

HOUSE BILL NO.

Introduced by

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 44-04-18.10 of the North
2 Dakota Century Code, relating to disclosure of records; and to amend and reenact
3 subsection 15 of section 44-04-17.1 and subsection 2 of section 44-04-18 of the North Dakota
4 Century Code, relating to the definition of a record and fees charged for copies of public
5 records.

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

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

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

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

20 2. Upon request for a copy of specific public records, any entity subject to
21 subsection 1 shall furnish the requester one copy of the public records requested.
22 A request need not be made in person or in writing, and the copy must be mailed
23 upon request. A public entity may charge up to twenty-five cents per impression of
24 a paper copy. As used in this section, "paper copy" means a one-sided or

1 two-sided duplicated copy of a size not more than eight and one-half by fourteen
2 inches [19.05 by 35.56 centimeters]. For any copy of a record that is not a paper
3 copy as defined in this section, the public entity may charge ~~a reasonable fee for~~
4 ~~making the copy. As used in this section, "reasonable fee" means the actual cost~~
5 ~~to the public entity of making the copy, including labor, materials, and equipment.~~
6 The entity may charge for the actual cost of postage to mail a copy of a record. An
7 entity may require payment before locating, redacting, making, or mailing the copy.
8 An entity may impose a fee not exceeding twenty-five dollars per hour per request,
9 excluding the initial hour, for locating records if locating the records requires more
10 than one hour. An entity may impose a fee not exceeding twenty-five dollars per
11 hour per request, excluding the initial hour, for excising confidential or closed
12 material under section 44-04-18.10. If the entity is not authorized to use the fees to
13 cover the cost of providing or mailing the copy, or both, or if a copy machine is not
14 readily available, the entity may make arrangements for the copy to be provided or
15 mailed, or both, by another entity, public or private, and the requester shall pay the
16 fee to that other entity. This subsection does not apply to copies of public records
17 for which a different fee is specifically provided by law.

18 **SECTION 3.** A new subsection to section 44-04-18.10 of the North Dakota Century
19 Code is created and enacted as follows:

20 Unless the person is acting as an agent of a public entity which has been
21 requested to store a record, a person may not be required to disclose any
22 information recorded on or with or prepared using property that is not public
23 property.