

September 2002

Introduced by

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.

NOTE: Section 4-30-19, relating to sampling cream, was repealed by 2001 S.L., ch. 72, § 23.

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.

NOTE: This change is intended to correct an error contained in 1997 S.L., ch. 103, § 1.

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.

NOTE: This change is necessary to correct references that should have been changed when the subdivisions of subsection 1 were redesignated by 1999 S.L., ch. 95, § 42.

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

3 **11-28.2-01. Establishment of recreation service districts - Petition - Purpose.** The
4 board of county commissioners of any county in this state, at any meeting of such board, by
5 majority vote of all of the members may, upon the petition of ten percent of the persons who
6 qualify pursuant to section 11-28.2-03 as voters of an area to be included within a proposed
7 recreation service district, call for an election of all of the qualified voters of such district to
8 determine the question of the establishment of a recreation service district for the purpose of
9 providing police protection, sewer and water, garbage removal services, and public road
10 construction and maintenance, in addition to that provided by the local governing body or
11 agency to summer homes, cottages, and other residences and establishments as may exist
12 within such area, and provide for the improvement and control of the environmental quality of
13 the recreation service district. Said recreation service district shall be limited in size and
14 location to an area which is contiguous to or within one-quarter mile [402.34 meters] of the
15 recreational waters of the area or to the areas of land which are dedicated to public use for
16 recreational purposes. In addition, said district shall consist of not less than fifty privately
17 owned seasonal homes or cottages and other residences and establishments. If a petition is
18 presented to the board of county commissioners calling for such election, such petition shall be
19 accompanied by such information as the board of county commissioners shall require, including
20 the boundaries of the proposed recreation district, the approximate number of qualified voters
21 as defined in section 11-28.2-03, and a sufficient deposit of money to cover all costs of such
22 election. Within sixty days after the calling of such an election, the board of county
23 commissioners shall provide an election on the question of whether or not a recreation service
24 district should be established and shall establish procedures for voting and other necessary
25 matters not inconsistent with the provisions of this chapter. The county commissioners shall
26 give at least thirty days' notice of the election by certified mail to all qualified voters as defined
27 in section 11-28.2-03. If a majority of the qualified ~~voters~~ electors voting on the question
28 approve of the establishment of a recreation service district, such district shall then be
29 organized.

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

NOTE: This change is intended to be consistent with references to voter approval requirements under 1997 S.L., ch. 108.

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

6 **12.1-12-02. Illegal influence between legislators or between legislators and**
7 **governor.** Any person who violates the provisions of section 9 of article IV or section 44 10 of
8 article V of the Constitution of North Dakota is guilty of a class C felony.

NOTE: This change is necessary to correct a reference that should have been updated after approval of the renumbering of Article V of the Constitution of North Dakota as approved by the voters June 11, 1996 (1997 S.L., ch. 568).

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

11 5. A determination that a child who is the subject of a child support order is eligible for
12 benefits furnished under subsection ~~48~~ 17 or ~~20~~ 19 of section 50-06-05.1, chapter
13 50-09, or chapter 50-24.1, or any substantially similar program operated by any
14 state or tribal government, constitutes a material change of circumstances. The
15 availability of health insurance at reasonable cost to a child who is the subject of a
16 child support order constitutes a material change of circumstances. The need to
17 provide for a child's health care needs, through health insurance or other means,
18 constitutes a material change of circumstances.

NOTE: This reference change should have been corrected at the time subsections of section 50-06-05.1 were redesignated under 1991 S.L., ch. 328.

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

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

1 the obligee to the child support agency and payment by the obligee of any required application
2 fee.

NOTE: Section 50-06-01.8 was repealed by S.L. 2001, ch. 418.

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

5 **14-09-08.14. Public authority to establish criteria.** The public authority shall
6 establish criteria to identify cases involving children who received benefits through a
7 ~~demonstration project established under section 50-06-01.8~~; temporary assistance for needy
8 families or foster care under chapter 50-09 or medical assistance under chapter 50-24.1, or
9 ~~where~~ when an application to the child support agency has been completed by an obligee and
10 ~~where~~ when there is a high potential for obtaining medical support based on:

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

NOTE: Section 50-06-01.8 was repealed by S.L. 2001, ch. 418.

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

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

NOTE: This reference change should have been corrected at the time subsections of
Section 19-03.1-23 were redesignated under 1993 S.L., ch. 128.

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

1 7. The governing body of any public school district may also by resolution adopted by
2 a two-thirds vote dedicate the tax levies as authorized by section 15.1-09-47,
3 15.1-09-49, or 57-15-16 and may authorize and issue general obligation bonds to
4 be paid by these dedicated levies for the purpose of providing funds for the
5 purchase, construction, reconstruction, or repair of public school buildings or for
6 the construction or improvement of a project ~~pursuant to chapter 15-60~~ under
7 section 15.1-36-02 or 15.1-36-03. The initial resolution authorizing the tax levy
8 dedication and general obligation bonds must be published in the official
9 newspaper of the school district, and any owner of taxable property within the
10 school district may, within sixty days after publication, file with the business
11 manager of the school district a protest against the adoption of the resolution.
12 Protests must be in writing and must describe the property that is the subject of the
13 protest. If the governing body finds the protests to have been signed by the
14 owners of taxable property having an assessed valuation equal to five percent or
15 more of the assessed valuation of all taxable property within the school district, as
16 theretofore last finally equalized, all further proceedings under the initial resolution
17 are barred.

NOTE: This reference should have been corrected at the time Chapter 15-60 was repealed and replaced by other sections under 2001 S.L., ch. 181.

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

20 **23-02.1-16. Delayed registration of death.** When a death occurring in this state has
21 not been registered within the time period specified in section ~~23-02.1-15~~ 23-02.1-19, a
22 certificate may be filed in accordance with regulations of the state department of health.

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

NOTE: Section 23-02.1-15 provides for delayed registration of birth. The reference should be to Section 23-02.1-19, relating to death certificate filing requirements.

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

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

NOTE: Chapter 6-09.2 was repealed by 1995 S.L., ch. 107.

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

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

NOTE: Chapter 26.1-18 was repealed and replaced by Chapter 26.1-18.1 under
1993 S.L., ch. 292.

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

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

NOTE: Chapter 26.1-18 was repealed and replaced by Chapter 26.1-18.1 under
1993 S.L., ch. 292.

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

16 **26.1-26-31.8. License revocation.**

17 1. The commissioner shall suspend the license of any person if, after holding a
18 hearing, the commissioner finds that the person failed to meet the requirements
19 imposed by subdivision c of subsection 1 of section 26.1-26-13.3 and sections
20 26.1-26-31.1 through 26.1-26-31.8. Any license suspended under this subsection
21 must remain suspended until the person has demonstrated, to the satisfaction of
22 the commissioner, compliance with the requirements of ~~section 26.1-26-15.1 and~~
23 sections 26.1-26-31.1 through 26.1-26-31.8 and other applicable laws.

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

NOTE: Section 26.1-26-15.1 was repealed by 2001 S.L., ch. 262, § 136.

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

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

NOTE: This change is necessary to correct an oversight when subparagraphs were
redesignated under 1999 S.L., ch. 271.

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

- 17 1. A law enforcement officer, without a warrant, may arrest a person:
18 a. For a public offense, committed or attempted in the officer's presence; and for
19 the purpose of this subdivision, a crime must be deemed committed or
20 attempted in the officer's presence when what the officer observes through
21 the officer's senses reasonably indicates to the officer that a crime was in fact
22 committed or attempted in the officer's presence by the person arrested.
23 b. When the person arrested has committed a felony, although not in the
24 officer's presence.
25 c. When a felony in fact has been committed, and the officer has reasonable
26 cause to believe the person arrested to have committed it.
27 d. On a charge, made upon reasonable cause, of the commission of a felony by
28 the party arrested.
29 e. For the public offenses, not classified as felonies and not committed in the
30 officer's presence as provided for under section 29-06-15.1.

- 1 f. On a charge, made upon reasonable cause, of driving or being in actual
2 physical control of a vehicle while under the influence of alcoholic beverages.
3 g. For the offense of violating a protection order under section 14-07.1-06, an
4 order prohibiting contact under section 14-07.1-13, or for an assault involving
5 domestic violence under section 14-07.1-11.
6 h. On a charge, made upon reasonable cause, of being under the influence of
7 volatile chemical vapors in violation of section ~~12.1-31-06~~ 19-03.1-22.1.

NOTE: Section 12.1-31-06, relating to inhalation of volatile chemicals, was repealed and replaced by Section 19-03.1-22.1 under 2001 S.L., ch. 214.

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

- 10 9. In a civil action involving a motor vehicle accident resulting in bodily injury, it is
11 sufficient for the trier of fact to consider an award of exemplary damages against
12 the driver under the motion procedures provided in subsection 1 if clear and
13 convincing evidence indicates that the accident was caused by a driver who, within
14 the five years immediately preceding the accident has been convicted for violation
15 of section 39-08-01 and who was operating or in physical control of a motor
16 vehicle:
- 17 a. With an alcohol concentration of at least ten one-hundredths of one percent
18 by weight;
- 19 b. Under the influence of a controlled substance unless a drug that
20 predominantly caused impairment was used only as directed or cautioned by
21 a practitioner who legally prescribed or dispensed the drug to the driver;
- 22 c. Under the influence of alcohol and refused to take a test required under
23 chapter 39-20; or
- 24 d. Under the influence of a volatile chemical as listed in section ~~12.1-31-06~~
25 19-03.1-22.1.

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

NOTE: See note following Section 17.

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

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

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

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

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

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

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

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

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

NOTE: This change is required to correct an error contained in 2001 S.L., ch. 361.

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

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

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

NOTE: This change is necessary to correct an error contained in 1997 S.L., ch. 381,
§ 3.

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

12 **49-01-02. Public service commission - How constituted.** The three persons elected
13 public service commissioners, pursuant to the provisions of article V, section ~~42~~ 2 of the
14 Constitution of North Dakota, constitute and shall be known and designated as the public
15 service commission of the state of North Dakota. They shall elect one of their number president
16 of the commission and shall appoint a secretary.

NOTE: This reference should have been corrected after the voters approved the
revised Article V of the constitution in the 1996 primary election.

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

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

NOTE: Chapter 26.1-18 was repealed and replaced by Chapter 26.1-18.1 under
1993 S.L., ch. 292.