

SENATE BILL NO. 2046

Introduced by

Legislative Council

(Judiciary A Committee)

1 A BILL for an Act to amend and reenact section 4-30-48, subdivision b of subsection 3 of
2 section 10-06.1-17, subsection 2 of section 10-19.1-146, sections 11-28.2-01 and 12.1-12-02,
3 subsection 5 of section 14-09-08.4, sections 14-09-08.13 and 14-09-08.14, subdivision e of
4 subsection 5 of section 19-03.1-36, subsection 7 of section 21-03-07, section 23-02.1-16,
5 subsection 6 of section 26.1-05-19, subsection 9 of section 26.1-06.1-02, subsection 4 of
6 section 26.1-17-01, section 26.1-26-31.8, subdivision e of subsection 4 of section 26.1-38.1-01,
7 subsection 1 of section 29-06-15, subsection 9 of section 32-03.2-11, subdivision e of
8 subsection 1 of section 41-09-02, subsection 2 of section 44-04-18, section 49-01-02, and
9 subsection 5 of section 54-52.1-01 of the North Dakota Century Code, relating to technical
10 corrections and improper, inaccurate, redundant, missing, or obsolete references.

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

12 **SECTION 1. AMENDMENT.** Section 4-30-48 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **4-30-48. Failure to agree on sample for official test - Procedure to be followed.**

15 Whenever it is impossible to secure or mutually agree upon a sample of milk as provided in
16 section 4-30-47, then the party selling or offering for sale such milk may require that the buyer
17 or prospective buyer forward to the department the sample taken in compliance with ~~sections~~
18 ~~4-30-19 and~~ section 4-30-20. Each sample so forwarded must be accompanied by a statement
19 in the form of an affidavit from the buyer or prospective buyer, stating that the sample was
20 taken in compliance with the provisions of ~~sections 4-30-19 and~~ section 4-30-20, and the
21 statement also must contain all information required in section 4-30-47, except that the
22 signature of the seller is not required thereon. Each sample must be tested and reported on as
23 prescribed in section 4-30-47, and the percentage of butterfat so determined and reported
24 constitutes the "official butterfat test" and is the basis on which final settlement must be made.

1 **SECTION 2. AMENDMENT.** Subdivision b of subsection 3 of section 10-06.1-17 of the
2 North Dakota Century Code is amended and reenacted as follows:

3 b. A statement of the aggregate number of issued shares, itemized by classes,
4 par value of shares, shares without par value, and ~~services~~ series, if any,
5 within a class.

6 **SECTION 3. AMENDMENT.** Subsection 2 of section 10-19.1-146 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 2. The annual report must be submitted on forms prescribed by the secretary of state.
9 The information provided must be given as of the date of the execution of the
10 report except as to the information required by subdivisions ~~g~~, ~~i~~, and ~~j~~ h of
11 subsection 1 which must be given as of the close of business on December
12 thirty-first next preceding the date herein provided for the filing of the report, or, in
13 the alternative, data of the fiscal year ending next preceding this report may be
14 used. The annual report must be signed as prescribed in subsection 39 of section
15 10-19.1-01, or the articles or the bylaws or a resolution approved by the affirmative
16 vote of the required proportion or number of the directors or holders of shares
17 entitled to vote. If the corporation or foreign corporation is in the hands of a
18 receiver or trustee, it must be signed on behalf of the corporation or foreign
19 corporation by the receiver or trustee. The secretary of state may destroy all
20 annual reports provided for in this section after they have been on file for six years.
21 The secretary of state, or any employee or legal representative of the secretary of
22 state, may not disclose the information reported under subdivisions ~~g~~, ~~i~~, and ~~j~~ h of
23 subsection 1 to any person, except a person who is verified to be a shareholder of
24 the corporation or foreign corporation, a legal representative of the shareholder for
25 which information is requested, or to the tax commissioner or any employee or
26 legal representative of the tax commissioner, who may not disclose the information
27 and may use the information only for the administration of the tax laws.

28 **SECTION 4. AMENDMENT.** Section 11-28.2-01 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **11-28.2-01. Establishment of recreation service districts - Petition - Purpose.** The
31 board of county commissioners of any county in this state, at any meeting of such board, by

1 majority vote of all of the members may, upon the petition of ten percent of the persons who
2 qualify pursuant to section 11-28.2-03 as voters of an area to be included within a proposed
3 recreation service district, call for an election of all of the qualified voters of such district to
4 determine the question of the establishment of a recreation service district for the purpose of
5 providing police protection, sewer and water, garbage removal services, and public road
6 construction and maintenance, in addition to that provided by the local governing body or
7 agency to summer homes, cottages, and other residences and establishments as may exist
8 within such area, and provide for the improvement and control of the environmental quality of
9 the recreation service district. Said recreation service district shall be limited in size and
10 location to an area which is contiguous to or within one-quarter mile [402.34 meters] of the
11 recreational waters of the area or to the areas of land which are dedicated to public use for
12 recreational purposes. In addition, said district shall consist of not less than fifty privately
13 owned seasonal homes or cottages and other residences and establishments. If a petition is
14 presented to the board of county commissioners calling for such election, such petition shall be
15 accompanied by such information as the board of county commissioners shall require, including
16 the boundaries of the proposed recreation district, the approximate number of qualified voters
17 as defined in section 11-28.2-03, and a sufficient deposit of money to cover all costs of such
18 election. Within sixty days after the calling of such an election, the board of county
19 commissioners shall provide an election on the question of whether or not a recreation service
20 district should be established and shall establish procedures for voting and other necessary
21 matters not inconsistent with the provisions of this chapter. The county commissioners shall
22 give at least thirty days' notice of the election by certified mail to all qualified voters as defined
23 in section 11-28.2-03. If a majority of the qualified ~~voters~~ electors voting on the question
24 approve of the establishment of a recreation service district, such district shall then be
25 organized.

26 The board of commissioners of a recreation service district may extend the boundaries
27 of the district to property within or contiguous to the one-quarter mile [402.34 meters] limit
28 through the annexation procedures provided in sections 11-28.2-06 through 11-28.2-08.

29 **SECTION 5. AMENDMENT.** Section 12.1-12-02 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **12.1-12-02. Illegal influence between legislators or between legislators and**
2 **governor.** Any person who violates the provisions of section 9 of article IV or section 44 10 of
3 article V of the Constitution of North Dakota is guilty of a class C felony.

4 **SECTION 6. AMENDMENT.** Subsection 5 of section 14-09-08.4 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 5. A determination that a child who is the subject of a child support order is eligible for
7 benefits furnished under subsection ~~18~~ 17 or ~~20~~ 19 of section 50-06-05.1, chapter
8 50-09, or chapter 50-24.1, or any substantially similar program operated by any
9 state or tribal government, constitutes a material change of circumstances. The
10 availability of health insurance at reasonable cost to a child who is the subject of a
11 child support order constitutes a material change of circumstances. The need to
12 provide for a child's health care needs, through health insurance or other means,
13 constitutes a material change of circumstances.

14 **SECTION 7. AMENDMENT.** Section 14-09-08.13 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **14-09-08.13. Application for service.** The child support agency responsible for
17 support enforcement shall take necessary steps to implement, modify, and enforce an order for
18 dependent health insurance whenever the children receive benefits through ~~a demonstration~~
19 ~~project established under section 50-06-01.8~~, temporary assistance for needy families or foster
20 care under chapter 50-09 or medical assistance under chapter 50-24.1, or upon application of
21 the obligee to the child support agency and payment by the obligee of any required application
22 fee.

23 **SECTION 8. AMENDMENT.** Section 14-09-08.14 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **14-09-08.14. Public authority to establish criteria.** The public authority shall
26 establish criteria to identify cases involving children who received benefits through a
27 ~~demonstration project established under section 50-06-01.8~~, temporary assistance for needy
28 families or foster care under chapter 50-09 or medical assistance under chapter 50-24.1, or
29 ~~where~~ when an application to the child support agency has been completed by an obligee and
30 ~~where~~ when there is a high potential for obtaining medical support based on:

- 1 1. Evidence that health insurance may be available to the obligor at reasonable cost;
- 2 and
- 3 2. Facts that are sufficient to warrant modification of the existing court order to include
- 4 health insurance coverage for a dependent child.

5 **SECTION 9. AMENDMENT.** Subdivision e of subsection 5 of section 19-03.1-36 of the
6 North Dakota Century Code is amended and reenacted as follows:

- 7 e. Use the property, including controlled substances, imitation controlled
- 8 substances, and plants forfeited under subsections 6 and 7, in enforcement of
- 9 this chapter. However, in a case involving the delivery of a forfeited controlled
- 10 substance by a law enforcement officer or a person acting as an agent of a
- 11 law enforcement officer, no prosecution or conviction for simple possession of
- 12 a controlled substance under subsection ~~3~~ 6 of section 19-03.1-23 may be
- 13 based upon the forfeited controlled substances supplied by the law
- 14 enforcement officer or the officer's agent.

15 **SECTION 10. AMENDMENT.** Subsection 7 of section 21-03-07 of the North Dakota
16 Century Code is amended and reenacted as follows:

- 17 7. The governing body of any public school district may also by resolution adopted by
- 18 a two-thirds vote dedicate the tax levies as authorized by section 15.1-09-47,
- 19 15.1-09-49, or 57-15-16 and may authorize and issue general obligation bonds to
- 20 be paid by these dedicated levies for the purpose of providing funds for the
- 21 purchase, construction, reconstruction, or repair of public school buildings or for
- 22 the construction or improvement of a project ~~pursuant to chapter 15-60~~ under
- 23 section 15.1-36-02 or 15.1-36-03. The initial resolution authorizing the tax levy
- 24 dedication and general obligation bonds must be published in the official
- 25 newspaper of the school district, and any owner of taxable property within the
- 26 school district may, within sixty days after publication, file with the business
- 27 manager of the school district a protest against the adoption of the resolution.
- 28 Protests must be in writing and must describe the property that is the subject of the
- 29 protest. If the governing body finds the protests to have been signed by the
- 30 owners of taxable property having an assessed valuation equal to five percent or
- 31 more of the assessed valuation of all taxable property within the school district, as

1 therefore last finally equalized, all further proceedings under the initial resolution
2 are barred.

3 **SECTION 11. AMENDMENT.** Section 23-02.1-16 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **23-02.1-16. Delayed registration of death.** When a death occurring in this state has
6 not been registered within the time period specified in section ~~23-02.1-15~~ 23-02.1-19, a
7 certificate may be filed in accordance with regulations of the state department of health.

- 8 1. Such certificates must be registered subject to such evidentiary requirements as
9 the state department of health shall by regulation prescribe to substantiate the
10 alleged facts of death.
- 11 2. Certificates of death registered one year or more after the date of occurrence must
12 be marked "delayed" and must show on their face the date of delayed registration.

13 **SECTION 12. AMENDMENT.** Subsection 6 of section 26.1-05-19 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 6. Bonds guaranteed under former chapter 6-09.2.

16 **SECTION 13. AMENDMENT.** Subsection 9 of section 26.1-06.1-02 of the North
17 Dakota Century Code is amended and reenacted as follows:

- 18 9. All health maintenance organizations subject to chapter ~~26.1-18~~ 26.1-18.1.

19 **SECTION 14. AMENDMENT.** Subsection 4 of section 26.1-17-01 of the North Dakota
20 Century Code is amended and reenacted as follows:

- 21 4. "Health service corporation" means a nonprofit corporation organized for the
22 purposes of establishing a health service plan whereby one or more kinds of health
23 service is provided to subscribers under a prepaid health service contract entitling
24 each subscriber to certain specified health services, but does not include a health
25 maintenance organization organized under chapter ~~26.1-18~~ 26.1-18.1.

26 **SECTION 15. AMENDMENT.** Section 26.1-26-31.8 of the North Dakota Century Code
27 is amended and reenacted as follows:

28 **26.1-26-31.8. License revocation.**

- 29 1. The commissioner shall suspend the license of any person if, after holding a
30 hearing, the commissioner finds that the person failed to meet the requirements
31 imposed by subdivision c of subsection 1 of section 26.1-26-13.3 and sections

1 26.1-26-31.1 through 26.1-26-31.8. Any license suspended under this subsection
2 must remain suspended until the person has demonstrated, to the satisfaction of
3 the commissioner, compliance with the requirements of ~~section 26.1-26-15.1 and~~
4 sections 26.1-26-31.1 through 26.1-26-31.8 and other applicable laws.

5 2. The commissioner, after holding a hearing, shall suspend the license of any person
6 who has submitted a false or fraudulent certificate of compliance.

7 **SECTION 16. AMENDMENT.** Subdivision e of subsection 4 of section 26.1-38.1-01 of
8 the North Dakota Century Code is amended and reenacted as follows:

9 e. With respect to one contract owner provided coverage under subparagraph d
10 c of paragraph 2 of subdivision b of subsection 1; or one plan sponsor whose
11 plans own directly or in trust one or more unallocated annuity contracts not
12 included in subdivision c, five million dollars in benefits, irrespective of the
13 number of contracts with respect to the contract owner or plan sponsor.
14 However, in the case in which one or more unallocated annuity contracts are
15 covered contracts under this chapter and are owned by a trust or other entity
16 for the benefit of two or more plan sponsors, coverage must be afforded by
17 the association if the largest interest in the trust or entity owning the contract
18 or contracts is held by a plan sponsor whose principal place of business is in
19 this state and in no event is the association obligated to cover more than five
20 million dollars in benefits with respect to all these unallocated contracts.

21 **SECTION 17. AMENDMENT.** Subsection 1 of section 29-06-15 of the North Dakota
22 Century Code is amended and reenacted as follows:

23 1. A law enforcement officer, without a warrant, may arrest a person:
24 a. For a public offense, committed or attempted in the officer's presence; and for
25 the purpose of this subdivision, a crime must be deemed committed or
26 attempted in the officer's presence when what the officer observes through
27 the officer's senses reasonably indicates to the officer that a crime was in fact
28 committed or attempted in the officer's presence by the person arrested.
29 b. When the person arrested has committed a felony, although not in the
30 officer's presence.

- 1 c. When a felony in fact has been committed, and the officer has reasonable
2 cause to believe the person arrested to have committed it.
- 3 d. On a charge, made upon reasonable cause, of the commission of a felony by
4 the party arrested.
- 5 e. For the public offenses, not classified as felonies and not committed in the
6 officer's presence as provided for under section 29-06-15.1.
- 7 f. On a charge, made upon reasonable cause, of driving or being in actual
8 physical control of a vehicle while under the influence of alcoholic beverages.
- 9 g. For the offense of violating a protection order under section 14-07.1-06, an
10 order prohibiting contact under section 14-07.1-13, or for an assault involving
11 domestic violence under section 14-07.1-11.
- 12 h. On a charge, made upon reasonable cause, of being under the influence of
13 volatile chemical vapors in violation of section ~~42-1-31-06~~ 19-03.1-22.1.

14 **SECTION 18. AMENDMENT.** Subsection 9 of section 32-03.2-11 of the North Dakota
15 Century Code is amended and reenacted as follows:

- 16 9. In a civil action involving a motor vehicle accident resulting in bodily injury, it is
17 sufficient for the trier of fact to consider an award of exemplary damages against
18 the driver under the motion procedures provided in subsection 1 if clear and
19 convincing evidence indicates that the accident was caused by a driver who, within
20 the five years immediately preceding the accident has been convicted for violation
21 of section 39-08-01 and who was operating or in physical control of a motor
22 vehicle:
- 23 a. With an alcohol concentration of at least ten one-hundredths of one percent
24 by weight;
- 25 b. Under the influence of a controlled substance unless a drug that
26 predominantly caused impairment was used only as directed or cautioned by
27 a practitioner who legally prescribed or dispensed the drug to the driver;
- 28 c. Under the influence of alcohol and refused to take a test required under
29 chapter 39-20; or
- 30 d. Under the influence of a volatile chemical as listed in section ~~42-1-31-06~~
31 19-03.1-22.1.

1 At the trial in an action in which the trier of fact will consider an award of exemplary
2 damages, evidence that the driver has been convicted of violating section 39-08-01
3 or an equivalent statute or ordinance is admissible into evidence.

4 **SECTION 19. AMENDMENT.** Subdivision e of subsection 1 of section 41-09-02 of the
5 North Dakota Century Code is amended and reenacted as follows:

6 e. "Agricultural lien" means an interest, other than a security interest, in farm
7 products:

8 (1) That secures payment or performance of an obligation for:

9 (a) Goods or services furnished in connection with a debtor's farming
10 operation or in connection with processing, production, or
11 entrustment of the farm products; or

12 (b) Rent on real property leased by a debtor in connection with the
13 debtor's farming operation;

14 (2) That is created by statute in favor of a person that:

15 (a) ~~Finished~~ Furnished goods or services in connection with
16 processing, production, or entrustment of the farm product or in
17 the ordinary course of that person's business furnished goods or
18 services to a debtor in connection with a debtor's farming
19 operation; or

20 (b) Leased real property to a debtor in connection with the debtor's
21 farming operation; and

22 (3) Of which the effectiveness does not depend on the person's possession
23 of the personal property.

24 **SECTION 20. AMENDMENT.** Subsection 2 of section 44-04-18 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 2. Upon request for a copy of specific public records, any entity subject to
27 subsection 1 shall furnish the requester one copy of the public records requested.
28 A request need not be made in person or in writing, and the copy must be mailed
29 upon request. The entity may charge a reasonable fee for making or mailing the
30 copy, or both. An entity may require payment before making or mailing the copy,
31 or both. If the entity is not authorized to use the fees to cover the cost of providing

1 or mailing the copy, or both, or if a copy machine is not readily available, the entity
2 may make arrangements for the copy to be provided or mailed, or both, by another
3 entity, public or private, and the requester shall pay the fee to that other entity. As
4 used in this subsection, "reasonable fee" means the actual cost to the public entity
5 of making or mailing a copy of a record, or both, including labor, materials,
6 postage, and equipment, but excluding any cost associated with excising
7 confidential or closed material under section ~~44-04-18.8~~ 44-04-18.10. An entity
8 may impose a fee not exceeding twenty-five dollars per hour per request, excluding
9 the initial hour, for locating records if locating the records requires more than one
10 hour. This subsection does not apply to copies of public records for which a
11 different fee is specifically provided by law.

12 **SECTION 21. AMENDMENT.** Section 49-01-02 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **49-01-02. Public service commission - How constituted.** The three persons elected
15 public service commissioners, pursuant to the provisions of article V, section ~~42~~ 2 of the
16 Constitution of North Dakota, constitute and shall be known and designated as the public
17 service commission of the state of North Dakota. They shall elect one of their number president
18 of the commission and shall appoint a secretary.

19 **SECTION 22. AMENDMENT.** Subsection 5 of section 54-52.1-01 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 5. "Health maintenance organization" means an organization certified to establish and
22 operate a health maintenance organization in compliance with chapter ~~26.1-18~~
23 26.1-18.1.