

**Testimony**  
**Senate Bill 2071 – Department of Human Services**  
**Senate Human Services Committee**  
**Senator Judy Lee, Chairman**  
**January 9, 2007**

Chairman Lee, members of the Senate Human Services Committee, I am Curtis Volesky, Director of Medicaid Eligibility for the Department of Human Services. I am here to testify in support of Senate Bill 2071.

The Deficit Reduction Act (DRA), which was signed into law in 2006, identified specific treatment of annuities for Medicaid disqualifying transfer purposes. The recommended changes to this section of the North Dakota Century Code are intended to insure State law reflects the DRA mandates, while still maintaining the applicable annuity provisions currently in State law.

The language in Subsection 1 is removed because the Deficit Reduction Act does not allow employee benefit annuities to be treated as annuities for Medicaid transfer purposes.

The first paragraph of Subsection 2, includes changes for simplification, and to clarify that it applies to annuities purchased before August 1, 2005. Annuities purchased after that date are subject to Subsections 4, 6, and 7. It also includes language to clarify that an annuity that meets the provisions of this subsection, is not considered an available asset.

In the first paragraph of Subsection 4, some language is identified for removal because Subsection 1 already defines all such arrangements as

annuities for purposes of this section. New language is added to clarify that Subsection 4 does not apply to annuities purchased on or after February 8, 2006, because of changes required by the DRA.

The language being removed from Subsection 5, page 3, line 19, and page 4, lines 6 and 7, is not needed because the wording in line 23, page 3, already limits this subsection to annuities identified in Subsection 4.

New Subsection 6 includes the DRA transfer provisions for annuities. Two of the subsections contain key differences from our existing law.

- Subdivision (a) requires that the State be named as the first remainder beneficiary on the annuity for at least the total amount of Medicaid benefits paid. It provides for the State to be named in the second position after a community spouse or minor or disabled child.
- Subdivision (e) requires the annuity to be actuarially sound.

The remaining provisions are the same as those previously identified in our existing State law.

New Subsection 7 identifies criteria that allow annuities to be excluded as an available asset. The annuity must meet the provisions of Subsection 6, and the additional requirements regarding limits on the amount of the monthly annuity payment, and the requirement for a guarantee period as identified in our existing State law.

New Subsection 8 clarifies the DRA requirement that the annuity provisions of this section do not apply to employee benefit annuities,

except those employee benefit annuities that do not name the State as the first remainder beneficiary are considered to be a transfer of assets. The subsection also defines employee benefit annuities.

I will be glad to answer any questions regarding my testimony.  
Thank you.