

# OFFICES AND OFFICERS

## CHAPTER 422

### SENATE BILL NO. 2111

(Appropriations Committee)

(At the request of the State Board of Higher Education)

## STATE AGENCY PROPERTY INVENTORIES

AN ACT to amend and reenact section 44-04-07 of the North Dakota Century Code, relating to property inventories by state agencies.

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

**SECTION 1. AMENDMENT.** Section 44-04-07 of the North Dakota Century Code is amended and reenacted as follows:

**44-04-07. Inventory required.** The person in charge of any state department, industry, institution, board, association, or commission shall maintain, or cause to be maintained, a complete and current inventory record of all property of sufficient value and permanence as to render such inventory record practical. ~~On the first day of July of each~~ Each year such person shall make a complete inventory of all such property, and shall maintain such inventory, with his certificate thereto attached, as to the correctness of same, in the files and records of the department, industry, institution, board, association, or commission. Said inventory record must provide a comprehensive description of each item, together with manufacturer's serial number, or other means of positive identification, and must include statements of all property disposed of by any means whatsoever, including livestock and increase therefrom, and must be in such form and detail as may be prescribed by the department charged with the duty of auditing or examining such records.

Approved March 17, 1995

Filed March 20, 1995

**CHAPTER 423****SENATE BILL NO. 2383**

(Senator W. Stenehjelm)

(Representative Delmore)

**GOVERNMENTAL BODY CONFLICTS OF INTERESTS**

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to conflicts of interest in matters before a governmental body.

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

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

**Conflict of interest law.** A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.

Approved April 4, 1995

Filed April 4, 1995

## CHAPTER 424

## SENATE BILL NO. 2215

(Political Subdivisions Committee)

(At the request of the Secretary of State)

## NOTARY PUBLIC REQUIREMENTS

AN ACT to amend and reenact sections 44-06-02, 44-06-04, 44-06-11, and 44-06-13.1 of the North Dakota Century Code, relating to a notary public's change of address, bond, notarial seal, revocation of commission, and notarizing of a spouse's or notary's signature.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 44-06-02 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-02. Commission - Record - Fee - Notice.** The secretary of state shall issue a commission to each notary public appointed by the secretary of state which must be posted by such notary in a conspicuous place in ~~his~~ the notary's office. The secretary of state shall collect twenty-five dollars for the issuance of such commission. Such sum must be paid into the state treasury and credited to the general fund. The secretary of state shall keep ~~in his office~~ a record of such appointments and the date of the expiration of the same, and shall notify each notary public by mail at least thirty days before the expiration of ~~his~~ the notary public's term of the date upon which ~~his~~ the notary public's commission will expire. Such notice must be addressed to such notary public at ~~his~~ the last known place of residence. Each notary public issued a commission shall notify the secretary of state by mail within thirty days of any change of address.

**SECTION 2. AMENDMENT.** Section 44-06-04 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-04. Deposit Filing of oath, bond, and impression of notarial seal.** Each notary public, before entering upon the duties of such office, shall ~~provide himself with~~ obtain an official seal bearing ~~his~~ the notary public's name and shall ~~deposit file~~ a legible impression of such seal; ~~together with his~~ and the notary public's oath and bond, in the office of the secretary of state.

**SECTION 3. AMENDMENT.** Section 44-06-11 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-11. Revocation of notary commission - Notice.** In case the commission of any person appointed as a notary is ~~revoked~~ subject to a revocation action, the secretary of state shall give notice thereof by mail to such person immediately and to the clerk of the district court of the proper county, using the procedures of chapter 28-32. The notice may provide that the person may not perform any notarial acts during the pendency of the revocation proceeding.

**SECTION 4. AMENDMENT.** Section 44-06-13.1 of the North Dakota Century Code is amended and reenacted as follows:

44-06-13.1. Wrongfully notarizing document - Penalty. ~~Any~~ A notary public ~~who appends his official~~ may not notarize a signature to any on a document when the parties thereto have not executed the if:

1. The document in his was not signed in the presence of the notary public.
2. The notary public or the spouse of the notary public is a party to the document.
3. The signature is that of the notary public or the spouse of the notary public.

A notary public who violates this section is guilty of an infraction and ~~his~~ the notary public's commission must be canceled by the secretary of state, who shall give written notice of such cancellation to the notary public.

Approved March 24, 1995

Filed March 27, 1995

## CHAPTER 425

## SENATE BILL NO. 2402

(Senators DeMers, Nalewaja)  
(Representatives Christenson, Gorman)

## RESIDENT BIDDER PREFERENCE

AN ACT to amend and reenact section 44-08-01 of the North Dakota Century Code, relating to preference to North Dakota resident bidders; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-08-01 of the North Dakota Century Code is amended and reenacted as follows:

44-08-01. Preference to North Dakota bidders, sellers, and contractors.

1. The office of management and budget, ~~or any board, commission, city council, board of city commissioners, board of education, board of park commissioners, school board, or any other state entity, and the governing body of any political subdivision of the state; or of any state institution;~~ in purchasing any goods, merchandise, supplies, or equipment of any kind, or contracting to build or repair any building, structure, road, or other real property, shall give preference to bidders, sellers, or contractors resident in North Dakota. The preference must be equal to the preference given or required by the state of the nonresident bidder, seller, or contractor. In specifying or purchasing goods, merchandise, supplies, or equipment to be purchased, ~~such the entity or board~~ may not specify any trademarked or copyrighted brand or name, nor the product of any one manufacturer, nor any patented product, apparatus, device, or equipment, where the same will prevent proper competition, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit.
2. A state entity authorized to accept bids shall give preference to a resident North Dakota bidder when accepting bids for the provision of professional services, including research and consulting services. The state entity shall award the bid to the resident North Dakota bidder if the bid of the resident North Dakota bidder is equal to or less than the low bid of a nonresident bidder and the resident North Dakota bidder has an acceptable performance history and meets the minimum requirements specified in the bid solicitation.

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

Approved April 5, 1995  
Filed April 6, 1995

## CHAPTER 426

### HOUSE BILL NO. 1103

(Government and Veterans Affairs Committee)  
(At the request of the State Board of Higher Education)

## STATE EMPLOYEE TRAVEL REIMBURSEMENT

AN ACT to amend and reenact section 44-08-04 of the North Dakota Century Code, relating to state employee travel reimbursement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>208</sup> SECTION 1. AMENDMENT. Section 44-08-04 of the North Dakota Century Code is amended and reenacted as follows:

#### 44-08-04. Expense account - Amount allowed - Verification.

1. 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 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 must be paid as an allowance. Reimbursement is allowed only for overnight travel or other travel, away from the normal place of employment, for four hours or more. Verification of expenses by receipt is required only for lodging expenses.
2. Expenses for travel within the state must be reimbursed at the following rates for each quarter of any twenty-four-hour period:
  - 1- a. First quarter is from six a.m. to twelve noon and the sum ~~may not exceed~~ must be three dollars and fifty cents ~~in state. No First quarter~~ reimbursement may not be made if travel began after seven a.m.
  - 2- b. Second quarter is from twelve noon to six p.m. and the sum ~~may not exceed~~ must be five dollars ~~in state.~~

<sup>208</sup> Section 44-08-04 was also amended by section 1 of House Bill No. 1245, chapter 427.

- ~~3-~~ c. Third quarter is from six p.m. to twelve midnight and the sum ~~may not exceed~~ must be eight dollars and fifty cents in state.
- ~~4-~~ d. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed thirty-five dollars plus any additional applicable state or local taxes.
- 5: ~~Provided, however, that the allowances provided by this section are not applicable unless the person concerned has been out of the headquarters or normal place of employment for four hours or overnight.~~
3. The allowance for out-of-state meals, within the continental United States, is equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees by the United States general services administration and must be allocated twenty percent to the first quarter, thirty percent to the second quarter, and fifty percent to the third quarter.

~~Verifications of claims may not be required for the first three quarters listed above and only a lodging receipt is required for the fourth quarter.~~

~~Such persons engaged in travel outside state boundaries shall receive actual lodging expenses. Verification by receipt for such out-of-state travel expense is required only for lodging expense claimed.~~

Those persons engaged in travel outside the continental United States 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 meal allowance rates. Verification by receipt for such travel expense outside the continental United States is required only for the lodging expense claimed. For purposes of this section, "regular out-of-state meal allowance" means the per diem meals rate on that day as established for federal employees in nonhigh rate geographical areas by the United States general services administration.

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4. The allowance for meals in Canada, Alaska, and Hawaii may not exceed one and one-half times the current continental United States standard rate for federal employees established by the United States general services administration.
5. The allowance for meals outside the continental United States, Canada, Alaska, and Hawaii may not exceed two times the current continental United States standard rate for federal employees established by the United States general services administration.
6. The allowance for lodging outside the state must be the actual lodging expense.

7. A department, institution, or agency of this state may set a rate for such travel expenses outside the state 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 must be as prescribed by the office of the budget except no receipt may be required for taxi or cab fares ~~up to and including the sum~~ of ten dollars or less. 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 14, 1995

Filed March 14, 1995



## CHAPTER 427

## HOUSE BILL NO. 1245

(Representatives Martinson, Rydell, K. Henegar, Keiser,  
Kelsch)  
(Senator Kringstad)

STATE EMPLOYEE AND LEGISLATOR EXPENSE  
REIMBURSEMENT

AN ACT to amend and reenact sections 44-08-04 and 54-06-09 of the North Dakota Century Code, relating to state officer and employee expense reimbursement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>209</sup> SECTION 1. AMENDMENT. Section 44-08-04 of the North Dakota Century Code is amended and reenacted 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 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~~ that 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 must be paid as an allowance at the following rates for each quarter of any twenty-four-hour period:

1. First quarter is from six a.m. to twelve noon and the sum may not exceed ~~three~~ four dollars ~~and fifty cents~~ in state. No reimbursement may be made if travel began after seven a.m.
2. Second quarter is from twelve noon to six p.m. and the sum may not exceed ~~five~~ six dollars in state.
3. Third quarter is from six p.m. to twelve midnight and the sum may not exceed ~~eight~~ ten dollars ~~and fifty cents~~ in state.

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<sup>209</sup> Section 44-08-04 was also amended by section 1 of House Bill No. 1103, chapter 426.

4. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed thirty-five dollars plus any additional applicable state or local taxes on lodging.
5. Provided, however, that the allowances provided by this section are not applicable unless the person concerned has been out of the headquarters or normal place of employment for four hours or overnight.

The allowance for out-of-state meals, within the continental United States, is equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees by the United States general services administration and must be allocated twenty percent to the first quarter, thirty percent to the second quarter, and fifty percent to the third quarter.

Verifications of claims may not be required for the first three quarters listed above and only a lodging receipt is required for the fourth quarter.

Such persons engaged in travel outside state boundaries shall receive actual lodging expenses. Verification by receipt for such out-of-state travel expense is required only for lodging expense claimed.

Those persons engaged in travel outside the continental United States 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 meal allowance rates. Verification by receipt for such travel expense outside the continental United States is required only for the lodging expense claimed. For purposes of this section, "regular out-of-state meal allowance" means the per diem meals rate on that day as established for federal employees in nonhigh rate geographical areas by the United States general services administration.

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~~ that person's authority. Verification of any other type of expense not prescribed by this section must be as prescribed by the office of the budget except no receipt may 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.

**SECTION 2. AMENDMENT.** Section 54-06-09 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-06-09. Mileage and travel expense of state officers and employees.** State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, must be allowed and paid for mileage and travel expense the following amounts:

1. The sum of ~~twenty~~ twenty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle or twenty-seven cents per mile [1.61 kilometers] if the travel is by truck, the use of which is required by the employing subdivision, agency, bureau, board, or commission. The sum of thirty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily

traveled in the performance of official duty when such travel is by private airplane. Mileage by private aircraft must be computed by actual air mileage when only one state employee or official is traveling; if two or more state employees or officials are traveling by private aircraft, the actual mileage must be based on the road mileage between the geographical points. Reimbursement for private airplane travel must be calculated as follows:

- a. If reimbursement is for one properly authorized and reimbursable passenger, reimbursement must be paid on a per-mile basis as provided in this subsection.
- b. If reimbursement is claimed for a chartered private aircraft, reimbursement may not exceed the cost of regular coach fare on a commercial flight, if one is scheduled between the point of departure, point of destination, and return, for each properly authorized and reimbursable passenger on the charter flight; or, where there is no such regularly scheduled commercial flight, the actual cost of the charter.

No reimbursement may be paid for leased private aircraft, except for leased or rented private aircraft from a recognized fixed base aviation operator who is in the business of leasing and renting private aircraft and is located on an airport open for public use. If only one person shall engage in such travel in a motor vehicle exceeding at any geographical point one hundred fifty miles [241.40 kilometers] beyond the borders of this state, reimbursement must be limited to eighteen cents per mile [1.61 kilometers] for the out-of-state portion of the travel beyond the first one hundred fifty miles [241.40 kilometers]. When official travel is by motor vehicle or airplane owned by the state or by any department or political subdivision thereof, no allowance may be made or paid for such mileage.

2. Except as provided in subsection 1, when travel is by rail or certificated air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.
3. Notwithstanding the other provisions of this section, state employees permanently located outside the state or on assignments outside the state for an indefinite period of time, exceeding at least thirty consecutive days, must be allowed and paid ~~twenty~~ twenty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle, and the one-hundred-fifty-mile [241.40-kilometer] restriction imposed by subsection 1 does not apply.

Before any allowance for any such mileage or travel expenses may be made, the official, deputy, assistant, clerk, or other employee shall file with the employee's department, institution, board, commission, or agency an itemized statement showing the mileage traveled, the hour of departure and return, the days when and how traveled, the purpose thereof, and such other information and documentation as may be prescribed by rule of the employee's department, institution, board, commission, or agency. The statement must be submitted to the employee's department, institution, board, commission, or agency for approval and must be paid only when approved by the employee's department, institution, board, commission, or agency.

Approved March 31, 1995

Filed March 31, 1995

## CHAPTER 428

## SENATE BILL NO. 2089

(Senators Nalewaja, Robinson)  
(Representatives Kelsch, Carlisle, Coats)

CORRECTIONAL EMPLOYEE PERSONAL AND  
INVESTIGATIVE INFORMATION CONFIDENTIALITY

AN ACT to amend and reenact sections 44-04-18.3 and 44-04-18.7 of the North Dakota Century Code, relating to confidentiality of records of law enforcement and correctional employees and certain criminal intelligence information and criminal investigative information; to repeal section 54-23.3-07 of the North Dakota Century Code, relating to confidentiality of information pertaining to department of corrections and rehabilitation employees; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

44-04-18.3. Records of ~~undercover~~ law enforcement ~~officers~~ and correctional employees.

1. Any telephone number and the home address of an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are confidential and are not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. If this information is recorded with other public information, a public agency or record custodian shall permit inspection and receipt of copies of the public information that is not confidential, but shall delete or withhold the confidential information. A public agency or record custodian may not deny a request for public information on the ground that it is recorded with a confidential address and phone number. A record containing information relating to an employee of the department of corrections and rehabilitation may be disclosed to an appropriate authority under policy established by the department of corrections and rehabilitation.
2. Records or other information that would reveal the identity, or endanger the life or physical well-being, of an undercover law enforcement officer is confidential and ~~exempt from the provisions of~~ not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. For purposes of this ~~section~~ subsection, an "undercover law enforcement officer" means a full-time, salaried employee of a local or state law enforcement agency who acts surreptitiously or poses as someone other than a law enforcement officer while engaging in the investigation of a violation of law.

SECTION 2. AMENDMENT. Section 44-04-18.7 of the North Dakota Century Code is amended and reenacted as follows:

**44-04-18.7. Criminal intelligence information and criminal investigative information - Nondisclosure - Record of information maintained.**

1. Active criminal intelligence information and active criminal investigative information are exempt from the provisions of confidential and not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. A criminal justice agency shall maintain a list of all files containing active criminal intelligence and investigative information which have been in existence for more than one year. With respect to each file, the list must contain the file's number or other identifying characteristic; and the date the file was established. The list required under this subsection is subject to section 44-04-18. Criminal intelligence and investigative information that is not considered "active" is not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota to the extent that the information is personal information.
2. "Criminal intelligence information" means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity. Criminal intelligence information must be considered "active" as long as it is related to intelligence gathering conducted with a reasonable good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.
3. "Criminal investigative information" means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including; information derived from laboratory tests, reports of investigators or informants, or any type of surveillance. Criminal investigative information must be considered "active" as long as it is related to an ongoing investigation that is continuing with a reasonable good faith anticipation of securing an arrest or prosecution in the foreseeable future.
4. "Criminal justice agency" means any law enforcement agency; or prosecutor. The term also includes any other unit of government charged by law with criminal law enforcement duties or having custody of criminal intelligence or investigative information for the purpose of assisting law enforcement agencies in the conduct of active criminal investigations or prosecutions.
5. "Criminal intelligence and investigative information" does not include:
  - a. Arrestee description, including name, date of birth, address, race, sex, physical description, and occupation of arrestee.
  - b. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer.
  - c. Conviction information, including the name of any person convicted of a criminal offense.
  - d. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person.

- e. A chronological list of incidents, including initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred.
  - f. A crime summary, including a departmental summary of crimes reported and public calls for service by classification, nature, and number.
  - g. Radio log, including a chronological listing of the calls dispatched.
  - h. General registers, including jail booking information.
6. "Personal information" means a person's medical information; motor vehicle operator's identification number; social security number; and any credit, debit, or electronic fund transfer card number. If this information is recorded with other public information, a public agency or record custodian shall permit inspection and receipt of copies of the public information that is not confidential, but shall delete or withhold the confidential information. A public agency or record custodian may not deny a request for public information on the ground that it is recorded with confidential information.

**SECTION 3. REPEAL.** Section 54-23.3-07 of the 1993 Supplement to the North Dakota Century Code is repealed.

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

Approved March 17, 1995

Filed March 20, 1995