

OFFICES AND OFFICERS

CHAPTER 380

SENATE BILL NO. 2185

(Senators Wardner, Schobinger)
(Representatives F. Klein, Nottestad)

BONDS OF PUBLIC OFFICERS

AN ACT to repeal sections 44-01-08, 44-01-09, and 44-01-10 of the North Dakota Century Code, relating to bonds of public officers other than those furnished by the state bonding fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 44-01-08, 44-01-09, and 44-01-10 of the North Dakota Century Code are repealed.

Approved March 21, 2003

Filed March 24, 2003

CHAPTER 381

HOUSE BILL NO. 1078

(Industry, Business and Labor Committee)

(At the request of the Superintendent of Public Instruction)

LICENSING INFORMATION CONFIDENTIALITY

AN ACT to amend and reenact section 44-04-18.1 of the North Dakota Century Code, relating to the confidentiality of personal information obtained by a state agency in administering occupational or professional licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁹ **SECTION 1. AMENDMENT.** Section 44-04-18.1 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.1. Public employee personal, medical, and employee assistance records - Confidentiality - Personal information maintained by professional boards state entities.

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 individual who has applied for employment, is employed, or has been employed by a public entity.
2. Except as otherwise specifically provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt. As used in this section, "personal information" means a person's home address; home telephone number; photograph; medical information; motor vehicle operator's identification number; social security number; payroll deduction information; the name, address, telephone number, date of birth, and social security number of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution.
3. Nonconfidential information contained in a personnel record of an employee of a public entity as defined in subdivision c of subsection 12 of section 44-04-17.1 is exempt.

¹⁷⁹ Section 44-04-18.1 was also amended by section 8 of House Bill No. 1092, chapter 382, and section 24 of House Bill No. 1438, chapter 211.

4. Except as otherwise specifically provided by law, personal information regarding a licensee maintained by an occupational or professional board, association, state agency or commission created by law is exempt. As used in this section, "licensee" means an individual who has applied for, holds, or has held in the past an occupational or professional license, certificate, credential, permit, or registration issued by a state occupational or professional board, association, agency, or commission.

Approved March 13, 2003

Filed March 13, 2003

CHAPTER 382

HOUSE BILL NO. 1092

(Industry, Business and Labor Committee)
(At the request of the Attorney General)

SOCIAL SECURITY NUMBER CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 11-18, a new subsection to section 23-02.1-28, and three new sections to chapter 44-04 of the North Dakota Century Code, relating to redaction of social security numbers by the county recorder, the confidentiality of social security numbers, the confidentiality of client files at the University of North Dakota school of law, and the confidentiality of records of fire department and rural fire protection districts; to amend and reenact section 20.1-03-35, subsection 8 of section 23-02.1-19, section 23-02.1-27, subsection 6 of section 41-09-73, section 43-50-04, subsection 2 of section 44-04-18.1, subsection 6 of section 44-04-20, and subsection 1 of section 44-04-21.1 of the North Dakota Century Code, relating to confidentiality of social security numbers, notice of emergency or special meetings, and release of certain information received by the attorney general when preparing open records and meetings opinions; to provide for application; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-18 of the North Dakota Century Code is created and enacted as follows:

Filing or recording documents with recorder - Social security numbers.

1. A document that includes a social security number may not be filed or recorded with the recorder unless a law requires the social security number to be in the document in order to be filed or recorded. A document that is required to contain a social security number may be recorded in the real estate records with the social security number redacted.
2. Notwithstanding any other provision of law, when a copy of a document that includes a social security number is requested, the recorder is not required to redact the social security number unless the document was filed or recorded with the recorder after the effective date of this Act.
3. A document that must include a social security number under chapters 14-03 and 23-02.1 may be processed and recorded under those chapters; however, the social security number is confidential and must be redacted before a copy or certified copy may be provided to the public.

SECTION 2. AMENDMENT. Section 20.1-03-35 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-35. Social security number to be furnished. The social security number of an applicant for any license or permit issued under this chapter must be

recorded on the application unless the applicant is a foreign national to whom no social security number has been issued. A social security number recorded under this section is ~~exempt from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota~~ confidential.

¹⁸⁰ **SECTION 3. AMENDMENT.** Subsection 8 of section 23-02.1-19 of the North Dakota Century Code is amended and reenacted as follows:

8. Each death certificate must include the social security number of the decedent, if the information is available. A social security number included on a death certificate is ~~exempt from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota~~ confidential.

SECTION 4. AMENDMENT. Section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-27. Disclosure of records. The state registrar, and local registrars, may supervise and regulate physical access to vital records to protect vital records from loss, mutilation, or destruction and to prevent improper disclosure of records that are confidential. Information relating to the birth or fetal death of a child to a woman who was not married to the child's father when the child was conceived or born may be disclosed only to the child's guardian, to the ~~person~~ individual to whom the record relates if that ~~person~~ individual is at least eighteen years old, to the parent of the child, or upon order of a court of competent jurisdiction. Information in vital records indicating cause of death may not be disclosed except to a relative or personal representative of the deceased, to the attorney or the agent of a relative or personal representative of the deceased, to the child fatality review panel, or upon order of a court of competent jurisdiction. An individual's social security number contained in vital records may not be disclosed except to the individual to whom it pertains, that individual's lawful agent or guardian, or by order of a court. Only a certified copy of a certificate or record may be provided to the public.

SECTION 5. A new subsection to section 23-02.1-28 of the North Dakota Century Code is created and enacted as follows:

A certified copy may not disclose an individual's social security number unless the copy is being provided to the individual to whom it pertains, that individual's lawful agent or guardian, or by order of a court.

¹⁸¹ **SECTION 6. AMENDMENT.** Subsection 6 of section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

6. ~~Effective January 1, 2002, any~~ Any social security number or federal tax identification number submitted under subdivision e of subsection 1 is not a public record and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. A debtor's social security number or federal tax identification number may

¹⁸⁰ Section 23-02.1-19 was also amended by section 1 of House Bill No. 1481, chapter 209.

¹⁸¹ Section 41-09-73 was also amended by section 1 of House Bill No. 1185, chapter 354.

be filed only in the filing office with the central indexing system and may not be recorded in the real property records.

SECTION 7. AMENDMENT. Section 43-50-04 of the North Dakota Century Code is amended and reenacted as follows:

43-50-04. Social security number ~~not public record~~ - Confidential. A social security number provided under this chapter is ~~exempt from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota~~ confidential.

¹⁸² **SECTION 8. AMENDMENT.** Subsection 2 of section 44-04-18.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Except as otherwise specifically provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt. As used in this section, "personal information" means a person's home address; home telephone number; photograph; medical information; motor vehicle operator's identification number; ~~social security number~~; payroll deduction information; the name, address, telephone number, and date of birth; ~~and social security number of any dependent or emergency contact~~; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution.

SECTION 9. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Social security numbers - Confidential.

1. Social security numbers in the possession of a public entity are confidential. However, social security numbers may be released as authorized in this section or by other state or federal law.
2. A social security number may be released:
 - a. For purposes of participation in retirement or other employment benefits programs; or
 - b. As authorized by the individual to whom the social security number is assigned, that individual's lawful agent or guardian, or by order of a court.

SECTION 10. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Client files at the university of North Dakota school of law - Confidential. Information in the files of private clients receiving legal services through the clinical education program of the university of North Dakota school of law is confidential

¹⁸² Section 44-04-18.1 was also amended by section 1 of House Bill No. 1078, chapter 381, and section 24 of House Bill No. 1438, chapter 211.

unless the information has been requested and is properly obtainable through applicable discovery rules.

SECTION 11. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Records of fire departments and rural fire protection districts confidential.

1. a. An investigation record of a fire department or a rural fire protection district is confidential until the investigation:
 - (1) Is closed and not referred for further criminal investigation or prosecution; or
 - (2) The criminal investigation is no longer active under section 44-04-18.7.
- b. This subsection does not restrict the release of the name and identifiable biographical information of a child under section 12.1-35-03.
2. Standard operating procedures written for emergency response, prefire action plans, plans of a building, pipeline, electrical system, or any other infrastructure plan in the hands of a fire department or rural fire protection district are exempt from section 44-04-18.
3. Individually identifiable health information obtained by a fire department or rural fire protection district is confidential.

SECTION 12. AMENDMENT. Subsection 6 of section 44-04-20 of the North Dakota Century Code is amended and reenacted as follows:

6. In the event of emergency or special meetings of a governing body, the person calling such a meeting shall also notify the public entity's official newspaper, if any, and any representatives of the news media which have requested to be so notified of such special or emergency meetings, of the time, place, date, and topics to be considered at the same time as such governing body's members are notified. Topics that may be considered at an emergency or special meeting are limited to those included in the notice ~~to the media~~.

SECTION 13. AMENDMENT. Subsection 1 of section 44-04-21.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Any interested person may request an attorney general's opinion to review a written denial of a request for records under section 44-04-18, a denial of access to a meeting under section 44-04-19, or other alleged violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 by any public entity other than the legislative assembly or any committee thereof. A request made under this section must be made within thirty days of the alleged violation. In preparing an opinion under this section, the attorney general has discretion to obtain and review a recording made under section 44-04-19.2. The attorney general may request and obtain information claimed to be exempt or confidential for the purpose of determining whether the information is exempt or

confidential. Any such information may not be released by the attorney general and may be returned to the provider of the information. The attorney general shall issue to the public entity involved an opinion on the alleged violation unless the request is withdrawn by the person requesting the opinion or a civil action has been filed involving the possible violation. If the request pertains to a public entity as defined in subdivision c of subsection 12 of section 44-04-17.1, the opinion must be issued to the public entity providing the public funds. In any opinion issued under this section, the attorney general shall base the opinion on the facts given by the public entity.

SECTION 14. APPLICATION - NOTICE TO PUBLIC. Section 9 of this Act does not apply to recorders until December 1, 2003. From the effective date of this Act until November 30, 2003, each recorder shall provide written notice of the relevant terms of this Act to any individual filing or recording a document if the document contains a social security or federal tax identification number. The notice must also state that a document containing a social security and federal tax identification number may not be filed or recorded after November 30, 2003.

SECTION 15. EFFECTIVE DATE. Sections 1 and 6 of this Act become effective on December 1, 2003.

SECTION 16. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 2003
Filed April 21, 2003

CHAPTER 383

HOUSE BILL NO. 1213

(Representatives Delmore, Maragos, Onstad)
(Senators Lyson, Nelson, Trenbeath)

JUVENILE COURT OFFICER RECORDS CONFIDENTIALITY

AN ACT to amend and reenact section 44-04-18.3 of the North Dakota Century Code, relating to the confidentiality of records containing the telephone number and home address of juvenile court supervisors and probation officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-18.3 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.3. Records of juvenile court supervisors and probation officers and law enforcement and correctional employees - Confidential informants.

1. Any telephone number and the home address of a juvenile court supervisor or probation officer, an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are confidential. A record containing information relating to an employee of the department of corrections and rehabilitation may be disclosed to an appropriate authority under policy established by the department of corrections and rehabilitation.
2. Records or other information that would reveal the identity, or endanger the life or physical well-being, of an undercover law enforcement officer is confidential. For purposes of this subsection, an "undercover law enforcement officer" means a full-time, salaried employee of a local or state law enforcement agency who acts surreptitiously or poses as someone other than a law enforcement officer while engaging in the investigation of a violation of law.
3. A law enforcement officer or prosecutor, within the scope of the employment of the officer or prosecutor, may provide assurances of confidentiality to a person providing information regarding violations of the law. Any information that would identify or provide a means of identifying a confidential informant, if the identity of the informant is not otherwise publicly known, is confidential and may be disclosed only as permitted by law.

Approved April 7, 2003
Filed April 7, 2003

CHAPTER 384

HOUSE BILL NO. 1320

(Representatives Koppelman, Boehning, DeKrey)
(Senators Bercier, Nelson, Traynor)

AUTOPSY INFORMATION CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to the privacy of autopsy photographs, images, and recordings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Autopsy images - Confidential - Exceptions.

1. An autopsy photograph or other visual image or a video or audio recording of an autopsy is confidential. However, a criminal justice agency may use or disclose these materials for purposes of an investigation or prosecution.
2. a. After redacting all information identifying the decedent, including name, address, and social security number, and anonymizing facial recognition, a medical examiner, coroner, or physician may use an autopsy photograph, image, or recording for:
 - (1) Medical or scientific teaching or training purposes;
 - (2) Teaching or training of law enforcement personnel;
 - (3) Teaching or training of attorneys or others with a bona fide professional need to use or understand forensic science;
 - (4) Conferring with medical or scientific experts; or
 - (5) Publication in a scientific or medical journal or textbook.
- b. A medical examiner, coroner, or physician who has in good faith complied with this subsection is not subject to any penalty or liability for using an autopsy photograph, image, or recording.
3. The decedent's spouse, child, parent, or sibling, upon proof of the relationship, may view an autopsy photograph, image, or recording in the business office of a medical examiner, coroner, or physician who has possession of the materials, if there is not an active criminal investigation or prosecution.

4. Disclosure of an autopsy photograph, image, or recording may be obtained under section 44-04-18.11.

Approved April 9, 2003

Filed April 9, 2003

CHAPTER 385

HOUSE BILL NO. 1143

(Judiciary Committee)

(At the request of the Division of Emergency Management)

PUBLIC HEALTH AND SECURITY PLAN CONFIDENTIALITY

AN ACT to create and enact three new sections to chapter 44-04 of the North Dakota Century Code, relating to confidentiality of public health and security system plans; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Security system plan - Exemption.

1. A security system plan kept by a public entity is exempt from the provisions of section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.
2. As used in this section:
 - a. "Critical infrastructure" means public buildings, systems, including telecommunications centers and computers, power generation plants, dams, bridges, and similar key resources, whether physical or virtual, so vital to the state that the incapacity or destruction of these systems would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters.
 - b. "Security system plan" includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, communications, or consultations or portions of any such plan relating directly to the physical or electronic security of a public facility, or any critical infrastructure, whether owned by or leased to the state or any of its political subdivisions, or any privately owned or leased critical infrastructure if the plan or a portion of the plan is in the possession of a public entity; threat assessments; vulnerability and capability assessments conducted by a public entity, or any private entity; threat response plans; and emergency evacuation plans.
3. This exemption applies to security system plans received by a public entity before, on, or after the effective date of this Act.
4. Nothing in this section may be construed to limit disclosure required for necessary construction, renovation, or remodeling work on a public building. Disclosure under this subsection does not constitute public disclosure.

SECTION 2. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Public health and security plans - Exemption. Any plans and only those portions of the records, information, surveys, communications, and consultations used to produce the plans relating to protection of the public or public officials against threats of violence or other harm are exempt from the provisions of section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

SECTION 3. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Security system plan - Public health and security plans - Exemption from public meeting requirements. Those portions of a meeting which would reveal a security system plan, a public health or security plan, or a portion of any such plan, made exempt by section 1 or 2 of this Act, are exempt from section 44-04-19 and section 5 of article XI of the Constitution of North Dakota.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 20, 2003
Filed March 20, 2003

CHAPTER 386**SENATE BILL NO. 2038**
(Legislative Council)
(Information Technology Committee)**COMPUTER SECURITY INFORMATION
CONFIDENTIAL**

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to the confidentiality of records containing computer passwords and security information; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Computer passwords and security information - Confidential. Security codes, passwords, combinations, or security-related plans used to protect electronic information or to prevent access to computers, computer systems, or computer or telecommunications networks of a public entity are confidential.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 19, 2003
Filed March 19, 2003

CHAPTER 387

HOUSE BILL NO. 1168

(Judiciary Committee)

(At the request of the Secretary of State)

NOTARY PUBLIC SEALS AND FEES

AN ACT to amend and reenact sections 44-06-04, 44-06-12, 44-06-13.1, 44-06-14, and 44-08-06 of the North Dakota Century Code, relating to notaries public and their seals and fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-06-04 of the North Dakota Century Code is amended and reenacted as follows:

44-06-04. Filing of oath, bond, and impression of notarial seal - Requirements of seal. Each notary public, before entering upon the duties of office, shall file the notary public's oath and bond, in the office of the secretary of state. The secretary of state, upon receipt of the proper fee, oath, and bond, shall issue a certificate of authorization with which the notary public may obtain an official notary seal. A notary seal vendor may provide a notary with an official seal only upon presentation by the notary of a certificate of authorization. The notary public shall place an impression of the notary's seal on the certificate of authorization and return the certificate of authorization to the secretary of state. After the certificate of authorization is received, approved, and filed, the secretary of state shall issue a notary commission that authorizes the notary to commence the duties of the office of notary public.

~~An official notary seal may not contain~~ After the effective date of this Act, a notary being commissioned must obtain a seal approved by the secretary of state which must be designed to leave a clear impression, be photographically reproducible, include the words "State of North Dakota" and "Notary Public", contain the name and commission expiration date of the notary public exactly as shown on the notary's commission, and which may not contain any other words, numbers, symbols, or a reproduction of the great seal of the state. All notary seals must be surrounded by a border and be either one and five-eighths inch [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal to seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally. An official seal is the property of the notary only and may not be retained or used by any other person including an employer of a notary even if the employer purchased or paid for the notary's seal. An official seal must remain in the direct and exclusive control of the notary at all times during a notary's commission. A notary must affix the notary's seal to each jurat or certificate of acknowledgment at the time of performing the notarial act. Upon the resignation, removal, revocation, or expiration of a notary's commission, or the death or name change of a notary, the notarial seal must be destroyed. When a notary's official seal is lost, damaged, or is rendered otherwise unworkable, the notary shall immediately submit written notice of that fact to the secretary of state. Within five working days after receipt of the notice, the secretary of state shall issue a new certificate of authorization which a notary may use to obtain a replacement seal.

SECTION 2. AMENDMENT. Section 44-06-12 of the North Dakota Century Code is amended and reenacted as follows:

44-06-12. Notary public commission - Venue - Date of expiration. Every notary public taking an acknowledgment to any instrument, immediately following the notary's signature to the jurat or certificates of acknowledgment, shall legibly print, stamp, or type the notary's name and endorse the date of the expiration of the commission. Each jurat or certificate of acknowledgment must also contain the name of the state and county where the notarial act is being performed. The endorsement ~~may~~ must 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 _____.

SECTION 3. AMENDMENT. Section 44-06-13.1 of the North Dakota Century Code is amended and reenacted as follows:

44-06-13.1. Prohibited acts - Penalty. A notary public may not notarize a signature on a document if:

1. The document was not first signed or re-signed in the presence of the notary public, in the case of a jurat, or in the case of a certificate of acknowledgment, was not acknowledged in the presence of the notary public.
2. The name of the notary public or the spouse of the notary public appears on the document as a party to the transaction.
3. The signature is that of the notary public or the spouse of the notary public.
4. 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.
5. The date of the jurat or certificate of acknowledgment is not the actual date the document is to be notarized or the jurat or certificate of acknowledgment is undated.
6. The signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law.
7. The notary is falsely or fraudulently signing or notarizing a document, jurat, or certificate of acknowledgement or in any other way is impersonating or assuming the identity of another notary.

A notary public who violates this section is guilty of an infraction and the notary public's commission ~~must~~ may be revoked by the secretary of state or the secretary of state may impose a lesser sanction using the procedure under chapter 28-32.

SECTION 4. AMENDMENT. Section 44-06-14 of the North Dakota Century Code is amended and reenacted as follows:

44-06-14. Fees to be charged for notarial acts - Penalty. A notary public is entitled to charge and receive not more than five dollars per notarial act. A notary who charges a fee exceeding that amount is guilty of an infraction. It is an infraction for any person other than the notary public to impose or collect any monetary fee, charge, or commission in connection with the notarization of any document. A notary may charge a travel fee when traveling to perform a notarial act if:

1. The notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and
2. The notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee and neither specified nor mandated by law.

SECTION 5. AMENDMENT. Section 44-08-06 of the North Dakota Century Code is amended and reenacted as follows:

44-08-06. Dimensions of seal of court or officer. ~~Upon~~ Except as otherwise provided in section 44-06-04 relating to notary seals, upon every seal of a court or officer of this state required or authorized to have a seal, there must be engraved the words "State of North Dakota" and the name of the court or office in which the seal is to be used. All such seals, except the great seal, must be surrounded by a border, and be either one and five-eighths inch [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal to seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally.

Approved March 31, 2003
Filed March 31, 2003

CHAPTER 388

SENATE BILL NO. 2078

(Government and Veterans Affairs Committee)

(At the request of the Office of Management and Budget)

STATE EMPLOYEE TRAVEL AND LODGING EXPENSES

AN ACT to amend and reenact subsection 1 of section 44-08-04.2 and sections 44-08-04.5, 44-08-05.1, and 54-06-06 of the North Dakota Century Code, relating to travel advances, direct payment of lodging expenses, payment approval requirements, and periodic salary payments for state employees; and to repeal sections 44-08-08 and 54-06-16 of the North Dakota Century Code, relating to per diem oath and penalty and minimum wage for state employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 44-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Any state agency shall advance at the request of the agency head for employees of that agency funds to be used for payment of meal and lodging expenses incurred while the official or employee is traveling on official business of this state, provided that such travel must be planned to be in excess of five days per month, whether or not consecutive, and provided that the funds advanced do not exceed eighty percent of estimated expenses for the period. Travel advance warrant checks advances must be issued on vouchers signed approved by the chief executive officer or a designee of the agency involved. Funds advanced for meals and lodging under this section must be accounted for as required under section 44-08-04 for travel.

SECTION 2. AMENDMENT. Section 44-08-04.5 of 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.

¹⁸³ **SECTION 3. AMENDMENT.** Section 44-08-05.1 of the North Dakota Century Code is amended and reenacted as follows:

44-08-05.1. Vouchers Payments - Requirements for approval - Penalty - Action for violations. Any public officer or employee who has the power to approve a ~~voucher~~ payment for a department, agency, or institution for travel expenses or any other state expenditure of public funds shall determine before approving ~~such voucher~~ the payment the following:

1. That the expenditure for travel or other expenditures were for lawful and official purposes.
2. If for ~~travel expense~~ employee travel reimbursement, that the travel actually occurred, and that the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
3. If the ~~voucher~~ payment is for expenditure other than travel expense, that the expenditure is lawful and that the ~~voucher~~ payment contains no false claims.

For purchases made with the use of a purchasing card authorized under subsection 8 of section 54-44.4-02, an employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all agencies, may review and approve ~~vouchers~~ payments under this section and make payments pursuant thereto. Any public officer or employee who willfully approves a ~~voucher~~ payment with knowledge it contains false or unlawful claims or that it does not otherwise meet the requirements of this section for approval is guilty of theft and punishable under the provisions of chapter 12.1-23. Any public officer or employee who, without the use of ordinary care and diligence, negligently approves a ~~voucher~~ payment for a department, agency, or institution containing false or unlawful claims or which does not otherwise meet the requirements of this section for approval is personally liable for any funds improperly expended. The director of the office of management and budget, members of the office of the budget, state auditor, or any other person who has knowledge of an actual or possible violation of this section shall make such information known to the attorney general. The attorney general shall investigate any alleged violations and, if a violation appears to exist, shall criminally prosecute under chapter 12.1-23 or bring a civil suit for the recovery of such funds as may actually have been improperly paid against the payee and

¹⁸³ Section 44-08-05.1 was also amended by section 1 of House Bill No. 1180, chapter 495.

officer or employee who approved ~~such voucher~~ the payment in violation of any of the above requirements or shall bring both such criminal action and civil suit. The officer or employee who approves any ~~voucher~~ payment negligently has the right of subrogation against the payee of ~~such voucher~~ the payment in the event public funds have been improperly paid to the payee.

SECTION 4. AMENDMENT. Section 54-06-06 of the North Dakota Century Code is amended and reenacted as follows:

54-06-06. Salaries of state officers ~~payable monthly~~ and employees - Periodic payment. Unless otherwise provided by law, the office of management and budget ~~is directed to shall~~ shall prepare, ~~and state auditor to sign,~~ warrants for the salaries of ~~the various~~ state officers and employees not less frequently than monthly as the same become due.

SECTION 5. REPEAL. Sections 44-08-08 and 54-06-16 of the North Dakota Century Code are repealed.

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