant attorneys general and to property tax reductions; to amend and reenact
4 sections 11-23-01, 14-09-09.10, and 35-34-01, subsection 3 of section 50-01.2-00.1, sections
5 50-03-10 and 50-09-01, subsection 16 of section 50-09-02, and sections 50-09-03, 50-09-08,
6 50-09-33, 50-24.1-03.1, and 50-24.1-03.2 of the North Dakota Century Code, relating to state
7 administration of the child support enforcement program; to repeal section 50-09-34 of the
8 North Dakota Century Code, relating to administration of child support enforcement activities; to
9 provide for a transfer of employees and equipment; to provide for payment and transfer of
10 unused leave; to provide for a transfer of budgeted funds and unexpended child support
11 incentive funds; to provide for a legislative council study; to provide an appropriation; to provide
12 a continuing appropriation; and to provide an expiration date.

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

14 **SECTION 1. AMENDMENT.** Section 11-23-01 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **11-23-01. Officers required to furnish commissioners with departmental budget.**

17 1. Every officer in charge of any institution, office, or undertaking supported wholly or
18 in part by the county shall file with the board of county commissioners a
19 departmental budget that is prescribed by the state auditor. The departmental
20 budget must include an itemized statement of the estimated amount of money that
21 will be required for the maintenance, operation, or improvement of the institution,
22 office, or undertaking for the ensuing year. The board of county commissioners
23 may require additional information to clarify the departmental budget.

1 2. The departmental budget submitted by the county social service board in 2007
2 must identify the reduction in county funding derived from transfer of administration
3 of the child support enforcement program from the county social service board to
4 the department of human services on July 1, 2007. The amount reported must
5 equal the full amount budgeted for administration of the child support enforcement
6 program in the budget submitted by the county social service board and approved
7 by the board of county commissioners in 2006. The budget must include a
8 recommendation of how that reduction in county funding responsibility will be
9 passed on to the property taxpayers of the county.

10 **SECTION 2. AMENDMENT.** Section 14-09-09.10 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **14-09-09.10. Definitions.** For the purposes of this chapter, unless the context or
13 subject matter otherwise requires:

- 14 1. "Arrears registry" means the registry maintained under section 50-09-02.7.
- 15 2. "Business day" means every day that is not a Saturday or legal holiday.
- 16 3. "Child support" means payments for the support of children and combined
17 payments for the support of children and spouses or former spouses, however
18 denominated, if the payment is required by the order of a court or other
19 governmental agency having authority to issue such orders.
- 20 4. "Child support agency" means the ~~county social service board, any combination of~~
21 ~~county social service boards, or any entity created by a county social service board~~
22 ~~or any combination of county social service boards, department of human services~~
23 in execution of ~~the county social service board's~~ its ~~duties under subsection 5 of~~
24 ~~section 50-09-03~~ pursuant to the state plan submitted under chapter 50-09 in
25 conformance with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat.
26 2351; 42 U.S.C. 651 et seq.].
- 27 5. "Delinquent" means a situation which occurs on the first working day after the day
28 upon which a child support payment was identified as due and unpaid, and the
29 total amount of unpaid child support is at least equal to the amount of child support
30 payable in one month.

Sixtieth
Legislative Assembly

- 1 6. "Disposable income" means gross income less deductions required by law for
2 taxes and social security.
- 3 7. "Employer" means income payer.
- 4 8. "Health insurance" includes fees for service, health maintenance organization,
5 preferred provider organization, comprehensive health association plan, accident
6 and health insurance policies, group health plans as defined in section 607(1) of
7 the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat.
8 281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical
9 coverage may be provided in a policy, plan, or contract which may legally be sold
10 or provided in this state.
- 11 9. "Income" means any form of payment, regardless of source, owed to an obligor,
12 including any earned, unearned, taxable or nontaxable income, workforce safety
13 and insurance benefits, disability benefits, unemployment compensation benefits,
14 annuity and retirement benefits, but excluding public assistance benefits
15 administered under state law.
- 16 10. "Income payer" means any person, partnership, firm, corporation, limited liability
17 company, association, political subdivision, or department or agency of the state or
18 federal government owing income to an obligor and includes an obligor if the
19 obligor is self-employed.
- 20 11. "Monthly support obligation" means an amount of child support ordered by a court
21 or administrative tribunal in a proceeding to establish or modify a child support
22 obligation, including amounts that are deferred for payment at a later date. The
23 term is defined without regard to any amount of child support that an obligor is
24 required to pay to avoid being held in contempt of court. If an amount of past-due
25 support has been ordered as a lump sum rather than determined on a monthly
26 basis, "monthly support obligation" means one hundred sixty-eight dollars.
- 27 12. "Obligee" means a person, including a state or political subdivision, to whom a
28 duty of support is owed.
- 29 13. "Obligor" means any person owing a duty of support.
- 30 14. "Past-due support" means child support that is not paid by the earlier of:

- 1 a. The date a court order or an order of an administrative process established
2 under state law requires payment to be made; or
3 b. The last day of the month or other period the payment was intended to cover.
4 15. "Payday" means the day upon which the income payer pays or otherwise credits
5 the obligor.
6 ~~16. "Public authority" means the department of human services in execution of its~~
7 ~~duties pursuant to the state plan submitted under chapter 50-09 in conformance~~
8 ~~with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C.~~
9 ~~651 et seq.].~~
10 ~~17. "System implementation date" means the date the public authority certifies to the~~
11 ~~secretary of state and the legislative council that the statewide automated data~~
12 ~~processing system, established under section 50-09-02.1, is operating.~~

13 **SECTION 3. AMENDMENT.** Section 35-34-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **35-34-01. Definitions.** For purposes of this chapter:

- 16 1. "Account" has the meaning provided in section 50-09-01.
17 2. "Child support" has the meaning provided in section 14-09-09.10.
18 3. "Child support agency" has the meaning provided in section 14-09-09.10.
19 ~~4.~~ "Financial institution" has the meaning provided in section 50-09-01.
20 ~~4.~~ 5. "Obligee" has the meaning provided in section 14-09-09.10.
21 ~~5.~~ 6. "Obligor" has the meaning provided in section 14-09-09.10.
22 ~~6.~~ 7. "Past-due support" has the meaning provided in section 14-09-09.10.
23 ~~7.~~ ~~"Public authority" has the meaning provided in section 14-09-09.10.~~
24 8. "Vehicle" has the meaning provided in section 39-01-01.
25 9. "Vessel" has the meaning provided in section 20.1-01-02.

26 **SECTION 4. AMENDMENT.** Subsection 3 of section 50-01.2-00.1 of the North Dakota
27 Century Code is amended and reenacted as follows:

- 28 3. "Locally administered economic assistance programs" means those primary
29 economic assistance programs that need to be accessible to all citizens of the
30 state through a county social service office and include:
31 a. Temporary assistance for needy families;

- 1 b. ~~Child support enforcement programs;~~
2 e. ~~Programs established under section 50-06-01.8;~~
3 ~~e.~~ Employment and training programs;
4 ~~e.~~ c. Child care assistance programs;
5 ~~f.~~ d. Medical assistance, including early periodic screening, diagnosis, and
6 treatment;
7 ~~g.~~ e. Food stamp programs, including employment and training programs;
8 ~~h.~~ f. Refugee assistance programs;
9 ~~i.~~ g. Basic care services;
10 ~~j.~~ h. Energy assistance programs; and
11 ~~k.~~ i. Information and referral.

12 **SECTION 5. AMENDMENT.** Section 50-03-10 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **50-03-10. County commissions to make recommendations.** Before August first of
15 each year, the boards of county commissioners of the counties shall make a collective
16 recommendation to the department concerning the distribution between counties, of the social
17 service block grant funds and the general fund equivalents of social service block grant funds
18 available to the department for distribution to county social service boards. The department
19 shall consider the recommendation of the county commissioners in determining the distribution
20 to the county social service boards, in the following calendar year, of the social service block
21 grant funds and the general fund equivalents of social service block grant funds available to the
22 department for that purpose. ~~The department shall distribute child support incentive funds~~
23 ~~according to a formula that promotes performance and consistency in child support~~
24 ~~enforcement activities throughout the state.~~

25 **SECTION 6. AMENDMENT.** Section 50-09-01 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **50-09-01. Definitions.** In this chapter, unless the context or subject matter otherwise
28 requires:

- 29 1. "Account" means a demand deposit account, checking or negotiable withdrawal
30 order account, share account, share draft account, savings account, time deposit
31 account, securities account, money market mutual fund account, or any other

Sixtieth
Legislative Assembly

- 1 account or arrangement that reflects an owner's share or similar equity interest
2 issued by an entity that is registered as an investment company under the federal
3 investment company laws, to the extent the owner is permitted to redeem the
4 share or interest by an order for payment to a third party.
- 5 2. "Assistance" means money payments with respect to, or goods and services
6 provided for dependent children, including payments for the care of unmarried
7 mothers or fathers and their infants.
- 8 3. "Child support" has the meaning provided in section 14-09-09.10.
- 9 ~~4. "Child support agency" has the meaning provided in section 14-09-09.10.~~
- 10 ~~5.~~ "County agency" means the county social service board in each of the counties of
11 the state.
- 12 ~~6.~~ 5. "Dependent child" means any needy child who is described in a state plan for aid
13 and services to needy families submitted pursuant to title IV-A.
- 14 ~~7.~~ 6. "Financial institution" means:
- 15 a. A depository institution, as defined in section 3(c) of the Federal Deposit
16 Insurance Act [12 U.S.C. 1813(c)];
- 17 b. An institution-affiliated party, as defined in section 3(u) of the Federal Deposit
18 Insurance Act [12 U.S.C. 1813(u)];
- 19 c. Any federal credit union or state credit union, as defined in section 101 of the
20 Federal Credit Union Act [12 U.S.C. 1752], including an institution-affiliated
21 party of such a credit union, as defined in section 206(r) of the Federal Credit
22 Union Act [12 U.S.C. 1786(r)]; and
- 23 d. Any benefit association, insurance company, safe deposit company,
24 securities intermediary, money market mutual fund, or similar entity
25 authorized to do business in the state.
- 26 ~~8.~~ 7. "Obligor" has the meaning provided in section 14-09-09.10.
- 27 ~~9.~~ 8. "Past-due support" has the meaning provided in section 14-09-09.10.
- 28 ~~10.~~ 9. "Secretary" means the secretary of the United States department of health and
29 human services.
- 30 ~~11.~~ 10. "Securities account" has the meaning provided in section 41-08-41.

- 1 3. Submit annually to the board of county commissioners of each county a budget
- 2 containing an estimate and supporting data, setting forth the amount of money
- 3 needed to carry out the provisions of this chapter.
- 4 4. Cooperate with juvenile courts and licensed children's agencies.
- 5 5. ~~Administer the child support enforcement program under the direction and~~
- 6 ~~supervision of the state agency in conformity with title IV-D. In administering the~~
- 7 ~~program, the county agency shall have the authority to contract with any public or~~
- 8 ~~private agency or person to discharge their child support enforcement duties.~~
- 9 6. Administer child and family services under the direction and supervision of the
- 10 state agency in conformity with title IV-B.
- 11 7. ~~6.~~ Administer federal payments for foster care and adoption assistance under the
- 12 direction and supervision of the state agency in conformity with title IV-E.

13 **SECTION 9. AMENDMENT.** Section 50-09-08 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **50-09-08. Investigations - Power of county agencies, state agency, and**
16 **employees.**

- 17 1. In the investigation of applications under the provisions of this chapter, the county
- 18 agencies, the state agency, and the officials and employees of such agencies
- 19 charged with the administration and enforcement of this chapter may:
- 20 ~~4.~~ a. Conduct examinations;‡
- 21 ~~2.~~ b. Require the attendance of witnesses and the production of books, records,
- 22 and papers;‡ and
- 23 ~~3.~~ c. Make application to the district court of the county to compel the attendance
- 24 of witnesses and the production of books, records, and papers.
- 25 ~~4.~~ 2. ~~Request~~ The state agency may request from other state, county, and local
- 26 agencies information deemed necessary to carry out the child support enforcement
- 27 program. All officers and employees of state, county, and local agencies shall
- 28 cooperate with the state ~~and county~~ agency in locating absent parents of children
- 29 to whom an obligation of support is owed or on whose behalf assistance is being
- 30 provided and, on request, shall supply the state ~~or county~~ agency with available
- 31 information relative to the location, income, social security number, and property

1 holdings of the absent parent, notwithstanding any provision of law making that
2 information confidential. Any person acting under the authority of the state agency
3 who pursuant to this subsection obtains information from the office of the state tax
4 commissioner, the confidentiality of which is protected by law, may not divulge
5 such information except to the extent necessary for the administration of the child
6 support enforcement program or when otherwise directed by judicial order or when
7 otherwise provided by law.

8 3. The officers and employees designated by the county agencies or the state
9 agency may administer oaths and affirmations.

10 **SECTION 10. AMENDMENT.** Section 50-09-33 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **50-09-33. (~~Effective through June 30, 2007~~) Continuing appropriation -**
13 **Cooperative agreements for child support enforcement services.** All federal funds and
14 other income generated by the state agency under a cooperative agreement with ~~one or more~~
15 ~~county child support agencies for centralized administration of child support enforcement~~
16 ~~services, or with~~ an Indian tribe for child support enforcement services, ~~is~~ are appropriated on a
17 continuing basis for the sole purpose of hiring additional staff and payment of other expenses
18 as necessary to carry out the state agency's duties under the agreements.

19 **SECTION 11.** A new section to chapter 50-09 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Employment of special assistant attorneys general.** The state agency may employ
22 attorneys to carry out its duties in administering the child support enforcement and medical
23 support enforcement programs. Any attorney who represents the state agency under this
24 chapter must be a special assistant attorney general appointed by the attorney general under
25 section 54-12-08. The salary and expenses of each special assistant attorney general must be
26 paid by the state agency. An appointment under this section is revocable at the pleasure of the
27 attorney general.

28 **SECTION 12. AMENDMENT.** Section 50-24.1-03.1 of the North Dakota Century Code
29 is amended and reenacted as follows:

30 **50-24.1-03.1. Duties of county agency.** In the administration of the medical
31 assistance program, a county agency shall:

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

9 **SECTION 13. AMENDMENT.** Section 50-24.1-03.2 of the North Dakota Century Code
10 is amended and reenacted as follows:

11 **50-24.1-03.2. Investigations - Power of county agencies, department, and**
12 **employees.**

- 13 1. In the investigation of applications under the provisions of this chapter, the county
14 agencies, the department of human services, and the officials and employees of
15 such agencies charged with the administration and enforcement of this chapter
16 may:
17 4. a. Conduct examinations; i
18 2. b. Require the attendance of witnesses and the production of books, records,
19 and papers; and
20 3. c. Make application to the district court of the county to compel the attendance
21 of witnesses and the production of books, records, and papers.
22 4. 2. ~~Request~~ The department of human services may request from other state, county,
23 and local agencies information deemed necessary to carry out the medical support
24 enforcement program. All officers and employees of state, county, and local
25 agencies shall cooperate with the department of human services ~~and the county~~
26 ~~agency~~ in locating absent spouses or parents of children to whom an obligation of
27 support is owed or on whose behalf assistance is being provided and, on request,
28 shall supply the department ~~or the county agency~~ with available information
29 relative to the location, income, social security number, and property holdings of
30 the absent spouse or parent, notwithstanding any provision of law making that
31 information confidential. Any person acting under the authority of the department

1 of human services who pursuant to this subsection obtains information from the
2 office of the state tax commissioner, the confidentiality of which is protected by
3 law, may not divulge such information except to the extent necessary for the
4 administration of the medical support enforcement program or when otherwise
5 directed by judicial order or when otherwise provided by law.

6 3. The officers and employees designated by the county agencies or the department
7 of human services may administer oaths and affirmations.

8 **SECTION 14.** A new subsection to section 57-15-01.1 of the North Dakota Century
9 Code is created and enacted as follows:

10 Reduced by the amount in dollars levied by a county in the base year for
11 administration of the child support enforcement program by the county social
12 service board.

13 **SECTION 15. REPEAL.** Section 50-09-34 of the North Dakota Century Code is
14 repealed.

15 **SECTION 16. TRANSFER OF EMPLOYEES AND EQUIPMENT - HEALTH**

16 **INSURANCE COVERAGE.** On the effective date of this Act, all existing employees of a
17 regional child support enforcement agency become employees of the department of human
18 services. Any employee who becomes a state employee under this section is entitled to
19 receive a salary in an amount not less than the salary received as an employee of the regional
20 child support enforcement agency, plus any increase for all state employees that is provided on
21 July 1, 2007, and any other increase that was scheduled and budgeted to occur between
22 July 1, 2007, and December 31, 2007, if the employee had remained an employee of a regional
23 child support enforcement agency. Each year of county employment of an employee who is
24 transferred under this section will be considered a year of state employment for purposes of
25 section 54-06-14. Any equipment, including technology-related equipment, furnishings, and
26 supplies in the control and custody of a regional child support enforcement agency on the
27 effective date of this Act, must be transferred to the control and custody of the department of
28 human services. Prior to the transfer of budgeted funds under section 19 of this Act, a regional
29 child support agency shall pay the employer's share of any premium that is necessary to
30 continue any existing health insurance coverage for an employee who is transferred under this
31 section for one month after the effective date of this Act.

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

18 **SECTION 18. LEGISLATIVE COUNCIL STUDY - LOCALLY ADMINISTERED**
19 **ECONOMIC ASSISTANCE PROGRAMS.** The legislative council shall consider studying,
20 during the 2007-08 interim, the success and effects of the laws enacted by the fifty-fifth
21 legislative assembly in House Bill No. 1041 and Senate Bill No. 2052, referred to in testimony
22 as the "swap proposal", which required counties to pay the entire cost of the local
23 administration of medicaid, energy assistance, basic care assistance, child care assistance,
24 and temporary assistance for needy families in exchange for the state's assumption of the full
25 responsibility for paying the grant costs associated with those programs. If conducted, the
26 study should include a review of sections 50-01.2-00.1, 50-01.2-03.1, 50-01.2-03.2, 50-01.2-06,
27 50-03-00.1, 50-03-08, 50-03-09, and 50-03-10, subsection 28 of section 50-06-05.1, and
28 sections 50-06-20, 50-24.1-14, and 50-24.5-08 to determine if those provisions have created a
29 more understandable and sustainable division of responsibility between the state and counties
30 in the delivery and financing of these economic assistance programs. The legislative council

1 shall report its findings and recommendations, together with any legislation required to
2 implement the recommendations, to the sixty-first legislative assembly.

3 **SECTION 19. TRANSFER OF BUDGETED FUNDS AND UNEXPENDED CHILD**
4 **SUPPORT INCENTIVE FUNDS - APPROPRIATION.** On the effective date of this Act, the
5 remaining balance of budgeted funds for each regional child support enforcement agency for
6 calendar year 2007 and the balance of all unexpended child support incentive funds shall be
7 transferred to the department of human services and are appropriated to the department of
8 human services for the purpose of operating the eight regional child support enforcement
9 agencies for the biennium beginning July 1, 2007, and ending June 30, 2009.

10 **SECTION 20. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES.** There is
11 appropriated out of any moneys from special funds, derived from federal funds and other
12 income, the sum of \$12,796,830, or so much of the sum as may be necessary, to the
13 department of human services for the purpose of defraying the expenses of regional child
14 support enforcement unit operations, for the biennium beginning July 1, 2007, and ending
15 June 30, 2009. Of the \$12,796,830, \$7,181,707 is from the general fund.

16 **SECTION 21. LEGISLATIVE COUNCIL CORRECTION OF STATUTORY**
17 **REFERENCES.** The legislative council may correct references to county, local, or regional
18 child support agencies, to the state child support agency, and to the public authority as they
19 pertain to the provision of child support enforcement or medical support enforcement services,
20 or any variation of these terms as appropriate, in the North Dakota Century Code and in any
21 measure enacted by the sixtieth legislative assembly.

22 **SECTION 22. EXPIRATION DATE.** Section 1 of this Act is effective through
23 December 31, 2007, and after that date is ineffective and section 14 of this Act is effective
24 through December 31, 2009, and after that date is ineffective.