

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2046
(Legislative Council)
(Judiciary A Committee)

AN ACT to amend and reenact sections 4-30-48 and 6-03-13.6, subdivision b of subsection 3 of section 10-06.1-17, subsection 2 of section 10-19.1-146, subsection 21 of section 11-11-14, sections 11-28.2-01 and 12.1-12-02, subsection 5 of section 14-09-08.4, sections 14-09-08.13 and 14-09-08.14, subdivision e of subsection 5 of section 19-03.1-36, sections 20.1-02-05.1, 20.1-04-12.1, 20.1-08-04.6, 20.1-13-08, 20.1-13.1-09, 20.1-15-09, and 20.1-15-10, subsection 7 of section 21-03-07, section 23-02.1-16, subsection 6 of section 26.1-05-19, subsection 9 of section 26.1-06.1-02, subsection 4 of section 26.1-17-01, sections 26.1-26-31.8 and 26.1-36.5-01, subdivision e of subsection 4 of section 26.1-38.1-01, subsection 1 of section 29-06-15, subsection 9 of section 32-03.2-11, section 38-08-09.9, subsection 7 of section 40-63-07, subdivision e of subsection 1 of section 41-09-02, subsection 4 of section 43-17-07.1, subsection 2 of section 44-04-18, section 49-01-02, subsection 5 of section 54-52.1-01, and subsection 2 of section 57-02-26 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

4-30-48. Failure to agree on sample for official test - Procedure to be followed. Whenever it is impossible to secure or mutually agree upon a sample of milk as provided in section 4-30-47, then the party selling or offering for sale such milk may require that the buyer or prospective buyer forward to the department the sample taken in compliance with ~~sections 4-30-19 and~~ section 4-30-20. Each sample so forwarded must be accompanied by a statement in the form of an affidavit from the buyer or prospective buyer, stating that the sample was taken in compliance with the provisions of ~~sections 4-30-19 and~~ section 4-30-20, and the statement also must contain all information required in section 4-30-47, except that the signature of the seller is not required thereon. Each sample must be tested and reported on as prescribed in section 4-30-47, and the percentage of butterfat so determined and reported constitutes the "official butterfat test" and is the basis on which final settlement must be made.

SECTION 2. AMENDMENT. Section 6-03-13.6 of the North Dakota Century Code is amended and reenacted as follows:

6-03-13.6. Branch conversions. Notwithstanding section 6-03-13.1, any bank organized under chapter 6-02, any national bank doing business in this state, or a bank established in this state by a bank holding company doing business in this state as of January 1, 1995, may convert a branch of a federal savings and loan association located in this state which was in existence as of March 1, 1995, purchased by the bank between January 1, 1995, and August 1, 1996, into a facility of the bank to be maintained at the same branch location if the acquisition and conversion does not violate the deposit limitations provisions contained in sections ~~6-08-29 6-08-30~~ and 6-08.3-03.1 and the acquisition and conversion of the branch is approved by the appropriate regulatory agencies.

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

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

SECTION 4. AMENDMENT. Subsection 2 of section 10-19.1-146 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 5. AMENDMENT. Subsection 21 of section 11-11-14 of the North Dakota Century Code is amended and reenacted as follows:

21. To participate and enact or adopt ordinances and resolutions necessary for participation in the nation's historic preservation program as a certified local government, as provided for under 36 CFR ~~64.5~~ 61.6.

SECTION 6. AMENDMENT. Section 11-28.2-01 of the North Dakota Century Code is amended and reenacted as follows:

11-28.2-01. Establishment of recreation service districts - Petition - Purpose. The board of county commissioners of any county in this state, at any meeting of such board, by majority vote of all of the members may, upon the petition of ten percent of the persons who qualify pursuant to section 11-28.2-03 as voters of an area to be included within a proposed recreation service district, call for an election of all of the qualified voters of such district to determine the question of the establishment of a recreation service district for the purpose of providing police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to that provided by the local governing body or agency to summer homes, cottages, and other residences and establishments as may exist within such area, and provide for the improvement and control of the environmental quality of the recreation service district. Said recreation service district shall be limited in size and location to an area which is contiguous to or within one-quarter mile [402.34 meters] of the recreational waters of the area or to the areas of land which are dedicated to public use for recreational purposes. In addition, said district shall consist of not less than fifty privately owned seasonal homes or cottages and other residences and establishments. If a petition is presented to the board of county commissioners calling for such election, such petition shall be accompanied by such information as the board of county commissioners shall require, including the boundaries of the proposed recreation district, the approximate number of qualified voters as defined in section 11-28.2-03, and a sufficient deposit of money to cover all costs of such election. Within sixty days after the calling of such an election, the board of county commissioners shall provide an election on the question of whether or not a recreation service district should be established and shall establish procedures for voting and other necessary matters not inconsistent with the provisions of this chapter. The county commissioners shall give at least thirty days' notice of the election by certified mail to all qualified voters as defined in section 11-28.2-03. If a majority of the qualified ~~voters~~ electors voting on the question approve of the establishment of a recreation service district, such district shall then be organized.

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

SECTION 7. AMENDMENT. Section 12.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 8. AMENDMENT. Subsection 5 of section 14-09-08.4 of the North Dakota Century Code is amended and reenacted as follows:

5. A determination that a child who is the subject of a child support order is eligible for benefits furnished under subsection ~~48~~ 17 or ~~20~~ 19 of section 50-06-05.1, chapter 50-09, or chapter 50-24.1, or any substantially similar program operated by any state or tribal government, constitutes a material change of circumstances. The availability of health insurance at reasonable cost to a child who is the subject of a child support order constitutes a material change of circumstances. The need to provide for a child's health care needs, through health insurance or other means, constitutes a material change of circumstances.

SECTION 9. AMENDMENT. Section 14-09-08.13 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 10. AMENDMENT. Section 14-09-08.14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 11. AMENDMENT. Subdivision e of subsection 5 of section 19-03.1-36 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 12. AMENDMENT. Section 20.1-02-05.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-05.1. Land acquisitions - Statewide land acquisition plan. The ~~commissioner~~ director shall establish a comprehensive statewide land acquisition plan that must be approved by the budget section of the legislative council. Every land acquisition made by the department exceeding ten acres [4.05 hectares] or ten thousand dollars must be approved by the budget section.

SECTION 13. AMENDMENT. Section 20.1-04-12.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-04-12.1. Gun dog activities - Permit required - Fee.

1. The ~~commissioner~~ director shall issue a permit for the following gun dog activities:
 - a. The training exercises of a resident or nonresident professional trainer;
 - b. The training exercises of a nonresident amateur trainer who brings more than four gun dogs into the state; and
 - c. Hosting field trials that use live wild birds.
2. The application for the permit must be in a form prescribed by the ~~commissioner~~ director and must be accompanied by the appropriate fee.
3. Upon the receipt of the completed application and fee the ~~commissioner~~ director shall issue a permit for a specified period of time and shall require the permitholder to submit an annual report.
4. The fees for the permits are:
 - a. For a resident professional gun dog trainer for training exercises or hosting field trials, ten dollars.
 - b. For a nonresident professional gun dog trainer for training exercises or hosting field trials, one hundred dollars.
 - c. For a permit to a nonresident amateur who brings more than four gun dogs into this state, twenty-five dollars.
5. For purposes of this section, a professional trainer is a person who trains any breed of gun dog for remuneration that is the basis for that person's livelihood.

SECTION 14. AMENDMENT. Section 20.1-08-04.6 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle. The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the rocky mountain elk foundation a license to hunt elk in a manner, places, and times as the governor prescribes. The rocky mountain elk foundation shall hold a raffle under rules adopted by the ~~commissioner~~ director with only residents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all net proceeds must be used for elk management and related projects in North Dakota as described under rocky mountain elk foundation policies and objectives. The rocky mountain elk foundation shall submit reports concerning the raffle as the ~~commissioner~~ director requires. Except for landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11 and persons who receive a special elk depredation management

license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery and one nontransferable license to hunt elk through the rocky mountain elk foundation raffle in a lifetime.

SECTION 15. AMENDMENT. Section 20.1-13-08 of the North Dakota Century Code is amended and reenacted as follows:

20.1-13-08. Collisions, accidents, casualties, and liability. The operator of a vessel involved in a collision, accident, or other casualty, so far as that person can do so without serious danger to that person's own vessel, crew, and passengers, shall render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and necessary to save them from or minimize any danger caused by the collision, accident, or other casualty. That person shall also give that person's name, address, and vessel identification in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty. If a collision, accident, or other casualty involving a vessel results in death or injury to a person or damage to property in excess of an amount specified by the ~~commissioner~~ director by rule, or a person disappears from the vessel under circumstances that indicate death or injury, the operator of the vessel shall file with the department a full description of the collision, accident, or other casualty, including such information as the ~~commissioner~~ director may require by rule.

Any operator of a vessel, or other person who complies with this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of any person assisted may not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance where the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

SECTION 16. AMENDMENT. Section 20.1-13.1-09 of the North Dakota Century Code is amended and reenacted as follows:

20.1-13.1-09. Judicial review. Any person who has been prohibited from operating a motorboat or vessel by the decision of the hearing officer under section 20.1-13.1-08 may appeal within seven days after the date of the hearing under section 20.1-13.1-08 as shown by the date of the hearing officer's decision, notwithstanding section 28-32-42, by serving on the ~~commissioner~~ director and filing a notice of appeal and specifications of error in the district court in the county where the events occurred for which the demand for a chemical test was made or in the county in which the administrative hearing was held. The court shall set the matter for hearing, and the petitioner shall give twenty days' notice of the hearing to the ~~commissioner~~ director and to the hearing officer who rendered the decision. Neither the ~~commissioner~~ director nor the court may stay the decision pending decision on appeal. Within fifteen days after receipt of the notice of appeal, the ~~commissioner~~ director or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. This record is the record on which the appeal must be determined. No additional evidence may be heard. The court shall affirm the decision of the ~~commissioner~~ director or hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the ~~commissioner~~ director or hearing officer. The court may direct that the matter be returned to the ~~commissioner~~ director or hearing officer for rehearing and the presentation of additional evidence.

SECTION 17. AMENDMENT. Section 20.1-15-09 of the North Dakota Century Code is amended and reenacted as follows:

20.1-15-09. Judicial review. Any person whose hunting privileges have been suspended, revoked, or denied by the decision of the hearing officer under section 20.1-15-08 may appeal within seven days after the date of the hearing under section 20.1-15-08 as shown by the date of the hearing officer's decision, notwithstanding section 28-32-42, by serving on the ~~commissioner~~ director and filing a notice of appeal and specifications of error in the district court in the county where the events occurred for which the demand for a chemical test was made or in the county in which the

administrative hearing was held. The court shall set the matter for hearing, and the petitioner shall give twenty days' notice of the hearing to the ~~commissioner~~ director and to the hearing officer who rendered the decision. Neither the ~~commissioner~~ director nor the court may stay the decision pending decision on appeal. Within fifteen days after receipt of the notice of appeal, the ~~commissioner~~ director or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. This record is the record on which the appeal must be determined. No additional evidence may be heard. The court shall affirm the decision of the ~~commissioner~~ director or hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the ~~commissioner~~ director or hearing officer. The court may direct that the matter be returned to the ~~commissioner~~ director or hearing officer for rehearing and the presentation of additional evidence.

SECTION 18. AMENDMENT. Section 20.1-15-10 of the North Dakota Century Code is amended and reenacted as follows:

20.1-15-10. Credit for suspension of hunting privileges. After conviction of a person for violating section 20.1-01-06, the ~~commissioner~~ director, in suspending the person's hunting privileges, shall give credit for the time in which the suspension or revocation of hunting privileges has been or is being imposed under this chapter in connection with the same offense.

SECTION 19. AMENDMENT. Subsection 7 of section 21-03-07 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 20. AMENDMENT. Section 23-02.1-16 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 21. AMENDMENT. Subsection 6 of section 26.1-05-19 of the North Dakota Century Code is amended and reenacted as follows:

6. Bonds guaranteed under former chapter 6-09.2.

SECTION 22. AMENDMENT. Subsection 9 of section 26.1-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 23. AMENDMENT. Subsection 4 of section 26.1-17-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 24. AMENDMENT. Section 26.1-26-31.8 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-31.8. License revocation.

1. The commissioner shall suspend the license of any person if, after holding a hearing, the commissioner finds that the person failed to meet the requirements imposed by subdivision c of subsection 1 of section 26.1-26-13.3 and sections 26.1-26-31.1 through 26.1-26-31.8. Any license suspended under this subsection must remain suspended until the person has demonstrated, to the satisfaction of the commissioner, compliance with the requirements of section ~~26.1-26-15.1~~ 26.1-26-13.3 and sections 26.1-26-31.1 through 26.1-26-31.8 and other applicable laws.
2. The commissioner, after holding a hearing, shall suspend the license of any person who has submitted a false or fraudulent certificate of compliance.

SECTION 25. AMENDMENT. Section 26.1-36.5-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.5-01. Definition. For purposes of this chapter, unless the context otherwise requires, "insurer" means any health insurer, including a group health plan, 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)], a health maintenance organization as defined in section ~~26.1-18-04~~ 26.1-18.1-01, a health service corporation as defined in section 26.1-17-01, and a provider of an accident and health insurance policy as defined in section 26.1-36-03.

SECTION 26. AMENDMENT. Subdivision e of subsection 4 of section 26.1-38.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 27. AMENDMENT. Subsection 1 of section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

1. A law enforcement officer, without a warrant, may arrest a person:

- a. For a public offense, committed or attempted in the officer's presence; and for the purpose of this subdivision, a crime must be deemed committed or attempted in the officer's presence when what the officer observes through the officer's senses reasonably indicates to the officer that a crime was in fact committed or attempted in the officer's presence by the person arrested.
- b. When the person arrested has committed a felony, although not in the officer's presence.
- c. When a felony in fact has been committed, and the officer has reasonable cause to believe the person arrested to have committed it.
- d. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested.
- e. For the public offenses, not classified as felonies and not committed in the officer's presence as provided for under section 29-06-15.1.
- f. On a charge, made upon reasonable cause, of driving or being in actual physical control of a vehicle while under the influence of alcoholic beverages.
- g. For the offense of violating a protection order under section 14-07.1-06, an order prohibiting contact under section 14-07.1-13, or for an assault involving domestic violence under section 14-07.1-11.
- h. On a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors in violation of section ~~42-1-31-06~~ 19-03.1-22.1.

SECTION 28. AMENDMENT. Subsection 9 of section 32-03.2-11 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 29. AMENDMENT. Section 38-08-09.9 of the North Dakota Century Code is amended and reenacted as follows:

38-08-09.9. Enlargement of area - Creation of new units - Amendment of plan. The unit area of a unit may be enlarged at any time by the commission, subject to the limitations hereinbefore provided to include adjoining portions of the same common source of supply, including the unit area of another unit, and a new unit created for the unitized management, operation, and further development of such enlarged unit area, or the plan of unitization may be otherwise amended, all in the same manner, upon the same conditions and subject to the same limitations as provided with respect to the creation of a unit in the first instance, except, that where an amendment to a plan of unitization relates only to the rights and obligations as between lessees, or the amendment to a plan of unitization or the enlargement of a unit area is found by the commission to be reasonably necessary in order to effectively carry on the joint effort, to prevent waste, and to protect correlative rights, and that such will result in the general advantage of the owners of the oil and gas rights within the unit area and the proposed enlarged unit area, and the persons and owners in the proposed added unit area have ratified or approved the plan of unitization as required by section 38-08-09.5, then such amendment to a plan of unitization or the enlargement of a unit area need not be ratified or approved by royalty owners of record in the existing unit area provided that written notice thereof is mailed to such royalty owners by the operator of a unit not more than forty days nor less than thirty days prior to the commission hearing. The notice must describe the plan for the unit amendment or enlargement together with the participation factor to be given each tract in the unit area and in the proposed area and must contain the time and place of the commission hearing. An affidavit of mailing verifying such notice must be filed with the commission. Said notice must further provide that in the event ten percent of the royalty interests or working interests in the existing unit area file with the commission at least ten days prior to the commission proceeding an objection to the plan of enlargement, the commission shall require that the unit amendment or enlargement be approved by ~~seventy~~ sixty percent of all royalty interests and working interests in the existing and proposed areas.

SECTION 30. AMENDMENT. Subsection 7 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

7. Income to a renaissance fund organization derived from the sale or refinancing of zone properties financed wholly or in part by the organization may be ~~dispersed~~ disbursed as annual dividends equal to the income, minus ten percent, derived from all sources and proportional to the investment. In the event of a loss to the fund resulting in a temporary diminishment of the fund below the original principal amount, no annual dividend may be paid until the fund is restored.

SECTION 31. AMENDMENT. Subdivision e of subsection 1 of section 41-09-02 of the North Dakota Century Code is amended and reenacted as follows:

- e. "Agricultural lien" means an interest, other than a security interest, in farm products:
 - (1) That secures payment or performance of an obligation for:
 - (a) Goods or services furnished in connection with a debtor's farming operation or in connection with processing, production, or entrustment of the farm products; or
 - (b) Rent on real property leased by a debtor in connection with the debtor's farming operation;
 - (2) That is created by statute in favor of a person that:
 - (a) ~~Finished~~ Furnished goods or services in connection with processing, production, or entrustment of the farm product or in the ordinary course of that person's business furnished goods or services to a debtor in connection with a debtor's farming operation; or
 - (b) Leased real property to a debtor in connection with the debtor's farming operation; and

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

SECTION 32. AMENDMENT. Subsection 4 of section 43-17-07.1 of the North Dakota Century Code is amended and reenacted as follows:

4. Require information on an applicant's or licensee's fitness, qualifications, and previous professional record and performance from recognized data sources, including the federation of state medical boards action data bank, other data repositories, licensing and disciplinary authorities of other jurisdictions, professional education and training institutions, liability insurers, health care institutions, and law enforcement agencies be reported to the board ~~or to the commission on medical competency.~~

SECTION 33. AMENDMENT. Subsection 2 of section 44-04-18 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request for a copy of specific public records, any entity subject to subsection 1 shall furnish the requester one copy of the public records requested. A request need not be made in person or in writing, and the copy must be mailed upon request. The entity may charge a reasonable fee for making or mailing the copy, or both. An entity may require payment before making or mailing the copy, or both. If the entity is not authorized to use the fees to cover the cost of providing or mailing the copy, or both, or if a copy machine is not readily available, the entity may make arrangements for the copy to be provided or mailed, or both, by another entity, public or private, and the requester shall pay the fee to that other entity. As used in this subsection, "reasonable fee" means the actual cost to the public entity of making or mailing a copy of a record, or both, including labor, materials, postage, and equipment, but excluding any cost associated with excising confidential or closed material under section ~~44-04-18.8~~ 44-04-18.10. An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for locating records if locating the records requires more than one hour. This subsection does not apply to copies of public records for which a different fee is specifically provided by law.

SECTION 34. AMENDMENT. Section 49-01-02 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 35. AMENDMENT. Subsection 5 of section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 36. AMENDMENT. Subsection 2 of section 57-02-26 of the North Dakota Century Code is amended and reenacted as follows:

2. Property held under an easement or a lease for a term of years and any improvements upon that property which are used for any purpose relating to discovery, exploration, processing, or transportation of oil or gas must be considered the property of the ~~lease lessee~~ or easement holder. For the purposes of this subsection, "improvements" does not include property subject to the provisions of chapter 57-06 or property subject to the in lieu of ad valorem tax provisions of chapter 57-51.

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 Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2046.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State