

# OFFICES AND OFFICERS

## CHAPTER 392

### HOUSE BILL NO. 1353

(Representatives Meier, DeKrey, Delmore, Haas, Weisz)  
(Senator Lee)

### OATH FILING AND FEES

AN ACT to create and enact a new section to chapter 44-01 of the North Dakota Century Code, relating to filing of oaths of office; and to amend and reenact sections 44-01-05, 44-05-04, and 54-09-04 of the North Dakota Century Code, relating to oaths of civil officers and fees imposed by the secretary of state.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 44-01 of the North Dakota Century Code is created and enacted as follows:

**Failure to file oath.** The appointment of any civil officer may be rescinded by the appointing authority if the appointed civil officer fails to file an oath of office at the place of filing required by section 44-05-04.

**SECTION 2. AMENDMENT.** Section 44-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-01-05. Oath of civil officers.** Each civil officer in this state before entering upon the duties of ~~his~~ that individual's office shall take and subscribe the oath prescribed in section 4 of article XI of the Constitution of North Dakota. ~~Such~~ The oath must be endorsed upon the back of, or attached to, the commission, appointment, or certificate of election. The term civil officer includes every elected official; any individual appointed by the governor; appointed member of any state authority, board, bureau, commission, and council; and the appointed head of any state agency and agency division, whether the individual serves with or without compensation. Except for an individual appointed to fill a vacancy existing in the legislative assembly, the term does not include any individual receiving a legislative appointment. For purposes of this chapter and chapter 44-05, the term civil officer has the same meaning as public officer.

**SECTION 3. AMENDMENT.** Section 44-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**44-05-04. Place of filing oath of office.** Unless otherwise provided by law, any civil or public officer required by section 44-01-05 or any other provision of law to take an oath of office must file the oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.

3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.

**SECTION 4. AMENDMENT.** Section 54-09-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-09-04. Fees.** The secretary of state, unless otherwise provided by law, shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, one dollar for every four pages or fraction thereof.
2. For affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.
3. For filing a certificate of appointment of attorney, five dollars.
4. ~~For any other document signed by the governor, except a commission, and attested by the secretary of state, five dollars.~~
5. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:
  - a. A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;
  - b. A search of any record for which written verification of the facts of the search is required; and
  - c. For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer data base.

- ~~6.~~ 5. For filing any paper not otherwise provided for, ten dollars.
- ~~7.~~ 6. For filing utility property transfers, five dollars, and issuing a certificate of filing, five dollars.
- ~~8.~~ 7. For sending a copy of a document by electronic transmission, one dollar for each page.
- ~~9.~~ 8. For filing any process, notice, or demand for service, twenty dollars.
- ~~10.~~ 9. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus the actual cost for assembling and providing the information on the medium requested.

A member of the legislative assembly or a state or county officer may not be charged for any search relative to matters appertaining to duties of office, any fee for a certified copy of any law or resolution passed by the legislative assembly relative to the ~~person's~~ individual's official duties, or for filing any process, notice, or demand for service. An individual required to file an oath of office with the secretary of state may not be charged for filing the oath of office, nor may a state or county officer be charged for filing any document with the secretary of state when acting in the officer's official capacity. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state. Unless otherwise provided by law, the secretary of state shall retain a handling charge from filing fees tendered when a document submitted to the secretary of state under any law is rejected and not perfected. The handling charge is five dollars or fifty percent of the filing fee, whichever is greater, but may not exceed one hundred dollars. This section does not apply to fees submitted for filing in, or information obtained from, the computerized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base.

Approved March 27, 2001  
Filed March 27, 2001

## CHAPTER 393

### SENATE BILL NO. 2117

(Judiciary Committee)  
(At the request of the Attorney General)

## OPEN RECORDS AND OPEN MEETINGS

AN ACT to create and enact a new subsection to section 43-17-32.1, a new subsection to section 44-04-17.1, a new subsection to section 44-04-18, a new subsection to section 44-04-18.7, and section 44-04-21.3 of the North Dakota Century Code, relating to open records and open meetings; to amend and reenact subsection 1 of section 6-09-35, subsections 10, 12, and 13 of section 44-04-17.1, subsections 5 and 7 of section 44-04-18, subsection 1 of section 44-04-18.1, subsection 6 of section 44-04-19.1, subsection 5 of section 44-04-19.2, and subsections 1 and 3 of section 44-04-21.2 of the North Dakota Century Code, relating to open records and open meetings; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>185</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 6-09-35 of the North Dakota Century Code is amended and reenacted as follows:

1. Commercial or financial information of a customer, whether obtained directly or indirectly, except for routine credit inquiries or unless required by due legal process. As used in this subsection, "customer" means any person who has transacted or is transacting business with, or has used or is using the services of, the Bank of North Dakota, or for whom the Bank of North Dakota has acted as a fiduciary with respect to trust property.

<sup>186</sup> **SECTION 2.** A new subsection to section 43-17-32.1 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

Any medical record of a patient, or other document containing personal information about a patient, which is obtained by the board is an exempt record as defined in section 44-04-17.1.

**SECTION 3. AMENDMENT.** Subsections 10, 12, and 13 of section 44-04-17.1 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

10. "Political subdivision" includes any county or city, regardless of the adoption of any home rule charter, and any airport authority, township, school district, park district, rural fire protection district, water resource

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<sup>185</sup> Section 6-09-35 was also amended by section 29 of Senate Bill No. 2164, chapter 88.

<sup>186</sup> Section 43-17-32.1 was also amended by section 4 of Senate Bill No. 2163, chapter 378.

district, solid waste management authority, rural ambulance service district, irrigation district, hospital district, soil conservation district, recreation service district, railroad authority, or district health unit.

12. "Public entity" means all:
- a. Public or governmental bodies, boards, bureaus, commissions, or agencies of the state, including any entity created or recognized by the Constitution of North Dakota, state statute, or executive order of the governor or any task force or working group created by the individual in charge of a state agency or institution, to exercise public authority or perform a governmental function;
  - b. Public or governmental bodies, boards, bureaus, commissions, or agencies of any political subdivision of the state and any entity created or recognized by the Constitution of North Dakota, state statute, executive order of the governor, resolution, ordinance, rule, bylaw, or executive order of the chief executive authority of a political subdivision of the state to exercise public authority or perform a governmental function; and
  - c. Organizations or agencies supported in whole or in part by public funds, or expending public funds.
13. "Public funds" means ~~funds~~ cash and other assets with more than minimal value received from the state or any political subdivision of the state.

**SECTION 4.** A new subsection to section 44-04-17.1 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

"Task force or working group" means a group of individuals who have been formally appointed and delegated to meet as a group to assist, advise, or act on behalf of the individual in charge of a state agency or institution when a majority of the members of the group are not employees of the agency or institution.

**SECTION 5. AMENDMENT.** Subsections 5 and 7 of section 44-04-18 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5. Any request under this section for records in the possession of a public entity by a party to a criminal or civil action or ~~adverse adversarial~~ administrative proceeding ~~involving that~~ in which the public entity is a party, or by an agent of the party, must comply with applicable discovery rules and be made to the attorney representing that entity in the criminal or civil action or ~~adverse adversarial~~ administrative proceeding. The public entity may deny a request from a party or an agent of a party under this subsection if the request seeks records that are privileged under applicable discovery rules.
7. This section is violated when a person's right to review or receive a copy of a record that is not exempt or confidential is denied or unreasonably delayed or when a fee is charged in excess of the amount authorized in subsection 2.

**SECTION 6.** A new subsection to section 44-04-18 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

A disclosure of a requested record under this section is not a waiver of any copyright held by the public entity in the requested record or of any applicable evidentiary privilege.

**SECTION 7. AMENDMENT.** Subsection 1 of section 44-04-18.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Any record of a public employee's medical treatment or use of an employee assistance program is not to become part of that employee's personnel record and is confidential and may not be released without the written consent of the employee. As used in this section, the term "public employee" includes any person individual who has applied for employment, is employed, or has been employed by a public entity.

**SECTION 8.** A new subsection to section 44-04-18.7 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

A computerized index created by a criminal justice agency of names included in criminal files, whether active or inactive, is an exempt record.

**SECTION 9. AMENDMENT.** Subsection 6 of section 44-04-19.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. Following the final completion of the civil or criminal litigation or the adversarial administrative proceeding, including the exhaustion of all appellate remedies, attorney work product must be made available for public disclosure by the public entity, unless another exception to section ~~44-04-19~~ 44-04-18 applies or if disclosure would have an adverse fiscal effect on the conduct or settlement of other pending or reasonably predictable civil or criminal litigation or adversarial administrative proceedings.

**SECTION 10. AMENDMENT.** Subsection 5 of section 44-04-19.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. All meetings of the governing body of a public entity that are not open to the public must be recorded electronically or on audiotape or videotape. The recording must be disclosed pursuant to court order under subsection 2 of section 44-04-18.11 or to the attorney general for the purpose of administrative review under section 44-04-21.1. The attorney general may not disclose to the public any recording received under this subsection and must return the recording to the governing body upon completion of the administrative review. The recording may be disclosed upon majority vote of the governing body unless the executive session was required to be confidential. Disclosure of the recording by a public servant except as provided in this subsection is a violation of section 12.1-13-01. All recordings under this subsection must be retained for a minimum of six months after the executive session that is the subject of the recording.

**SECTION 11. AMENDMENT.** Subsections 1 and 3 of section 44-04-21.2 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. A violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 ~~is not a violation of section 12.1-11-06, but~~ may be the subject of a civil action brought by an interested person or entity. For an alleged violation of section 44-04-18, the complaint must be accompanied by a dated, written request for the requested record. If a court finds that any of these sections have been violated by a public entity, the court may award declaratory relief, an injunction, a writ of prohibition or mandamus, costs, disbursements, and reasonable attorney's fees against the entity. For an intentional or knowing violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21, the court may also award damages in an amount equal to one thousand dollars or actual damages caused by the violation, whichever is greater. An action under this subsection must be commenced within sixty days of the date the person knew or should have known of the violation or within thirty days of issuance of an attorney general's opinion on the alleged violation, whichever is later. Venue for an action is in the county where the entity has its principal office or, if the entity does not have a principal office within the state, in Burleigh County.
  
3. The remedies provided in this section are not available if a violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 has been corrected before a civil action is filed and no person has been prejudiced or harmed by the delay. An interested person or entity may not file a civil action under this section seeking attorney's fees or damages, or both, until at least three working days after providing notice of the alleged violation to the chief administrative officer for the public entity. This subsection does not apply if the attorney general has found under section 44-04-21.1, on a prior occasion, that the public entity has violated section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21.

**SECTION 12.** Section 44-04-21.3 of the North Dakota Century Code is created and enacted as follows:

**44-04-21.3. Attorney general referral and criminal penalties.** The attorney general may refer to the appropriate state's attorney any public servant as defined in section 12.1-01-04 who has been found in more than one opinion issued pursuant to section 44-04-21.1 to have violated section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21. A public servant as defined in section 12.1-01-04 who knowingly violates section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 is guilty of an offense under section 12.1-11-06.

Approved April 12, 2001  
Filed April 12, 2001

## CHAPTER 394

### SENATE BILL NO. 2179

(Senators Traynor, Lee, Watne)  
(Representatives Delmore, Rennerfeldt)

## NOTARY AUTHORITY AND ACTS

AN ACT to create and enact a new section to chapter 47-19 of the North Dakota Century Code, relating to the authority of North Dakota notaries to act in other states; to amend and reenact section 44-06-01 of the North Dakota Century Code, relating to the performance of notarial acts; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 44-06-01 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-01. Appointment and qualification of notaries public.** The secretary of state shall appoint notaries public. A notary holds office for six years unless sooner removed by the secretary of state. Each notary may administer oaths and perform all other duties required by law. Notwithstanding any other provision of law, a notary public may perform any notarial act as defined in section 47-19-14.1 outside the state as provided in section 2 of this Act. A notary public must have the qualifications of an elector as to age and residence or must reside in a county that borders this state and which is in a state that extends reciprocity to a notary public who resides in a border county of this state. If the person resides in a county bordering this state, that person must designate the secretary of state as the agent for service of process, for all purposes relating to notarial acts, including the receipt of correspondence relating to notarial acts.

**SECTION 2.** A new section to chapter 47-19 of the North Dakota Century Code is created and enacted as follows:

**Authority of North Dakota notaries in other states.** A North Dakota notary may perform a notarial act in another state if that state recognizes the notary's authority within that state.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 22, 2001  
Filed March 22, 2001

## CHAPTER 395

### SENATE BILL NO. 2255

(Senator Traynor)

#### NOTARY ADDRESS AND NAME CHANGE

AN ACT to amend and reenact sections 44-06-02, 44-06-04.1, and 44-06-12 and subsection 4 of section 44-06-13.1 of the North Dakota Century Code, relating to notary public address and name changes.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 44-06-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**44-06-02. Commission - Record - Fee - Notice.** The secretary of state shall issue a commission to each notary public appointed by the secretary of state ~~which must be posted by such.~~ The notary shall post the commission in a conspicuous place in the notary's office. The secretary of state shall collect twenty-five dollars for the issuance of such the commission. ~~Such sum must be paid into the state treasury and credited to~~ The secretary of state shall remit all fees collected under this section to the state treasurer for deposit in the general fund. The secretary of state shall keep a record of ~~such~~ appointments and the date of the expiration of the ~~same and~~ appointments. The secretary of state shall notify each notary public by mail at least thirty days before the expiration of the notary public's term of the date upon which the notary public's commission will expire. ~~Such~~ The notice must be addressed to ~~such the~~ notary public at the last known place of residence. Each notary public issued a commission shall notify the secretary of state by mail within ~~thirty~~ sixty days of any change of address. If a notary fails to notify the secretary of state within sixty days of a change of address, the secretary of state may impose a late fee in the amount of ten dollars. The notary shall pay any late fee imposed by the secretary of state before the renewal of the notary's commission.

**SECTION 2. AMENDMENT.** Section 44-06-04.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**44-06-04.1. Name change.** A notary who has legally changed the notary's name shall submit to the secretary of state a rider to the notary's surety bond stating both the old and new names, the effective date of the new name, and a ten dollar fee within ~~thirty~~ sixty days of the name change. Upon receipt of the rider and fee the secretary of state shall issue a certificate of authorization that a notary public may use to obtain a new seal. Once the authorization is on file the secretary of state shall issue a commission with the notary's new name. After notification to the secretary of state of the name change and until a new seal is obtained, the notary may continue to use the old seal but must sign any notarial certificate substantially as follows:

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Notary public North Dakota  
Formerly known and commissioned as

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My commission expires

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Notary Seal

**SECTION 3. AMENDMENT.** Section 44-06-12 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-12. Notary public commission - Date of expiration.** Every notary public taking an acknowledgment to any instrument, immediately following ~~his~~ the notary's signature to the jurat or certificates of acknowledgment, shall legibly print, stamp, or type ~~his~~ the notary's name and ~~shall~~ endorse the date of the expiration of ~~such~~ the commission. ~~Such~~ The endorsement may be written legibly, stamped, or printed upon the instrument either connected to or disconnected from the seal, and must be substantially in the following form:

My commission expires \_\_\_\_\_, ~~19~~\_\_\_\_\_.

<sup>187</sup> **SECTION 4. AMENDMENT.** Subsection 4 of section 44-06-13.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. ~~The~~ Except as otherwise provided by law, the notary public uses a name or initial in notarizing the document other than as it appears on the notary's commission. However, such an act by a notary by itself does not affect the validity of the document.

Approved March 22, 2001  
 Filed March 22, 2001

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<sup>187</sup> Section 44-06-13.1 was also amended by section 1 of House Bill No. 1252, chapter 396.

## CHAPTER 396

### HOUSE BILL NO. 1252

(Representatives Haas, F. Klein)  
(Senator Espegard)

## NOTARIAL CERTIFICATES AND DOCUMENT RECORDING

AN ACT to create and enact a new subsection to section 44-06-13.1 of the North Dakota Century Code, relating to signatures on notarial certificates; and to amend and reenact section 47-19-03 of the North Dakota Century Code, relating to documents entitled to recording.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>188</sup> **SECTION 1.** A new subsection to section 44-06-13.1 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

The signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law.

**SECTION 2. AMENDMENT.** Section 47-19-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-19-03. Prerequisites to recording instruments.** Before an instrument can be recorded, unless it belongs to a class provided for in section 47-19-02 or 47-19-40, its execution must be established:

1. If executed by an individual, by acknowledgment by the person executing the same;
2. If executed by a corporation or limited liability company, by execution and acknowledgment by the person or persons authorized to execute instruments under section 47-10-05.1;
3. By proof by a subscribing witness as is provided by section 47-19-22; and
4. By proof of the handwriting of the person executing an instrument and of a subscribing witness thereto as is prescribed by sections 47-19-23 and 47-19-24 and filing of the original instrument in the proper office there to remain for public inspection.

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<sup>188</sup> Section 44-06-13.1 was also amended by section 4 of Senate Bill No. 2255, chapter 395.

Except as otherwise provided by the law of this state or the law of the state in which the instrument or document was executed, before an instrument may be recorded, the document and any acknowledgment must be executed with an original signature.

Approved March 20, 2001  
Filed March 20, 2001

## CHAPTER 397

### HOUSE BILL NO. 1123

(Government and Veterans Affairs Committee)  
(At the request of the Office of Management and Budget)

## BID PREFERENCES AND SPECIFICATIONS

AN ACT to amend and reenact section 44-08-01 of the North Dakota Century Code, relating to preference to North Dakota bidders for services and specifying name brand merchandise.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 44-08-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **44-08-01. Preference to North Dakota bidders, sellers, and contractors.**

1. The office of management and budget, any other state entity, and the governing body of any political subdivision of the state in purchasing any goods, merchandise, supplies, or equipment of any kind, or contracting to build or repair any building, structure, road, or other real property, shall give preference to bidders, sellers, or contractors resident in North Dakota. The preference must be equal to the preference given or required by the state of the nonresident bidder, seller, or contractor. ~~In specifying or purchasing goods, merchandise, supplies, or equipment to be purchased, the entity or board may not specify any trademarked or copyrighted brand or name, nor the product of any one manufacturer, nor any patented product, apparatus, device, or equipment, where the same will prevent proper competition, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit.~~
2. A state entity authorized to accept bids shall give preference to a resident North Dakota bidder when accepting bids for the provision of professional services, including research and consulting services. The state entity shall award the bid to the resident North Dakota bidder if the bid of the resident North Dakota bidder is equal to or less than the low bid of a preference must be equal to the preference given or required by the state of the nonresident bidder and the resident North Dakota bidder has an acceptable performance history and meets the minimum requirements specified in the bid solicitation.
3. The office of management and budget, any other state entity, and the governing body of any political subdivision of the state in specifying or purchasing any goods, merchandise, supplies, or equipment, may not specify any trademarked or copyrighted brand or name, nor the product of any one manufacturer, nor any patented product, apparatus, device, or equipment, when the same will prevent proper competition, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit. When it is advantageous that the purchase be of a particular brand of product or products of a particular manufacturer to the exclusion of competitive brands or manufacturers, the purchasing

board or entity must document those circumstances and provide written justification for the proprietary specification or purchase. The purchasing board or entity shall procure the proprietary product through a competitive process unless the needed product is available exclusively from one source of supply or other circumstances exist under which competition can be waived.

Approved March 14, 2001

Filed March 15, 2001

## CHAPTER 398

### SENATE BILL NO. 2297

(Senators Grindberg, Krebsbach)

### STATE LODGING REIMBURSEMENT

AN ACT to amend and reenact subsection 2 of section 44-08-04 of the North Dakota Century Code, relating to state officer and employee lodging reimbursement.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>189</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 44-08-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Expenses for travel within the state must be reimbursed at the following rates for each quarter of any twenty-four-hour period:
  - a. First quarter is from six a.m. to twelve noon and the sum must be four dollars. First quarter reimbursement may not be made if travel began after seven a.m.
  - b. Second quarter is from twelve noon to six p.m. and the sum must be six dollars.
  - c. Third quarter is from six p.m. to twelve midnight and the sum must be ten dollars.
  - d. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed ~~forty-two~~ forty-five dollars plus any additional applicable state or local taxes.

Approved April 17, 2001  
Filed April 17, 2001

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<sup>189</sup> Section 44-08-04 was also amended by section 1 of Senate Bill No. 2344, chapter 399.

## CHAPTER 399

### SENATE BILL NO. 2344 (Senator Krebsbach)

#### POLITICAL SUBDIVISION LODGING REIMBURSEMENT

AN ACT to amend and reenact subsection 2 of section 44-08-04 of the North Dakota Century Code, relating to lodging expenses of political subdivision elective or appointive officers, employees, representatives, or agents.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>190</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 44-08-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Expenses for travel within the state must be reimbursed at the following rates for each quarter of any twenty-four-hour period:
  - a. First quarter is from six a.m. to twelve noon and the sum must be four dollars. First quarter reimbursement may not be made if travel began after seven a.m.
  - b. Second quarter is from twelve noon to six p.m. and the sum must be six dollars.
  - c. Third quarter is from six p.m. to twelve midnight and the sum must be ten dollars.
  - d. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed forty-two dollars plus any additional applicable state or local taxes. A political subdivision may reimburse an elective or appointive officer, employee, representative, or agent for actual lodging expenses.

Approved March 28, 2001  
Filed March 28, 2001

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<sup>190</sup> Section 44-08-04 was also amended by section 1 of Senate Bill No. 2297, chapter 398.

## CHAPTER 400

### HOUSE BILL NO. 1156

(Government and Veterans Affairs Committee)  
(At the request of the Office of Management and Budget)

## EMPLOYEE LODGING EXPENSE DIRECT BILLING

AN ACT to amend and reenact section 44-08-04.5 of the North Dakota Century Code, relating to the direct billing of employee lodging expenses.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 44-08-04.5 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**44-08-04.5. Prepayment and direct billing of out-of-state lodging expenses of state officers and employees.**

1. The office of management and budget shall seek to obtain sales tax exemptions for state employee travel lodging expense from all other states and the District of Columbia. If available from other states, the office of management and budget shall file exemption records, documents, or numbers for use by state agencies. Whenever any state agency, board, bureau, or institution makes out-of-state travel plans involving a lodging expense, the agency may contact the office of management and budget to determine if a sales tax exemption has been obtained from the destination state or states. If an exemption has been obtained, and if travel plans are sufficiently certain, the agency, board, bureau, or institution may obtain the required documentation from the office of management and budget and arrange with the out-of-state lodging provider to have the agency prepay the lodging expense or to have the lodging expense directly billed to the agency and obtain the benefit of the sales tax exemption.
2. If a state agency, board, bureau, or institution makes out-of-state travel plans involving a lodging expense when the lodging expense may be obtained at a reduced cost because it is part of a combination of travel-related expenses purchased together, the agency, board, bureau, or institution may arrange with the lodging provider or travel agency to have the lodging expense prepaid by the agency or billed directly to the agency.

Approved March 16, 2001  
Filed March 16, 2001