

COUNTIES

CHAPTER 98

SENATE BILL NO. 2390

(Senators Lyson, Kinnoin)
(Representatives Nichols, Wald)

STATE'S ATTORNEY AND SHERIFF APPOINTMENT AND ELECTION

AN ACT to create and enact a new section to chapter 11-10 of the North Dakota Century Code, relating to the appointment of state's attorneys; to amend and reenact sections 11-08-05, 11-08-07, 11-08-08, 11-08-09, 11-08-10, 11-08-13, 11-08-15, 11-09-18, 11-09-19, subsection 3 of section 11-09.1-05, sections 11-10-02, 11-10-04, subsection 3 of section 11-10.2-01, and section 11-15-01.1 of the North Dakota Century Code, relating to the election of the county sheriff and county state's attorney; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-08-05 of the North Dakota Century Code is amended and reenacted as follows:

11-08-05. Vote required - Effective date - Procedure for discontinuance. If a majority of the votes cast on the question of the adoption of the county consolidated form of government are in favor of that form, it becomes effective on the first day of January next succeeding the election. All elected officers whose offices become appointive under this chapter shall continue in office until their successors are appointed pursuant to the provisions of this chapter. The question of the discontinuance of the county consolidated office form of government may be submitted to the electors at the next primary election through the same procedures set forth in this chapter for adopting that form of government. On the first day of January following a vote to discontinue, the county reverts to the form of government of the county immediately preceding adoption of the consolidated office form of government, with all offices made appointive under this chapter subject to election at the last preceding general election, or to another optional form of county government adopted by the electors as provided by law.

SECTION 2. AMENDMENT. Section 11-08-07 of the North Dakota Century Code is amended and reenacted as follows:

11-08-07. Appointive officers - County commissioners, sheriff, and state's attorney elected - Terms of office - How vacancy filled. The board of county commissioners shall appoint each county officer mentioned in section 11-08-06, except the members of the board of county commissioners, who must be elected in the manner provided in section 11-11-02, and the sheriff and the state's attorney, who must be elected as provided in section 11-10-02, except as provided in section 12 of this Act. Each county officer shall hold office for a term of four years, except as otherwise provided in this chapter, and until the officer's successor is duly

appointed and qualified. The board of county commissioners shall fill any vacancy resulting from any cause.

SECTION 3. AMENDMENT. Section 11-08-08 of the North Dakota Century Code is amended and reenacted as follows:

11-08-08. When appointment of officers made - Qualification. The county officers to be appointed must be appointed by the board of county commissioners at the following times in the year in which the county consolidated office form of government goes into effect:

1. On or before the fifteenth day of January, the ~~sheriff, state's attorney, and~~ coroner must be appointed, and ~~such officers shall~~ the coroner must qualify within ten days thereafter.
2. Not less than ten days prior to April first, the county auditor must be appointed, and the appointee qualify within ten days thereafter.
3. Not less than ten days prior to May first, the county treasurer must be appointed, and the appointee ~~shall~~ must qualify within ten days thereafter.

Thereafter, the appointments must be made within ten days prior to the expiration of the terms of office of the officers. The failure of the board of county commissioners to make any appointment within the time prescribed does not impair its power to make the appointment subsequently for the remainder of the term of office of the officer so appointed.

SECTION 4. AMENDMENT. Section 11-08-09 of the North Dakota Century Code is amended and reenacted as follows:

11-08-09. Compensation of officers. Each member of the board of county commissioners and each other county officer who is appointed by ~~such~~ the board ~~shall~~ or elected must receive as compensation for services the salary prescribed by law for ~~such~~ the officer, except that the county auditor ~~shall~~ must receive a salary not exceeding three thousand dollars per annum and the county treasurer ~~shall~~ must receive a salary not exceeding the amount provided by law for the office of county treasurer, to be fixed by the board of county commissioners.

SECTION 5. AMENDMENT. Section 11-08-10 of the North Dakota Century Code is amended and reenacted as follows:

11-08-10. Board may appoint officers Sheriff or state's attorney of adjoining county may run for election - Term of office - Compensation. The ~~board of county commissioners may appoint~~ the sheriff or the state's attorney, or both, of an adjoining county to act as the sheriff or state's attorney of its county may run for election in a county which has adopted the county consolidated office form of government. Any such officer of an adjoining county so ~~appointed~~ elected shall serve for a term of ~~two~~ four years and until that officer's successor is ~~appointed~~ elected and qualified. An officer ~~appointed~~ elected under this section is eligible to serve in such dual capacity and ~~shall~~ must receive, in addition to the salary as an officer of the county of residence, a sum not exceeding one-half of such salary, to be fixed by the board of county commissioners. The additional salary ~~shall~~ must be paid by the county in the same manner as other county officers are paid.

SECTION 6. AMENDMENT. Section 11-08-13 of the North Dakota Century Code is amended and reenacted as follows:

11-08-13. Powers and duties of other officers. The sheriff, state's attorney, and coroner elected or appointed under this chapter shall perform the duties and exercise the powers conferred by law upon them.

SECTION 7. AMENDMENT. Section 11-08-15 of the North Dakota Century Code is amended and reenacted as follows:

11-08-15. Removal of officers. Any county officer appointed by the board of county commissioners or elected under the provisions of this chapter may be suspended or removed by the governor or by judicial proceedings in the manner provided by law.

SECTION 8. AMENDMENT. Section 11-09-18 of the North Dakota Century Code is amended and reenacted as follows:

11-09-18. State's attorney to be elected - ~~Appointment~~ - Powers - Duties. ~~The county manager~~ Except as provided in section 12 of this Act, the state's attorney of a county adopting any form of county managership; ~~with the approval of the board of county commissioners;~~ may appoint a must be elected in the manner prescribed by general statutes. The state's attorney ~~to shall~~ serve as legal adviser to the board of county commissioners and to the county manager, ~~to act as counsel for the county in any suit instituted by or against it, and to perform such other duties as may be prescribed by the board of county commissioners or which are imposed on state's attorneys by general statute.~~ In a county adopting a short form of county managership, the county manager, with the approval of the board of county commissioners, from time to time or on an annual basis, may appoint the The state's attorney of an adjoining county ~~to perform such duties as are required of a state's attorney~~ may run for election in a county which has adopted a short form of county managership. The compensation of the state's attorney of an adjoining county ~~shall must~~ be that agreed upon by the person so ~~appointed~~ elected, the county manager, and the boards of county commissioners of the two counties affected.

SECTION 9. AMENDMENT. Section 11-09-19 of the North Dakota Century Code is amended and reenacted as follows:

11-09-19. Sheriff - Election - ~~Appointment~~ - Duties - Powers. The sheriff of a county adopting a any form of county manager form of government shall managership must be elected in the manner prescribed by general statutes and ~~shall must~~ perform the duties and be subject to the restrictions contained in the general statutes. ~~In a county adopting a short form of county managership, the county manager shall, with the approval of the board of county commissioners, appoint one or more police officers who shall perform all police duties imposed on the sheriff by general statutes. All other duties imposed on the sheriff shall be performed by or under the direction of the county manager. The county manager, from time to time or on an annual basis, may contract with an adjoining county and its sheriff to obtain the services of such sheriff, and the of an adjoining county may run for election in a county that has adopted a short form of county managership. The compensation of such officer shall the sheriff of an adjoining county must be such as shall be that~~ agreed upon by the sheriff so elected, the county manager, and the boards of county commissioners of the counties affected.

SECTION 10. AMENDMENT. Subsection 3 of section 11-09.1-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 12 of this Act.

⁸⁶ **SECTION 11. AMENDMENT.** Section 11-10-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-10-02. Number and election of county officers. Each organized county, unless it has adopted one of the optional forms of county government provided by the code or has combined or separated the functions of county offices or redesignated offices as elective or appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

1. One county auditor.
2. One register of deeds.
3. One clerk of the district court, except as otherwise provided by this section.
4. ~~One state's attorney.~~
5. ~~One sheriff.~~
6. ~~One county treasurer.~~
7. 5. One coroner.
8. 6. A board of county commissioners consisting of three or five members as provided in this title.

In addition, unless otherwise provided in section 12 of this Act, each county must have an elected state's attorney and an elected sheriff. In counties having a population of six thousand or less, the register of deeds shall perform the functions of the clerk of the district court, unless the board of county commissioners adopts a resolution separating the offices no less than thirty days before petitions for

⁸⁶ Section 11-10-02 was also amended by section 7 of House Bill No. 1275, chapter 278.

nomination to county offices may first be filed for the primary election. In a county having a population of more than six thousand, the offices of clerk of district court and register of deeds may be combined into an office of register of deeds if the board of county commissioners, following consultation with the supreme court, adopts a resolution combining the offices no less than thirty days before petitions for nominations to county offices may first be filed for the primary election. For a county that has properly initiated the option pursuant to section 11-17-11, and the office of the clerk of court is funded by the legislative assembly, the board of county commissioners may provide for the functions of the register of deeds, which may include functions of the clerk of district court and other functions as determined by the board of county commissioners. Counties having a population of six thousand or less and exercising the option provided in section 11-17-11 may contract with the state court administrator for the provision of shared funding for register of deeds' services. The required officers must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, and clerk of the district court, who must be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03. The clerk of district court elected pursuant to this section is not subject to election in any future general election that occurs after the start of the state biennium after the county has properly initiated the option and the legislative assembly has provided appropriations pursuant to section 11-17-11.

SECTION 12. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

Appointment of state's attorney upon voter approval. Upon the submission to the board of county commissioners of a petition signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election or upon resolution of the board of county commissioners, the county auditor shall place the question of appointing the state's attorney on the ballot at the next regular election. If a majority of the qualified electors of the county voting on the question approves the change from elective to appointive, the change is effective at the end of the term of office of the state's attorney holding office at the time of the election.

SECTION 13. AMENDMENT. Section 11-10-04 of the North Dakota Century Code is amended and reenacted as follows:

11-10-04. Officer must be qualified elector - Exceptions. Except as otherwise specifically provided by the laws of this state, a county officer must be a qualified elector in the county in which the person is ~~chosen or~~ appointed, and a county commissioner must be a qualified elector in the district from which the commissioner is chosen. Upon approval of the board of county commissioners of each affected county, a person may serve as an elected officer of more than one county and must be a qualified elector of one of the counties in which the person is elected. A candidate for election to a county office must be, at the time of election, a qualified elector in the jurisdiction in which the candidate is to serve. Two or more counties may appoint one person to fill the same office in each county and the person filling the office must be a qualified elector of one of the counties.

⁸⁷ **SECTION 14. AMENDMENT.** Subsection 3 of section 11-10.2-01 of the North Dakota Century Code is amended and reenacted as follows:

3. This option is available in addition to, or in lieu of, other county structural options authorized under this title, unless a specific mandate for combining or separating particular county offices is otherwise provided by law. The office of ~~county judge~~ sheriff is excluded from the application of this chapter.

SECTION 15. AMENDMENT. Section 11-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

11-15-01.1. Sheriff must be qualified elector and ~~shall~~ must receive required training - Exception. Except as otherwise specifically provided by state law, the sheriff must be a qualified elector in the county in which the sheriff is elected ~~or appointed~~. Within one year after taking office, the sheriff shall attend the sheriffs' school on civil process for one week, and unless already licensed under sections 12-63-01 through 12-63-14, shall begin the training necessary to become so licensed. Within two years after taking office, the sheriff shall complete the procedures required to be licensed under sections 12-63-01 through 12-63-14.

SECTION 16. APPLICATION. Section 12 of this Act does not apply to any county that has an appointive state's attorney before the effective date of this Act.

Approved April 2, 1999
Filed April 2, 1999

⁸⁷ Section 11-10.2-01 was also amended by section 32 of House Bill No. 1045, chapter 50.

CHAPTER 99

HOUSE BILL NO. 1362

(Representatives Maragos, Koppelman, Rose)
(Senators Kelsh, Lee)

COUNTY OFFICER SALARIES

AN ACT to amend and reenact sections 11-10-10, 11-10-10.1, and subsection 2 of section 11-16-05 of the North Dakota Century Code, relating to the salaries of elected county officers and restrictions on the powers of full-time state's attorneys; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁸⁸ **SECTION 1. AMENDMENT.** Section 11-10-10 of the North Dakota Century Code is amended and reenacted as follows:

11-10-10. Salaries of elected county officers.

1. The salary of ~~the~~ an elected county auditor, county treasurer, county superintendent of schools, register of deeds, clerk of district court, and sheriff must be regulated by the population in the respective counties according to the last preceding official federal census from and after the date when the official report of ~~such~~ the census has been published ~~by the director of the census or such other official as may be charged with the duty of making such official publication.~~ Notwithstanding any decreases in population, the salaries paid county officers as of July 1, 1981, reduced by any discretionary salary increase authorized by the county commissioners pursuant to this section, must be at least the minimum amount payable for that office when filled on a full-time basis in the future.
2. ~~The~~ An elected county treasurer, county superintendent of schools, register of deeds, county auditor, and clerk of district court ~~each shall receive~~ are entitled to the following minimum annual salary, payable monthly, for official services rendered:
 - a. ~~Seventeen~~ Nineteen thousand dollars in counties having a population of less than eight thousand.
 - b. ~~Seventeen~~ Nineteen thousand five hundred dollars in counties having a population of or exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries

⁸⁸ Section 11-10-10 was also amended by section 10 of House Bill No. 1275, chapter 278.

provided for ~~herein~~ in this subsection within the limitations contained in this subdivision.

The compensation for the clerk of a district court which is funded by the state pursuant to section 11-17-11 must be set by the supreme court as a part of the judicial branch personnel system.

3. ~~Repeated by S.L. 1975, ch. 87, § 2:~~
4. The county superintendent of schools is entitled to receive for any trips necessarily made within the county in the performance of school district reorganization duties the same mileage received under section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county official provided in this section, if, in the judgment of such board, by reason of duties performed, the official merits the increase. The salary of a county official may not be reduced during the official's term of office. Any county official performing duties on less than a full-time basis may be paid a reduced salary set by the board of county commissioners. ~~In the event~~ If the county has for its employees, a group insurance program for hospital benefits, medical benefits, or life insurance, or a group retirement program, financed in part or entirely by the county, ~~such~~ the benefits may be in addition to the salaries payable to county officials.
5. ~~4.~~ Each county commissioner may receive an annual salary or per diem as provided by resolution of the board; ~~with a maximum of ten thousand dollars in counties with a population in excess of ten thousand and a maximum of nine thousand three hundred dollars in counties with a population of ten thousand or less. In addition, there must be an allowance for meals and lodging expenses at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses must be at the same rate as provided by section 11-10-15, and must be evidenced by a subvoucher or receipt as provided by section 21-05-01. As used in this section, the words "official business" include statewide meetings of the North Dakota county commissioners association.~~

~~If a board shall resolve to pay an annual salary pursuant to this subsection, it must be paid in monthly installments.~~

6. ~~5.~~ Sheriffs shall receive An elected sheriff is entitled to the following minimum annual salary, payable monthly, for official services rendered:
 - a. ~~Nineteen~~ Twenty-one thousand nine hundred dollars in counties having a population with less than eight thousand.
 - b. ~~Twenty~~ Twenty-two thousand nine hundred dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for ~~herein~~ in this subsection within the limitations contained in this subdivision.

7. ~~6.~~ ~~State's attorneys~~ An elected state's attorney in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney ~~shall~~ must be full time and ~~shall~~ may not be an attorney or counsel for any party except the state or county, ~~shall~~ is entitled to receive ~~forty-five~~ a minimum salary of forty-seven thousand dollars; ~~but the county may increase that amount up to the same salary as a county court judge.~~ State's attorneys not considered full time ~~shall receive~~ are entitled to an annual salary of at least forty-five percent of the minimum salary paid to a full-time state's attorney.

SECTION 2. AMENDMENT. Section 11-10-10.1 of the North Dakota Century Code is amended and reenacted as follows:

11-10-10.1. Legislative intent in regard to county salaries. It is the intent of the legislative assembly that the several boards of county commissioners shall exercise the responsibility of setting the salaries of county officials within the limits imposed by section 11-10-10. A board of county commissioners, in making a decision in regard to a county official's salary, should take into account the financial status of the county, the responsibilities of the position, and any ~~other~~ other factors ~~which~~ that the board may deem deems relevant in arriving at ~~such~~ the decision.

SECTION 3. AMENDMENT. Subsection 2 of section 11-16-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Be eligible to or hold any state or federal judicial office except that of United States commissioner.

SECTION 4. EFFECTIVE DATE. Sections 1 and 2 of this Act become effective on January 1, 2000.

Approved March 26, 1999
Filed March 26, 1999

CHAPTER 100**HOUSE BILL NO. 1357**

(Representatives Delmore, Clark, Severson)
(Senators Kelsh, Lyson, Watne)

COUNTY OFFICIAL TRAINING

AN ACT to create and enact a new section to chapter 11-10 of the North Dakota Century Code, relating to the training of newly elected or appointed county officials.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

Newly elected or appointed county officials - Training. Within one year of assuming office, an individual who is elected or appointed to the office of county commissioner, auditor, clerk of district court, register of deeds, or treasurer shall attend training based upon a curriculum specific to that office and approved by the statewide association for that office.

Approved March 25, 1999

Filed March 25, 1999

CHAPTER 101**HOUSE BILL NO. 1146**

(Representative Galvin)

COUNTY COMMISSION PET REGULATION

AN ACT to amend and reenact subsection 22 of section 11-11-14 of the North Dakota Century Code, relating to powers of boards of county commissioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 22 of section 11-11-14 of the North Dakota Century Code is amended and reenacted as follows:

22. To regulate ~~or prohibit the running at large of animals~~ the confinement and control of dogs, cats, and other household pets, provided the regulations do not conflict with rules adopted by the state board of animal health.

Approved March 31, 1999

Filed March 31, 1999

CHAPTER 102

HOUSE BILL NO. 1446

(Representatives Haas, Boucher, Mahoney)
(Senators Krauter, Urlacher)

UNORGANIZED TERRITORY ROAD LEVY

AN ACT to amend and reenact sections 11-11-17, 24-06-14, and 57-15-22 of the North Dakota Century Code, relating to the appointment of district overseer of highways for unorganized territory and the levy for roads and bridges in unorganized territory; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11-17 of the North Dakota Century Code is amended and reenacted as follows:

11-11-17. Board of county commissioners may supervise the building or repairing of roads, bridges, and property of the county - Compensation. Whenever the board of county commissioners of any county is required by law to lay out, oversee, and supervise the building or repairing of roads and bridges, including the appointment of a district overseer of highways' duties in unorganized territory, or the building or repairing of any property owned by the county, the board may appoint or designate one or more members of the board personally to lay out, oversee, or supervise the building or repairing of any such roads, bridges, or property. Each commissioner ~~shall~~ is entitled to receive as compensation for services the sum of five dollars per day and the mileage provided by law for members of the board of county commissioners.

SECTION 2. AMENDMENT. Section 24-06-14 of the North Dakota Century Code is amended and reenacted as follows:

24-06-14. District overseer of highways. In unorganized territory, the board of county commissioners shall appoint a district overseer of highways whose power and duties are the same as in an organized township, and whose compensation must be fixed by the board of county commissioners to be paid on presentation of a verified bill at the regular meeting of the board of county commissioners. The board may, by resolution, appoint one or more of its members as district overseers.

SECTION 3. AMENDMENT. Section 57-15-22 of the North Dakota Century Code is amended and reenacted as follows:

57-15-22. Tax levy limitations in unorganized townships. The total tax levied by the board of county commissioners in any unorganized township for the construction, maintenance, and improvement of any roads and bridges may not exceed eighteen mills on the dollar of the taxable valuation of the township or the amount in dollars that the township would have been entitled to levy under section 57-15-01.1 if the township had remained organized, but this does not prohibit the levy of general county road and bridge taxes in such unorganized township.

SECTION 4. EFFECTIVE DATE. Section 3 of this Act is effective for taxable years beginning after December 31, 1998.

Approved March 31, 1999

Filed March 31, 1999

CHAPTER 103

HOUSE BILL NO. 1222 (Representatives Kerzman, Froelich) (Senator Krauter)

COUNTY JOB DEVELOPMENT AUTHORITY DISCONTINUANCE

AN ACT to amend and reenact section 11-11.1-01 of the North Dakota Century Code, relating to elections to discontinue county job development authorities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11.1-01 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-01. Job development authority - Board of directors' members qualifications.

1. The board of county commissioners, by resolution, may create a job development authority for the county, or may discontinue a job development authority which has been created for the county.
 - a. If the authority is created, the question of discontinuing the authority may be placed on the ballot at the next regular election by petition filed with the county auditor at least ninety days before any countywide election and signed by electors of the county who are residents of the area subject to taxation under section 11-11.1-04 equal in number to ten percent of the votes cast in the county in the area subject to taxation under section 11-11.1-04 for the office of governor in the last general election.
 - b. The question to be voted on at the election must be submitted by ballot in substantially the following form:

<u>Should the (insert name of job development authority) be terminated?</u>	Yes <input type="checkbox"/>
	<u>No</u> <input type="checkbox"/>
 - c. Only electors of the county who are residents of the area subject to taxation under section 11-11.1-04 may vote on the question to discontinue the authority. The question to discontinue the authority requires a majority of the electors voting on the question for passage.
2. If the authority is created, a board of directors of not fewer than ten nor more than twenty members must be appointed by the county commissioners and must consist of representatives from the following groups, as they may exist:
 4. a. Two members from the county commission.

- ~~2.~~ b. One member from the city council or commission of each city within the county which has a population of five hundred or more.
- ~~3.~~ c. One member selected from among the city governments of the remaining cities of the county.
- ~~4.~~ d. If a majority of the townships in the county are organized townships, two members selected from the township governments of the organized townships in the county.
- ~~5.~~ e. The remaining members must be selected from a list of candidates from the following fields:
 - ~~a.~~ (1) A representative of the local job service office nearest the county seat.
 - ~~b.~~ (2) A member of the local airport authority.
 - ~~c.~~ (3) A member of a local institution of higher education.
 - ~~d.~~ (4) A member from among the school boards of the county.
 - ~~e.~~ (5) A member from a local industrial development organization.
 - ~~f.~~ (6) A member of the regional planning council serving the county.
 - ~~g.~~ (7) A member of the legislative assembly representing a district within the county.
 - ~~h.~~ (8) Members at large from the county.
3. The county commissioners shall make ~~these~~ these appointments to the board from a slate of candidates submitted by the chambers of commerce within the county. If no chamber of commerce exists in the county, the nominations may be submitted by any civic or patriotic organization within the county. If names submitted are unacceptable, the county commission may request additional nominees. The members must be appointed without regard to political affiliation and upon their fitness to serve as members by reason of character, experience, and training. All members of the board who do not reside in the area subject to taxation under section 11-11.1-04 are nonvoting members of the board.

Approved March 9, 1999
Filed March 9, 1999

CHAPTER 104

SENATE BILL NO. 2128 (Senator Fischer)

STATISTICAL INFORMATION COMPILATION FEES

AN ACT to amend and reenact section 11-13-02.1 and subsection 2 of section 44-04-18 of the North Dakota Century Code, relating to fees charged for compiling statistical information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-13-02.1 of the North Dakota Century Code is amended and reenacted as follows:

11-13-02.1. Duties of county official in rendering services to private individuals, firms, or corporations - Fees to be charged - Disposition of fees - Records to be kept. ~~It shall not be the duty of any A county official is not required to compile statistical information for, or furnish copies of records to, private individuals, firms, or corporations, other than that required of the county auditor by section 11-13-15. A county official may compile statistical information for, or furnish copies of records to, private individuals, firms, or corporations upon payment of a suitable charge which shall must be commensurate with costs to the county of providing such the services. Such If the service takes more than an hour to provide, the board of county commissioners shall determine the fee shall be a minimum of twenty-five cents and shall, which may not exceed the sum of one dollar twenty-five dollars per hour, excluding the initial hour, for time consumed in compiling such the statistical information or preparing such copies of records, to be remitted. The county official shall remit the fees each month to the county treasurer for credit to the county general fund. The county official shall keep a complete record of fees collected under this section.~~

SECTION 2. AMENDMENT. Subsection 2 of section 44-04-18 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Upon request for a copy of specific public records, any entity subject to subsection 1 shall furnish the requester one copy of the public records requested. A request need not be made in person or in writing, and the copy must be mailed upon request. The entity may charge a reasonable fee for making or mailing the copy, or both. An entity may require payment before making or mailing the copy, or both. If the entity is not authorized to use the fees to cover the cost of providing or mailing the copy, or both, or if a copy machine is not readily available, the entity may make arrangements for the copy to be provided or mailed, or both, by another entity, public or private, and the requester shall pay the fee to that other entity. As used in this subsection, "reasonable fee" means the actual cost to the public entity of making or mailing a copy of a record, or both, including labor, materials, postage, and equipment, but

excluding any cost associated with locating, reviewing, or providing access to the requested record, or any cost associated with excising confidential or closed material under section 44-04-18.8. An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for locating records if locating the records requires more than one hour. This subsection does not apply to copies of public records for which a different fee is specifically provided by law.

Approved March 29, 1999

Filed March 29, 1999

CHAPTER 105**SENATE BILL NO. 2231**
(Senators B. Stenehjem, Kringstad)
(Representatives Carlisle, Henegar)**ABSTRACT CERTIFICATION REPEAL**

AN ACT to repeal sections 11-13-10 and 11-14-05 of the North Dakota Century Code, relating to certification of abstracts by county auditors and treasurers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 11-13-10 and 11-14-05 of the North Dakota Century Code are repealed.

Approved March 8, 1999
Filed March 8, 1999

CHAPTER 106

SENATE BILL NO. 2130

(Government and Veterans Affairs Committee)
(At the request of the State Auditor)

STATE AUDITOR DUTIES

AN ACT to amend and reenact sections 11-14-18, 11-22-04, 11-28.3-11, 16.1-14-15, 18-11-22, 23-30-09, 26.1-21-09, 36-15-09, 36-22-09, 44-09-26, 48-02-07, 49-17.2-27, 54-10-03, 54-10-14, 54-10-19, 61-03-03, and 61-03-18 of the North Dakota Century Code, relating to the duties of the state auditor; and to repeal section 25-07-09 of the North Dakota Century Code, relating to the collection of clothing account at the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-14-18 of the North Dakota Century Code is amended and reenacted as follows:

11-14-18. Failure of treasurer to make settlement - Auditor to start suit. If a county treasurer fails to make return and settlement, or fails to pay over all money with which the treasurer stands charged, at the time and in the manner prescribed by law, the county auditor, on receiving instructions for that purpose from the ~~state auditor or from the~~ board of county commissioners of the treasurer's county, shall cause suit to be instituted against the treasurer and the treasurer's sureties, or any of them.

SECTION 2. AMENDMENT. Section 11-22-04 of the North Dakota Century Code is amended and reenacted as follows:

11-22-04. How special funds are disbursed. Moneys deposited under the provisions of this chapter shall be disbursed only upon the order of the county auditor based upon the order of the officer making the deposit or of that officer's successor in office. ~~If any fund deposited is such as is required to be disbursed by warrant or draft drawn by the state auditor, then disbursement thereof shall be made only on such warrant or draft.~~ If the deposit is made in the form of a check or draft, the county treasurer shall not disburse the fund unless or until such check or draft is paid.

SECTION 3. AMENDMENT. Section 11-28.3-11 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-11. Funds collected to be deposited. All funds collected on behalf of the district through the levy of taxes, all donations, contributions, bequests, or annuities, and all borrowed money received by or on behalf of the district shall be deposited in a state or national bank to the credit of the district account and shall be drawn out only by warrant.

Claim vouchers shall be authorized by the board of directors and shall bear the signature of the secretary-treasurer and the countersignature of the president. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. ~~Once each year at the same time the state auditor examines other county records, the state~~

~~auditor shall examine the records of the secretary-treasurer of the rural ambulance service district, and the cost of such examination shall be paid by the district. The secretary-treasurer of the rural ambulance service district shall bring the records of the district to the office of the county auditor for the examination.~~

SECTION 4. AMENDMENT. Section 16.1-14-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-15. Costs - Taxation. The costs of an election contest under the provisions of this chapter must be taxed under the direction of the board. If two or more cases are heard together, the costs must be apportioned as the board shall direct. In each case in which the petitioners do not prevail, the costs must be paid by them, and in each case in which the petitioners prevail, the costs must be paid by the state. If the costs are required to be paid by the state, the board shall certify the costs to the state auditor office of management and budget, ~~who~~ which shall issue ~~the state auditor's~~ a warrant upon the state treasurer in payment of the same.

SECTION 5. AMENDMENT. Section 18-11-22 of the North Dakota Century Code is amended and reenacted as follows:

18-11-22. Examination of relief association records - Report of unauthorized spending to governor - Duty of governor. The books and accounts of the secretary-treasurer of each firefighters relief association receiving funds under the provisions of this chapter must be examined pursuant to section 54-10-14. If the audit report discloses that the money, or any part of it, has been or is being expended for unauthorized purposes, the state auditor shall report the facts to the governor. Thereupon, the governor shall direct the state auditor office of management and budget to refuse to issue any warrants for the benefit of the fire department or relief association of the municipality in which such association is organized until it appears to the state auditor, who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand.

SECTION 6. AMENDMENT. Section 23-30-09 of the North Dakota Century Code is amended and reenacted as follows:

23-30-09. Funds collected to be deposited. The following must be deposited in a state or national bank qualified as a depository for public funds to the credit of the district fund and may be drawn out only by warrant:

1. All funds collected on behalf of the district through the levy of taxes.
2. All income and earnings of the district.
3. All donations, contributions, bequests, or annuities.
4. All borrowed money received by or on behalf of the district.

~~Such claim voucher must be authorized by the board of directors and must bear the signature of the treasurer and the countersignature of the president of such district. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. ~~Once each year at the same time the state auditor examines other county records he shall examine the records of the secretary-treasurer of the district, and the cost of such examination must be paid by such district. The secretary-treasurer of the district shall bring his records to the office of the county auditor for such examination.~~~~

SECTION 7. AMENDMENT. Section 26.1-21-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-09. Premiums - Amount to whom paid - Minimum. The premium for a blanket bond must be determined by the commissioner. Premiums must be paid in advance by the proper authority of the state, or of the political subdivision of the state, from its treasury, to the state treasurer who shall keep the same in the fund. The state treasurer shall issue ~~quadruple~~ receipts ~~therefor~~ in triplicate. The treasurer shall file one of such receipts in the treasurer's office, and shall mail one to the official making such payment; and one to the commissioner; ~~and one to the state auditor~~. The minimum premium for each bond must be two dollars and fifty cents per year. Payments must be made for one year or for such longer terms as the commissioner may prescribe. From and after July 1, 1953, the premiums referred to in this section must be waived until the reserve fund of the state bonding fund has been depleted below the sum of two and one-half million dollars. The collection of premiums must be resumed on the bonds, at the rates herein set forth, whenever the reserve fund is depleted below the sum of two and one-half million dollars. The premiums must continue to be collected until the reserve fund reaches a total of three million dollars, at which time all premiums must again be waived until the reserve fund has been depleted below the sum of two and one-half million dollars.

⁸⁹ **SECTION 8. AMENDMENT.** Section 36-15-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-15-09. Return of appraisal - Payment of claims for diseased animals. The return of an appraisal made under this chapter must be in writing and signed by the board or by the agent thereof which made the appraisal, or by the members of the board of appraisers if a reappraisal is made after a protest, and by the owner of the condemned animal. The return must be certified by the commissioner of agriculture to the ~~state auditor~~ office of management and budget, ~~who~~ which shall draw a warrant upon the state treasurer in favor of the owner of the animal. The amount of indemnity paid by this state, however, must be, in the case of an animal condemned because it is infected with tuberculosis or paratuberculosis, one-third of the difference between the appraised value of the animal and the net value of the salvage received by the owner, however, the indemnity payments may not exceed twenty-five dollars for each grade animal or fifty dollars for each registered purebred animal, except, that if the federal government fails to provide an amount of indemnity equal to that provided by the state, the owner must be paid one-half of the difference between the appraised value of the animal and the net value of the salvage thereof. Before any indemnity payment is made for such registered purebred animals, a certificate of registration in a recognized herdbook must be submitted to the state veterinarian prior to the date set for slaughter of said animal. This state is not liable for indemnity under this chapter in excess of the amount appropriated for the payment of such indemnity by the legislative assembly and the state is not liable for indemnity for any animal killed during a biennium after the appropriation for such biennium has been exhausted.

SECTION 9. AMENDMENT. Section 36-22-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

⁸⁹ Section 36-15-09 was also amended by section 22 of House Bill No. 1276, chapter 317.

36-22-09. Audit of stockmen's association. It is the duty of the board of directors of the North Dakota stockmen's association to provide for an audit at least once every two years by a certified public accountant or licensed public accountant. Two copies of each audit report must be submitted to the state auditor's office legislative council.

SECTION 10. AMENDMENT. Section 44-09-26 of the North Dakota Century Code is amended and reenacted as follows:

44-09-26. Court of impeachment - Compensation - Members - Counsel - Payment. The presiding officer, except the chief justice when presiding, and members of the senate, while sitting as a court of impeachment, and members of the house of representatives, each shall be entitled to receive his regular per diem compensation and expense reimbursement as provided in section 54-03-20 and mileage; plus five dollars per day as reimbursement for expenses as provided in section 54-06-09, while attending the court of impeachment. The compensation of the secretary of the senate, sergeant at arms, and all subordinate officers, clerks, stenographers, and reporters of the court and counsel employed to assist the managers and counsel selected and employed by accused with respect to his the accused's defense in his the impeachment trial, must be such amount as must be determined upon by a vote of the members of such court; provided, however, that the amount paid to the counsel employed to assist the managers and the amount paid to the counsel employed to assist the accused must be equal. The state auditor office of management and budget, upon presentation of a certificate signed by the presiding officer and secretary of the senate, shall draw his warrants upon the state treasurer to pay from the general fund the expense of the senate, and the compensation of the officers, clerks, stenographers, and reporters and counsel under the provisions of this chapter.

SECTION 11. AMENDMENT. Section 48-02-07 of the North Dakota Century Code is amended and reenacted as follows:

48-02-07. Allowance and payment of estimates - Investment of retainage. At least once in each calendar month during the continuance of work upon any public building or erection begun and carried on under the provisions of this chapter, the governing board, or a committee thereof duly authorized by the board for that purpose, shall meet and receive and consider estimates furnished by the supervising architect or the superintendent of construction of such building or erection, and shall allow such estimates in an amount of the estimated value of the labor and material furnished upon such contract, and of the material then upon the ground for use in the construction thereof, subject to retentions as follows: ten percent of each estimate presented until such time as the project is fifty percent completed, with no further retainage on estimates during the continuance of the contract. The governing board may, however, upon completion of ninety-five percent of the contract according to the estimates, pay to the contractor ninety-five percent of the amount retained from previous estimates. The remaining amount retained shall be paid to the contractor in such amounts and at such times as are approved by the supervising architect or superintendent of construction, with final payment of all moneys due to the contractor to be made immediately following completion and acceptance of the project. If no supervising architect and no superintendent of construction is employed upon such contract, the contractor, at the end of each calendar month during the continuance of work under any such contract, may furnish to such board or public body in charge of such work like estimates which shall be allowed in like manner. Said board or committee thereof, immediately after considering and allowing any such estimate, shall certify and forward the same to the state auditor, county auditor, city auditor, or other official having the power to draw warrants,

who forthwith shall draw ~~his~~ that official's warrant upon the proper fund and transmit the same promptly to the contractor entitled thereto. On the amounts of estimates retained, as provided herein, the governing board, authorized committee, or public body in charge of such work may invest or deposit said retained amounts in any financial association or institution in North Dakota, so that the contractor's money will be earning interest or dividends for the benefit of the contractor. Any amounts so invested or deposited shall remain in the name of the governing board, authorized committee, or public body in charge of such work until final payment of all money due to the contractor is to be made. Further, no contractor shall use such account in any manner whatsoever until released and received by ~~him~~ the contractor upon completion of the contract.

SECTION 12. AMENDMENT. Section 49-17.2-27 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-17.2-27. Designation of director of department of transportation as agent of authority - Funds held in separate account - ~~Vouchers and warrants.~~ An authority may designate the director of the department of transportation as its agent to accept, receive, receipt for, and disburse federal and state moneys, and other moneys, public or private, made available by grant or loan or both, to accomplish in whole or in part, any of the purposes of this chapter. It may designate the director of the department of transportation as its agent to contract for and supervise the planning, acquisition, development, construction, improvement, maintenance, equipping, or operation of any railroad or railroad facility.

All funds received by the director of the department of transportation pursuant to this section shall be deposited in the state treasury. Unless otherwise prescribed by the agency from which such funds were received, the funds shall be kept in separate accounts according to the purposes for which the funds were made available. Such funds shall be held by the state in trust for such purposes, and paid ~~on warrants drawn by the state auditor on vouchers~~ out only when approved by the director of the department of transportation.

⁹⁰ **SECTION 13. AMENDMENT.** Section 54-10-03 of the North Dakota Century Code is amended and reenacted as follows:

54-10-03. Official bond. The state auditor shall ~~execute an official~~ be covered by a fidelity bond in the sum of at not less than twenty thousand dollars.

SECTION 14. AMENDMENT. Section 54-10-14 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:

1. Counties.
2. Cities.

⁹⁰ Section 54-10-03 was repealed by section 24 of Senate Bill No. 2360, chapter 113.

3. Park districts.
4. School districts.
5. Firefighters relief associations.
6. Airport authorities.
7. Public libraries.
8. Water resource districts.
9. Garrison diversion conservancy district.
10. Rural fire protection districts.
11. Special education districts.
12. Area vocational and technology centers.
13. Correction centers.
14. Recreation service districts.
15. Weed boards.
16. Irrigation districts.
17. Rural ambulance service districts.
18. Southwest water authority.
19. Regional planning councils.
20. Soil conservation districts.

The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. The political subdivision audited shall pay to the state treasurer the fees for the audit performed by the state auditor. The state treasurer shall deposit the fees in the state auditor operating account. The state treasurer shall credit the state auditor operating account with the amount of interest earnings attributable to the deposits in that account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.

In lieu of conducting an audit every two years, the state auditor may require annual reports from school districts with less than one hundred enrolled students, cities with less than three hundred population, and other political subdivisions subject to this section, or otherwise provided by law, with less than one hundred thousand dollars of annual receipts. The reports must contain the financial information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political

subdivision a fee not to exceed fifty dollars an hour for the costs of reviewing the annual report.

A political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the state auditor. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit report to determine if the report is in the required form and has the required content, and if the audit meets generally accepted government auditing standards. The state auditor also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the report is in the required form and has the required content, and the report and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to fifty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of reviewing the audit report and workpapers.

A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.

The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections shall result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

SECTION 15. AMENDMENT. Section 54-10-19 of the North Dakota Century Code is amended and reenacted as follows:

54-10-19. Supervision of books and accounts of public institutions and private institutions with which state has dealings. The state auditor shall assume and exercise ~~constant~~ supervision over the books and financial accounts of the several public offices and institutions which ~~he~~ the state auditor is authorized to examine. ~~He shall prescribe and enforce a correct and uniform method of keeping financial accounts in such offices and institutions; shall recommend a form for warrants or for order checks of all local units of government except school districts which shall conform so far as consistent with statutory requirements and shall instruct the proper officer of each of said institutions in the due performance of his duties concerning the same. He shall have authority to~~ The state auditor may examine the books and accounts of all private institutions with which the state has any dealings so far only as the same relate to such dealings. If any public officer having control of any such office or institutions fails or refuses to comply with the directions of the state auditor, the auditor shall report the facts to the governor and to the manager of the state bonding fund, and such refusal constitutes grounds for removal from office and cancellation of the bond of such officer.

SECTION 16. AMENDMENT. Section 61-03-03 of the North Dakota Century Code is amended and reenacted as follows:

61-03-03. Auditing of claims. All claims for services rendered, expenses incurred, or materials or supplies furnished under direction of the state engineer and which are payable from the funds appropriated for the prosecution of the work under the state engineer's direction and supervision, shall be approved by the state engineer ~~and properly vouchered and filed in the office of the state auditor.~~

SECTION 17. AMENDMENT. Section 61-03-18 of the North Dakota Century Code is amended and reenacted as follows:

61-03-18. Hydrographic survey fund - Use - Payments. The hydrographic survey fund, a permanent fund, shall be used only for the payment of the expenses of the surveys ordered by the court as provided in section 61-03-17. All claims for services rendered, expenses incurred, or materials or supplies furnished under the direction of the state engineer in the prosecution of such surveys shall be approved by the state engineer ~~and properly vouchered and filed in the office of the state auditor.~~ The amounts paid by the parties to such suits, on account of such surveys, shall be paid to the state treasurer, who shall credit the same to such fund, which shall continue to be available for advancing the expenses of such surveys, as ordered by the court from time to time.

SECTION 18. REPEAL. Section 25-07-09 of the North Dakota Century Code is repealed.

Approved March 8, 1999
Filed March 8, 1999

CHAPTER 107

HOUSE BILL NO. 1042

(Legislative Council)
(Judiciary Committee)

CLERK OF COURT FILING FEES

AN ACT to amend and reenact sections 11-17-04, 11-26-04, 26.1-02-19, 28-20.1-05, 30.1-21-08, 30.1-32-02, 35-18-04, 35-21-05, 43-01-19, and 57-22-32 of the North Dakota Century Code, relating to filing fees charged by the clerk of district court; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-17-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-17-04. (Effective through March 31, 1999) Fees to be charged by the clerk of the district court.

1. The clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed four hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14.
 - (3) For all other filings, forty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.
 - c. For filing a small claims action in district court, ten dollars.
 - d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ten dollars.

- e. For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.
 - f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.
2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

(Effective April 1, 1999) Fees to be charged by the clerk of the district court.

1. The clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed four hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14 and fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (3) For all other filings, sixty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.
 - c. For filing a small claims action in district court, ten dollars.
 - d. ~~For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ten dollars.~~
 - e. ~~For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.~~
 - f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty

dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.

- e. For filing a foreign decree or foreign judgment, eighty dollars.
 - f. For filing a petition of subsequent administration, eighty dollars.
 - g. For filing a statement or a petition under section 30.1-32-02, eighty dollars.
 - h. For filing any other matter authorized to be filed in the office of the clerk of court, ten dollars.
 - i. For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.
2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

⁹¹ **SECTION 2. AMENDMENT.** Section 11-26-04 of the North Dakota Century Code is amended and reenacted as follows:

11-26-04. Meetings of board, when held - Fees. Whenever a debtor or creditor calls for assistance upon the debt adjustment board of the county within which the debtor resides and pays to the clerk of the district court a filing fee as prescribed in ~~subdivision e of subsection 4 of~~ section 11-17-04, ~~such the~~ clerk shall call a meeting of the debtor and the debtor's creditors with the board at the earliest possible date. The clerk shall notify the members of the board and the debtor and creditors of the time and place of such meeting. If a debtor requesting a meeting makes and files an affidavit stating that the debtor is financially unable to pay the fee provided for in this section, the payment ~~thereof shall~~ of the fee must be waived.

⁹² **SECTION 3. AMENDMENT.** Section 26.1-02-19 of the North Dakota Century Code is amended and reenacted as follows:

26.1-02-19. Fees. Any person filing a foreign decree shall pay a filing fee as prescribed in ~~subdivision e of subsection 4 of~~ section 11-17-04 to the clerk of court. Fees for docketing, transcriptions, or other enforcement proceedings are as provided for decrees of the district court.

⁹³ **SECTION 4. AMENDMENT.** Section 28-20.1-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

⁹¹ Section 11-26-04 was also amended by section 25 of House Bill No. 1275, chapter 278.

⁹² Section 26.1-02-19 was also amended by section 43 of House Bill No. 1275, chapter 278.

⁹³ Section 28-20.1-05 was also amended by section 54 of House Bill No. 1275, chapter 278.

28-20.1-05. Fees. Any person filing a foreign judgment shall pay to the clerk of court a filing fee as prescribed in ~~subdivision d of subsection 4 of section 11-17-04~~. Fees for docketing, transcription, or other enforcement proceedings must be as provided for judgments of the district court of any county of this state.

SECTION 5. AMENDMENT. Section 30.1-21-08 of the North Dakota Century Code is amended and reenacted as follows:

30.1-21-08. (3-1008) Subsequent administration - Fee. If other property of the estate is discovered after an estate has been settled and the personal representative discharged or after one year after a closing statement has been filed, the court, upon petition of any interested person and upon notice as it directs, may appoint the same or a successor personal representative to administer the subsequently discovered estate. Any person filing a petition under this section shall pay to the clerk of district court a filing fee as prescribed in section 11-17-04. If a new appointment is made, unless the court orders otherwise, the provisions of this title apply as appropriate, but no claim previously barred may be asserted in the subsequent administration.

SECTION 6. AMENDMENT. Section 30.1-32-02 of the North Dakota Century Code is amended and reenacted as follows:

30.1-32-02. (7-102) Registration procedures - Fee. Registration ~~shall~~ must be accomplished by filing a statement indicating the name and address of the trustee in which it acknowledges the trusteeship. Any person filing a statement under this section or a petition for allowance of trustee's annual report or other remedies shall pay to the clerk of district court a filing fee as prescribed in section 11-17-04. The statement ~~shall~~ must indicate whether the trust has been registered elsewhere. The statement ~~shall~~ must identify the trust:

1. In the case of a testamentary trust, by the name of the testator and the date and place of domiciliary probate.
2. In the case of a written inter vivos trust, by the name of each settlor and the original trustee and the date of the trust instrument.
3. In the case of an oral trust, by information identifying the settlor or other source of funds and describing the time and manner of the trust's creation and the terms of the trust, including the subject matter, beneficiaries, and time of performance.

If a trust has been registered elsewhere, registration in this state is ineffective until the earlier registration is released by order of the court where prior registration occurred, or an instrument executed by the trustee and all beneficiaries, filed with the registration in this state.

⁹⁴ **SECTION 7. AMENDMENT.** Section 35-18-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

⁹⁴ Section 35-18-04 was also amended by section 57 of House Bill No. 1275, chapter 278.

35-18-04. Clerk of court - Filing - Record - Fee. The clerk of the district court with whom the lien statement and proof of service are filed shall endorse on those filings the date and hour of filing and shall keep a record of all lien statements filed in the county, and of any orders, or responses relating to any orders, by the district court. The clerk shall establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. The clerk shall collect a fee as prescribed in ~~subdivision d of subsection 4 of~~ subdivision e of section 11-17-04 for filing and indexing each lien.

⁹⁵ **SECTION 8. AMENDMENT.** Section 35-21-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-21-05. Fee - Recordation - Certified copies as evidence. If the presiding officer is the clerk of the district court, the clerk may charge a fee as prescribed in ~~subdivision d of subsection 4 of~~ subdivision e of section 11-17-04 to be paid in advance by the applicant. If the officer is the clerk of the district court, the clerk shall record the notice, affidavit, and undertaking in a recording system provided for that purpose. If the officer is the register of deeds, the officer shall record the ~~same notice, affidavit, and undertaking~~ same notice, affidavit, and undertaking in the book of miscellaneous records. The register of deeds may charge a fee as provided by section 11-18-05. Certified copies of the documents are prima facie evidence, in the courts of this state, of the matters therein contained.

⁹⁶ **SECTION 9. AMENDMENT.** Section 43-01-19 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-01-19. County officers may certify abstracts. ~~The provisions of this~~ This chapter ~~do~~ does not prevent the register of deeds, county treasurer, or clerk of court from certifying to abstracts of title to lands from the records of their respective offices. Each ~~such~~ officer, however, is liable on ~~his~~ the officer's official bond for the faithful performance of all acts performed by ~~him~~ the officer as ~~such~~ the abstracter. If the officer certifying the abstract is the clerk of court, the clerk shall charge and collect a fee as prescribed in ~~subdivision e of subsection 4 of~~ subdivision e of section 11-17-04.

⁹⁷ **SECTION 10. AMENDMENT.** Section 57-22-32 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-22-32. Collection from tax debtor who moves to another county - Duty of county auditor. Upon the removal of a delinquent tax debtor from the county, collection must be made from the debtor in the manner following:

1. In case of the removal of any delinquent tax debtor from the county in which the debtor's personal property was taxed to any other county in this state, ~~it is the duty of~~ it is the duty of the assessor immediately ~~to~~ shall make a proper effort to ascertain the place of the debtor's destination and to report the ~~same place~~ same place to the county auditor. ~~Thereupon, the~~ The county

⁹⁵ Section 35-21-05 was also amended by section 58 of House Bill No. 1275, chapter 278, and section 4 of Senate Bill No. 2229, chapter 315.

⁹⁶ Section 43-01-19 was also amended by section 69 of House Bill No. 1275, chapter 278.

⁹⁷ Section 57-22-32 was also amended by section 80 of House Bill No. 1275, chapter 278.

auditor shall ~~make out~~ prepare and forward to the clerk of the district court of the county to which the tax debtor has removed a statement of the amount of ~~such the~~ delinquent taxes, including penalties and costs that may have attached, specifying the value of property on which ~~said~~ the taxes were levied.

2. On receipt of ~~any such~~ the statement, the clerk of the district court receiving the ~~same~~ statement shall issue a warrant to the sheriff of the county, and ~~such the~~ sheriff shall proceed immediately to collect the ~~same~~ taxes in the manner in which the sheriff collects delinquent taxes in the county. The sheriff shall collect from the tax debtor an additional sum as prescribed in subdivision e h of subsection 1 of section 11-17-04 for each warrant. ~~Such~~ The sum must be paid to ~~such the~~ clerk as the fee for issuing ~~said the~~ warrant, and all taxes ~~thus~~ collected must be remitted by the sheriff to the treasurer of the county to which the taxes belong, together with the original statement of account, and if any taxes remain unpaid a statement must be made of the reason ~~therefor~~, and proper entries must be made on the tax lists of the county where the tax was levied.

SECTION 11. EFFECTIVE DATE. This Act becomes effective on April 1, 1999.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 8, 1999
Filed March 8, 1999

CHAPTER 108

SENATE BILL NO. 2280

(Senators Freborg, Watne)

REGISTER OF DEEDS DOCUMENT RECORDING

AN ACT to amend and reenact sections 11-18-01, 11-18-06, 11-18-07, 11-18-10, 11-18-11, 35-03-11, 35-03-16, 35-22-15, 35-22-16, 35-27-12, 40-50.1-14, 40-50.1-17, 47-19-10, 47-29-04, and subsection 2 of section 52-04-12 of the North Dakota Century Code, relating to the recording of documents by the register of deeds; and to repeal section 19-08-07 of the North Dakota Century Code, relating to recording of bottle brands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

11-18-01. Register of deeds' duties - Recording and filing instruments - Abstracts - ~~Recording brands.~~ The register of deeds shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering ~~such the~~ instrument for filing or recording ~~shall first pay~~ pays to the register of deeds the fees provided by law for ~~such the~~ filing or recording.
2. Endorse upon each instrument filed with the register of deeds for record or otherwise the date and the hour and minute of the day of ~~such the~~ filing or recording.
3. ~~Endorse upon each instrument, when the same is recorded, in addition to the data specified in subsection 2, the number or letter designating the book of records in which the record of the instrument is made and the page upon which it is recorded.~~
4. When the instrument is recorded or filed, endorse ~~thereon~~, in a note at on the instrument the foot of the recorded instrument book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the register of deeds ~~and the book of records in which the record thereof is made and the page upon which it is recorded.~~
5. ~~4.~~ Prepare a security agreement abstract ~~forthwith~~ whenever any person requests the same agreement and pays the required fee.
6. Continue an abstract of title to real property prepared by the register of deeds whenever any person presents the same to the register of deeds for continuation and pays the required fee.

13	_____	_____	_____	_____	_____	_____	_____	_____	_____
14	_____	_____	_____	_____	_____	_____	_____	_____	_____
15	_____	_____	_____	_____	_____	_____	_____	_____	_____
16	_____	_____	_____	_____	_____	_____	_____	_____	_____
17	_____	_____	_____	_____	_____	_____	_____	_____	_____
18	_____	_____	_____	_____	_____	_____	_____	_____	_____

FORM OF SECTIONAL SYSTEM OF TRACT INDEX TO REAL ESTATE
 TOWNSHIP
 NO. _____ RANGE NO. _____ SECTION NO. _____

No. of Section	Quarter Section	Part Quarter Section	Vol.	Page or Docu- ment No.	Vol.	Page or Docu- ment No.	Vol.	Page or Docu- ment No.
1	N.E.	N.E. quarter	_____	_____	_____	_____	_____	_____
		N.W. quarter	_____	_____	_____	_____	_____	
		S.W. quarter	_____	_____	_____	_____	_____	
		S.E. quarter	_____	_____	_____	_____	_____	
	N.W.	N.E. quarter	_____	_____	_____	_____	_____	_____
		N.W. quarter	_____	_____	_____	_____	_____	_____
		S.W. quarter	_____	_____	_____	_____	_____	_____
		S.E. quarter	_____	_____	_____	_____	_____	_____
	S.W.	N.E. quarter	_____	_____	_____	_____	_____	_____
		N.W. quarter	_____	_____	_____	_____	_____	_____
		S.W. quarter	_____	_____	_____	_____	_____	_____
		S.E. quarter	_____	_____	_____	_____	_____	_____
S.E.	N.E. quarter	_____	_____	_____	_____	_____	_____	
	N.W. quarter	_____	_____	_____	_____	_____	_____	
	S.W. quarter	_____	_____	_____	_____	_____	_____	
	S.E. quarter	_____	_____	_____	_____	_____	_____	

SECTION 4. AMENDMENT. Section 11-18-10 of the North Dakota Century Code is amended and reenacted as follows:

11-18-10. Register of deeds to keep reception book record - Contents. The register of deeds shall keep a ~~book~~ record known as "The Reception ~~Book~~ Record". ~~Such book shall~~ The record must be ruled in parallel columns showing:

1. ~~In the first column at the left side of the page, the~~ The document number.
2. ~~In the second column, the~~ The date of filing recording.
3. ~~In the third column, the~~ The name of the grantor.
4. ~~In the fourth column, the~~ The name of the grantee.
5. ~~In the fifth column, the~~ The character of the instrument.

6. ~~In the sixth column, the~~ The book in which and page or document number upon which the instrument is recorded.
7. ~~In the seventh column, the~~ The name of the person to whom the instrument was delivered returned.
8. ~~In the eighth column, a~~ A brief description of the property, if any, described in the instrument.

Immediately after any document or paper of a kind mentioned in section 11-18-09 is numbered, it ~~shall~~ must be entered in the reception ~~book~~ record. The reception ~~book shall~~ record must be a part of the public records of the office and open to public inspection during office hours.

⁹⁸ **SECTION 5. AMENDMENT.** Section 11-18-11 of the North Dakota Century Code is amended and reenacted as follows:

11-18-11. Register of deeds to record ~~or file~~ instruments. When an instrument affecting the title to or creating a lien upon real estate within the county is numbered and entered in the reception ~~book~~ record and indexed, it ~~shall~~ must be recorded or filed as provided by law. The register of deeds shall ~~write or stamp, or cause to be written or stamped, at the beginning of a recorded~~ provide recording information on the instrument the words "document number" and shall add thereto the number stamped or written on the document. The register of deeds shall add, immediately after the record of such instrument, a certificate reciting that the instrument was filed in the register of deeds' office and giving the date and hour of filing. ~~The register of deeds as required by paragraph 4 of subdivision a of subsection 1 of section 11-18-05 and shall authenticate the certificate information with an official signature; but need not affix and the official seal thereto of the office as required by section 11-18-04.~~

SECTION 6. AMENDMENT. Section 35-03-11 of the North Dakota Century Code is amended and reenacted as follows:

35-03-11. Certificate of discharge - How recorded. A certificate of the discharge of a mortgage and proof or acknowledgment ~~thereof~~ of the discharge must be recorded at length and a reference made in the record to the book and page or document number where the mortgage is recorded and of the minute of the discharge, made upon the record of the mortgage, to the book and page or document number where the discharge is recorded.

SECTION 7. AMENDMENT. Section 35-03-16 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-03-16. Satisfaction of mortgage - Discharge - Form - Power of attorney. A recorded mortgage must be discharged upon the record by the register of deeds having custody ~~thereof~~ of the mortgage on the presentation of a certificate of discharge signed by the mortgagee, the mortgagee's executors, administrators, guardians, trustees, assigns, personal representatives, or special administrators appointed for that purpose, properly acknowledged or proved and certified as

⁹⁸ Section 11-18-11 was also amended by section 2 of House Bill No. 1406, chapter 109.

prescribed by chapter 47-19. The certificate of discharge must contain a brief description of the mortgage and must state that the mortgage has been paid in full or otherwise satisfied and discharged and that the officer is authorized to discharge the ~~same mortgage~~ of record. Any person executing a certificate of discharge as a personal representative of the mortgagee first shall file and have recorded in the office of the register of deeds where the mortgage is recorded, a power of attorney showing the person's authority to discharge mortgages in behalf of the mortgagee and in the mortgagee's name. The mortgagee shall present the certificate of discharge to the register of deeds for recording in the county in which the property is located within thirty days after the certificate of discharge is signed. The mortgagee may add the amount of the recording fee to the balance of the debt paid by the mortgagor. A certificate of the satisfaction of a mortgage may be made in substantially the following form:

This certifies that a certain mortgage executed by _____ of _____, mortgagor, to _____ of _____, mortgagee, dated the _____ day of _____ in the year _____, upon the _____ (here describe the property covered by the mortgage) and recorded in the office of the register of deeds in and for the county of _____ and state of North Dakota, in book _____ of mortgages on page _____ or as document number _____, is paid and satisfied; and _____ hereby authorize and require ~~said the~~ register of deeds to discharge the ~~same mortgage~~ of record in the register of deeds' office.

Witness _____ hand this ____ day of _____ A.D.

_____ (Acknowledgment).

SECTION 8. AMENDMENT. Section 35-22-15 of the North Dakota Century Code is amended and reenacted as follows:

35-22-15. Register of deeds - Note of sale on margin of mortgage record. A note referring to the page and book or document number where the evidence of any sale made under a mortgage is recorded must be made by the register of deeds in the margin of the record of ~~such~~ the mortgage.

SECTION 9. AMENDMENT. Section 35-22-16 of the North Dakota Century Code is amended and reenacted as follows:

35-22-16. Affidavit of publication recorded - Effect of in evidence. The affidavit of publication must be recorded at length by the register of deeds of the county in which the real property is situated in a ~~book record~~ kept for the record of mortgages. The original affidavit, the record thereof, and certified copies of the record are prima facie evidence of the facts ~~therein~~ contained in the record.

SECTION 10. AMENDMENT. Section 35-27-12 of the North Dakota Century Code is amended and reenacted as follows:

35-27-12. Register of deeds to record notice. The register of deeds shall record the verified notice of intention in the reception ~~book~~ record, tract index, and elsewhere according to law.

SECTION 11. AMENDMENT. Section 40-50.1-14 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-50.1-14. Notice of errors on recorded plat - Certificate by original surveyor. Notwithstanding section 40-50.1-06, if a plat, or what purports to be a plat, has been signed and filed in the office of the register of deeds of the county where the land is situated, and the plat fails to identify or correctly describe the land to be so platted or subdivided, or to show correctly on its face the tract of land intended or purported to be platted or subdivided, or is defective because the plat or subdivision and the description of land purported to be so platted or subdivided is inconsistent or incorrect, the registered land surveyor who prepared the plat may sign a certificate stating the nature of the error, omission, or defect and stating the information that surveyor believes corrects the error, supplies the omission, or cures the defect, referring, by correct book and page or document number, to the plat or subdivision and designating its name, if it has a name. The registered land surveyor shall date and sign the certificate.

SECTION 12. AMENDMENT. Section 40-50.1-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-50.1-17. Action by register of deeds. The register of deeds shall write in plain, legible letters, in black ink that is not ballpoint ink, across that part of a plat which has been vacated the word "vacated" and shall make a reference on the plat to the volume and page or document number in which the instrument of vacation is recorded.

SECTION 13. AMENDMENT. Section 47-19-10 of the North Dakota Century Code is amended and reenacted as follows:

47-19-10. Separate ~~books~~ records for grants and mortgages. Grants, absolute in terms, are to be recorded in one set of ~~books~~ records and mortgages in another.

SECTION 14. AMENDMENT. Section 47-29-04 of the North Dakota Century Code is amended and reenacted as follows:

47-29-04. Recording instrument incorporating master forms. Whenever a mortgage or deed of trust is presented for recording on which is set forth matter purporting to be a copy or reproduction of ~~such~~ the master form instrument or of a part thereof of the master form instrument, identified by its title as provided in section 47-29-01 and stating the date when it was recorded and the book and page or document number where it was recorded, preceded by the words "do not record" or "not to be recorded", and plainly separated from the matter to be recorded as a part of the mortgage or deed of trust in ~~such~~ a manner that it will not appear upon a photographic reproduction of any page containing any part of the mortgage or deed of trust, ~~such~~ the matter ~~shall~~ may not be recorded by the register of deeds to whom the instrument is presented for recording; ~~in such case the~~ The register of deeds shall record only the mortgage or deed of trust apart from ~~such~~ the matter and ~~shall~~ is not be liable for so doing, ~~any other provisions of law to the contrary notwithstanding any other provision of law.~~

SECTION 15. AMENDMENT. Subsection 2 of section 52-04-12 of the North Dakota Century Code is amended and reenacted as follows:

2. Whenever any employer, liable to pay contributions, interest, or penalty, fails to pay ~~the same~~, the amount of contributions, interest, penalty, and costs that ~~may~~ accrue is a lien in favor of the state of ~~North Dakota~~ upon all ~~real or personal~~ property and all rights to property belonging to the employer. The lien attaches at the time the contributions, interest, or penalty becomes due, and continues until the liability is satisfied. To

preserve the lien against subsequent mortgages, purchasers for value and without notice of the lien, judgment creditors, and lienholders, job service North Dakota shall file with the register of deeds, in the county in which the property is located, a notice of the lien. The lien is effective from the time of filing of the notice. The register of deeds shall preserve the notice and endorse on it the day, hour, and minute when it was received. The register of deeds shall index the notice of lien in an appropriate index ~~book~~ record and record the notice of lien in the manner provided for recording real estate mortgages. The register of deeds shall accept the notice of lien for filing without payment of a fee by job service North Dakota. Upon payment of the contributions, interest, penalty, and costs, job service North Dakota shall file with the register of deeds a satisfaction of the lien. The register of deeds shall enter the satisfaction on the notice of lien, index the satisfaction in an appropriate index ~~book~~ record, and record the satisfaction in the manner provided for recording satisfactions of real estate mortgages. The register of deeds shall accept the satisfaction for filing without payment of a fee by job service North Dakota. The attorney general, upon request of job service North Dakota, may bring suit without bond, to foreclose the lien.

SECTION 16. REPEAL. Section 19-08-07 of the North Dakota Century Code is repealed.

Approved April 8, 1999
Filed April 8, 1999

CHAPTER 109

HOUSE BILL NO. 1406 (Representative Grosz)

REGISTER OF DEEDS FEES AND CERTIFICATES

AN ACT to amend and reenact sections 11-18-05 and 11-18-11 of the North Dakota Century Code, relating to register of deeds fees and recording certificates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

11-18-05. Fees of register of deeds. The register of deeds shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
 - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, seven dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index.
 - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
 - (2) The printed, written, or typed words must be considered legible by the register of deeds before the page will be accepted for recording.
 - (3) Each real estate instrument must have a legal description considered to be adequate by the register of deeds before such instrument will be accepted for recording.
 - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the ~~front side~~ first or last page of each instrument for the register of deeds' recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
 - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, seven dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee

of one dollar for each additional section listed which is to be recorded in the tract index.

- c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
 - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of two dollars.
2. For filing any non-central indexing system instrument, five dollars.
 3. For making certified copies of any recorded instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument, a fee of not more than one dollar per instrument page.
 4. ~~For making a copy of any other filed instrument, one dollar for each five pages or portion thereof.~~ For making a copy of any filed non-central indexing system instrument, one dollar for each five pages or portion thereof. For making a certified copy of any non-central indexing system filed instrument, five dollars plus one dollar for each additional five pages or portion thereof.
 5. For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing data base, the computerized central notice system or the computerized statutory liens data base, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-42 and 41-09-43, as applicable.
 6. The register of deeds may establish procedures for providing access for duplicating records under the register of deeds' control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer generated instruments created by governmental employees.
 7. Duplicate register of deeds' records stored off-site as a security measure are not accessible for reproduction.

⁹⁹ **SECTION 2. AMENDMENT.** Section 11-18-11 of the North Dakota Century Code is amended and reenacted as follows:

⁹⁹ Section 11-18-11 was also amended by section 5 of Senate Bill No. 2280, chapter 108.

11-18-11. Register of deeds to record or file instruments. When an instrument affecting the title to or creating a lien upon real estate within the county is numbered and entered in the reception ~~book~~ record and indexed, it ~~shall~~ must be recorded or filed as provided by law. ~~The register of deeds shall write or stamp, or cause to be written or stamped, at the beginning of a recorded instrument the words "document number" and shall add thereto the number stamped or written on the document. The register of deeds shall add, immediately after the record of such instrument, a certificate reciting that the instrument was filed in the register of deeds' office and giving the date and hour of filing. The register of deeds shall authenticate the certificate with an official signature, but need not affix the official seal thereto. The register of deeds shall provide recording information on the instrument as required by paragraph 4 of subdivision a of subsection 1 of section 11-18-05 and shall authenticate the information with an official signature and the official seal of the office as required by section 11-18-04.~~

Approved March 31, 1999

Filed March 31, 1999

CHAPTER 110

HOUSE BILL NO. 1377

(Representatives Froseth, Sveen)
(Senator Redlin)

RECREATION SERVICE DISTRICT TERRITORY ANNEXATION

AN ACT to create and enact three new sections to chapter 11-28.2 of the North Dakota Century Code, relating to annexation of territory by a recreation service district; and to amend and reenact section 11-28.2-01 of the North Dakota Century Code, relating to annexation of territory by a recreation service district.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-28.2-01 of the North Dakota Century Code is amended and reenacted as follows:

11-28.2-01. Establishment of recreation service districts - Petition - Purpose.

The board of county commissioners of any county in this state, at any meeting of such board, by majority vote of all of the members may, upon the petition of ten percent of the persons who qualify pursuant to section 11-28.2-03 as voters of an area to be included within a proposed recreation service district, call for an election of all of the qualified voters of such district to determine the question of the establishment of a recreation service district for the purpose of providing police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to that provided by the local governing body or agency to summer homes, cottages, and other residences and establishments as may exist within such area, and provide for the improvement and control of the environmental quality of the recreation service district. Said recreation service district shall be limited in size and location to an area which is contiguous to or within one-quarter mile [402.34 meters] of the recreational waters of the area or to the areas of land which are dedicated to public use for recreational purposes. In addition, said district shall consist of not less than fifty privately owned seasonal homes or cottages and other residences and establishments. If a petition is presented to the board of county commissioners calling for such election, such petition shall be accompanied by such information as the board of county commissioners shall require, including the boundaries of the proposed recreation district, the approximate number of qualified voters as defined in section 11-28.2-03, and a sufficient deposit of money to cover all costs of such election. Within sixty days after the calling of such an election, the board of county commissioners shall provide an election on the question of whether or not a recreation service district should be established and shall establish procedures for voting and other necessary matters not inconsistent with the provisions of this chapter. The county commissioners shall give at least thirty days' notice of the election by certified mail to all qualified voters as defined in section 11-28.2-03. If a majority of the qualified voters approve of the establishment of a recreation service district, such district shall then be organized.

The board of commissioners of a recreation service district may extend the boundaries of the district to property within or contiguous to the one-quarter mile

[402.34 meters] limit through the annexation procedures provided in sections 2 through 4 of this Act.

SECTION 2. A new section to chapter 11-28.2 of the North Dakota Century Code is created and enacted as follows:

Annexation by petition of owners. Upon a written petition signed by the owner of any property within one-quarter mile [402.34 meters] of the recreational waters of the area or to the areas of land dedicated to public use for recreational purposes or contiguous to that area and not embraced within the limits of the recreation service district the board of commissioners of the recreation service district may annex the territory to the district.

SECTION 3. A new section to chapter 11-28.2 of the North Dakota Century Code is created and enacted as follows:

Petition of owners - Annexation or exclusion. If the recreation service district annexes the area, it shall do so by resolution. When a copy of the resolution and an accurate map of the annexed area, certified by the chairman of the board of commissioners, are filed and recorded with the county register of deeds, the annexation becomes effective. An annexation is effective for the purpose of levying special assessments by the recreation service district on and after the first day of the next February.

SECTION 4. A new section to chapter 11-28.2 of the North Dakota Century Code is created and enacted as follows:

Annexation by resolution of district. The board of commissioners of a recreation service district may adopt a resolution to annex territory as follows:

1. The board shall adopt a resolution describing the property to be annexed.
2. The board shall publish the resolution and a notice of the time and place the board will meet to hear and determine the sufficiency of any written protests against the proposed annexation in the official newspaper of the county once each week for two consecutive weeks. The board shall mail a notice to the owner of each parcel of real property within the area to be annexed at the person's last known mailing address. The notice must inform landowners of the resolution, the time and place of hearing, and the requirement that protests must be filed in writing. The owners of any real property within the territory proposed to be annexed, within thirty days of the first publication of the resolution, may file written protests with the board protesting against the proposed annexation. No state-owned property may be annexed without the written consent of the state agency or department having control of the property. The board, at its next meeting after the expiration of the time for filing the protests, shall hear and determine the sufficiency of the protests.

3. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the district. When a copy of the resolution and an accurate map of the annexed area, certified by the chairman of the board, are filed and recorded with the county register of deeds, the annexation becomes effective. Annexation is effective for the purpose of special assessments levied by the recreation service district on and after the first day of the next February. If the owners of one-fourth or more of the territory proposed to be annexed protest, the board shall stop its pursuit of the annexation.

Approved March 31, 1999

Filed March 31, 1999

CHAPTER 111

SENATE BILL NO. 2355

(Senators Solberg, Christmann, Kinnoin)
(Representatives Brusegaard, Kempenich, Solberg)

FARM AND RANCH ZONING

AN ACT to amend and reenact sections 11-33-02 and 58-03-11 of the North Dakota Century Code, relating to zoning regarding farming and ranching.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-33-02 of the North Dakota Century Code is amended and reenacted as follows:

11-33-02. Board of county commissioners to designate districts.

1. For any or all of the purposes designated in section 11-33-01, the board of county commissioners may divide by resolution divide all or any parts of the county, subject to ~~the provisions of~~ section 11-33-20, into districts of such number, shape, and area as may be ~~deemed~~ determined necessary, and ~~may~~ likewise may enact suitable regulations to carry out the purposes of this chapter. These regulations ~~shall~~ must be uniform in each district, but the regulations in one district may differ from those in other districts. ~~No~~ A regulation or restriction, ~~however, shall~~ may not prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming- ~~The provisions of this or ranching.~~ For purposes of this section, "farming or ranching" means cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.
2. A board of county commissioners may regulate the nature and scope of concentrated feeding operations permissible in the county; however, if a regulation would impose a substantial economic burden on a concentrated feeding operation in existence before the effective date of the regulation, the board of county commissioners shall declare that the regulation is ineffective with respect to any concentrated feeding operation in existence before the effective date of the regulation.
3. A regulation may not preclude the development of a concentrated feeding operation in the county. A regulation addressing the development of a concentrated feeding operation in the county may set reasonable standards, based on the size of the operation, to govern its location.
4. For purposes of this section, "concentrated feeding operation" means any livestock feeding, handling, or holding operation, or feed yard, where animals are concentrated in an area that is not normally used for pasture or for growing crops and in which animal wastes may accumulate, or in an area where the space per animal unit is less than

six hundred square feet [55.74 square meters]. The term does not include normal wintering operations for cattle. For purposes of this section, "livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, and fur animals raised for their pelts.

5. A board of county commissioners may not prohibit, through regulation, the reasonable diversification or expansion of a farming or ranching operation.
6. This chapter ~~shall~~ does not be construed to include any power relating to the establishment, repair, and maintenance of highways or roads.

SECTION 2. AMENDMENT. Section 58-03-11 of the North Dakota Century Code is amended and reenacted as follows:

58-03-11. Establishment of zoning districts - Limitation - Scope of zoning regulations and restrictions.

1. For the purpose of promoting the health, safety, morals, or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within such districts may, subject to the provisions of chapter 54-21.3, regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. All such regulations and restrictions must be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts.
2. ~~No~~ A regulation or restriction; ~~however,~~ may not prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming: ~~The provisions of sections~~ or ranching. For purposes of this section, "farming or ranching" means cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.
3. A board of township supervisors may regulate the nature and scope of concentrated feeding operations permissible in the township; however, if a regulation would impose a substantial economic burden on a concentrated feeding operation in existence before the effective date of the regulation, the board of township supervisors shall declare that the regulation is ineffective with respect to any concentrated feeding operation in existence before the effective date of the regulation.
4. A regulation may not preclude the development of a concentrated feeding operation in the township. A regulation addressing the development of a concentrated feeding operation in the township may set reasonable standards, based on the size of the operation, to govern its location.

5. For purposes of this section, "concentrated feeding operation" means any livestock feeding, handling, or holding operation, or feed yard, where animals are concentrated in an area that is not normally used for pasture or for growing crops and in which animal wastes may accumulate, or in an area where the space per animal unit is less than six hundred square feet [55.74 square meters]. The term does not include normal wintering operations for cattle. For purposes of this section, "livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, and fur animals raised for their pelts.
6. A board of township supervisors may not prohibit, through regulation, the reasonable diversification or expansion of a farming or ranching operation.
7. Sections 58-03-11 through 58-03-15 may do not be construed to include any power relating to the establishment, repair, and maintenance of highways or roads.

Approved April 20, 1999

Filed April 20, 1999