

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2205
(Senators Fischer, J. Lee, Mathern)
(Representatives Hawken, Price, Weisz)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.
2. The departmental budget submitted by the county social service board in 2007 must identify the reduction in county funding derived from transfer of administration of the child support enforcement program from the county social service board to the department of human services on July 1, 2007. The amount reported must equal the full amount budgeted for administration of the child support enforcement program in the budget submitted by the county social service board and approved by the board of county commissioners in 2006. The budget must include a recommendation of how that reduction in county funding responsibility will be passed on to the property taxpayers of the county.

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

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

1. "Arrears registry" means the registry maintained under section 50-09-02.7.
2. "Business day" means every day that is not a Saturday or legal holiday.
3. "Child support" means payments for the support of children and combined payments for the support of children and spouses or former spouses, however denominated, if the

payment is required by the order of a court or other governmental agency having authority to issue such orders.

4. "Child support agency" means the ~~county social service board, any combination of county social service boards, or any entity created by a county social service board or any combination of county social service boards,~~ department of human services in execution of the county social service board's its duties under subsection 5 of section 50-09-03 pursuant to the state plan submitted under chapter 50-09 in conformance with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].
5. "Delinquent" means a situation which occurs on the first working day after the day upon which a child support payment was identified as due and unpaid, and the total amount of unpaid child support is at least equal to the amount of child support payable in one month.
6. "Disposable income" means gross income less deductions required by law for taxes and social security.
7. "Employer" means income payer.
8. "Health insurance" includes fees for service, health maintenance organization, preferred provider organization, comprehensive health association plan, accident and health insurance policies, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical coverage may be provided in a policy, plan, or contract which may legally be sold or provided in this state.
9. "Income" means any form of payment, regardless of source, owed to an obligor, including any earned, unearned, taxable or nontaxable income, workforce safety and insurance benefits, disability benefits, unemployment compensation benefits, annuity and retirement benefits, but excluding public assistance benefits administered under state law.
10. "Income payer" means any person, partnership, firm, corporation, limited liability company, association, political subdivision, or department or agency of the state or federal government owing income to an obligor and includes an obligor if the obligor is self-employed.
11. "Monthly support obligation" means an amount of child support ordered by a court or administrative tribunal in a proceeding to establish or modify a child support obligation, including amounts that are deferred for payment at a later date. The term is defined without regard to any amount of child support that an obligor is required to pay to avoid being held in contempt of court. If an amount of past-due support has been ordered as a lump sum rather than determined on a monthly basis, "monthly support obligation" means one hundred sixty-eight dollars.
12. "Obligee" means a person, including a state or political subdivision, to whom a duty of support is owed.
13. "Obligor" means any person owing a duty of support.
14. "Past-due support" means child support that is not paid by the earlier of:
 - a. The date a court order or an order of an administrative process established under state law requires payment to be made; or
 - b. The last day of the month or other period the payment was intended to cover.
15. "Payday" means the day upon which the income payer pays or otherwise credits the obligor.

16. ~~"Public authority" means the department of human services in execution of its duties pursuant to the state plan submitted under chapter 50-09 in conformance with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].~~
17. ~~"System implementation date" means the date the public authority certifies to the secretary of state and the legislative council that the statewide automated data processing system, established under section 50-09-02.1, is operating.~~

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

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

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

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

3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
 - a. Temporary assistance for needy families;
 - b. ~~Child support enforcement programs;~~
 - e. ~~Programs established under section 50-06-01.8;~~
 - d. Employment and training programs;
 - e. c. Child care assistance programs;
 - f. d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - g. e. Food stamp programs, including employment and training programs;
 - h. f. Refugee assistance programs;
 - i. g. Basic care services;
 - j. h. Energy assistance programs; and
 - k. i. Information and referral.

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

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

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

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

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

9. ~~8.~~ "Past-due support" has the meaning provided in section 14-09-09.10.
40. ~~9.~~ "Secretary" means the secretary of the United States department of health and human services.
44. ~~10.~~ "Securities account" has the meaning provided in section 41-08-41.
42. ~~11.~~ "Securities intermediary" has the meaning provided in section 41-08-02, but does not include a clearing corporation.
43. ~~12.~~ "State agency" means the North Dakota department of human services.
44. ~~13.~~ "Title IV-A" means title IV-A of the Social Security Act, as adopted by title I of Pub. L. 104-193 [110 Stat. 2110 et seq.; 42 U.S.C. 601 et seq.].
45. ~~14.~~ "Title IV-B" means title IV-B of the Social Security Act [Pub. L. 90-248, title II, sec. 240(c); 81 Stat. 911; 42 U.S.C. 620 et seq.], as amended.
46. ~~15.~~ "Title IV-D" means title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].
47. ~~16.~~ "Title IV-E" means title IV-E of the Social Security Act [Pub. L. 96-272, title I, sec. 101(a)(1); 94 Stat. 501; 42 U.S.C. 670 et seq.], as amended.
48. ~~17.~~ "Work activity" means any activity permitted or required to be treated as work for purposes of calculating a work participation rate.

SECTION 7. AMENDMENT. Subsection 16 of section 50-09-02 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 8. AMENDMENT. Section 50-09-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Administer the temporary assistance for needy families program in its county, subject to the rules of the state agency.
2. Report to the state agency at such times and in such manner and form as the state agency, from time to time, may direct.
3. Submit annually to the board of county commissioners of each county a budget containing an estimate and supporting data, setting forth the amount of money needed to carry out the provisions of this chapter.
4. Cooperate with juvenile courts and licensed children's agencies.
5. ~~Administer the child support enforcement program under the direction and supervision of the state agency in conformity with title IV D. In administering the program, the county agency shall have the authority to contract with any public or private agency or person to discharge their child support enforcement duties.~~

6. Administer child and family services under the direction and supervision of the state agency in conformity with title IV-B.
7. ~~6.~~ Administer federal payments for foster care and adoption assistance under the direction and supervision of the state agency in conformity with title IV-E.

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

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

1. In the investigation of applications under the provisions of this chapter, the county agencies, the state agency, and the officials and employees of such agencies charged with the administration and enforcement of this chapter may:
 1. ~~a.~~ Conduct examinations;
 2. ~~b.~~ Require the attendance of witnesses and the production of books, records, and papers; and
 3. ~~c.~~ Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers.
4. ~~2.~~ Request The state agency may request from other state, county, and local agencies information deemed necessary to carry out the child support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the state ~~and county~~ agency in locating absent parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the state ~~or county~~ agency with available information relative to the location, income, social security number, and property holdings of the absent parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the state agency who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.
3. The officers and employees designated by the county agencies or the state agency may administer oaths and affirmations.

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

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

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

Employment of special assistant attorneys general. The state agency may employ attorneys to carry out its duties in administering the child support enforcement and medical support enforcement programs. Any attorney who represents the state agency under this chapter must be a special assistant attorney general appointed by the attorney general under section 54-12-08. The

salary and expenses of each special assistant attorney general must be paid by the state agency. An appointment under this section is revocable at the pleasure of the attorney general.

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

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

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

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

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

1. In the investigation of applications under the provisions of this chapter, the county agencies, the department of human services, and the officials and employees of such agencies charged with the administration and enforcement of this chapter may:
 - ~~1.~~ a. Conduct examinations;
 - ~~2.~~ b. Require the attendance of witnesses and the production of books, records, and papers; and
 - ~~3.~~ c. Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers.
- ~~4.~~ 2. Request The department of human services may request from other state, county, and local agencies information deemed necessary to carry out the medical support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the department of human services ~~and the county agency~~ in locating absent spouses or parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the department ~~or the county agency~~ with available information relative to the location, income, social security number, and property holdings of the absent spouse or parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the department of human services who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the medical support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.
3. The officers and employees designated by the county agencies or the department of human services may administer oaths and affirmations.

SECTION 14. A new subdivision to subsection 3 of section 57-15-01.1 of the North Dakota Century Code is created and enacted as follows:

Reduced by the amount in dollars levied by a county in the base year for administration of the child support enforcement program by the county social service board and increased by section 17 of this Act.

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

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

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

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

SECTION 19. TRANSFER OF BUDGETED FUNDS AND UNEXPENDED CHILD SUPPORT INCENTIVE FUNDS - APPROPRIATION. On the effective date of this Act, the remaining balance of

budgeted funds for each regional child support enforcement agency for calendar year 2007 and the balance of all unexpended child support incentive funds shall be transferred to the department of human services and are appropriated to the department of human services for the purpose of operating the eight regional child support enforcement agencies for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 20. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,873,169, or so much of the sum as may be necessary, and from special funds, derived from federal funds and other income, the sum of \$5,615,123, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of regional child support enforcement unit operations, for the biennium beginning July 1, 2007, and ending June 30, 2009.

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

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

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 Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2205.

Senate Vote: Yeas 46 Nays 1 Absent 0

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State