Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009

SENATE BILL NO. 2268
(Senators Nodland, Wanzek)
(Representatives Kasper, N. Johnson)

AN ACT to create and enact a new section to chapter 43-19.1 of the North Dakota Century Code, relating to recognition of retired status for engineers; to amend and reenact sections 43-19.1-02, 43-19.1-03, 43-19.1-04, 43-19.1-05, 43-19.1-07, 43-19.1-08, 43-19.1-09, 43-19.1-10, 43-19.1-11, 43-19.1-12, 43-19.1-12.1, 43-19.1-13, 43-19.1-14, 43-19.1-15, 43-19.1-16, 43-19.1-16.1, 43-19.1-17, 43-19.1-18, 43-19.1-19, 43-19.1-20, 43-19.1-21, 43-19.1-22, 43-19.1-23, 43-19.1-24, 43-19.1-25, 43-19.1-26, 43-19.1-27, 43-19.1-29, 43-19.1-30, 43-19.1-31, and 43-19.1-33 of the North Dakota Century Code, relating to the regulation of professional engineers and professional land surveyors; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-19.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-02. Definitions. In this chapter unless the context ~~or subject matter~~ otherwise requires:

1. "Board" means the state board of registration for professional engineers and land surveyors ~~hereinafter provided by this chapter~~.

2. "Engineer" means a professional engineer~~, as defined in subsection 8~~.

3. "~~Engineer-in-training~~ Engineer intern" means ~~a person~~ an individual who complies with the requirements for education, experience, and character~~,~~ and who has passed an examination in the fundamental engineering subjects, as provided in sections 43-19.1-12 and 43-19.1-15.

4. "Land surveying" means any service comprising the determination of the location of land boundaries and land boundary corners; incidental topography; the preparation of maps showing the shape and area of tracts of land and their subdivision into smaller tracts; the preparation of maps showing the layouts of roads, streets, and rights of way of same to give access to smaller tracts; and the preparation of official plats or maps of land within this state.

5. "Land surveyor" means ~~any person~~ an individual engaged in the practice of land surveying.

6. "Land ~~surveyor-in-training~~ surveyor intern" means ~~a person~~ an individual who complies with the requirements for education, experience, and character~~,~~ and who has passed an examination in the fundamentals of mathematics and the basic principles of land surveying as required in this chapter and as established by the board.

7. "Practice of engineering and practice of professional engineering" means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work, either public or private, in

connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects as are incidental to the practice of engineering. A person must be construed to practice or offer to practice engineering~~, within the meaning and intent of this chapter, who~~ if the person practices any branch of the profession of engineering; ~~or who~~ if the person, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents that the person is an engineer~~, or~~ and is able to practice engineering in this state if the person through the use of some other title implies that the person is an engineer or that the person is registered under this chapter; or ~~who~~ if the person holds out as able to perform, or ~~who~~ does perform any engineering service or work or any other service ~~which~~ that is recognized as engineering, for a valuable consideration for others, including the public at large~~, but~~. The practice of engineering does not mean or include the practice of engineering by ~~persons~~ a person exempt under the provisions of section 43-19.1-29, nor the work ordinarily performed by ~~persons who operate~~ a person that operates or ~~maintain~~ maintains machinery or equipment. Notwithstanding the foregoing provisions, a person may not be construed to practice engineering unless that person offers engineering services to, or performs such engineering for, the public.

8. "Professional engineer" means ~~a person~~ an individual who~~,~~ by reason of special knowledge or use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering, and who has been ~~duly~~ registered and licensed by the state board of registration for professional engineers and land surveyors.

9. "Professional land surveyor" means a land surveyor who complies with the requirements for education, experience, and character and who has been registered and licensed by the board.

10. "Responsible charge" means direct control and personal supervision of engineering or surveying work.

~~10.~~ 11. "Retired registrant" means a duly registered professional engineer or land surveyor who is not engaged in active professional practice and is not required to meet the continuing professional education requirements as prescribed by the board. A retired registrant is issued a certificate of registration indicating "retired" status.

~~11.~~ 12. "The practice or offer to practice surveying" includes the engagement of any person in land surveying or the representation by any person by verbal claim, sign, letterhead, card, or in any other manner, that such person is a land surveyor and is able to perform land surveying in this state.

SECTION 2. AMENDMENT. Section 43-19.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-03. Board - Appointments - Terms. A state board of registration for professional engineers and land surveyors is hereby created ~~whose~~ the duty ~~it~~ of which is to administer ~~the provisions of~~ this chapter. The board consists of one professional land surveyor and four professional engineers ~~who~~. The board members who are professional engineers must be appointed by the governor from among a list of nominees submitted to the governor by the North Dakota society of professional engineers who must have the qualifications required by section 43-19.1-04, such list ~~to contain~~ must include the names of at least three ~~times the number of~~ nominees ~~as there are vacancies~~ for each vacancy to be filled ~~and one professional land surveyor~~. The governor shall appoint the professional land surveyor member of the board from a list of nominees submitted by the North Dakota society of professional land surveyors. The list must include the names of at least three nominees for the vacancy to be filled. The members must possess the qualifications required by section 43-19.1-04. The members of the board must be appointed for five-year terms ~~which~~ that are staggered so the term of one member expires June thirtieth of each year. ~~The first professional land surveyor on the board~~

~~must be appointed for a five-year term beginning July 1, 1984. Existing board members shall serve until their term expires.~~ Each member of the board shall receive a certificate of appointment from the governor and shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of any member, the governor shall appoint for a term of five years a board member having the qualifications required in section 43-19.1-04 to take the place of the member whose term on the board is about to expire. A member may be reappointed. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified.

SECTION 3. AMENDMENT. Section 43-19.1-04 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-04. Board - Qualifications. Each ~~of the~~ professional engineer board ~~members~~ member must be a professional engineer~~,~~ who is a citizen and resident of this state, has been registered in this state a minimum of eight years, has been engaged in the lawful practice of engineering for at least twelve years, and ~~who~~ has had responsible charge of important engineering work for at least five years ~~and the~~. Each professional land surveyor board member must be a ~~registered~~ professional land surveyor~~,~~ who is a citizen and resident of this state ~~who~~, has been registered as a professional land surveyor in this state a minimum of eight years, and has been responsible for important land surveying work for at least five years.

SECTION 4. AMENDMENT. Section 43-19.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-05. Board - Compensation and expenses. Each member of the board ~~shall~~ is entitled to receive ~~the sum of twenty-five dollars~~ per diem, in an amount established by the board which may not exceed one hundred thirty-five dollars, when attending to the work of the board or any of ~~its~~ the board's committees and for the time spent in necessary travel~~;~~ and~~, in addition thereto, must~~ is entitled to be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this chapter.

SECTION 5. AMENDMENT. Section 43-19.1-07 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-07. Board - Organization and meetings. The board shall hold at least two regular meetings each year. ~~Special meetings may be held as the bylaws of the board provide.~~ The board shall elect or appoint annually the following officers: a chairman, a vice chairman, and a secretary. A quorum of the board consists of not ~~less~~ fewer than three members.

SECTION 6. AMENDMENT. Section 43-19.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-08. Board - Powers. The board ~~has the following powers~~ may:

1. ~~To adopt~~ Adopt and amend all bylaws, rules of procedure, and regulations to administer and carry out the provisions of this chapter and for the conduct of ~~its~~ the board's affairs and functions ~~not inconsistent with the constitution and laws of this state or this chapter,~~ which may be reasonably necessary for the proper performance of ~~its~~ the board's duties and the regulation of ~~its~~ the board's proceedings, meetings, records, and examinations~~,~~ and the conduct thereof, and to adopt ~~and promulgate~~ a code of ethics ~~which shall~~ that must be binding upon all persons registered under or subject to this chapter.

2. ~~To adopt~~ Adopt and have an official seal, which must be affixed to each certificate issued.

3. ~~To employ~~ Employ such clerks, technical experts, and attorneys as ~~it may deem~~ the board determines necessary or desirable to carry out ~~the provisions of~~ this chapter.

4. ~~To hold~~ Hold hearings, administer oaths, and take and record testimony~~, and~~; under the hand of ~~its~~ the board's chairman and the seal of the board, subpoena witnesses and compel ~~their~~ the witnesses' attendance; ~~and to~~ require the submission of books, papers, documents, or other pertinent data in any disciplinary matters, or in any case when a violation of this chapter or of the rules or regulations ~~promulgated~~ adopted by the board is alleged; and ~~to~~ make findings, orders, and determinations ~~which~~ that have the force and effect of law~~,~~ which are subject to review by the courts of this state in the manner provided by chapter 28-32. Upon failure or refusal of any person to comply with any such order of the board~~,~~ or to honor ~~its~~ the board's subpoena, the board may apply to a court of any jurisdiction to enforce compliance with ~~same~~ the order or subpoena.

5. ~~To apply~~ Apply in the name of the state for relief by injunction, without bond, to enforce the provisions of this chapter~~,~~ or to restrain any violation ~~thereof~~ of this chapter. In such proceedings, it is not necessary to allege or prove, either that an adequate remedy at law does not exist~~,~~ or that substantial or irreparable damage would result from the continued violation thereof. The members of the board are not personally liable under this proceeding.

SECTION 7. AMENDMENT. Section 43-19.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-09. Receipts and disbursements. The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter~~,~~ and shall deposit and disburse the ~~same~~ money derived under this chapter in accordance with section 54-44-12. The secretary shall give a surety bond to the state in such sum as may be required by the board. The premium on ~~said~~ the bond ~~must be regarded as~~ is a proper and necessary expense of the board. The secretary shall receive such salary as the board shall determine. The board shall employ ~~such~~ clerical or other assistants as are necessary for the proper performance of ~~its~~ the board's work~~,~~ and shall make expenditures of this fund for any purpose ~~which, in the opinion of~~ the board~~,~~ determines is reasonably necessary for the proper performance of ~~its~~ the board's duties under this chapter, including ~~but not limited to,~~ the expenses of the board's delegates to meetings of~~,~~ and membership fees to~~,~~ the national council of ~~state boards of engineering~~ examiners for engineering and surveying and any of ~~its~~ the organization's subdivisions. Under no circumstances may the total amount of warrants issued in payment of the expenses and compensation provided for in this chapter exceed the amount of moneys collected.

SECTION 8. AMENDMENT. Section 43-19.1-10 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-10. Records and reports. The board shall:

1. Keep a record of ~~its~~ the board's proceedings and of all applications for registration~~, which~~. The record must show the name, age, and last-known address of each applicant; the date of application, the place of business of such applicant, the applicant's education, experience, and other qualifications; type of examination required; whether ~~or not~~ the applicant was rejected; whether ~~or not~~ a certificate of registration was granted; the date of the action of the board; and such other information as may be deemed necessary by the board~~; which~~. The record of the board is prima facie evidence of the proceeding of the board and a transcript ~~thereof, duly~~ of board proceedings which is certified by the secretary under seal~~,~~ is admissible as evidence with the same force and effect as if the original were produced.

2. Annually, ~~as of January first~~ in compliance with state law, submit ~~to the governor~~ a report of ~~its~~ the board's transactions of the preceding year~~, and shall transmit to the governor a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary~~.

SECTION 9. AMENDMENT. Section 43-19.1-11 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-11. Roster. A complete roster showing the names and last-known addresses of all ~~registered~~ professional engineers and ~~registered~~ land surveyors must be ~~published~~ made available by the secretary of the board at intervals as established by board regulations. Copies of this roster must be ~~mailed~~ made available to each ~~person so registered, placed on file with the secretary of state~~ registrant and all county auditors and city auditors and may be distributed or sold to the public.

SECTION 10. AMENDMENT. Section 43-19.1-12 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-12. General requirements for registration. To be eligible for registration as a professional engineer or land surveyor~~,~~ or for certification as an ~~engineer-in-training~~ engineer intern or land ~~surveyor-in-training~~ surveyor intern, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require together with five references, three of which references must be ~~registered~~ professional engineers in the case of engineers~~,~~ or three of which references must be ~~registered~~ professional land surveyors in the case of land surveyors, having personal knowledge of the applicant's engineering or land surveying experience, or in the case of an application for certification as an ~~engineer-in-training~~ engineer intern or land ~~surveyor-in-training~~ surveyor intern, by three character references.

SECTION 11. AMENDMENT. Section 43-19.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-12.1. Conviction not bar to registration - Exceptions. Conviction of an offense does not disqualify ~~a person~~ an individual from registration under this chapter unless the board determines that the offense has a direct bearing upon ~~a person's~~ an individual's ability to serve the public as an engineer ~~and~~ or land surveyor~~,~~ or that~~,~~ following conviction of any offense~~,~~ the ~~person~~ individual is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 12. AMENDMENT. Section 43-19.1-13 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-13. Registration without examination - Professional engineers. An applicant otherwise qualified must be admitted to registration as a professional engineer without examination if the applicant is:

1. ~~A person~~ An individual holding a certificate of registration to engage in the practice of engineering, on the basis of comparable qualifications, issued to that ~~person~~ applicant by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country and who, in the opinion of the board, based upon verified evidence, meets the requirements of this chapter; or

2. ~~A person holding a certificate of qualification issued by the national bureau of engineering registration, who in the opinion of the board meets the requirements of this chapter; or~~

~~3.~~ ~~Any person~~ An individual registered as a professional engineer by the state of North Dakota under ~~the provisions of~~ chapter 43-19, on the thirtieth day of June 1967.

SECTION 13. AMENDMENT. Section 43-19.1-14 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-14. Registration with examination - Professional engineers. An applicant otherwise qualified must be admitted to registration as a professional engineer~~,~~ if the applicant has successfully passed a written examination of ~~not less than~~ at least eight hours in the principles and practice of engineering, as prescribed by the board, and has one of the following additional qualifications:

1. Is ~~a graduate of an engineering curriculum of four years or more~~ an engineer intern with a baccalaureate degree in engineering from an institution offering accredited programs approved by the board as being of satisfactory standing, ~~and with~~ who has a specific record of an additional four years or more of experience in engineering work of a grade and character which indicates to the board that the applicant may be competent to practice engineering~~, and who holds a valid engineer in training certificate~~.

2. Is ~~a person who has satisfactorily completed a four year engineering curriculum not~~ an engineer intern with a baccalaureate degree in engineering from a program that is not accredited but is approved by the board, ~~and~~ who has eight years or more of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering~~, and who holds a valid engineer in training certificate~~.

3. Is ~~a person~~ an engineer intern with a specific record of at least twenty years of lawful practice in engineering work during at least ten years of which the applicant has been in responsible charge of important engineering work which is of a grade and character ~~which~~ that indicates to the board that the applicant is competent to practice engineering, and who holds a valid ~~engineer in training~~ engineer intern certificate as of July 1, 2004.

4. Is ~~a person with experience of not less than four years as~~ an engineer intern who meets one of the educational requirements listed in subsection 1, 2, or 5, who has been a teacher of engineering in a college or university offering an approved engineering curriculum of four years or more, and who has had a minimum of two years of ~~practical~~ nonteaching engineering experience ~~which~~ that is of a character and grade ~~which~~ that indicates to the board that the applicant is competent to practice engineering.

5. Is ~~a person who has satisfactorily completed a four year or more~~ an engineer intern with a baccalaureate degree in an engineering-related ~~curriculum and~~ program, who has at least twelve years ~~or more~~ of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering ~~and holds a valid engineer in training certificate~~.

SECTION 14. AMENDMENT. Section 43-19.1-15 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-15. Additional qualifications of ~~engineers-in-training~~ engineer interns. Except in the case of ~~a person~~ an individual who ~~has~~ filed an application ~~prior to~~ before July 1, 1967, and any subsequent reapplication by such ~~person~~ individual, an applicant otherwise qualified must be admitted to certification as an ~~engineer in training which certification is valid for a period of twelve years, if the applicant is a person~~ engineer intern. An engineer intern is an individual who ~~is~~ has:

1. A ~~graduate of an approved engineering curriculum of four years or more~~ baccalaureate degree in engineering from an institution that offers accredited programs approved by the board and has passed the board's written examination of ~~not less than~~ at least eight hours in the fundamentals of engineering shall be certified or enrolled as an ~~engineer in training~~ engineer intern.

2. ~~An applicant who has satisfactorily completed a four year engineering curriculum other than the ones~~ A baccalaureate degree in engineering from a program that is not accredited but is approved by the board ~~and~~, who has a specific record of at least four ~~or more~~ years of experience in engineering work of a grade and character satisfactory to the board, and who passes the board's written examination of ~~not less than~~ at least eight hours in the fundamentals of engineering.

3. ~~An applicant who has satisfactorily completed a four year~~ A baccalaureate degree in an engineering-related ~~curriculum and~~ program, who has a specific record of at least six ~~or more~~ years of experience in engineering work of a grade and character satisfactory to the

board, and who passes the board's written examination of ~~not less than~~ at least eight hours in the fundamentals of engineering.

SECTION 15. AMENDMENT. Section 43-19.1-16 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-16. Registration - ~~Land~~ Professional land surveyor. Any ~~person~~ individual who shows, to the satisfaction of the board, that the ~~person~~ individual is otherwise qualified and is over the age of eighteen years is eligible for registration as a professional land surveyor, if the ~~person is~~ individual:

1. ~~A person holding~~ Holds a certificate of registration to engage in the practice of land surveying issued on the basis of a minimum sixteen-hour written examination by proper authority of a state, territory, possession of the United States, the District of Columbia, or any foreign country, based on requirements and qualifications as shown by the ~~person's~~ individual's application~~,~~ which, in the opinion of the board, are equal to or higher than the requirements of this chapter;

2. ~~A graduate from an accredited engineering or surveying curriculum of four years or more,~~ Has a baccalaureate degree in engineering or surveying from an institution that offers accredited programs approved by the board, followed by at least four years of land surveying experience~~,~~ of a character satisfactory to the board~~; and~~, who has passed a written examination of ~~not less than~~ at least sixteen hours designed to show that the ~~person~~ individual is qualified to practice land surveying;

3. ~~A person having~~ Has at least eight years ~~or more~~ of active experience in land surveying~~,~~ of a character satisfactory to the board, and who has passed a written examination of ~~not less than~~ at least sixteen hours designed to show that the ~~person~~ individual is qualified to practice land surveying; or

4. ~~A person~~ Is registered as a land surveyor by the state of North Dakota, under the provisions of former chapter 43-24, on the thirtieth day of June 1967.

SECTION 16. AMENDMENT. Section 43-19.1-16.1 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-16.1. Qualifications of land ~~surveyors-in-training~~ surveyor interns. An applicant for certification as a land ~~surveyor-in-training~~ surveyor intern who has ~~had a minimum of~~ at least four years of qualifying land surveying experience of a character satisfactory to the board, of which a formal education in an accredited engineering or land surveying curriculum may constitute a part thereof, may receive from the board, upon passing a written examination on the fundamentals of mathematics and the basic principles of land surveying, a certificate stating that the applicant has passed the examination and been recorded as a land ~~surveyor-in-training~~ surveyor intern.

SECTION 17. AMENDMENT. Section 43-19.1-17 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-17. Application for registration. Application for registration as a professional engineer or land surveyor~~, and~~ or for certification as an ~~engineer-in-training~~ engineer intern or land ~~surveyor-in-training,~~ surveyor intern must be on a form prescribed and furnished by the board containing statements made under oath, showing the applicant's education ~~and~~, a detailed summary of the applicant's technical experience, and references as required by this chapter and must be accompanied by registration fees.

SECTION 18. AMENDMENT. Section 43-19.1-18 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-18. Registration fees. The board shall establish registration fees for professional engineers, ~~engineers-in-training,~~ land surveyors, engineer interns, and land ~~surveyors-in-training~~ surveyor interns in the amount the board determines necessary to accomplish the purposes of the board as provided in this chapter. The registration fees may not exceed the amount of one hundred dollars for a one-year period or two hundred dollars for a two-year period. If the board denies the issuance of a certificate to an applicant, the fee paid may be retained as an application fee.

SECTION 19. AMENDMENT. Section 43-19.1-19 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-19. Examinations. Written examinations must be held at such times and places as the board shall determine. Examinations required on fundamental engineering or land surveying subjects may be taken at any time prescribed by the board. The final examinations may not be taken until the applicant has completed a period of engineering or land surveying experience as provided in this chapter. The board shall establish the minimum passing grade on any examination ~~may not be less than seventy percent~~. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board ~~in an amount not in excess of the regularly established registration fee~~. Any candidate for registration having an average grade ~~of less than fifty percent~~ that does not meet the standards set by the board may not apply for reexamination for one year from the date of such examination.

SECTION 20. AMENDMENT. Section 43-19.1-20 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-20. Certificates. The board shall issue a certificate of registration upon payment of the registration fee as provided for in this chapter to any applicant who~~,~~ in the opinion of the board~~,~~ has met the requirements of this chapter. Enrollment cards must be issued to those who qualify as ~~engineers-in-training and~~ engineer interns or land ~~surveyors-in-training~~ surveyor interns. Certificates of registration must carry the designation "professional engineer" or "professional land surveyor", must show the full name of the registrant without any titles, must be numbered, and must be signed by the chairman and the secretary under seal of the board. The issuance of a certificate of registration by the board is prima facie evidence ~~that~~ the ~~person~~ individual named on the certificate is entitled to all rights and privileges of a professional engineer or land surveyor during the term of which the certificate providing the same has not been revoked or suspended.

SECTION 21. AMENDMENT. Section 43-19.1-21 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-21. Seals. Each registrant ~~hereunder may~~ under this chapter upon registration may obtain a seal of the design authorized by the board, bearing the registrant's name, ~~serial~~ registration number, and the legend~~,~~ "registered professional engineer" or "registered professional land surveyor". Final engineering drawings, specifications, maps, plats, reports, or other documents prepared by a person required to be registered under this chapter ~~must~~, when ~~issued~~ presented to a client, contractor, subconsultant, or any public agency, must be signed, dated, and stamped with the ~~said~~ seal or facsimile ~~thereof~~ of the seal. A working drawing or unfinished document must contain a statement to the effect the drawing or document is preliminary and not for construction, recording purposes, or implementation. It is unlawful for a registrant to affix or permit the registrant's seal and signature or facsimiles thereof to be affixed to any engineering drawings, specifications, maps, plats, reports, or other documents after the expiration or revocation or during the suspension of a certificate, or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this chapter.

SECTION 22. AMENDMENT. Section 43-19.1-22 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-22. Expirations and renewals. ~~Certificates~~ A certificate of registration ~~expire~~ expires on December thirty-first of the year of ~~their~~ issuance if registration is on an annual basis and of the year after ~~their~~ issuance if issued on a biennial basis~~,~~ and ~~become~~ becomes invalid after that date unless

renewed. The secretary of the board shall notify every ~~person registered~~ registrant under this chapter of the date of the expiration of ~~that person's~~ the registrant's certificate of registration and the amount of fee required for its renewal. The notice must be mailed to the registrant at the registrant's last-known address at least one month in advance of the expiration of the registrant's certificate. Renewal may be effected at any time before or during the month of December by the payment of a fee as established by the board, not to exceed the fees established in section 43-19.1-18. Renewal of an expired certificate may be effected under rules adopted by the board regarding requirements for reexamination and penalty fees.

SECTION 23. AMENDMENT. Section 43-19.1-23 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-23. Reissuance of certificates. A new certificate of registration to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the board. ~~A~~ The board may establish a reasonable charge ~~must be made~~ for such issuance.

SECTION 24. AMENDMENT. Section 43-19.1-24 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-24. Code of ethics. The board shall cause to have prepared and shall adopt a code of ethics, a copy of which must be ~~delivered~~ made available to every registrant and applicant for registration under this chapter, and which must be published in the roster provided ~~for herein~~ under this chapter. Such publication constitutes due notice to all registrants. The board may revise and amend this code of ethics from time to time~~,~~ and shall ~~forthwith~~ notify each registrant ~~in writing~~ of such revisions or amendments. ~~Such~~ The code of ethics ~~when adopted~~ applies to all certificate holders, including specialists in a particular branch of the engineering or surveying profession.

SECTION 25. AMENDMENT. Section 43-19.1-25 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-25. Disciplinary action - Revocations, suspensions, or reprimand. The board ~~has the power to~~ may suspend, refuse to renew, or revoke the certificate of registration of~~, or~~ and may reprimand~~,~~ any registrant. In an order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a registrant, the board may direct a registrant to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and ~~its~~ the board's investigative panels in the investigation and prosecution of the case. Notwithstanding section 28-32-50, if a registrant is the prevailing party in an administrative appeal of a disciplinary action taken by the board under this section, the board shall pay the registrant's reasonable and actual costs, including reasonable attorney's fees. These powers apply to any registrant who is found guilty of any of the following:

1. The practice of any fraud or deceit in obtaining a certificate of registration.

2. Any gross negligence, incompetence, or misconduct in the practice of engineering or land surveying.

3. Any offense determined by the board to have a direct bearing upon ~~a person's~~ an individual's ability to serve the public as a professional engineer and land surveyor; or when the board determines, following conviction of any offense, that ~~a person~~ an individual is not sufficiently rehabilitated under section 12.1-33-02.1.

4. The violation of the code of ethics adopted ~~and promulgated~~ by the board.

SECTION 26. AMENDMENT. Section 43-19.1-26 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-26. Disciplinary action - Procedure. Any person may ~~prefer~~ file charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any

individual registrant. Such charges must be in writing and must be sworn to by ~~the~~ each person ~~or persons~~ making ~~them~~ the charges and must be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board within ~~three~~ six months ~~after the date on which they have been preferred~~ following the filing of charges unless the accused registrant waives this requirement. The time and place for ~~said~~ the hearing must be fixed by the board~~,~~ and a copy of the charges, together with a notice of the time and place of hearing, must be served upon the accused registrant either personally or sent by registered ~~or certified~~ mail to the last-known address of ~~such individual~~ the registrant at least thirty days before the date fixed for hearing. At any hearing the accused registrant has the right to appear in person or by counsel, or both; to cross-examine witnesses appearing against the accused; and to produce evidence and witnesses in defense of the accused. If the accused ~~person~~ fails or refuses to appear, the board may proceed to hear and determine the validity of the charges. ~~If after such hearing~~ Following the hearing, the board members who did not serve on the investigative panel shall deliberate in executive session and if a majority of the board members who did not serve on the investigative panel vote in favor of sustaining the charges, the board shall make findings of fact~~, draw its~~ and conclusions of law and shall issue ~~its~~ the board's order ~~therein,~~ and serve the ~~same~~ findings, conclusions, and order upon the accused. In ~~said~~ the order the board may reprimand, suspend, refuse to renew, or revoke the accused ~~individual's~~ registrant's certificate of registration. Any ~~person~~ registrant who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking that ~~person's~~ registrant's certificate of registration~~,~~ may appeal ~~therefrom~~ the board's action to the district court under the procedures provided by chapter 28-32.

SECTION 27. AMENDMENT. Section 43-19.1-27 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-27. Right to practice.

1. ~~No person shall~~ A person may not practice or offer to practice professional engineering or land surveying~~, as defined by this chapter,~~ unless ~~such~~ the person is ~~duly~~ an individual registered to practice under or exempt from the provisions of this chapter.

2. The following are not considered offering to practice engineering or surveying in the solicitation of work if the engineer or surveyor is licensed in another jurisdiction:

   a. Advertising in a publication or electronic media if there is no holding out of professional services in jurisdictions in which not licensed.

   b. Responding to a letter of inquiry regarding a request for proposals if there is written disclosure the engineer, surveyor, or firm is not licensed in this state and the response is limited to inquiries regarding scope of project and to demonstrate interest.

   c. Responding to a letter of inquiry from a prospective client if there is written disclosure that the engineer, surveyor, or firm is not licensed in this state and the response is limited to inquiries regarding scope of project and to demonstrate interest.

   d. Using the title or designation "professional engineer", "licensed engineer", "P.E.", "professional surveyor", "licensed surveyor", "P.L.S.", or similar title or designation in correspondence or on business cards from an office in the jurisdiction in which licensure is held.

3. Notwithstanding subsection 2, a proposal may not be submitted, a contract may not be signed, or work may not be commenced until an engineer, surveyor, or firm becomes licensed as provided under this chapter.

4. A registered professional engineer or registered land surveyor may practice or offer to practice professional engineering or land surveying ~~by registered professional engineers or registered land surveyors, organized as a partnership, incorporated as a professional corporation under the provisions of the professional corporations law of this state, or~~

~~organized as a limited liability company under the professional limited liability company law of this state, or under the provisions of a similar law of any other state, is hereby authorized, provided all of the partners of such partnership, each officer and shareholder in the case of a professional corporation, or each manager and member in the case of a professional limited liability company are duly~~ as an organization or as an individual operating under a trade name if the organization is registered under or exempt from the provisions of this chapter.

~~3.~~ 5. In addition to and without impairing any rights or exemptions granted others in this chapter, the practice of or offer to practice professional engineering or land surveying ~~as defined in this chapter, by individual engineers or land surveyors registered under this chapter either through or as an officer, employee, or agent of a partnership or corporation, or by a partnership or a corporation or limited liability company, other than a professional corporation or professional limited liability company, through individual engineers or land surveyors registered under this chapter,~~ by an organization or by an individual operating under a trade name is permitted in this state ~~provided~~ if:

a. All officers, ~~managers,~~ employees, and agents of such ~~a partnership, corporation, or limited liability company~~ an organization or the individual operating under a trade name who will perform the practice of engineering or of land surveying within this state ~~for such partnership, corporation, or limited liability company~~ are registered under this chapter;

b. Each person in responsible charge of the activities of any ~~such partnership, corporation, or limited liability company,~~ organization or individual operating under a trade name which activities constitute the practice of professional engineering and land surveying, is a professional engineer or land surveyor registered in this state or ~~a person~~ an individual authorized to practice professional engineering or land surveying as provided in this chapter;

c. Such ~~partnership, corporation, or limited liability company~~ organization or individual operating under a trade name has been issued a certificate of ~~authorization~~ commercial practice by the board as provided by subsection ~~4~~ 6;

d. Each ~~such partnership, corporation, or limited liability company shall be~~ organization or individual operating under a trade name is jointly and severally responsible with and for the conduct or acts of its agents, employees, officers, or managers in respect to any professional engineering or land surveying services performed or to be executed in this state. ~~No~~ An individual practicing professional engineering or land surveying ~~shall~~ may not be relieved of the responsibility for the individual's conduct or acts performed by reason of the individual's employment by or relationship with such ~~partnership, corporation, or limited liability company~~ organization or individual operating under a trade name; and

e. All final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or land ~~surveyors as defined in this chapter~~ surveying, when ~~issued~~ presented to a client, contractor, subconsultant, or any public agency, ~~shall~~ must be dated and bear the seals and signatures of the professional engineers or land surveyors registered under this chapter by whom or under whose responsible charge they were prepared. A working drawing or unfinished document must contain a statement to the effect the drawing or document is preliminary and not for construction, recording purposes, or implementation. It is unlawful for a registrant to affix or permit the registrant's seal and signature or facsimiles thereof to be affixed to any engineering drawing, specification, map, plat, report, or other document after the expiration or revocation or during the suspension of a certificate or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this chapter.

~~4.~~ 6. ~~A partnership, corporation, or limited liability company~~ An organization or individual operating under a trade name desiring a certificate of ~~authorization~~ commercial practice or the renewal thereof shall file a written application with the board setting forth the names and addresses of all partners, officers, directors, managers, or governors, if any, of such ~~partnership, officers and directors of such corporation, or managers and governors of such limited liability company,~~ organization and the names and addresses of all employees who are duly registered to practice professional engineering or land surveying in this state, and who are or will be in responsible charge of any engineering or land surveying in this state by such ~~partnership, corporation, or limited liability company~~ organization or individual operating under a trade name, together with other information as the board may require. Upon the receipt of an application, and of a fee in an amount established by the board for the initial certificate or ~~annual~~ renewal thereof, but not to exceed the amount of ~~one~~ two hundred dollars per year, the board shall issue to such ~~partnership, corporation, or limited liability company~~ organization or individual operating under a trade name a certificate of ~~authorization~~ commercial practice or a renewal thereof, which certificate of ~~authorization shall~~ commercial practice is not ~~be~~ transferable. ~~Should~~ If the board ~~find~~ finds an error in an application or that facts exist which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. ~~Should~~ If a change ~~occur~~ occurs in any of the information submitted on the application of any ~~partnership, corporation, or limited liability company~~ organization or individual operating under a trade name within the term of ~~authorization~~ the certificate of commercial practice, ~~such partnership, corporation, or limited liability company~~ the organization or individual operating under a trade name shall file with the board a written report with respect ~~thereto~~ to the change within thirty days after ~~such~~ the change occurs. The provisions with respect to issuance, expiration, renewal, and reissuance of the certificates of registration of individuals contained in this chapter ~~shall~~ also apply to certificates of ~~authorization~~ commercial practice issued to ~~partnerships, corporations, and limited liability companies~~ an organization or individual operating under a trade name under this subsection. ~~Partnerships, corporations, or limited liability companies shall be~~ An organization or individual operating under a trade name is subject to disciplinary proceedings and penalties~~,~~ and certificates of ~~authorization shall be~~ commercial practice are subject to suspension or revocation for cause in the same manner and to the same extent as is provided with respect to an individual ~~persons~~ and ~~their~~ the individual's certificates of registration in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31. "Registrant" and "certificate of registration" in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31, and the provisions of such sections, ~~shall for the purpose of such sections be deemed to~~ include and apply respectively to any ~~partnership, corporation, or limited liability company holding~~ organization or individual operating under a trade name that holds a certificate of ~~authorization~~ commercial practice issued under this chapter, and to such certificate of ~~authorization~~ commercial practice.

SECTION 28. AMENDMENT. Section 43-19.1-29 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-29. Exemption clause. This chapter ~~shall~~ does not ~~be construed to~~ prevent or affect:

1. The practice or offer to practice engineering by ~~a person~~ an individual not a resident or having no established place of business in this state, if that ~~person~~ individual is legally qualified by registration to practice engineering~~, as defined in this chapter,~~ in another state or country ~~which~~ that extends similar privileges to ~~persons~~ individuals registered under this chapter. However, that ~~person must~~ individual shall make an application accompanied by the appropriate application fee to the board in writing ~~prior to~~ before practicing or offering to practice engineering, and may be granted a one-time temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to any applicant with respect to any other work not set forth in the temporary permit. A land surveyor ~~as defined in this chapter~~ may not receive a temporary permit under this subsection.

2. The work of an employee or a subordinate of ~~a person~~ an individual holding a certificate of registration under this chapter, or an employee of ~~a person~~ an individual practicing lawfully under subsection 1; provided such work does not include final engineering or surveying designs or decisions and is done under the direct supervision of and verified by ~~a person~~ an individual holding a certificate of registration under this chapter, or ~~a person~~ an individual practicing lawfully under subsection 1.

3. ~~The practice of engineering or surveying for a county by a person not registered under this chapter whose appointment as county engineer or county highway superintendent was in effect on January 1, 1967.~~

~~4.~~ The practice of any other legally recognized profession or trade, nor ~~shall it be construed to~~ does the chapter permit registered professional engineers to perform duties requiring the services of a licensed architect, as provided by the laws of the state of North Dakota licensing and regulating architects and architecture.

~~5.~~ 4. The practice of engineering ~~and~~ or land surveying by any ~~person~~ individual regularly employed to perform engineering services solely for that ~~person's~~ individual's employer or for a subsidiary or affiliated corporation or limited liability company of that ~~person's~~ individual's employer, providing the ~~engineering~~ services performed ~~is~~ are in connection with the property, products, or services of that ~~person's~~ individual's employer, unless the board determines the property, products, or services are of a unique type requiring registration to protect the public.

SECTION 29. AMENDMENT. Section 43-19.1-30 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-30. Duties of recorder. It is unlawful for the recorder of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying~~,~~ which does not have impressed thereon and affixed thereto~~,~~ the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.

SECTION 30. AMENDMENT. Section 43-19.1-31 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-31. Violation and penalties. Any person ~~who~~ that practices~~,~~ or offers to practice~~,~~ engineering or land surveying in this state without being registered in accordance with the provisions of this chapter; ~~or~~ any person using or employing the words "engineer" ~~or~~, "engineering" ~~or~~, "professional engineer" ~~or~~, "surveyor" ~~or~~, "land surveyor", "professional land surveyor", or any modification or derivative ~~thereof~~ of these terms in that person's name ~~or~~, form of business, or activity, except as authorized in this chapter; ~~or~~ any person presenting or attempting to use the certificate of registration or the seal of another; ~~or~~ any person ~~who gives~~ giving any false or forged evidence of any kind to the board or to any member ~~thereof~~ of the board in obtaining or attempting to obtain a certificate of registration; or any person ~~who~~ falsely ~~impersonates~~ impersonating any other registrant of like or different name; ~~or~~ any person ~~who attempts~~ attempting to use an expired or revoked or nonexistent certificate of registration~~; or who practices~~ practicing or ~~offers~~ offering to practice when not qualified; ~~or~~ any person ~~who~~ falsely ~~claims that~~ claiming that person is registered under this chapter; or any person ~~who violates~~ violating any of the provisions of this chapter~~;~~ is guilty of a class B misdemeanor. It is the duty of all duly constituted officers of the state, and of all political subdivisions ~~thereof~~ of the state, to enforce the provisions of this chapter.

SECTION 31. AMENDMENT. Section 43-19.1-33 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-33. Continuing professional education - Rules. The board shall adopt rules to establish continuing education requirements for professional engineers and land surveyors. Compliance with these rules must be documented at the times, and in the manner, as is required by the

board. A professional engineer or land surveyor who is exempt under subsection ~~5~~ 4 of section 43-19.1-29 but who has voluntarily registered under this chapter is exempt from the continuing professional education requirements under this section.

SECTION 32. A new section to chapter 43-19.1 of the North Dakota Century Code is created and enacted as follows:

Retired registrant. The board may recognize an individual who is no longer practicing as an engineer or land surveyor as a retired registrant.

President of the Senate	Speaker of the House
Secretary of the Senate	Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2268.

Senate Vote:	Yeas	46	Nays	0	Absent	1
House Vote:	Yeas	92	Nays	0	Absent	2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State