MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1226

2005 HOUSE HUMAN SERVICES

HB 1226

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1226

House Human Services Committee

❑ Conference Committee

Hearing Date January 17, 2005

Tape Number	Side A	Side B	Meter #
#1	x		#5017- 6237
		x	0-257
#2	x		1098-1185

Committee Clerk Signature

Minutes:

Chairman Price opened hearing on HB 1226.

Rep. Damschen: HB 1226 is presented to remove language that is no longer necessary in regards to defibrillators. There was a requirement for any person who purchased a defibrillator to report to the Dept. of Health. The intent was to incorporate into the 911 system, so when there was an emergency, they would have a location of the nearest machine.

Tim Meyer: Director, Division of Emergency Medical Services, ND Health Dept.

See attached testimony.

Derrick Hanson. Past Pres. Leg. Chair, EMS Assoc.

See attached testimony.

Rep. Kaldor: Is it possible for this to misused?

D. Hanson: No, it is very difficult to turn them into a dangerous machine, it has a computer that directs the use of it.

Rep. Potter: Why did they want people to notify the health dept.?

D. Hanson: They were hoping that there would be machines available for use in office settings if there was an emergency. But now, there are hand held models, and the whole concept has changed, so we feel we need to also.

June Herman, Senior Advocacy Director, American Heart Assoc.

MR# 6237

Tape 1 side B.

See attached testimony.

Closed hearing Side B MR# 0-257.

Tape 2: Side A MR# 1098

Chairman Price opened discussion on HB 1226.

Rep Kaldor: Move a Do Pass

Rep. Nelson: Second

Vote: 12-0-0

Carrier: Rep. Damschen.

Date: 1/17/05 **Roll Call Vote #:** 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1226

House **Human Services** **Committee**

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Rep Kaldor Seconded By Rep Nelson

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. **Price**	✓		Rep.L. **Kaldor**	✓	
V Chrm.G. **Kreidt**	✓		Rep.L. **Potter**	✓	
Rep. V. **Pietsch**	✓		Rep.S. **Sandvig**	✓	
Rep.J.O. **Nelson**	✓				
Rep.W.R. **Devlin**	✓				
Rep.T. **Porter**	✓				
Rep.G. **Uglem**	✓				
Rep C. **Damschen**	✓				
Rep.R. **Weisz**					

Total Yes 12 **No** 0

Absent 0

Floor Assignment Rep Damschen

on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1226: Human Services Committee (Rep. Price, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1226 was placed on the Eleventh order on the calendar.

2005 SENATE HUMAN SERVICES

HB 1226

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1226

Senate Human Services Committee

❑ Conference Committee

Hearing Date February 16, 2005

Tape Number	Side A	Side B	Meter #
1	X		1,390-2480

Committee Clerk Signature

Minutes: **Chairman Lee opened the hearing on HB 1226. The bill relates to the notification to the state department of health of acquisition of an automated external defibrillator (AED). All Senators were present.**

Representative Damschen of District 10 introduced the bill. The original intent of the language was to coordinate the information within the emergency 911 system, so the dispatcher would know the location of defibrillators.

Chairman Lee- The medical foundations in this area have done a good job providing AED's.

Derek Hanson, representing the ND EMS Association, appeared in support of the bill. See written testimony,

Senator Dever- How expensive is it for a unit?

Derek- The unit is around $1400-$1700, and is very easy to use.

Darleen Bartz, appeared on behalf of the ND Department of Health in support of the bill.

See written testimony.

There was no neutral or opposition testimony to the bill.

Chariman Lee closed the hearing on HB 1226.

Action taken:

Senator Lyson made a Do Pass recommendation for HB 1226. Seconded by Senator Dever.

The vote was 5-0-0, with Senator Dever being the carrier of the bill.

Date: 2-16-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1226

Senate **Human Services** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen Lyson Seconded By Sen Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No Ø

Absent

Floor Assignment Sen. Dever

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1226: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1226 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1226

Testimony

House Bill 1226

House Human Services Committee

Monday, January 17, 2005; 9:30 a.m.

North Dakota Department of Health

Good morning, Madam Chair and members of the House Human Services Committee. My name is Tim Meyer, and I am director of the Division of Emergency Medical Services for the North Dakota Department of Health. I am here today to testify in support of House Bill 1226.

House Bill 1226 would remove the requirement of notifying the state health department when an automated external defibrillator is acquired. The Division of Emergency Medical Services is responsible for maintaining the database of registered automated external defibrillators. Currently, 225 automated external defibrillators are registered; however, we are certain that many more automated external defibrillators throughout the state are not registered, placing those owners out of compliance with this law.

Because the Department of Health does not receive requests for information from the public concerning the registry, we don't see a benefit related to the reporting requirement and registry listing. In addition, people don't need a great deal of training to use automated external defibrillators. As technology advances and these units become easier to use, our hope is that they will become as common as fire extinguishers.

This concludes my testimony. I am happy to answer any questions you may have.

Testimony
House Bill 1226

House Human Services Committee
Monday, January 17, 2005

June Herman
Senior Advocacy Director, American Heart Association

Good morning, Chairwoman Price and members of the House Human Services Committee. My name is June Herman, and I am the senior director of advocacy for the American Heart Association. I am here today to testify in support of House Bill 1226, and ask for a "do pass" recommendation from this committee.

AHA was consulted on this suggested revision, as we were a lead organization that first brought "Good Samaritan" AED language to this committee, and some of you were part of that initial bill passage. Your actions, and the eventual passage of the AED Good Samaritan model bill led to communities, foundations, public safety, worksites and schools making AEDs increasingly available as an important tool for emergency response. And lives have been saved as a result.

The proposed language seeks to address one part of a four-pillar model we proposed with the initial bill. Key aspects of model language included: 1) Liability protection, 2) Physician oversight, 3) Training, and 4) Integration into the EMS system

Reporting AEDs to the state health department was a mechanism by which we intended AEDs to become part of the EMS system. The intent was for the 911 dispatch system to be able to determine AED availability for emergency response. Certainly the substantial increase in AEDs across ND in public and private venues makes this problematic.

We have encouraged EMS leadership to engage 911 association partners in determining if dispatch protocols in ND include, in the case of a suspected cardiac arrest, an inquiry if there is an AED anywhere on the premise. With every minute counting in a cardiac arrest event, it would be a shame to have an unused tool near by.

Right now only about 5% of sudden cardiac arrest victims survive. A strong chain of survival system can increase this to 20% or more. That is why increasing AED availability, equipping first responders, and building an effective 911 system are important links in that chain.

We continue to work within North Dakota to further improve capabilities in responding to cardiac and stroke emergencies. Within a month, a new national AHA paper on "Recommendations for the Establishment of Stroke Systems of Care" will be released. Meanwhile, we continue to pursue funding for placement of AEDs with first responders and in public locations. An area of concern for us has been the equipping of the state highway patrol – a first responder group not necessarily cover through community initiatives, and not eligible for federal AED grants. They have identified an interest to equip 125 of their vehicles with AEDs. We have so far been unsuccessful in assisting them with securing the needed $350,000 in grant funding.

North Dakota is becoming a model among rural states for the percentage of people CPR trained, building 911 capabilities for both land lines and cellular lines, and the placement of AEDs across the state. Continuing to invest in a viable emergency response system benefits both residents and visitors to our state.

Executive Offices
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TESTIMONY IN SUPPORT OF HB 1226

Human Services Committee
Monday, January 17, 2005

By: Derek Hanson, Past President
& Legislative Chair

Members of the committee, the current century code (32-03.1-02.3) allowing the public and businesses to implement an Automatic External Defibrillation (AED) program has been beneficial and has saved lives. However, because of the many vendors who sell these AED's, and the fact that some are being purchased as second generation AED's, we're finding that most are not notifying the Health Department of their location and type as required in century code.

This part of the program is virtually impossible to enforce and very few individuals have complied with this part of the century code. One of the original intents for this was so that the state Department of Health could notify 911 centers of the location of AED's within their respective communities.

Most have not complied with the requirement, nor does the ND EMS Association feel that knowing the location and type of AED make the program any more successful. The state Department of Health is in agreement with this suggestion of removing the entire line after letter "a" under section 1, as proposed in the amendment.

Thank you for your time and consideration.

Attachment 1

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NORTH DAKOTA EMS ASSOCIATION

TESTIMONY IN SUPPORT OF HB 1226

Human Services Committee
Tuesday, February 16, 2005

By: Derek Hanson, Past President
& Legislative Chair

Members of the committee, the current century code (32-03.1-02.3) allowing the public and businesses to implement an Automatic External Defibrillation (AED) program has been beneficial and has saved lives. However, because of the many vendors who sell these AED's, and the fact that some are being purchased as second generation AED's, we're finding that most are not notifying the Health Department of their location and type as required in century code.

This part of the program is virtually impossible to enforce and very few individuals have complied with this part of the century code. One of the original intents for this was so that the state Department of Health could notify 911 centers of the location of AED's within their respective communities.

Most have not complied with the requirement, nor does the ND EMS Association feel that knowing the location and type of AED make the program any more successful. The state Department of Health is in agreement with this suggestion of removing the entire line after letter "a" under section 1, as proposed in the amendment.

Thank you for your time and consideration.

Attachment 2

Testimony

House Bill 1226

Senate Human Services Committee

Wednesday, February 16, 2005; 9:30 a.m.

North Dakota Department of Health

Good morning, Madam Chair and members of the Senate Human Services Committee. My name is Darleen Bartz, and I am section chief of the Health Resources Section for the North Dakota Department of Health. I am here today to testify in support of House Bill 1226.

House Bill 1226 would remove the requirement of notifying the state health department when an automated external defibrillator is acquired. The Division of Emergency Medical Services is responsible for maintaining the database of registered automated external defibrillators. Currently, 225 automated external defibrillators are registered; however, we are certain that many more automated external defibrillators throughout the state are not registered, placing those owners out of compliance with this law.

Because the Department of Health does not receive requests for information from the public concerning the registry, we don't see a benefit related to the reporting requirement and registry listing. In addition, people don't need a great deal of training to use automated external defibrillators. As technology advances and these units become easier to use, our hope is that they will become as common as fire extinguishers.

This concludes my testimony. I am happy to answer any questions you may have.

an administrative agency may, by rule, provide for appropriate sanctions, including default, for any violations of this section.

9. Nothing in this section prohibits a member of the general public, not acting on behalf or at the request of any party, from communicating with an agency in cases of general interest. The agency shall disclose such written communications in adjudicative proceedings.

28-32-38. Separation of functions.

1. No person who has served as investigator, prosecutor, or advocate in the investigatory or prehearing stage of an adjudicative proceeding may serve as hearing officer.

2. No person who is subject to the direct authority of one who has served as an investigator, prosecutor, or advocate in the investigatory or prehearing stage of an adjudicative proceeding may serve as hearing officer.

3. Any other person may serve as hearing officer in an adjudicative proceeding, unless a party demonstrates grounds for disqualification.

4. Any person may serve as hearing officer at successive stages of the same adjudicative proceeding, unless a party demonstrates grounds for disqualification.

28-32-39. Adjudicative proceedings - Findings of fact, conclusions of law, and order of agency - Notice.

1. In an adjudicative proceeding an administrative agency shall make and state concisely and explicitly its findings of fact and its separate conclusions of law and the order of the agency based upon its findings and conclusions.

2. If the agency head, or another person authorized by the agency head or by law to issue a final order, is presiding, the order issued is the final order. The agency shall serve a copy of the final order and the findings of fact and conclusions of law on which it is based upon all the parties to the proceeding within thirty days after the evidence has been received, briefs filed, and arguments closed, or as soon thereafter as possible, in the manner allowed for service under the North Dakota Rules of Civil Procedure.

3. If the agency head, or another person authorized by the agency head or by law to issue a final order, is not presiding, then the person presiding shall issue recommended findings of fact and conclusions of law and a recommended order within thirty days after the evidence has been received, briefs filed, and arguments closed, or as soon thereafter as possible. The recommended findings of fact and conclusions of law and the recommended order become final unless specifically amended or rejected by the agency head. The agency head may adopt the recommended findings of fact and conclusions of law and the recommended order as final. The agency may allow petitions for review of a recommended order and may allow oral argument pending issuance of a final order. An administrative agency may adopt rules regarding the review of recommended orders and other procedures for issuance of a final order by the agency. If a recommended order is issued, the agency must serve a copy of any final order issued and the findings of fact and conclusions of law on which it is based upon all the parties to the proceeding within sixty days after the evidence has been received, briefs filed, and arguments closed, or as soon thereafter as possible, in the manner allowed for service under the North Dakota Rules of Civil Procedure.

28-32-40. Petition for reconsideration.

c. A copy of the rule as submitted for publication.

d. Any opinion letters by the attorney general as to a rule's legality or the legality of the agency's rulemaking action.

e. A copy of any interim rule and the agency's findings and statement of the reasons for an interim rule.

f. The regulatory analysis of a proposed rule.

g. The transcript of any oral hearing on a proposed rule.

h. All written submissions made to the agency on a proposed rule.

i. Any staff memoranda or data prepared for agency consideration in regard to the proposed rule.

j. Any other document that the agency believes is relevant to the appeal.

k. Any other document that is not privileged and which is a public record that the appellant requests the agency to include in the record, if relevant to the appeal.

7. If the notice of appeal specifies that no exception or objection is made to the agency's findings of fact, and that the appeal is concerned only with the agency's conclusions of law based on the facts found by it, the agency may submit an abstract of the record along with such portions of the record as the agency deems necessary, to be supplemented by those portions of the record requested to be submitted by the appellant or by the other party when the agency is appealing.

8. The court may permit amendments or additions to the record filed by the administrative agency in order to complete the record.

28-32-45. Consideration of additional or excluded evidence. If an application for leave to offer additional testimony, written statements, documents, exhibits, or other evidence is made to the court in which an appeal from a determination of an administrative agency is pending, and it is shown to the satisfaction of the court that the additional evidence is relevant and material and that there were reasonable grounds for the failure to offer the evidence in the hearing or proceeding, or that the evidence is relevant and material to the issues involved and was rejected or excluded by the agency, the court may order that the additional evidence be taken, heard, and considered by the agency on terms and conditions as the court may deem proper. After considering the additional evidence, the administrative agency may amend or reject its findings of fact, conclusions of law, and order and shall file with the court a transcript of the additional evidence with its new or amended findings of fact, conclusions of law, and order, if any, which constitute a part of the record with the court.

28-32-46. Scope of and procedure on appeal from determination of administrative agency. A judge of the district court must review an appeal from the determination of an administrative agency based only on the record filed with the court. After a hearing, the filing of briefs, or other disposition of the matter as the judge may reasonably require, the court must affirm the order of the agency unless it finds that any of the following are present:

1. The order is not in accordance with the law.

2. The order is in violation of the constitutional rights of the appellant.

3. The provisions of this chapter have not been complied with in the proceedings before the agency.

4. The rules or procedure of the agency have not afforded the appellant a fair hearing.

5. The findings of fact made by the agency are not supported by a preponderance of the evidence.

6. The conclusions of law and order of the agency are not supported by its findings of fact.

7. The findings of fact made by the agency do not sufficiently address the evidence presented to the agency by the appellant.

8. The conclusions of law and order of the agency do not sufficiently explain the agency's rationale for not adopting any contrary recommendations by a hearing officer or an administrative law judge.

If the order of the agency is not affirmed by the court, it must be modified or reversed, and the case shall be remanded to the agency for disposition in accordance with the order of the court.

28-32-47. Scope of and procedure on appeal from agency rulemaking. A judge of the district court shall review an appeal from an administrative agency's rulemaking action based only on the record filed with the court. If an appellant requests documents to be included in the record but the agency does not include them, the court, upon application by the appellant, may compel their inclusion. After a hearing, the filing of briefs, or other disposition of the matter as the judge may reasonably require, the court shall affirm the agency's rulemaking action unless it finds that any of the following are present:

1. The provisions of this chapter have not been substantially complied with in the agency's rulemaking actions.

2. A rule published as a result of the rulemaking action appealed is unconstitutional on the face of the language adopted.

3. A rule published as a result of the rulemaking action appealed is beyond the scope of the agency's authority to adopt.

4. A rule published as a result of the rulemaking action appealed is on the face of the language adopted an arbitrary or capricious application of authority granted by statute.

If the rulemaking action of the agency is not affirmed by the court, it must be remanded to the agency for disposition in accordance with the order of the court, or the rule or a portion of the rule resulting from the rulemaking action of the agency must be declared invalid for reasons stated by the court.

28-32-48. Appeal - Stay of proceedings. An appeal from an order or the rulemaking action of an administrative agency does not stay the enforcement of the order or the effect of a published rule unless the court to which the appeal is taken, upon application and after a hearing or the submission of briefs, orders a stay. The court may impose terms and conditions for a stay of the enforcement of the order or for a stay in the effect of a published rule. This section does not prohibit the operation of an automatic stay upon the enforcement of an administrative order as may be required by another statute.

28-32-49. Review in supreme court. The judgment of the district court in an appeal from an order or rulemaking action of an administrative agency may be reviewed in the supreme court on appeal in the same manner as provided in section 28-32-46 or 28-32-47, except that the appeal to the supreme court must be taken within sixty days after the service of the notice of entry of judgment in the district court. Any party of record, including the agency, may take an appeal from the final judgment of the district court to the supreme court. If an appeal from the judgment of the district court is taken by an agency, the agency may not be required to pay a docket fee or file a bond for costs or equivalent security.