

# OFFICES AND OFFICERS

## CHAPTER 337

### SENATE BILL NO. 2113

(Judiciary Committee)  
(At the request of the Adjutant General)

AN ACT to amend and reenact section 44-04-18.1 of the North Dakota Century Code, relating to confidentiality of emergency responder peer or group counseling session records relating to critical incident stress management.

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

**SECTION 1. AMENDMENT.** Section 44-04-18.1 of the North Dakota Century Code is amended and reenacted as follows:

**44-04-18.1. Public employee personal, medical, and employee assistance records - Confidentiality - Personal information maintained by state entities - Exempt.**

1. 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, except as otherwise authorized by law, may not be used or disclosed without the written authorization of the employee. As used in this section, the term "public employee" includes any individual who has applied for employment, is employed, or has been employed by a public entity.
2. Except as otherwise specifically provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt. As used in this section, "personal information" means a person's home address; home telephone number or personal cell phone number; photograph; medical information; motor vehicle operator's identification number; public employee identification number; payroll deduction information; the name, address, telephone number, and date of birth of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution.
3. Nonconfidential information contained in a personnel record of an employee of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 is exempt.
4. Except as otherwise specifically provided by law, personal information regarding a licensee maintained by an occupational or professional board, association, state agency, or commission created by law is exempt. As used in this section, "licensee" means an individual who has applied for, holds, or has held in the past an occupational or professional license, certificate, credential,

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permit, or registration issued by a state occupational or professional board, association, agency, or commission.

5. Information relating directly to persons engaged in an organized public safety peer counseling or a public safety peer debriefing is exempt.

Approved April 19, 2013  
Filed April 19, 2013

## CHAPTER 338

### SENATE BILL NO. 2115

(Judiciary Committee)  
(At the request of the Adjutant General)

AN ACT to amend and reenact section 44-04-18.4 of the North Dakota Century Code, relating to exemption of technical, financial, or marketing records.

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

**SECTION 1. AMENDMENT.** Section 44-04-18.4 of the North Dakota Century Code is amended and reenacted as follows:

**44-04-18.4. Confidentiality of trade secret, proprietary, commercial, and financial information.**

1. Trade secret, proprietary, commercial, and financial information is confidential if it is of a privileged nature and it has not been previously publicly disclosed.
2. Under this section, unless the context otherwise requires:
  - a. "Commercial information" means information pertaining to buying or selling of goods and services that has not been previously publicly disclosed and that if the information were to be disclosed would impair the public entity's future ability to obtain necessary information or would cause substantial competitive injury to the person from which the information was obtained.
  - b. "Financial information" means information pertaining to monetary resources of a person that has not been previously publicly disclosed and that if the information were to be disclosed would impair the public entity's future ability to obtain necessary information or would cause substantial competitive injury to the person from which the information was obtained.
  - c. "Proprietary information" includes:
    - (1) Information shared between a sponsor of research or a potential sponsor of research and a public entity conducting or negotiating an agreement for the research.
    - (2) Information received from a private business that has entered or is negotiating an agreement with a public entity to conduct research or manufacture or create a product for potential commercialization.
    - (3) A discovery or innovation generated by the research information, technical information, financial information, or marketing information acquired under activities described under paragraph 1 or 2.
    - (4) A document specifically and directly related to the licensing or commercialization resulting from activities described under paragraph 1, 2, or 6.

- (5) Technical, financial, or marketing records that are received by a public entity, which are owned or controlled by the submitting person, are intended to be and are treated by the submitting person as private, and the disclosure of which would cause harm to the submitting person's business.
  - (6) A discovery or innovation produced by the public entity that an employee or the entity intends to commercialize.
  - (7) A computer software program and components of a computer software program that are subject to a copyright or a patent and any formula, pattern, compilation, program, device, method, technique, or process supplied to a public entity that is the subject of efforts by the supplying person to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that might obtain economic value from its disclosure or use.
  - (8) A discovery or innovation that is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, combination of devices, method, technique, technical know-how or process that is for use, or is used, in the operation of a business and is supplied to or prepared by a public entity that is the subject of efforts by the supplying or preparing person to maintain its secrecy and provides the preparing person an advantage or an opportunity to obtain an advantage over those who do not know or use it or that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, a person that might obtain economic value from its disclosure or use.
- d. "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, technical know-how, or process, that:
- (1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and
  - (2) Is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information.
3. This section does not limit or otherwise affect a record pertaining to any rule of the state department of health or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.
  4. This section does not limit the release or use of records obtained in an investigation by the attorney general or other law enforcement official.
  5. Unless made confidential under subsection 1, the following economic development records and information are exempt:

- a. Records and information pertaining to a prospective location of a business or industry, including the identity, nature, and location of the business or industry, when no previous public disclosure has been made by the business or industry of the interest or intent of the business or industry to locate in, relocate within, expand within this state, or partner with a public entity to conduct research or to license a discovery or innovation. This exemption does not include records pertaining to the application for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.
  - b. Trade secrets and proprietary, commercial, or financial information received from a person that is interested in applying for or receiving financing, technical assistance, or other forms of business assistance.
6. Unless made confidential under subsection 1 or made exempt under subsection 5, bids or proposals received by a public entity in response to a request for proposals by the public entity are exempt until all of the proposals have been received and opened by the public entity or until all oral presentations regarding the proposals, if any, have been heard by the public entity. Records included with any bid or proposal naming and generally describing the entity submitting the proposal are open.
  7. Unless made confidential under subsection 1, records received by the state department of emergency services under chapter 37-17.1 from the federal government and any public or private agency or entity for disaster mitigation, preparation, response, and recovery are exempt.

Approved April 24, 2013  
Filed April 24, 2013

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**CHAPTER 339****HOUSE BILL NO. 1186**

(Representative Carlson)  
(Senator Wardner)

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to access to records relating to legislative bill tracking systems; and to declare an emergency.

**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:

**Legislative bill tracking records - Exempt.**

Any record maintained within a legislative bill tracking system administered or operated by a public entity is an exempt record.

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

Approved January 17, 2013

Filed January 17, 2013

## CHAPTER 340

### HOUSE BILL NO. 1207

(Representatives Klemin, Becker, Haak)  
(Senators Hogue, Poolman, Sitte)

AN ACT to create and enact a new subsection to section 44-06.1-09 of the North Dakota Century Code, relating to notarial acts performed in this state and bordering states; to amend and reenact subsection 1 of section 44-06.1-16, subsection 5 of section 44-06.1-21, and section 44-06.1-22 of the North Dakota Century Code, relating to notary stamps, the use of civil penalties collected by the secretary of state, and implementation of a notary public database; and to declare an emergency.

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

**SECTION 1.** A new subsection to section 44-06.1-09 of the North Dakota Century Code is created and enacted as follows:

A notarial act performed in this state by a notarial officer of a bordering state has the same effect as if the act were performed by a notarial officer of this state, if the bordering state grants notarial officers of this state similar authority within that state.

**SECTION 2. AMENDMENT.** Subsection 1 of section 44-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

1. The secretary of state, upon receipt of the proper fee, oath, and bond, shall issue a certificate of authorization with which the notary public may obtain an official notary stamping device. A notary stamp vendor may provide a notary with an official stamping device only upon presentation by the notary of a certificate of authorization. The notary public shall place an impression of the notary's stamp on the certificate of authorization and return the certificate of authorization to the secretary of state. After the certificate of authorization is received, approved, and filed, the secretary of state shall issue a notary commission that authorizes the notary to commence the duties of the office of notary public. A notary being commissioned must obtain a stamping device approved by the secretary of state which must be designed to leave a clear impression, be photographically reproducible, include the words "State of North Dakota" and "Notary Public", contain the name and commission expiration date of the notary public exactly as shown on the notary's commission, and which may not contain any other words, numbers, symbols, or a reproduction of the great seal of the state. All notary stamps must be surrounded by a border and, except as otherwise permitted by the secretary of state, may be either up to or equal to one and five-eighths inch [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal to seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally.

**SECTION 3. AMENDMENT.** Subsection 5 of section 44-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

5. The secretary of state may impose a lesser sanction for a violation of any provision of this chapter if determined appropriate by the secretary of state under the pertinent facts and circumstances. A lesser sanction includes imposition of a civil penalty not to exceed five hundred dollars or a letter of reprimand. Any civil penalty collected by the secretary of state must be deposited in the secretary of state's general services operating fund.

**SECTION 4. AMENDMENT.** Section 44-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

**44-06.1-22. (Effective after July 31, 2013) Database of notaries public.**

TheWhen the secretary of state acquires or develops the technical capability to maintain an electronic database of notaries public, the secretary of state shall maintain an electronic database of notaries public:

1. Through which an individual may verify the authority of a notary public to perform notarial acts; and
2. Which indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

**SECTION 5. EMERGENCY.** Section 1 of this Act is declared to be an emergency measure.

Approved April 11, 2013  
Filed April 11, 2013

## CHAPTER 341

### HOUSE BILL NO. 1368

(Representatives Boehning, Beadle, Dockter, Maragos, Delmore)  
(Senators Carlisle, Krebsbach, Sorvaag)

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

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

**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 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. If a higher education athletic team or other organized institution organization group meal is attended at the request of and on behalf of the institution, actual expenses for the entire group, including coaches, trainers, and other employees, may be paid or submitted for payment on a team or group travel expense report; subsection 2 does not apply; and officers and employees are not required to document individual expenses or submit individual travel reimbursement vouchers. 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. For travel within the state, the following rates for each quarter of any twenty-four-hour period must be used:
  - a. First quarter is from six a.m. to twelve noon and the sum must be ~~six~~six ~~seven~~seven dollars. First quarter reimbursement may not be made if travel began after seven a.m.
  - b. Second quarter is from twelve noon to six p.m. and the sum must be ~~nineteen~~nineteen dollars ~~and fifty cents~~and fifty cents.
  - c. Third quarter is from six p.m. to twelve midnight and the sum must be ~~fifteen~~fifteen ~~seventeen~~seventeen dollars ~~and fifty cents~~and fifty cents.

- d. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed an amount established by policy by the director of the office of management and budget plus any additional applicable state or local taxes. The director shall establish a policy to set the lodging reimbursement at an amount equal to ninety percent of the rate established by the United States general services administration for lodging reimbursement in this state. A political subdivision may reimburse an elective or appointive officer, employee, representative, or agent for actual lodging expenses.
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.
4. The allowance for meals in noncontinental United States and overseas nonforeign areas, including Alaska, Hawaii, and Guam, 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 established by the United States per diem committee.
5. The allowance for meals outside the 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 established by the United States department of state.
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 travel expenses outside the state less than those set forth in this section. 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 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 April 29, 2013  
Filed April 29, 2013

## CHAPTER 342

### HOUSE BILL NO. 1193

(Representatives N. Johnson, Kretschmar, Glassheim)  
(Senators Lyson, Sorvaag, Murphy)

AN ACT to create and enact a new section to chapter 44-11 of the North Dakota Century Code, relating to appointment of a special commissioner to preside over removal proceedings; to amend and reenact sections 44-11-01, 44-11-02, 44-11-03, 44-11-04, 44-11-06, 44-11-07, 44-11-09, 44-11-10, 44-11-11, and 44-11-12 of the North Dakota Century Code, relating to proceedings to remove officials from office; and to repeal sections 44-11-05, 44-11-13, and 44-11-14 of the North Dakota Century Code, relating to taking of testimony, appeals, and assessment of costs on removal proceedings.

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

**SECTION 1. AMENDMENT.** Section 44-11-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **44-11-01. What officers removable by governor - Grounds.**

The governor may remove from office any county commissioner, sheriff, coroner, county auditor, recorder, 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 the governor by competent preponderance of the evidence and after a hearing as provided in this chapter, that the officer has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, or of habitual drunkenness substance abuse or gross incompetency.

**SECTION 2. AMENDMENT.** Section 44-11-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~complaint or charges~~ petition against any official authorized to be removed by the governor must be entitled in the name of this state and must be filed with the ~~governor~~ attorney general.
2. The ~~complaint or charges~~ against any official, other than a school board member, may be made upon the ~~relation~~ petition of fifty qualified electors of the county in which the person charged is an officer, or upon the ~~relation~~ petition 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. 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 are required. However, not fewer than twenty-five signatures are required unless the district has fewer than twenty-five qualified electors, in which case the petition must 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 must be determined by the county superintendent for such county in which such school is located.

4. ~~The complaint and charges must be filed by the attorney general when directed to do so by the governor.~~When the petition is filed, the attorney general shall conduct an investigation within thirty days. Upon completion of the investigation, the attorney general shall make a recommendation to the governor whether a removal proceeding should be conducted by a special commissioner, and if so, whether the accused officer should be suspended during the pendency of the proceeding.
5. Upon receipt of the recommendation of the attorney general, the governor shall determine whether to proceed with the appointment of a special commissioner. If the governor decides not to appoint a special commissioner, the governor shall notify the individuals who filed the petition and summarize the reasons for the decision. If the governor decides to appoint a special commissioner, the governor shall request that a prosecutor draft and serve the official complaint against the officer.
  - 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.

**SECTION 3. AMENDMENT.** Section 44-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**44-11-03. ~~Complaint~~Petition and complaint - Requisites.**

The petition and thereafter the ~~complaint or charges~~ must state the charges against the accused, and, unless filed by the state's attorney or attorney general, must be verified and may be amended as in ordinary actions. If such amendment of the complaint or charges includes any new or additional charge, then ~~a reasonable time~~the accused must be allowed ~~the accused a~~ a reasonable time to prepare a defense thereto.

**SECTION 4. AMENDMENT.** Section 44-11-04 of the North Dakota Century Code is amended and reenacted as follows:

**44-11-04. ~~Special commissioner to hear and take testimony~~ - Suspension of officer - Notice to governing body.**

~~Whenever charges are filed against any officer mentioned in section 44-11-01, the governor shall appoint as a special commissioner a competent person learned in the~~

law to hear and report the testimony for and against the accused and to file that person's report of the testimony, to be used on the hearing. The testimony must be reduced to writing, and when the testimony is not taken by a shorthand reporter, each witness shall subscribe the witness's name to the witness's testimony when the same is so reduced. If the governor judges that the best interests of the state require it to be done, the governor by written order to be delivered to such officer, may suspend the accused officer from the performance of duty during the pendency of the hearing removal proceedings. If the governor suspends the accused, the governor immediately shall notify the board or persons authorized to fill a vacancy in that office, and that board or those persons, within five days after receipt of such notice, shall appoint a competent person to fill the office and perform the duties thereof ~~ad interim~~ of the officer during the suspension.

**SECTION 5.** A new section to chapter 44-11 of the North Dakota Century Code is created and enacted as follows:

**Appointment of special commissioner - Filing of complaint.**

The governor shall appoint as a special commissioner a retired or former judge, or other competent person learned in the law to preside over the removal proceedings. The prosecutor shall file with the special commissioner a complaint containing the allegations against the officer, which may consist of the charges alleged in the petition or any charge justified by the investigation conducted by the attorney general. The prosecutor shall also file proof that the complaint was served on the officer.

**SECTION 6. AMENDMENT.** Section 44-11-06 of the North Dakota Century Code is amended and reenacted as follows:

**44-11-06. Hearing - Report to governor - Time of hearing fixed.**

Whenever testimony has been taken upon charges filed against any officer, as provided by this chapter, the special commissioner forthwith shall report all such testimony and proceedings to the governor and shall file the same in the governor's office. Thereupon the governor shall fix a time and place for the hearing on a day not more than ten days from the date of the filing of the commissioner's report, and not less than five days from the date of the service of notice of such hearing upon the accused. At such hearing the accused is entitled to be heard in person or by attorney. Within thirty days of the appointment of the special commissioner, a hearing shall be held in open court on the allegations of the complaint. The proceedings shall be recorded by a court reporter or court recorder. The accused is entitled to be present and be heard in person or through the accused's attorney. The commissioner has the same powers as are conferred upon district judges to take testimony and may rule on, admit, or exclude testimony accordingly. Within ten days of the conclusion of the hearing, the commissioner shall forward to the governor a report of the proceedings, including a summary of testimony, findings as to whether any allegations were proven by a preponderance of the evidence, exhibits and evidence received, and a recommendation whether the accused should be removed from office. The governor may request a transcript be prepared if review of testimony is necessary for a final determination on removal.

**SECTION 7. AMENDMENT.** Section 44-11-07 of the North Dakota Century Code is amended and reenacted as follows:

#### **44-11-07. Removal from office upon hearing - Filling vacancy.**

If upon a hearing the charges are sustained after reviewing the report and recommendation, the governor determines that removal is in the best interests of the state, the governor forthwith shall make an order in writing removing the accused officer from office, and shall cause a copy of the order to be delivered to the accused and one copy to be delivered to the board or persons having the authority to fill a vacancy in that office. Thereupon that board or person, within five days thereafter, shall appoint a competent person to fill the office and perform the duties thereof, unless the accused, prior to the final hearing, had been suspended as provided by this chapter, and an ad interim appointment made. In such case the person appointed to the office ad interim during the suspension shall continue until the expiration of the term for which the accused was elected or appointed. If the governor decides that removal is not in the best interests of the state, the governor shall notify the individuals who filed the petition and summarize the reasons for the decision.

**SECTION 8. AMENDMENT.** Section 44-11-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **44-11-09. Appeal - Notification of governor - Proceedings.**

The clerk of the district court shall notify the governor of the filing of an appeal by registered or certified mail. The governor, within ten days after the receipt of such notice, shall mail to the clerk of said court the testimony in such removal proceedings, together with a copy of any order made by the governor in such proceedings. Said appeal must be heard by the judge of said court upon the record in such proceedings, without a jury, at the next regular term of court or prior to said term, in the discretion of the judge of said court. After such hearing by the district judge, the district judge shall make an order affirming the order of the governor or an order reinstating the defendant officer if the decision is clearly erroneous.

**SECTION 9. AMENDMENT.** Section 44-11-10 of the North Dakota Century Code is amended and reenacted as follows:

#### **44-11-10. Fees of special commissioner - Stenographer - Witnesses.**

The fees of the special commissioner provided for by this chapter must be ~~one~~two hundred dollars per day, and in addition thereto, the special commissioner shall receive mileage from the commissioner's residence to the place of trial the same as is allowed by law to sheriffs. The special commissioner may employ a stenographer and pay the expenses of the stenographer. Such expenses must be itemized by the commissioner and filed with the commissioner's report and findings and audited and allowed by the governor. Witnesses giving testimony before such commissioner, the number to be limited by the commissioner, must be allowed the same fees as witnesses in district court. In proceedings to remove a county officer, such fees must be paid by the county upon allowance by the board of county commissioners in the same manner as other claims against the county, and if a municipal or township officer, then by the city council, board of city commissioners, or board of township supervisors, in the same manner as other claims against the municipality are paid.

**SECTION 10. AMENDMENT.** Section 44-11-11 of the North Dakota Century Code is amended and reenacted as follows:

**44-11-11. Oath of commissioner - Contents - Filing.**

When a special commissioner has been appointed as provided in this chapter, the commissioner forthwith shall take an oath and shall file the same with the governor that:

1. The commissioner, impartially and to the best of the commissioner's knowledge and ability, without fear, favor, or prejudice, will hear and cause to be taken all the testimony and evidence offered and received at the hearing for and in behalf of the prosecution and accused, together with all papers and other exhibits offered by either party, and carefully will preserve the same.
2. The commissioner will cause all of the oral testimony offered and received at the hearing to be ~~correctly and fully~~ available to be transcribed ~~at the request of the governor,~~ and as speedily as may be after the hearing will ~~attest the same as a full, true~~ prepare a report of the proceedings, summary of testimony, findings of fact, and complete record of all evidence and testimony, including all exhibits offered and received at said hearing by either party, and will cause the same to be filed with the governor.

**SECTION 11. AMENDMENT.** Section 44-11-12 of the North Dakota Century Code is amended and reenacted as follows:

**44-11-12. Powers of commissioner - Subpoenas - Service - Fees.**

After taking and filing the oath of office, the commissioner has authority to issue subpoenas for persons and subpoenas duces tecum and to administer oaths to witnesses the same as is conferred upon district judges. The subpoenas may be directed to any sheriff, or chief of police, who immediately shall serve the subpoenas. The officer is entitled to such fees as are allowed to sheriffs for serving subpoenas in district court. The fees must be paid in the same manner as is provided in this chapter for witness fees and commissioner's fees. ~~The commissioner has the same powers as are conferred upon district judges to take testimony and may rule on, admit, or exclude testimony accordingly.~~ The commissioner may punish for contempt in the same manner as the district court.

**SECTION 12. REPEAL.** Sections 44-11-05, 44-11-13, and 44-11-14 of the North Dakota Century Code are repealed.

Approved April 10, 2013  
Filed April 10, 2013