

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Kasper

1 A BILL for an Act to amend and reenact subsection 15 of section 44-04-17.1 and subsection 2
2 of section 44-04-18 of the North Dakota Century Code, relating to definition of a record and fees
3 charged for copies of public records.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 15 of section 44-04-17.1 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 15. "Record" means recorded information of any kind, regardless of the physical form
8 or characteristic by which the information is stored, recorded, or reproduced, which
9 is in the possession or custody of a public entity or its agent and which has been
10 received or prepared for use in connection with public business or contains
11 information relating to public business if the information is recorded on or with or
12 repaired using public property or resources. "Record" does not include unrecorded
13 thought processes or mental impressions, but does include preliminary drafts and
14 working papers. "Record" also does not include records in the possession of a
15 court of this state.

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

18 2. Upon request for a copy of specific public records, any entity subject to
19 subsection 1 shall furnish the requester one copy of the public records requested.
20 A request need not be made in person or in writing, and the copy must be mailed
21 upon request. A public entity may charge up to twenty-five cents per impression of
22 a paper copy. As used in this section, "paper copy" means a one-sided or
23 two-sided duplicated copy of a size not more than eight and one-half by fourteen
24 inches [19.05 by 35.56 centimeters]. For any copy of a record that is not a paper

1 copy as defined in this section, the public entity may charge a reasonable fee for
2 the actual cost of for making the copy. ~~As used in this section, "reasonable fee"~~
3 ~~means the actual cost to the public entity of making the copy,~~ including labor,
4 materials, and equipment. The entity may charge for the actual cost of postage to
5 mail a copy of a record. An entity may require payment before locating, redacting,
6 making, or mailing the copy. An entity may impose a fee not exceeding twenty-five
7 dollars per hour per request, excluding the initial hour, for locating records if
8 locating the records requires more than one hour. An entity may impose a fee not
9 exceeding twenty-five dollars per hour per request, excluding the initial hour, for
10 excising confidential or closed material under section 44-04-18.10. If the entity is
11 not authorized to use the fees to cover the cost of providing or mailing the copy, or
12 both, or if a copy machine is not readily available, the entity may make
13 arrangements for the copy to be provided or mailed, or both, by another entity,
14 public or private, and the requester shall pay the fee to that other entity. This
15 subsection does not apply to copies of public records for which a different fee is
16 specifically provided by law.