CHAPTER 54-09
SECRETARY OF STATE

54-09-01. Records in custody of secretary of state.

The secretary of state is charged with the custody of:

1. The enrolled copy of the Constitution of North Dakota.
2. All the acts and resolutions passed by the legislative assembly.
3. The journals of the legislative assembly.
4. The great seal.
5. All books, records, deeds, parchments, maps, and papers kept or deposited in the secretary of state's office pursuant to law.

54-09-02. Duties of secretary of state.

In addition to the duties prescribed by the constitution, the secretary of state shall:

1. Receive bills and resolutions from every session of the legislative assembly, and shall perform such other duties as may devolve upon the secretary of state by resolution of the two houses, or either of them.
2. Keep a register of and attest the official acts of the governor.
3. Affix the great seal with the secretary of state's attestation to commissions and other public instruments to which the official signature of the governor is required.
4. Record and maintain records of all conveyances made to the state and all articles of incorporation filed in the secretary of state's office.
5. Maintain records for all books distributed by the secretary of state and direct the county auditor of each county to do the same as provided by law.
6. Furnish on demand to persons paying the fees therefor a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office.
7. Keep records of all the fees, commissions, and compensation of whatever nature or kind earned, collected, or charged by the secretary of state, with the date, name of payer, and the nature of the services in each case.
8. Biennially report to the governor with copies filed in the secretary of state's office as prescribed by section 54-06-04 all moneys received from any source for services performed and accompany the report with a detailed statement under oath of the manner in which the appropriations for the secretary of state's office have been expended during the preceding two fiscal years.
9. Immediately after the laws, resolutions, and journals of the legislative assembly are bound, distribute the laws, resolutions, and journals to the persons entitled thereto by law or rules of the senate and house of representatives.
10. Keep records of cities as prescribed by law.
11. Indicate on each bill passed by the legislative assembly the date of filing in the secretary of state's office.
12. Perform all other duties as are prescribed by law.

54-09-02.1. Secretary of state - Certificates and certified copies to be received in evidence.

1. All certificates issued by the secretary of state and all copies of records filed in accordance with this chapter or any other chapter, when certified by the secretary of state, may be taken and received in all courts, public offices, and official bodies as evidence of the facts stated.
2. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to records filed by the secretary of state in accordance with this chapter or any other chapter which would not appear from a certified copy of any of the foregoing records or certificates, may be taken and received in all courts, public offices, and official bodies as evidence of the existence or nonexistence of the facts stated.

3. Any certificate or certified copy issued by the secretary of state under this section may be created and disseminated as an electronic record with the same force and effect as if produced in a paper form.

54-09-03. Secretary of state to mark books distributed.
Repealed by S.L. 1999, ch. 449, § 1.

54-09-04. Fees.
The secretary of state 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, fifty cents per page.
2. Unless otherwise provided by law, 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 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 database.
5. For filing any paper not otherwise provided for, ten dollars.
6. For filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.
7. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, an amount established by the secretary of state to recover the actual cost for assembling and providing the information in the format requested.

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.

If, upon due presentment, any check, draft, money order, or other form of lawful payment provisionally accepted in payment of any filing fee authorized to be charged and collected by the secretary of state, is not honored or paid, or if no lawful form of payment accompanies the filing, any record of credit or payment must be canceled or reversed as though no credit had been given or payment attempted and the filing or action is void. The secretary of state may return to the last-known address of the filer any record or document that was attempted to be filed or may retain as unfiled the record or document for a reasonable time to permit proper payment and filing.

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 database, or to the computerized statutory liens database.

54-09-04.1. Exception from fees.

A member of the legislative assembly or a state or county office may not be charged by the secretary of state 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 individual's official duties, or for filing any process, notice, or demand for service relative to the individual's official duties.

54-09-05. Salary of secretary of state.

The annual salary of the secretary of state is one hundred two thousand six hundred eighty-nine dollars through June 30, 2016, and one hundred five thousand seven hundred seventy dollars thereafter.

54-09-06. Official bond.

Repealed by S.L. 1999, ch. 113, § 24.

54-09-07. Service of process on secretary of state if agent not found or if secretary of state appointed as agent for individual.

If an agent other than the secretary of state has been appointed for receipt of service, but the affidavit of a sheriff or of an adult who is not a party to a proceeding establishes that diligent inquiry has been made and that personal service cannot be accomplished upon any registered agent, officer, or superintending, managing, or general agent of an entity, then the secretary of state may be deemed the agent of the entity for receiving service of process. Service on the secretary of state must be made as provided in section 10-01.1-13. Except as otherwise provided by law, if the secretary of state is appointed as agent for service of process for any individual under any provision of this code, then service on the secretary of state and the responsibilities of the secretary of state with respect to the service shall be made or executed in the manner provided in section 10-01.1-13, to the extent practicable.

54-09-08. Secretary of state's general services operating fund.

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 4 of section 41-09-94, subsection 4 of section 41-09-96, subsection 7 of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

54-09-09. Computerized central indexing system - Rules.

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the information contained in the statement must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall provide an electronic means

that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.

3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.

1. From the computerized central indexing system, the secretary of state or a designee shall produce electronically a list for crops and a list for livestock that each contain the information as filed pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute by mail or deliver electronically the lists prepared pursuant to subsection 1. If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state or a designee of the secretary of state shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate from the central indexing system to confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

54-09-11. Fees.

1. The secretary of state shall establish fees for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system and for other services provided through the computerized system.
2. A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is fifteen dollars.
3. The secretary of state shall establish the fee for furnishing lists from the central indexing system based on actual costs to produce the lists for distribution.
4. Fees collected by the secretary of state under this section, under subsection 4 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under this section must be used for the programming and maintenance of the central indexing system.
5. The secretary of state shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

54-09-12. Confidential information in filed records.

A social security number or federal tax identification number disclosed or contained in any record filed with the secretary of state is confidential. The secretary of state shall delete or obscure a social security or federal tax identification number before a copy of any record is released to the public. A filing office or an officer or employee of the filing office may not be held civilly or criminally liable for the inadvertent disclosure of a social security or federal tax identification number if the filer has placed the number in an improper field on the form prescribed by the secretary of state or the filer submitted a filing other than on the form prescribed by the secretary of state.

54-09-13. Role of secretary of state in filing signed documents and records.

Whenever any provision of law requires or permits a signed document or record to be filed with the secretary of state, the provision may not be construed to require the secretary of state to make any determination the signed document or record filed or to be filed has been properly signed or executed by or on behalf of the filer.

54-09-14. Filing signed documents and records with the secretary of state - Use of agent.

1. A person who signs a document submitted to the secretary of state without authority to sign that document or who signs the document knowing the document is false in any material respect is subject to the penalties of perjury or false statement set forth in chapter 12.1-11.
2. Any document submitted to the office of the secretary of state online may be signed by any person as agent of any person whose signature is required by law. The signing party must indicate on the application that the person is acting as the agent of the person whose signature would be required and that the person has been authorized to sign on behalf of the applicant. The name of the person signing, entered on the online application, constitutes a valid signature by such an agent.
3. Any document relating to a filing by a business entity or assumed name submitted to the office of the secretary of state on paper may be signed by any person as agent of any person whose signature is required by law. The signing party must indicate on the document that the signing party is acting as the agent of the person whose signature would be required and that the signing party has been authorized to sign on behalf of that person.