

OFFICES AND OFFICERS

CHAPTER 537

HOUSE BILL NO. 1519
(Hamerlik)

STATE OFFICIAL BONDS

AN ACT to repeal section 44-01-06 of the North Dakota Century Code, relating to the requirement for all elected and appointed state officials to be bonded.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 44-01-06 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 538

SENATE BILL NO. 2399
(Senators Mathern, Ingstad)
(Representative Scherber)

PUBLIC EMPLOYEE MEDICAL RECORD CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to the confidentiality of public employee medical and employee assistance records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

Public employee medical and employee assistance records - Confidentiality.
Any record of a public employee's medical treatment or use of an employee assistance program is not to become part of that employee's personnel record and is confidential and may not be released without the written consent of the employee. As used in this section, the term "public employee" includes any person employed by the state or any of its political subdivisions.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 539

SENATE BILL NO. 2534
(David, Dotzenrod)

PUBLIC MEETING NOTICE

AN ACT to amend and reenact section 44-04-20 of the North Dakota Century Code, relating to notices of public meetings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-20 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-04-20. Notice of public meetings required - Exceptions - Schedule set by statute, ordinance, or resolution. Unless otherwise provided by law, public notice must be given in advance of all meetings governed by section 44-04-19, including conference call meetings. This notice shall contain the date, time, and location of the meeting and, where practicable, the topics to be considered. However, the lack of an agenda in the notice, or a departure or an addition to the agenda at a meeting, shall not affect the validity of the meeting or the actions taken thereat. In cases where the public body holds regularly scheduled meetings, the schedule of these meetings, including the aforementioned notice information, shall be filed annually in January, for state-level bodies, with the main office of the public body and, if requested to do so by an interested party, ~~with the secretary of state for state-level bodies,~~ the city auditor for city-level bodies, and the county auditor for all other public bodies. This schedule shall be furnished to anyone who requests the information. In addition, every public body shall post public notice of each of its meetings at its principal office, if such exists, and at the location of the meeting. The public body's presiding officer shall have the responsibility of assuring that such public notice is given at the same time as such public body's members are notified, and that this notice is available to anyone requesting such information. In the event of emergency or special meetings of a public body, the person calling such a meeting shall notify representatives of the news media, if any, located where the meeting is to be held and which have requested to be so notified of such special or emergency meetings, of the time, place, date, and topics to be considered at the same time as such public body's members are notified. Where reasonable and practicable, a public body should attempt to set a regular schedule for its meetings by statute, ordinance, or resolution. The attorney general shall prepare general guidelines to assist public bodies in following the provisions of this section. Unless otherwise specified by law, resolution, or ordinance, or as decided by the public body, notices required by this section do not have to be published. The provisions of section 12.1-11-06 shall not apply to this section.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 540

HOUSE BILL NO. 1432
(Representative Wentz)
(Senator Stenehjem)

ADMINISTRATION OF OATHS

AN ACT to amend and reenact section 44-05-01 of the North Dakota Century Code, relating to officers authorized to administer oaths.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-05-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-05-01. Officers authorized to administer oaths. The following officers are authorized to administer oaths:

1. Each ~~judge justice~~ of the supreme court, each judge of the district court, the clerk of the supreme court, and ~~his~~ the clerk's deputy.
2. Judge of the county court, clerk of the district court, clerk of the county court, county auditor, register of deeds, and the deputy of each such officer within ~~his~~ that officer's county.
3. Each county commissioner and public administrator within ~~his~~ that officer's county.
4. Notary public anywhere in the state, upon complying with ~~the provisions of~~ section 44-06-04.
5. Each city auditor, municipal judge, and township clerk, within ~~his~~ that officer's own city or township.
6. Each sheriff and ~~his~~ the deputy sheriff within ~~his~~ the sheriff's county in the cases prescribed by law.
7. Other officers in the cases prescribed by law or by rule of the supreme court.

Approved March 19, 1987
Filed March 20, 1987

CHAPTER 541

SENATE BILL NO. 2113
(Committee on State and Federal Government)
(At the request of the Secretary of State)

NOTARY PUBLIC BONDS AND RECORDS

AN ACT to amend and reenact sections 44-06-03, 44-06-05, and 44-06-09 of the North Dakota Century Code, relating to notary public surety bonds and records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-03. Oath and bond of notary public - Approval of bond. Each notary public, before entering upon the duties of the office, shall take the oath prescribed for civil officers and give to the state a bond in the penal sum of seven thousand five hundred dollars conditioned for the faithful discharge of the duties of the office. Such bond may be furnished by a surety or bonding company authorized to do business in this state or by one or more sureties, and shall be is subject to approval as follows: by the secretary of state.

- 1- ~~If it is a surety bond, it shall be subject to approval by the secretary of state, and such approval shall be without charge.~~
- 2- ~~If it is a personal bond, it shall be subject to approval by the clerk of the district court of the county of which the notary public is a resident, or of the county to which such county is attached for judicial purposes. The clerk of district court shall charge and collect a fee as prescribed in subsection 4 of section 11-17-04 for such approval.~~

SECTION 2. AMENDMENT. Section 44-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-05. Vacancy - Disposition of records. Whenever the office of any notary public shall become vacant, the record of such notary together with all papers relating to the office shall be deposited in the office of the clerk of the district court of the county in

~~which such notary public resides~~ secretary of state. Any notary public who, on resignation or removal from office, or any executor or administrator of the estate of any deceased notary public who neglects to deposit such records and papers as aforesaid for the space of three months, or any person who knowingly destroys, defaces, or conceals any records or papers of any notary public, shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars, and he also shall be liable in a civil action for damages to any party injured.

SECTION 3. AMENDMENT. Section 44-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~44-06-09. Clerks of district courts~~ Secretary of state - Preservation of records. ~~The clerk of the district court~~ secretary of state shall receive and keep safely all the records and papers directed by this chapter to be deposited in his office and shall furnish certified copies thereof when required. Such copies shall have the same force and effect as if the same were certified by the notary public by whom the record was made.

Approved April 17, 1987
Filed April 20, 1987

CHAPTER 542

HOUSE BILL NO. 1182
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

PUBLIC EMPLOYEE TRAVEL EXPENSES

AN ACT to amend and reenact section 44-08-04 of the North Dakota Century Code, relating to travel expenses for state and public employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 44-08-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-04. Expense account - Amount allowed - Verification. Except as provided in section 44-08-04.1, each elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may make claim for meals and lodging while engaged within this state in the discharge of a public duty away from the claimant's normal working and living residence for all or any part of any quarter of a day. Claims may also be made for meals which are included as part of a registration fee for a conference, seminar, or other meeting and for meals attended at the request of and on behalf of the state or any of its subdivisions, agencies, bureaus, boards, or commissions; however, if a meal is included in a registration fee, the applicable quarter allowance cannot be claimed for that meal. Claims for meals specifically included in a registration fee for a conference, seminar, or other meeting must be allowed even if the city at which the conference, seminar, or meeting is held or the meal is provided is the claimant's normal working and living residence. Upon approval of the claim, it shall be paid as an allowance at the following rates for each quarter of any twenty-four-hour period:

1. First quarter shall be from six a.m. to twelve noon and the sum shall not exceed three dollars and fifty cents in state, or six dollars out of state. No reimbursement may be made if travel began after seven a.m.

* NOTE: Section 44-08-04 was also amended by section 1 of House Bill No. 1380, chapter 543.

2. Second quarter shall be from twelve noon to six p.m. and the sum shall not exceed five dollars in state, or nine dollars out of state.
3. Third quarter shall be from six p.m. to twelve midnight and the sum shall not exceed eight dollars and fifty cents in state, or fifteen dollars out of state.
4. Fourth quarter shall be from twelve midnight to six a.m. and the sum shall be the actual lodging expenses not to exceed thirty-five dollars.
5. Provided, however, that the preceding four subsections shall not be applicable unless the person concerned has been out of the headquarters or normal place of employment for four hours or overnight.

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt or the certificate of a member of the legislative assembly shall be required for the fourth quarter.

Such persons engaged in travel outside state boundaries shall receive ~~thirty dollars a day for meals and in addition thereto~~ actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed.

Those persons engaged in foreign travel, shall receive reimbursement for meals at a rate not to exceed two times the regular out-of-state meal allowance with the exception of Canadian travel, which will be reimbursed at regular out-of-state rates. Verification by receipt for such foreign travel expense shall be required only for the lodging expense claimed.

The head of any department, institution, or agency of this state may set a rate for such expenses less than those set forth in this section for any person or persons under his authority. Verification of any other type of expense not prescribed by this section shall be as prescribed by the office of the budget except no receipt shall be required for taxi or cab fares up to and including the sum of ten dollars. The office of management and budget shall disapprove any claim it determines to be in error or unlawful or not within the limits of legislative appropriations.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 543

HOUSE BILL NO. 1380
(Representatives Mertens, Strinden)
(Senators Olson, Heigaard)

LEGISLATIVE EXPENSE VERIFICATION

AN ACT to amend and reenact section 44-08-04 of the North Dakota Century Code, relating to verification of expense accounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 44-08-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-04. Expense account - Amount allowed - Verification. Except as provided in section 44-08-04.1, each elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may make claim for meals and lodging while engaged within this state in the discharge of a public duty away from the claimant's normal working and living residence for all or any part of any quarter of a day. Claims may also be made for meals which are included as part of a registration fee for a conference, seminar, or other meeting and for meals attended at the request of and on behalf of the state or any of its subdivisions, agencies, bureaus, boards, or commissions; however, if a meal is included in a registration fee, the applicable quarter allowance cannot be claimed for that meal. Claims for meals specifically included in a registration fee for a conference, seminar, or other meeting must be allowed even if the city at which the conference, seminar, or meeting is held or the meal is provided is the claimant's normal working and living residence. Upon approval of the claim, it shall be paid as an allowance at the following rates for each quarter of any twenty-four-hour period:

1. First quarter shall be from six a.m. to twelve noon and the sum shall not exceed three dollars and fifty cents. No reimbursement may be made if travel began after seven a.m.
2. Second quarter shall be from twelve noon to six p.m. and the sum shall not exceed five dollars.

* NOTE: Section 44-08-04 was also amended by section 1 of House Bill No. 1182, chapter 542.

3. Third quarter shall be from six p.m. to twelve midnight and the sum shall not exceed eight dollars and fifty cents.
4. Fourth quarter shall be from twelve midnight to six a.m. and the sum shall be the actual lodging expenses not to exceed thirty-five dollars.
5. Provided, however, that the preceding four subsections shall not be applicable unless the person concerned has been out of the headquarters or normal place of employment for four hours or overnight.

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt or the certificate of a member of the legislative assembly shall be required for the fourth quarter.

Such persons engaged in travel outside state boundaries shall receive thirty dollars a day for meals and in addition thereto actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed.

Those persons engaged in foreign travel shall receive reimbursement for meals at a rate not to exceed two times the regular out-of-state meal allowance. Verification by receipt for such foreign travel expense shall be required only for the lodging expense claimed.

The head of any department, institution, or agency of this state may set a rate for such expenses less than those set forth in this section for any person or persons under his authority. Verification of any other type of expense not prescribed by this section shall be as prescribed by the office of the budget except no receipt shall be required for taxi or cab fares up to and including the sum of ten dollars. The office of management and budget shall disapprove any claim it determines to be in error or unlawful or not within the limits of legislative appropriations.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 544

HOUSE BILL NO. 1097
(Committee on State and Federal Government)
(At the request of the Secretary of State)

COURT SEALS

AN ACT to amend and reenact section 44-08-06 of the North Dakota Century Code, relating to dimensions of a seal of a court or officer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-06. Dimensions of seal of court or officer. Upon every seal of a court or officer of this state required or authorized to have a seal, there shall be engraved the words "State of North Dakota" and the name of the court or office in which the seal is to be used. All such seals, except the great seal, shall be embossed, surrounded by a border and either one and five-eighths of an inch [41.28 millimeters] in diameter or of a rectangular design, seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 545

SENATE BILL NO. 2338
(Senator Heinrich)
(Representative L. Hanson)

SCHOOL BOARD MEMBER REMOVAL

AN ACT to amend and reenact sections 44-10-02, 44-10-16, 44-11-01, and 44-11-02 of the North Dakota Century Code, relating to the removal of school board members from office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-10-02. **Accusation by grand jury - Causes for removal.** An accusation in writing against any district, county, township, city, or municipal officer, school board member, or any state officer not liable to impeachment, except a representative in Congress and a member of the legislative assembly, for misconduct, malfeasance, crime, or misdemeanor in office, or for habitual drunkenness or gross incompetency, may be presented by the grand jury to the district court of the county in or for which the officer accused is elected or appointed. When ~~such~~ the proceedings are against a state officer not liable to impeachment, the accusation may be presented by the grand jury of the county in which ~~such~~ the officer resides or in which he has his office for the transaction of his official business.

SECTION 2. AMENDMENT. Section 44-10-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-10-16. **Other accusations - Delivery by judge to state's attorney.** When an accusation in writing and verified by the oath of any person is presented to the district court, alleging that an officer or school board member within the jurisdiction of the court has been guilty of charging and collecting illegal fees for services rendered or to be rendered in his office, or has refused or neglected to perform the official duties pertaining to his office, or has rendered himself incompetent to perform his said duties by reason of habitual drunkenness or other cause, the judge of the court to whom it is delivered must ~~cause such~~ transmit the accusation ~~forthwith to be transmitted~~ to the state's attorney of the county, or in case it

is against the state's attorney of the county, the accusation must be delivered as provided by section 44-10-15.

SECTION 3. AMENDMENT. Section 44-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-01. What officers removable by governor - Grounds. The governor may remove from office any county commissioner, clerk of the district court, sheriff, coroner, county auditor, register of deeds, state's attorney, county treasurer, superintendent of schools, county commissioner, surveyor, public administrator, city auditor, city commissioner, mayor, chief of police, deputy sheriff, or other police officer, township officer, rural fire protection district board member, school board member, or any custodian of public moneys, except the state treasurer, whenever it appears to him the governor by competent evidence and after a hearing as provided in this chapter, that such the officer has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, or of habitual drunkenness or gross incompetency.

SECTION 4. AMENDMENT. Section 44-11-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-02. Charges - How made - By whom prosecuted.

1. The complaint or charges against any such official authorized to be removed by the governor shall must be entitled in the name of the state of North Dakota this state and shall must be filed with the governor.
2. ~~It~~ The complaint or charges against any official, other than a school board member, may be made upon the relation of fifty qualified electors of the county in which the person charged is an officer, or upon the relation of ten percent of the qualified electors voting at the preceding general election for the office of governor in that political subdivision or district in which the person charged is an officer, whichever is least, or by the state's attorney of such county.
3. ~~Such~~ The complaint or charges against a school board member must be made upon the relation of a petition containing the signatures of qualified electors of the school district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census shall be required. However, not fewer than twenty-five signatures shall be required unless the district has fewer than twenty-five qualified electors, in which case the petition shall be signed by not less than twenty-five percent of the

qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district shall be determined by the county superintendent for such county in which such school is located.

4. The complaint and charges ~~shall~~ must be filed by the attorney general when directed to do so by the governor.
5. a. When the officer sought to be removed is other than the state's attorney, the state's attorney or other competent attorney, upon request of the governor, shall appear and prosecute.
 - b. When the proceedings are brought to remove the state's attorney, the governor shall request the attorney general or other competent attorney to appear on behalf of the state and prosecute such proceedings.

Approved March 26, 1987

Filed March 30, 1987