2023 HOUSE JUDICIARY

HB 1038

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1038
1/4/2023

Technical Corrections and improper, inaccurate, redundant, missing or obsolete references

Chairman Klemin opened the hearing on HB 1038 at 10:45 AM. Members present Chairman Klemin: Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. VanWinkle, Rep. Vetter, Rep. Schneider. Absent: Rep. Olson

Discussion Topics:

- Explanations of proposed amendments.
- Explained a code reviser.

Jennifer Clark, Legislative Counsel: No written testimony.

Andrea Travnicek, Director of the Dept. of Water Resources: In support. Testimony #12268,

Matt Fischer, ND Insurance Division. In support. Testimony #12267

Hearing closed at 10:56 AM.

Rep. Shannon Roers Jones moved a accept the amendment 23.0171.01001. Seconded by Rep. Satrom

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	A
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll Call Vote: 12 Yes 0 No 1 Absent

Rep. Shannon Roers Jones moved a Do Pass As Amended;
Seconded by Rep. Satrom

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	A
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll Call vote: 12 Yes 0 No 1 Absent Carrier: Rep. VanWinkle

Hearing closed 11:02 AM

Delores Shimek, Committee Clerk

Prepared by the Legislative Council staff

January 3, 2023

JA 1/3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1038

Page 1, line 3, after "reenact" insert "subsection 9 of section 12.1-31-01.2, subsection 8 of section 12.1-31.2-01,"

Page 1, line 4, after the third comma insert "paragraph 1 of subdivision a of subsection 2 of section 19-24.1-01, paragraph 1 of subdivision b of subsection 2 of section 19-24.1-01, subsection 8 of section 23-09-01,"

Page 1, line 6, replace the first "section" with "sections 37-01-16 and"

Page 1, line 7, replace the third comma with "and"

Page 1, line 7, after the fourth comma insert "subsection 11 of section 43-23-06.1, sections"

Page 1, line 10, after "references" insert "; and to provide a penalty"

Page 1, after line 11, insert:

"**SECTION 1. AMENDMENT.** Subsection 9 of section 12.1-31-01.2 of the North Dakota Century Code is amended and reenacted as follows:

9. If the respondent knows of an order issued under subsections 4 and 5, or subsection 6, violation of the order is a class A misdemeanor and also constitutes contempt of court. A second or subsequent violation of a protection order is a class C felony. If the existence of an order issued under subsection ~~3~~4, or subsections 4~~5~~5 and ~~5~~6 can be verified by a peace officer, the officer, without a warrant, may arrest and take into custody an individual whom the peace officer has probable cause to believe has violated the order.

SECTION 2. AMENDMENT. Subsection 8 of section 12.1-31.2-01 of the North Dakota Century Code is amended and reenacted as follows:

8. If the respondent knows of an order issued under subsection 4 or 5, violation of the order is a class A misdemeanor. If the existence of an order issued under subsection ~~3~~4 or 4~~5~~5 can be verified by a peace officer, the officer, without a warrant, may arrest and take into custody an individual whom the peace officer has probable cause to believe has violated the order."

Page 2, after line 11, insert:

"**SECTION 6. AMENDMENT.** Paragraph 1 of subdivision a of subsection 2 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

(1) During a thirty-day period, a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than two and one-half ounces [70.87 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.

SECTION 7. AMENDMENT. Paragraph 1 of subdivision b of subsection 2 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

(1) During a thirty-day period a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than six ounces [170.01 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.

SECTION 8. AMENDMENT. Subsection 8 of section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Lodging establishment" includes every building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished for pay to transient guests. The term does not include a facility providing personal care services directly or through contract services as ~~defined in~~provided under section 23-09.3-01 or 50-32-01."

Page 3, after line 29, insert:

"**SECTION 14. AMENDMENT.** Section 37-01-16 of the North Dakota Century Code is amended and reenacted as follows:

37-01-16. Unlawful conversion of military property - Unlawful wearing of uniforms and devices indicating rank - Penalty.

~~Any~~It is a class B misdemeanor for a person ~~who shall~~to:

1. Secretly sell, dispose of, offer for sale, purchase, retain after a demand made by a commissioned officer of the national guard, or in any manner pawn or pledge any arms, uniforms, equipment, or other military property issued under the provisions of this title; or

2. Wear any uniform or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank, or office, prescribed by law, or by general regulation duly promulgated, for the use of the national guard, or any device, strap, knot, or insignia similar thereto, unless the person is a member of the army or navy of the United States or of the national guard of this or any other state, a member of an association wholly composed of soldiers who have been honorably discharged from the service of the United States, or a member of the order of sons of veterans~~,~~

~~is guilty of a class B misdemeanor~~."

Page 7, after line 21, insert:

"**SECTION 21. AMENDMENT.** Subsection 11 of section 43-23-06.1 of the North Dakota Century Code is amended and reenacted as follows:

11. "Real estate salesperson" means any person that for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise of that compensation, is employed or engaged by a licensed real estate

broker to do any act or deal in any transaction as provided in subsection ~~6~~9 for or on behalf of such licensed real estate broker."

JA 3/13

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1038: Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1038 was placed on the Sixth order on the calendar.

Page 1, line 3, after "reenact" insert "subsection 9 of section 12.1-31-01.2, subsection 8 of section 12.1-31.2-01,"

Page 1, line 4, after the third comma insert "paragraph 1 of subdivision a of subsection 2 of section 19-24.1-01, paragraph 1 of subdivision b of subsection 2 of section 19-24.1-01, subsection 8 of section 23-09-01,"

Page 1, line 6, replace the first "section" with "sections 37-01-16 and"

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8. "Lodging establishment" includes every building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished for pay to transient guests. The term does not include a facility providing personal care services directly or through contract services as ~~defined in~~provided under section 23-09.3-01 or 50-32-01."

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2. Wear any uniform or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank, or office, prescribed by law, or by general regulation duly promulgated, for the use of the national guard, or any device, strap, knot, or insignia similar thereto, unless the person is a member of the army or navy of the United States or of the national guard of this or any other state, a member of an association wholly composed of soldiers who have been honorably discharged from the service of the United States, or a member of the order of sons of veterans~~,~~

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Page 7, after line 21, insert:

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11. "Real estate salesperson" means any person that for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise of that compensation, is employed or engaged by a licensed real estate broker to do any act or deal in any transaction as provided in subsection ~~6~~9 for or on behalf of such licensed real estate broker."

Renumber accordingly

2023 SENATE JUDICIARY

HB 1038

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1038

A bill relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to provide a penalty.

8:59 AM Chairman Larson opened the meeting. Chairman Larson and Senators Luick, Myrdal, Estenson, Sickler, Braunberger and Paulson were present.

Discussion Topics:

- Formatting errors
- Typographical errors
- Outdated language

9:00 AM Jennifer Clark, Code Revisor, North Dakota Legislative Council, introduced the bill and provided written testimony #24787.

9:04 AM Matt Fischer, Chief Examiner and Division Director of Company Licensing and Examinations, North Dakota Insurance Department, testified in favor of the bill and provided written testimony #24797.

9:05 AM Chairman Larson closed the public hearing.

Additional Written Testimony:
Andrea Travnicek #23726

9:05 AM Senator Luick moved to Do Pass the bill. Motion seconded by Senator Myrdal.

9:06 AM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Myrdal will carry the bill.
This bill does not affect workforce development.

9:06 AM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1038, as engrossed: Judiciary Committee (Sen. Larson, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1038 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1038

TESTIMONY

Presented by: **Matt Fischer**
Chief Examiner & Division Director of Company Licensing and Examinations
North Dakota Insurance Department

Before: **House Judiciary Committee**
Representative Klemin, Chairman

Date: **January 4, 2023**

Good morning, Chairman Klemin and members of the committee. My name is Matt Fischer and I am the Chief Examiner & Division Director of Company Licensing and Examinations with the North Dakota Insurance Department. I am here today in support of sections four, five, and six of House Bill 1038 as these sections correct cross-reference issues in the insurance title.

During the 65th Legislative Assembly, Senate Bill 2026 was introduced by Legislative Management and enacted into law. That bill repealed N.D.C.C. § 4-36, as a result the code revisor repealed subsection 5 of 26.1-05-19, but did not correct the cross-references made in that section. Sections four, five, and six of this bill correct those cross-reference issues created by Senate Bill 2026.

I am happy to answer any questions you may have for me.

Testimony
HB 1038—Department of Water Resources
House Judiciary Committee
Representative Lawrence R. Klemin, Chairman
January 04, 2023

Chairman Klemin, and members of the House Judiciary Committee—I am Andrea Travnicek, the Director of the Department of Water Resources. I am here today to provide testimony in support of HB 1038. Specifically, section 18, which provides the technical correction updating language referencing the State Engineer to the Department of Water Resources.

In the 2021 session, House Bill 1353 combined the Office of the State Engineer with the agency known as the State Water Commission into the Department of Water Resources. It also created the position of a director and established the agency as a member of the Governor's cabinet. The State Engineer maintains all regulatory oversight, while the Director oversees the department as a whole. The language in section 61-32-03.1 before you today is appropriately updating a reference of the State Engineer to the Department of Water Resources as the entity that would receive notice of a county water resource district-approved subsurface water management permit.

Thank you for the opportunity to comment and I would be happy to answer any questions you might have.

Testimony
HB 1038—Department of Water Resources
Senate Judiciary Committee
Senator Diane Larson, Chair
March 14, 2023

Chair Larson, and members of the Senate Judiciary Committee—I am Andrea Travnicek, the Director of the Department of Water Resources. I am testimony in support of HB 1038. Specifically, section 25, which provides the technical correction updating language referencing the State Engineer to the Department of Water Resources.

In the 2021 session, House Bill 1353 combined the Office of the State Engineer with the agency known as the State Water Commission into the Department of Water Resources. It also created the position of a director and established the agency as a member of the Governor's cabinet. The State Engineer maintains all regulatory oversight, while the Director oversees the department as a whole. The language in section 61-32-03.1 before you today is appropriately updating a reference of the State Engineer to the Department of Water Resources as the entity that would receive notice of a county water resource district-approved subsurface water management permit.

Thank you for the opportunity to comment.

North Dakota Legislative Council

Prepared by the Legislative Council Staff
LC# 23.9370.04000
March 2023

TESTIMONY - ENGROSSED HOUSE BILL NO. 1038
SENATE JUDICIARY COMMITTEE
MARCH 14, 2023

This testimony is provided in favor of Engrossed House Bill No. 1038 (2023), which was introduced by the Legislative Management at the request of the 2021-22 interim Judiciary Committee. Engrossed House Bill No. 1038 is the Legislative Council's technical corrections bill, which is prepared each legislative session to make corrections to the North Dakota Century Code to address improper, inaccurate, redundant, missing, or obsolete references.

EXPLANATION OF THE BILL

Engrossed House Bill No. 1038 provides the following technical corrections:

- Section 1 of the bill corrects internal cross references in Section 12.1-31-01.2(9), relating to sexual assault restraining orders. The cross references were missed when the law was amended by House Bill No. 1238 (1993).
- Section 2 of the bill corrects internal cross references in Section 12.1-31.2-01(8) relating to disorderly conduct restraining orders. The cross references were missed when the law was amended by House Bill No.1238 (1993).
- Section 3 of the bill clarifies the use of the terms "commissioner" and "department," as used in the law relating to public access to leased and unleased trusts lands, refers to the Commissioner of University and School Lands and the Department of Trust Lands.
- Section 4 of the bill clarifies the use of the term "commissioner," as used in the law relating to vehicular access to trusts lands, refers to the Commissioner of University and School Lands.
- Section 5 of the bill corrects the reference to the University of North Dakota medical school to instead refer to the University of North Dakota School of Medicine and Health Sciences, which is the correct name of this entity. This section also corrects the caption to include the continuing appropriation language in accordance with Legislative Council form and style.
- Sections 6 and 7 of the bill correct grammatical errors. The sections clarify a reference to the plant of the genus cannabis.
- Section 8 of the bill corrects an improper reference to a defined term that no longer exists. Section 23-09-01(8) is amended to reference a facility that provides personal care services as provide under Section 23-09.3-01 or 50-32-01.
- Section 9 of the bill corrects an internal cross reference in Section 26.1-05-19(24). Between 2010 and 2017, the Code Revisor repealed subsection 6 due to reference to a repealed chapter of Century Code, necessitating this correction.
- Section 10 of the bill corrects internal cross references in Section 26.1-05-19(34). Between 2010 and 2017, the Code Revisor repealed subsection 6 due to reference to a repealed chapter of Century Code, necessitating these corrections. This section corrects cross references to subsections 19, 20, and 21. Additional formatting changes are made in accordance with Legislative Council form and style.
- Section 11 of the bill corrects an outdated cross reference to Section 26.1-05-19(21) which occurred due to renumbering of this section by the Code Revisor between 2010 and 2017.
- Section 12 of the bill creates a new subdivision to Section 27-20.2-21(1), regarding the ability to access juvenile court files and records. House Bill No. 1035 (2021) repealed Chapter 27-20 and relocated several of the repealed provisions in the newly created Chapter 27-20.2; however, House Bill No. 1047 (2021) amended the repealed Section 27-20-51(1). This section incorporates the intended amendment into the newly created Section 27-20.2-21.

- Section 13 of the bill corrects an outdated cross reference to Chapter 47-30.1, regarding unclaimed property. Senate Bill No. 2048 (2021) repealed Chapter 47-30.1 and replaced it with Chapter 47-30.2. This section updates that cross reference to refer to Chapter 47-30.2.
- Section 14 of the bill corrects a formatting error to Section 37-01-16, regarding the crime of unlawful conversion of military property and unlawful wearing of uniforms and devices indicating rank.
- Section 15 of the bill corrects a formatting error to Section 39-06-32, regarding the authority to suspend motor vehicle operator licenses, which occurred in 2013.
- Sections 16 through 18 of the bill correct cross references that are necessary due to the formatting correction under Section 15 of the bill.
- Section 19 of the bill corrects a formatting error to Section 40-34-13, regarding the use of money remaining after the payment of bonds.
- Section 20 of the bill corrects a formatting error to Section 40-35-02, regarding the definition of the term "undertaking" as it relates to revenue bonds.
- Section 21 of the bill corrects an outdated cross reference to the definition of "real estate broker". Senate Bill No. 2520 (1995) amended this section by adding new definitions to the chapter necessitating this amendment.
- Section 22 of the bill corrects an outdated reference to Section 11-33-20, which was repealed in 2015.
- Sections 23 and 24 of the bill remove obsolete language relating to city and county general fund levy authority. The language being removed was included in Senate Bill No. 2144 (2015), which eliminated and consolidated various types of levy authority, to slowly phase cities and counties down to the new levy limits. The period addressed by the phase-in language has passed, so the obsolete language has been removed.
- Section 25 of the bill corrects an outdated reference to "state engineer" in Section 61-32-03.1(6), regarding permits required to drain subsurface waters.

TESTIMONY

Presented by: **Matt Fischer**
Chief Examiner & Division Director of Company Licensing and Examinations
North Dakota Insurance Department

Before: **Senate Judiciary Committee**
Senator Larson, Chairwomen

Date: **March 14, 2023**

Good morning, Chairwomen Larson and members of the committee. My name is Matt Fischer and I am the Chief Examiner & Division Director of Company Licensing and Examinations with the North Dakota Insurance Department. I am here today in support of sections nine, ten, and eleven of House Bill 1038 as these sections correct cross-reference issues in the insurance title.

During the 65th Legislative Assembly, Senate Bill 2026 was introduced by Legislative Management and enacted into law. That bill repealed N.D.C.C. § 4-36, as a result the code revisor repealed subsection 5 of 26.1-05-19, but did not correct the cross-references made in that section. Sections four, five, and six of this bill correct those cross-reference issues created by Senate Bill 2026.

I am happy to answer any questions you may have for me.