

SENATE BILL NO. 2268

Introduced by

Senators Nodland, Wanzek

Representatives Kasper, N. Johnson

1 A BILL for an Act to amend and reenact sections 43-19.1-02, 43-19.1-03, 43-19.1-04,
2 43-19.1-05, 43-19.1-07, 43-19.1-08, 43-19.1-09, 43-19.1-10, 43-19.1-11, 43-19.1-12,
3 43-19.1-12.1, 43-19.1-13, 43-19.1-14, 43-19.1-15, 43-19.1-16, 43-19.1-16.1, 43-19.1-17,
4 43-19.1-18, 43-19.1-19, 43-19.1-20, 43-19.1-21, 43-19.1-22, 43-19.1-23, 43-19.1-24,
5 43-19.1-25, 43-19.1-26, 43-19.1-27, 43-19.1-29, 43-19.1-30, 43-19.1-31, and 43-19.1-33 of the
6 North Dakota Century Code, relating to the regulation of professional engineers and
7 professional land surveyors; and to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 43-19.1-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-19.1-02. Definitions.** In this chapter unless the context ~~or subject matter~~ otherwise
12 requires:

13 1. "Board" means the state board of registration for professional engineers and land
14 surveyors ~~hereinafter provided by this chapter.~~

15 2. "Engineer" means a professional engineer, ~~as defined in subsection 8.~~

16 3. ~~"Engineer-in-training"~~ Engineer intern means ~~a person~~ an individual who complies
17 with the requirements for education, experience, and character; and who has
18 passed an examination in the fundamental engineering subjects, as provided in
19 sections 43-19.1-12 and 43-19.1-15.

20 4. "Land surveying" means any service comprising the determination of the location
21 of land boundaries and land boundary corners; incidental topography; the
22 preparation of maps showing the shape and area of tracts of land and their
23 subdivision into smaller tracts; the preparation of maps showing the layouts of

roads, streets, and rights of way of same to give access to smaller tracts; and the preparation of official plats or maps of land within this state.

5. "Land surveyor" means ~~any person~~ an individual engaged in the practice of land surveying.

6. "Land ~~surveyor in training~~ surveyor intern" means ~~a person~~ an individual who complies with the requirements for education, experience, and character; and who has passed an examination in the fundamentals of mathematics and the basic principles of land surveying as required in this chapter and as established by the board.

7. "Practice of engineering and practice of professional engineering" means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects as are incidental to the practice of engineering. A person must be construed to practice or offer to practice engineering, ~~within the meaning and intent of this chapter, who~~ if the person practices any branch of the profession of engineering; ~~or who~~ if the person, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents that the person is an engineer, ~~or and is able to practice engineering in this state if the person~~ through the use of some other title implies that the person is an engineer or that the person is registered under this chapter; ~~or who~~ if the person holds out as able to perform, or ~~who~~ does perform any engineering service or work or any other service ~~which~~ that is recognized as engineering, for a valuable consideration for others, including the public at large; ~~but~~. The practice of engineering does not mean or include the practice of engineering by ~~persons~~ a person exempt under the provisions of section

43-19.1-29, nor the work ordinarily performed by ~~persons who operate~~ a person
that operates or ~~maintain~~ maintains machinery or equipment. Notwithstanding the
foregoing provisions, a person may not be construed to practice engineering
unless that person offers engineering services to, or performs such engineering for,
the public.

8. "Professional engineer" means ~~a person~~ an individual who, by reason of special
knowledge or use of the mathematical, physical, and engineering sciences and the
principles and methods of engineering analysis and design, acquired by
engineering education and engineering experience, is qualified to practice
engineering, and who has been ~~duly~~ registered and licensed by the state board of
registration for professional engineers and land surveyors.

9. "Professional land surveyor" means a land surveyor who complies with the
requirements for education, experience, and character and who has been
registered and licensed by the board.

10. "Responsible charge" means direct control and personal supervision of
engineering or surveying work.

~~10. "Retired registrant" means a duly registered professional engineer or land surveyor
who is not engaged in active professional practice and is not required to meet the
continuing professional education requirements as prescribed by the board. A
retired registrant is issued a certificate of registration indicating "retired" status.~~

11. "The practice or offer to practice surveying" includes the engagement of any
person in land surveying or the representation by any person by verbal claim, sign,
letterhead, card, or in any other manner, that such person is a land surveyor and is
able to perform land surveying in this state.

SECTION 2. AMENDMENT. Section 43-19.1-03 of the North Dakota Century Code is
amended and reenacted as follows:

43-19.1-03. Board - Appointments - Terms. A state board of registration for
professional engineers and land surveyors is hereby created ~~whose~~ the duty ~~it~~ of which is to
administer ~~the provisions of~~ this chapter. The board consists of one professional land surveyor
and four professional engineers ~~who~~. The board members who are professional engineers
must be appointed by the governor from among a list of nominees submitted to the governor by

1 the North Dakota society of professional engineers who must have the qualifications required
2 by section 43-19.1-04, such list ~~to contain~~ must include the names of at least ~~three times the~~
3 ~~number of~~ nominees ~~as there are vacancies~~ for each vacancy to be filled ~~and one professional~~
4 ~~land surveyor~~. The governor shall appoint the professional land surveyor member of the board
5 from a list of nominees submitted by the North Dakota society of professional land surveyors.
6 The list must include the names of at least three nominees for the vacancy to be filled. The
7 members must possess the qualifications required by section 43-19.1-04. The members of the
8 board must be appointed for five-year terms ~~which~~ that are staggered so the term of one
9 member expires June thirtieth of each year. ~~The first professional land surveyor on the board~~
10 ~~must be appointed for a five year term beginning July 1, 1984. Existing board members shall~~
11 ~~serve until their term expires~~. Each member of the board shall receive a certificate of
12 appointment from the governor and shall file with the secretary of state a written oath or
13 affirmation for the faithful discharge of the member's official duties. On the expiration of the
14 term of any member, the governor shall appoint for a term of five years a board member having
15 the qualifications required in section 43-19.1-04 to take the place of the member whose term on
16 the board is about to expire. A member may be reappointed. Each member shall hold office
17 until the expiration of the term for which appointed or until a successor has been duly appointed
18 and has qualified.

19 **SECTION 3. AMENDMENT.** Section 43-19.1-04 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-19.1-04. Board - Qualifications.** Each ~~of the~~ professional engineer board
22 ~~members~~ member must be a professional engineer; who is a citizen and resident of this state,
23 has been registered in this state a minimum of eight years, has been engaged in the lawful
24 practice of engineering for at least twelve years, and ~~who~~ has had responsible charge of
25 important engineering work for at least five years ~~and the~~. Each professional land surveyor
26 board member must be a ~~registered~~ professional land surveyor; who is a citizen and resident of
27 this state ~~who~~, has been registered as a professional land surveyor in this state a minimum of
28 eight years, and has been responsible for important land surveying work for at least five years.

29 **SECTION 4. AMENDMENT.** Section 43-19.1-05 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-19.1-05. Board - Compensation and expenses.** Each member of the board ~~shall~~
2 ~~is entitled to~~ receive the sum of ~~twenty-five~~ one hundred thirty-five dollars per diem when
3 attending to the work of the board or any of ~~its~~ the board's committees and for the time spent in
4 necessary travel; and, ~~in addition thereto, must~~ is entitled to be reimbursed for all actual
5 traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of
6 this chapter.

7 **SECTION 5. AMENDMENT.** Section 43-19.1-07 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-19.1-07. Board - Organization and meetings.** The board shall hold at least two
10 regular meetings each year. Special meetings may be held as the bylaws of the board provide.
11 The board shall elect or appoint annually the following officers: a chairman, a vice chairman,
12 and a secretary. A quorum of the board consists of not ~~less~~ fewer than three members.

13 **SECTION 6. AMENDMENT.** Section 43-19.1-08 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-19.1-08. Board - Powers.** The board ~~has the following powers~~ may:

- 16 1. ~~To adopt~~ Adopt and amend all bylaws, rules of procedure, and regulations to
17 administer and carry out the provisions of this chapter and for the conduct of ~~its~~ the
18 board's affairs and functions ~~not inconsistent with the constitution and laws of this~~
19 ~~state or this chapter~~, which may be reasonably necessary for the proper
20 performance of ~~its~~ the board's duties and the regulation of ~~its~~ the board's
21 proceedings, meetings, records, and examinations; and the conduct thereof, and
22 to adopt ~~and promulgate~~ a code of ethics ~~which shall~~ that must be binding upon all
23 persons registered under or subject to this chapter.
- 24 2. ~~To adopt~~ Adopt and have an official seal, which must be affixed to each certificate
25 issued.
- 26 3. ~~To employ~~ Employ such clerks, technical experts, and attorneys as ~~it may deem~~
27 the board determines necessary or desirable to carry out ~~the provisions of this~~
28 chapter.
- 29 4. ~~To hold~~ Hold hearings, administer oaths, and take and record testimony, ~~and~~;
30 under the hand of ~~its~~ the board's chairman and the seal of the board, subpoena
31 witnesses and compel ~~their~~ the witnesses' attendance; ~~and to~~ require the

1 submission of books, papers, documents, or other pertinent data in any disciplinary
2 matters, or in any case when a violation of this chapter or of the rules or
3 regulations ~~promulgated~~ adopted by the board is alleged; and ~~to~~ make findings,
4 orders, and determinations ~~which~~ that have the force and effect of law; which are
5 subject to review by the courts of this state in the manner provided by chapter
6 28-32. Upon failure or refusal of any person to comply with any such order of the
7 board; or to honor ~~its~~ the board's subpoena, the board may apply to a court of any
8 jurisdiction to enforce compliance with ~~same~~ the order or subpoena.

- 9 5. ~~To apply~~ Apply in the name of the state for relief by injunction, without bond, to
10 enforce the provisions of this chapter; or to restrain any violation ~~thereof~~ of this
11 chapter. In such proceedings, it is not necessary to allege or prove, either that an
12 adequate remedy at law does not exist; or that substantial or irreparable damage
13 would result from the continued violation thereof. The members of the board are
14 not personally liable under this proceeding.

15 **SECTION 7. AMENDMENT.** Section 43-19.1-09 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-19.1-09. Receipts and disbursements.** The secretary of the board shall receive
18 and account for all moneys derived under the provisions of this chapter; and shall deposit and
19 disburse the ~~same~~ money derived under this chapter in accordance with section 54-44-12. The
20 secretary shall give a surety bond to the state in such sum as may be required by the board.
21 The premium on ~~said~~ the bond ~~must be regarded as~~ is a proper and necessary expense of the
22 board. The secretary shall receive such salary as the board shall determine. The board shall
23 employ ~~such~~ clerical or other assistants as are necessary for the proper performance of ~~its~~ the
24 board's work; and shall make expenditures of this fund for any purpose ~~which, in the opinion of~~
25 determines is reasonably necessary for the proper performance of ~~its~~ the board's
26 duties under this chapter, including ~~but not limited to~~, the expenses of the board's delegates to
27 meetings of; and membership fees to; the national council of ~~state boards of engineering~~
28 examiners for engineering and surveying and any of ~~its~~ the organization's subdivisions. Under
29 no circumstances may the total amount of warrants issued in payment of the expenses and
30 compensation provided for in this chapter exceed the amount of moneys collected.

1 **SECTION 8. AMENDMENT.** Section 43-19.1-10 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-19.1-10. Records and reports.** The board shall:

- 4 1. Keep a record of ~~its~~ the board's proceedings and of all applications for registration;
5 ~~which.~~ The record must show the name, age, and last-known address of each
6 applicant; the date of application, the place of business of such applicant, the
7 applicant's education, experience, and other qualifications; type of examination
8 required; whether ~~or not~~ the applicant was rejected; whether ~~or not~~ a certificate of
9 registration was granted; the date of the action of the board; and such other
10 information as may be deemed necessary by the board; ~~which.~~ The record of the
11 board is prima facie evidence of the proceeding of the board and a transcript
12 ~~thereof, duly~~ of board proceedings which is certified by the secretary under seal; is
13 admissible as evidence with the same force and effect as if the original were
14 produced.
- 15 2. Annually, ~~as of January first in compliance with state law,~~ submit ~~to the governor~~ a
16 report of ~~its~~ the board's transactions of the preceding year; ~~and shall transmit to~~
17 ~~the governor a complete statement of the receipts and expenditures of the board,~~
18 ~~attested by affidavits of its chairman and its secretary.~~

19 **SECTION 9. AMENDMENT.** Section 43-19.1-11 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-19.1-11. Roster.** A complete roster showing the names and last-known addresses
22 of all ~~registered~~ professional engineers and ~~registered~~ land surveyors must be ~~published~~ made
23 available by the secretary of the board at intervals as established by board regulations. Copies
24 of this roster must be ~~mailed~~ made available to each ~~person so registered, placed on file with~~
25 ~~the secretary of state~~ registrant and all county auditors and city auditors and may be distributed
26 or sold to the public.

27 **SECTION 10. AMENDMENT.** Section 43-19.1-12 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **43-19.1-12. General requirements for registration.** To be eligible for registration as a
30 professional engineer or land surveyor; or for certification as an ~~engineer-in-training~~ engineer
31 intern or land ~~surveyor-in-training~~ surveyor intern, an applicant must be of good character and

1 reputation and shall submit a written application to the board containing such information as the
2 board may require together with five references, three of which references must be ~~registered~~
3 professional engineers in the case of engineers; or three of which references must be
4 ~~registered~~ professional land surveyors in the case of land surveyors, having personal
5 knowledge of the applicant's engineering or land surveying experience, or in the case of an
6 application for certification as an ~~engineer-in-training~~ engineer intern or land
7 ~~surveyor-in-training~~ surveyor intern, by three character references.

8 **SECTION 11. AMENDMENT.** Section 43-19.1-12.1 of the North Dakota Century Code
9 is amended and reenacted as follows:

10 **43-19.1-12.1. Conviction not bar to registration - Exceptions.** Conviction of an
11 offense does not disqualify ~~a person~~ an individual from registration under this chapter unless
12 the board determines that the offense has a direct bearing upon ~~a person's~~ an individual's
13 ability to serve the public as an engineer ~~and~~ or land surveyor; or that, following conviction of
14 any offense, the ~~person~~ individual is not sufficiently rehabilitated under section 12.1-33-02.1.

15 **SECTION 12. AMENDMENT.** Section 43-19.1-13 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-19.1-13. Registration without examination - Professional engineers.** An
18 applicant otherwise qualified must be admitted to registration as a professional engineer without
19 examination if the applicant is:

- 20 1. ~~A person~~ An individual holding a certificate of registration to engage in the practice
21 of engineering, on the basis of comparable qualifications, issued to that ~~person~~
22 applicant by a proper authority of a state, territory, or possession of the United
23 States, the District of Columbia, or any foreign country and who, in the opinion of
24 the board, based upon verified evidence, meets the requirements of this chapter;
25 or
- 26 2. ~~A person holding a certificate of qualification issued by the national bureau of~~
27 ~~engineering registration, who in the opinion of the board meets the requirements of~~
28 ~~this chapter; or~~
- 29 3. ~~Any person~~ An individual registered as a professional engineer by the state of
30 North Dakota under ~~the provisions of~~ chapter 43-19, on the thirtieth day of June
31 1967.

1 **SECTION 13. AMENDMENT.** Section 43-19.1-14 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-19.1-14. Registration with examination - Professional engineers.** An applicant
4 otherwise qualified must be admitted to registration as a professional engineer; if the applicant
5 has successfully passed a written examination of ~~not less than~~ at least eight hours in the
6 principles and practice of engineering, as prescribed by the board, and has one of the following
7 additional qualifications:

- 8 1. Is a graduate of ~~an a four or more year engineering curriculum of four years or~~
9 ~~more program that is~~ approved by the board as being of satisfactory standing, ~~and~~
10 ~~with who has~~ a specific record of an additional four years or more of experience in
11 engineering work of a grade and character which indicates to the board that the
12 applicant may be competent to practice engineering, and who holds a valid
13 ~~engineer in training~~ engineer intern certificate.
- 14 2. Is a ~~person who has satisfactorily completed~~ graduate of a four-year engineering
15 ~~curriculum program that is~~ not approved by the board, ~~and who has~~ eight years or
16 more of progressive experience in engineering work of a character and grade
17 which indicates to the board that the applicant is competent to practice
18 engineering, and who holds a valid ~~engineer in training~~ engineer intern certificate.
- 19 3. Is ~~a person~~ an individual with a specific record of at least twenty years of lawful
20 practice in engineering work during at least ten years of which the applicant has
21 been in responsible charge of important engineering work ~~which that~~ is of a grade
22 and character which indicates to the board that the applicant is competent to
23 practice engineering, and who holds a valid ~~engineer in training~~ engineer intern
24 certificate as of July 1, 2004.
- 25 4. Is ~~a person with experience of not less than four years as~~ an individual who meets
26 one of the educational requirements listed in subsection 1, 2, or 3, who has been a
27 teacher of engineering in a college or university offering an approved engineering
28 curriculum of four years or more, and who has had a minimum of two years of
29 practical engineering experience ~~which that~~ is of a character and grade which
30 indicates to the board that the applicant is competent to practice engineering.

- 1 5. Is a ~~person who has satisfactorily completed~~ graduate of a four-year or more
2 engineering-related ~~curriculum and program~~, who has at least twelve years ~~or~~
3 ~~more~~ of progressive experience in engineering work of a character and grade
4 which indicates to the board that the applicant is competent to practice engineering
5 and holds a valid ~~engineer-in-training~~ engineer intern certificate.

6 **SECTION 14. AMENDMENT.** Section 43-19.1-15 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-19.1-15. Additional qualifications of ~~engineers-in-training~~ engineer interns.**

9 Except in the case of ~~a person~~ an individual who has filed an application ~~prior to~~ before July 1,
10 1967, and any subsequent reapplication by such ~~person~~ individual, an applicant otherwise
11 qualified must be admitted to certification as an ~~engineer-in-training~~ which engineer intern. An
12 engineer intern certification is valid for a period of twelve years, if the applicant is ~~a person~~ an
13 individual who is:

- 14 1. A graduate of an approved engineering curriculum of four years or more approved
15 by the board and has passed the board's written examination of ~~not less than~~ at
16 least eight hours in the fundamentals of engineering shall be certified or enrolled as
17 an ~~engineer-in-training~~ engineer intern.
18 2. ~~An applicant who has satisfactorily completed~~ A graduate of a four-year or more
19 engineering ~~curriculum~~ program other than the ~~ones~~ programs approved by the
20 board ~~and~~, who has a specific record of at least four ~~or more~~ years of experience
21 in engineering work of a grade and character satisfactory to the board, and who
22 passes the board's written examination of ~~not less than~~ at least eight hours in the
23 fundamentals of engineering.
24 3. ~~An applicant who has satisfactorily completed~~ A graduate of a four-year or more
25 engineering-related ~~curriculum and program~~, who has a specific record of at least
26 six ~~or more~~ years of experience in engineering work of a grade and character
27 satisfactory to the board, and who passes the board's written examination of ~~not~~
28 ~~less than~~ at least eight hours in the fundamentals of engineering.

29 **SECTION 15. AMENDMENT.** Section 43-19.1-16 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-19.1-16. Registration - ~~Land~~ Professional land surveyor.** Any ~~person~~ individual
2 who shows, to the satisfaction of the board, that the ~~person~~ individual is otherwise qualified and
3 is over the age of eighteen years is eligible for registration as a professional land surveyor, if
4 the ~~person~~ is individual:

- 5 1. ~~A person holding~~ Holds a certificate of registration to engage in the practice of land
6 surveying issued on the basis of a minimum sixteen-hour written examination by
7 proper authority of a state, territory, possession of the United States, the District of
8 Columbia, or any foreign country, based on requirements and qualifications as
9 shown by the ~~person's~~ individual's application; which, in the opinion of the board,
10 are equal to or higher than the requirements of this chapter;
- 11 2. ~~A Is a graduate from an accredited engineering or surveying curriculum of a four~~
12 ~~years or more, or more year engineering or surveying program~~ approved by the
13 board, followed by at least four years of land surveying experience; of a character
14 satisfactory to the board; ~~and~~, who has passed a written examination of ~~not less~~
15 ~~than~~ at least sixteen hours designed to show that the ~~person~~ individual is qualified
16 to practice land surveying;
- 17 3. ~~A person having~~ Has at least eight years ~~or more~~ of active experience in land
18 surveying; of a character satisfactory to the board, and who has passed a written
19 examination of ~~not less than~~ at least sixteen hours designed to show that the
20 ~~person~~ individual is qualified to practice land surveying; or
- 21 4. ~~A person~~ Is registered as a land surveyor by the state of North Dakota, under the
22 provisions of former chapter 43-24, on the thirtieth day of June 1967.

23 **SECTION 16. AMENDMENT.** Section 43-19.1-16.1 of the North Dakota Century Code
24 is amended and reenacted as follows:

25 **43-19.1-16.1. Qualifications of land ~~surveyors-in-training~~ surveyor interns.** An
26 applicant for certification as a land ~~surveyor-in-training~~ surveyor intern who has ~~had a minimum~~
27 ~~of~~ at least four years of qualifying land surveying experience of a character satisfactory to the
28 board, of which a formal education in an accredited engineering or land surveying curriculum
29 may constitute a part thereof, may receive from the board, upon passing a written examination
30 on the fundamentals of mathematics and the basic principles of land surveying, a certificate

1 stating that the applicant has passed the examination and been recorded as a land
2 ~~surveyor in training~~ surveyor intern.

3 **SECTION 17. AMENDMENT.** Section 43-19.1-17 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-19.1-17. Application for registration.** Application for registration as a professional
6 engineer or land surveyor, ~~and or~~ for certification as an ~~engineer in training~~ engineer intern or
7 land ~~surveyor in training~~, surveyor intern must be on a form prescribed and furnished by the
8 board containing statements made under oath, showing the applicant's education ~~and~~, a
9 detailed summary of the applicant's technical experience, and references as required by this
10 chapter and must be accompanied by registration fees.

11 **SECTION 18. AMENDMENT.** Section 43-19.1-18 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **43-19.1-18. Registration fees.** The board shall establish registration fees for
14 professional engineers, ~~engineers in training~~, land surveyors, engineer interns, and land
15 ~~surveyors in training~~ surveyor interns in the amount the board determines necessary to
16 accomplish the purposes of the board as provided in this chapter. The registration fees may
17 not exceed the amount of one hundred dollars for a one-year period or two hundred dollars for
18 a two-year period. If the board denies the issuance of a certificate to an applicant, the fee paid
19 may be retained as an application fee.

20 **SECTION 19. AMENDMENT.** Section 43-19.1-19 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-19.1-19. Examinations.** Written examinations must be held at such times and
23 places as the board shall determine. Examinations required on fundamental engineering or
24 land surveying subjects may be taken at any time prescribed by the board. The final
25 examinations may not be taken until the applicant has completed a period of engineering or
26 land surveying experience as provided in this chapter. The board shall establish the minimum
27 passing grade on any examination ~~may not be less than seventy percent~~. A candidate failing
28 one examination may apply for reexamination, which may be granted upon payment of a fee
29 established by the board ~~in an amount not in excess of the regularly established registration~~
30 fee. Any candidate for registration having an average grade ~~of less than fifty percent~~ that does

1 not meet the standards set by the board may not apply for reexamination for one year from the
2 date of such examination.

3 **SECTION 20. AMENDMENT.** Section 43-19.1-20 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-19.1-20. Certificates.** The board shall issue a certificate of registration upon
6 payment of the registration fee as provided for in this chapter to any applicant who, in the
7 opinion of the board, has met the requirements of this chapter. Enrollment cards must be
8 issued to those who qualify as ~~engineers-in-training and~~ engineer interns or land
9 ~~surveyors-in-training~~ surveyor interns. Certificates of registration must carry the designation
10 "professional engineer" or "professional land surveyor", must show the full name of the
11 registrant without any titles, must be numbered, and must be signed by the chairman and the
12 secretary under seal of the board. The issuance of a certificate of registration by the board is
13 prima facie evidence ~~that the person~~ individual named on the certificate is entitled to all rights
14 and privileges of a professional engineer or land surveyor during the term of which the
15 certificate providing the same has not been revoked or suspended.

16 **SECTION 21. AMENDMENT.** Section 43-19.1-21 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-19.1-21. Seals.** Each registrant ~~hereunder may~~ under this chapter upon registration
19 may obtain a seal of the design authorized by the board, bearing the registrant's name, serial
20 number, and the legend; "registered professional engineer" or "registered professional land
21 surveyor". Final engineering drawings, specifications, maps, plats, reports, or other documents
22 prepared by a person required to be registered under this chapter must, when issued, be
23 signed and stamped with the said seal or facsimile thereof. It is unlawful for a registrant to affix
24 or permit the registrant's seal and signature or facsimiles thereof to be affixed to any
25 engineering drawings, specifications, maps, plats, reports, or other documents after the
26 expiration or revocation or during the suspension of a certificate, or for the purpose of aiding
27 and abetting any other person to evade or attempt to evade any provision of this chapter.

28 **SECTION 22. AMENDMENT.** Section 43-19.1-22 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **43-19.1-22. Expirations and renewals.** ~~Certificates~~ A certificate of registration ~~expire~~
31 expires on December thirty-first of the year of ~~their~~ issuance if registration is on an annual basis

1 and of the year after ~~their~~ issuance if issued on a biennial basis; and ~~become~~ becomes invalid
2 after that date unless renewed. The secretary of the board shall notify every ~~person registered~~
3 registrant under this chapter of the date of the expiration of ~~that person's~~ the registrant's
4 certificate of registration and the amount of fee required for its renewal. The notice must be
5 mailed to the registrant at the registrant's last-known address at least one month in advance of
6 the expiration of the registrant's certificate. Renewal may be effected at any time before or
7 during the month of December by the payment of a fee as established by the board, not to
8 exceed the fees established in section 43-19.1-18. Renewal of an expired certificate may be
9 effected under rules adopted by the board regarding requirements for reexamination and
10 penalty fees.

11 **SECTION 23. AMENDMENT.** Section 43-19.1-23 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **43-19.1-23. Reissuance of certificates.** A new certificate of registration to replace
14 any certificate lost, destroyed, or mutilated may be issued subject to the rules of the board. ~~A~~
15 The board may establish a reasonable charge ~~must be made~~ for such issuance.

16 **SECTION 24. AMENDMENT.** Section 43-19.1-24 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-19.1-24. Code of ethics.** The board shall cause to have prepared and shall adopt a
19 code of ethics, a copy of which must be ~~delivered~~ made available to every registrant and
20 applicant for registration under this chapter, and which must be published in the roster provided
21 ~~for herein~~ under this chapter. Such publication constitutes due notice to all registrants. The
22 board may revise and amend this code of ethics from time to time; and shall ~~forthwith~~ notify
23 each registrant in writing of such revisions or amendments. ~~Such~~ The code of ethics ~~when~~
24 ~~adopted~~ applies to all certificate holders, including specialists in a particular branch of the
25 engineering or surveying profession.

26 **SECTION 25. AMENDMENT.** Section 43-19.1-25 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-19.1-25. Disciplinary action - Revocations, suspensions, or reprimand.** The
29 board ~~has the power to~~ may suspend, refuse to renew, or revoke the certificate of registration
30 ~~of, or~~ and may reprimand; any registrant. In an order or decision issued by the board in
31 resolution of a disciplinary proceeding in which disciplinary action is imposed against a

registrant, the board may direct a registrant to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and ~~its~~ the board's investigative panels in the investigation and prosecution of the case.

Notwithstanding section 28-32-50, if a registrant is the prevailing party in an administrative appeal of a disciplinary action taken by the board under this section, the board shall pay the registrant's reasonable and actual costs, including reasonable attorney's fees. These powers apply to any registrant who is found guilty of any of the following:

1. The practice of any fraud or deceit in obtaining a certificate of registration.
2. Any gross negligence, incompetence, or misconduct in the practice of engineering or land surveying.
3. Any offense determined by the board to have a direct bearing upon ~~a person's~~ an individual's ability to serve the public as a professional engineer and land surveyor; or when the board determines, following conviction of any offense, that ~~a person~~ an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
4. The violation of the code of ethics adopted ~~and promulgated~~ by the board.

SECTION 26. AMENDMENT. Section 43-19.1-26 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-26. Disciplinary action - Procedure. Any person may ~~prefer~~ file charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any individual registrant. Such charges must be in writing and must be sworn to by ~~the~~ each person or persons making ~~them~~ the charges and must be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board within ~~three~~ six months ~~after the date on which they have been preferred~~ following the filing of charges unless the accused registrant waives this requirement. The time and place for ~~said~~ the hearing must be fixed by the board; and a copy of the charges, together with a notice of the time and place of hearing, must be served upon the accused registrant either personally or sent by registered ~~or certified~~ mail to the last-known address of ~~such individual~~ the registrant at least thirty days before the date fixed for hearing. At any hearing the accused registrant has the right to appear in person or by counsel, or both; to cross-examine witnesses appearing against the accused; and to produce evidence and witnesses in defense of the accused. If the accused ~~person~~ fails or refuses to appear, the board may proceed to hear and

determine the validity of the charges. ~~If after such hearing~~ Following the hearing, the board
members who did not serve on the investigative panel shall deliberate in executive session and
if a majority of the board members who did not serve on the investigative panel vote in favor of
sustaining the charges, the board shall make findings of fact, draw its and conclusions of law
and shall issue its the board's order therein, and serve the same findings, conclusions, and
order upon the accused. In said the order the board may reprimand, suspend, refuse to renew,
or revoke the accused individual's registrant's certificate of registration. Any person registrant
who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or
revoking that person's registrant's certificate of registration, may appeal therefrom the board's
action to the district court under the procedures provided by chapter 28-32.

SECTION 27. AMENDMENT. Section 43-19.1-27 of the North Dakota Century Code is
amended and reenacted as follows:

43-19.1-27. Right to practice.

1. ~~No person shall~~ A person may not practice or offer to practice professional
engineering or land surveying, as defined by this chapter, unless such the person
is duly an individual registered to practice under or exempt from the provisions of
this chapter.
2. The following are not considered offering to practice engineering or surveying in
the solicitation of work if the engineer or surveyor is licensed in another jurisdiction:
 - a. Advertising in a publication or electronic media if there is no holding out of
professional services in jurisdictions in which not licensed.
 - b. Responding to a letter of inquiry regarding a request for proposals if there is
written disclosure the engineer, surveyor, or firm is not licensed in this state
and the response is limited to inquiries regarding scope of project and to
demonstrate interest.
 - c. Responding to a letter of inquiry from a prospective client if there is written
disclosure that the engineer, surveyor, or firm is not licensed in this state and
the response is limited to inquiries regarding scope of project and to
demonstrate interest.
 - d. Using the title or designation "professional engineer", "licensed engineer",
"P.E.", "professional surveyor", "licensed surveyor", "P.L.S.", or similar title or

1 designation in correspondence or on business cards from an office in the
2 jurisdiction in which licensure is held.

3 3. Notwithstanding subsection 2, a proposal may not be submitted, a contract may
4 not be signed, or work may not be commenced until an engineer, surveyor, or firm
5 becomes licensed as provided under this chapter.

6 4. A registered professional engineer or registered land surveyor may practice or offer
7 to practice professional engineering or land surveying ~~by registered professional~~
8 ~~engineers or registered land surveyors, organized as a partnership, incorporated~~
9 ~~as a professional corporation under the provisions of the professional corporations~~
10 ~~law of this state, or organized as a limited liability company under the professional~~
11 ~~limited liability company law of this state, or under the provisions of a similar law of~~
12 ~~any other state, is hereby authorized, provided all of the partners of such~~
13 ~~partnership, each officer and shareholder in the case of a professional corporation,~~
14 ~~or each manager and member in the case of a professional limited liability~~
15 ~~company are duly~~ as an organization or as an individual operating under a trade
16 name if the organization is registered under or exempt from the provisions of this
17 chapter.

18 3. 5. In addition to and without impairing any rights or exemptions granted others in this
19 chapter, the practice of or offer to practice professional engineering or land
20 surveying ~~as defined in this chapter, by individual engineers or land surveyors~~
21 ~~registered under this chapter either through or as an officer, employee, or agent of~~
22 ~~a partnership or corporation, or by a partnership or a corporation or limited liability~~
23 ~~company, other than a professional corporation or professional limited liability~~
24 ~~company, through individual engineers or land surveyors registered under this~~
25 ~~chapter, by an organization or by an individual operating under a trade name is~~
26 permitted in this state provided if:

27 a. All officers, ~~managers,~~ employees, and agents of such ~~a partnership,~~
28 ~~corporation, or limited liability company~~ an organization or the individual
29 operating under a trade name who will perform the practice of engineering or
30 of land surveying within this state ~~for such partnership, corporation, or limited~~
31 ~~liability company~~ are registered under this chapter;

- 1 b. Each person in responsible charge of the activities of any ~~such partnership,~~
2 ~~corporation, or limited liability company,~~ organization or individual operating
3 under a trade name which activities constitute the practice of professional
4 engineering and land surveying, is a professional engineer or land surveyor
5 registered in this state or ~~a person~~ an individual authorized to practice
6 professional engineering or land surveying as provided in this chapter;
- 7 c. Such ~~partnership, corporation, or limited liability company~~ organization or
8 individual operating under a trade name has been issued a certificate of
9 authorization by the board as provided by subsection 4 6;
- 10 d. Each ~~such partnership, corporation, or limited liability company~~ shall be
11 organization or individual operating under a trade name is jointly and severally
12 responsible with and for the conduct or acts of its agents, employees, officers,
13 or managers in respect to any professional engineering or land surveying
14 services performed or to be executed in this state. ~~No~~ An individual practicing
15 professional engineering or land surveying ~~shall~~ may not be relieved of the
16 responsibility for the individual's conduct or acts performed by reason of the
17 individual's employment by or relationship with such ~~partnership, corporation,~~
18 ~~or limited liability company~~ organization or individual operating under a trade
19 name; and
- 20 e. All final drawings, specifications, plans, reports, or other engineering or land
21 surveying papers or documents involving the practice of professional
22 engineering or land ~~surveyors as defined in this chapter~~ surveying, when
23 issued, ~~shall~~ must be dated and bear the seals and signatures of the
24 professional engineers or land surveyors registered under this chapter by
25 whom or under whose responsible charge they were prepared. A working
26 drawing or unfinished document must contain a statement to the effect the
27 drawing or document is preliminary and not for construction, recording
28 purposes, or implementation. It is unlawful for a registrant to affix or permit
29 the registrant's seal and signature or facsimiles thereof to be affixed to any
30 engineering drawing, specification, map, plat, report, or other document after
31 the expiration or revocation or during the suspension of a certificate or for the

1 purpose of aiding and abetting any other person to evade or attempt to evade
2 any provision if this chapter.

3 4. ~~6.~~ ~~A partnership, corporation, or limited liability company~~ An organization or individual
4 operating under a trade name desiring a certificate of authorization or the renewal
5 thereof shall file a written application with the board setting forth the names and
6 addresses of all partners, officers, directors, managers, or governors, if any, of
7 such ~~partnership, officers and directors of such corporation, or managers and~~
8 ~~governors of such limited liability company,~~ organization and the names and
9 addresses of all employees who are duly registered to practice professional
10 engineering or land surveying in this state, and who are or will be in responsible
11 charge of any engineering or land surveying in this state by such ~~partnership,~~
12 ~~corporation, or limited liability company~~ organization or individual operating under a
13 trade name, together with other information as the board may require. Upon the
14 receipt of an application, and of a fee in an amount established by the board for the
15 initial certificate or ~~annual~~ renewal thereof, but not to exceed the amount of ~~one~~
16 two hundred dollars per year, the board shall issue to such ~~partnership,~~
17 ~~corporation, or limited liability company~~ organization or individual operating under a
18 trade name a certificate of authorization or a renewal thereof, which certificate of
19 authorization ~~shall~~ is not be transferable. ~~Should~~ If the board ~~find~~ finds an error in
20 an application or that facts exist which would entitle the board to suspend or revoke
21 a certificate if issued to the applicant, the board shall deny the application. ~~Should~~
22 If a change ~~occur~~ occurs in any of the information submitted on the application of
23 any ~~partnership, corporation, or limited liability company~~ organization or individual
24 operating under a trade name within the term of authorization, ~~such partnership,~~
25 ~~corporation, or limited liability company~~ the organization or individual operating
26 under a trade name shall file with the board a written report with respect ~~thereto~~ to
27 the change within thirty days after ~~such~~ the change occurs. The provisions with
28 respect to issuance, expiration, renewal, and reissuance of the certificates of
29 registration of individuals contained in this chapter ~~shall~~ also apply to certificates of
30 authorization issued to ~~partnerships, corporations, and limited liability companies~~
31 an organization or individual operating under a trade name under this subsection.

Partnerships, corporations, or limited liability companies shall be An organization or individual operating under a trade name is subject to disciplinary proceedings and penalties; and certificates of authorization ~~shall be~~ are subject to suspension or revocation for cause in the same manner and to the same extent as is provided with respect to an individual ~~persons and their~~ the individual's certificates of registration in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31. "Registrant" and "certificate of registration" in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31, and the provisions of such sections, ~~shall for the purpose of such sections be deemed to include and apply respectively to any partnership, corporation, or limited liability company holding~~ organization or individual operating under a trade name that holds a certificate of authorization issued under this chapter, and to such certificate of authorization.

SECTION 28. AMENDMENT. Section 43-19.1-29 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-29. Exemption clause. This chapter ~~shall~~ does not be construed to prevent or affect:

1. The practice or offer to practice engineering by ~~a person~~ an individual not a resident or having no established place of business in this state, if that ~~person~~ individual is legally qualified by registration to practice engineering, ~~as defined in this chapter,~~ in another state or country ~~which~~ that extends similar privileges to ~~persons~~ individuals registered under this chapter. However, that ~~person must~~ individual shall make an application accompanied by the appropriate application fee to the board in writing ~~prior to~~ before practicing or offering to practice engineering, and may be granted a one-time temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to any applicant with respect to any other work not set forth in the temporary permit. A land surveyor ~~as defined in this chapter~~ may not receive a temporary permit under this subsection.
2. The work of an employee or a subordinate of ~~a person~~ an individual holding a certificate of registration under this chapter, or an employee of ~~a person~~ an individual practicing lawfully under subsection 1; provided such work does not

include final engineering or surveying designs or decisions and is done under the direct supervision of and verified by ~~a person~~ an individual holding a certificate of registration under this chapter, or ~~a person~~ an individual practicing lawfully under subsection 1.

3. ~~The practice of engineering or surveying for a county by a person not registered under this chapter whose appointment as county engineer or county highway superintendent was in effect on January 1, 1967.~~

4. The practice of any other legally recognized profession or trade, nor ~~shall it be construed to~~ does the chapter permit registered professional engineers to perform duties requiring the services of a licensed architect, as provided by the laws of the state of North Dakota licensing and regulating architects and architecture.

5. 4. The practice of engineering ~~and~~ or land surveying by any ~~person~~ individual regularly employed to perform engineering services solely for that ~~person's~~ individual's employer or for a subsidiary or affiliated corporation or limited liability company of that ~~person's~~ individual's employer, providing the ~~engineering services~~ performed ~~is~~ are in connection with the property, products, or services of that ~~person's~~ individual's employer, unless the board determines the property, products, or services are of a unique type requiring registration to protect the public.

SECTION 29. AMENDMENT. Section 43-19.1-30 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-30. Duties of recorder. It is unlawful for the recorder of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying; which does not have impressed thereon and affixed thereto; the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.

SECTION 30. AMENDMENT. Section 43-19.1-31 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-31. Violation and penalties. Any person ~~who~~ that practices; or offers to practice; engineering or land surveying in this state without being registered in accordance with the provisions of this chapter; ~~or~~ any person using or employing the words "engineer" ~~or~~ 1,

1 "engineering" ~~or~~, "professional engineer" ~~or~~, "surveyor" ~~or~~, "land surveyor", "professional land
2 surveyor", or any modification or derivative ~~thereof~~ of these terms in that person's name ~~or~~,
3 form of business, or activity, except as authorized in this chapter; ~~or~~ any person presenting or
4 attempting to use the certificate of registration or the seal of another; ~~or~~ any person ~~who gives~~
5 giving any false or forged evidence of any kind to the board or to any member ~~thereof~~ of the
6 board in obtaining or attempting to obtain a certificate of registration; or any person ~~who~~ falsely
7 ~~impersonates~~ impersonating any other registrant of like or different name; ~~or~~ any person ~~who~~
8 ~~attempts~~ attempting to use an expired or revoked or nonexistent certificate of registration; ~~or~~
9 ~~who practices~~ practicing or ~~offers~~ offering to practice when not qualified; ~~or~~ any person ~~who~~
10 falsely ~~claims that~~ claiming that person is registered under this chapter; or any person ~~who~~
11 ~~violates~~ violating any of the provisions of this chapter; is guilty of a class B misdemeanor. It is
12 the duty of all duly constituted officers of the state, and of all political subdivisions ~~thereof~~ of the
13 state, to enforce the provisions of this chapter.

14 **SECTION 31. AMENDMENT.** Section 43-19.1-33 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-19.1-33. Continuing professional education - Rules.** The board shall adopt rules
17 to establish continuing education requirements for professional engineers and land surveyors.
18 Compliance with these rules must be documented at the times, and in the manner, as is
19 required by the board. A professional engineer or land surveyor who is exempt under
20 subsection ~~5~~ 4 of section 43-19.1-29 but who has voluntarily registered under this chapter is
21 exempt from the continuing professional education requirements under this section.