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TO: Chairman Burckhard and Members of the Senate Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: HB 1308 – Repeal N.D.C.C. § 49-09-14 – Filing utility property transfers with the Secretary of State

This bill repeals the section of state law shown at the bottom of this page. Currently, the Secretary of State's office has a cardboard box containing 50 files related to the requirements of N.D.C.C. § 49-09-14. The last filing was submitted on November 25, 2002, 18 years ago.

According to the footnotes copied from the hardbound edition of the North Dakota Century Code and inserted below the section, this law has roots dating back 142 years and prior to statehood. However, it now appears as if it has fulfilled its function.

In researching the most recent Session Laws listed in the footnotes, no substantive changes have been made to this section of law in at least 72 years. For example, the last amendment made in 2001 was to change the words "register of deeds" to "recorder." In 1993, the words "limited liability company" were added. The session laws in 1967 do not contain underlined text or strikeouts but that text is very similar to the text for SB 167 in the 1949 session laws (Chapter 295).

I checked with Public Service Commission personnel and they could not identify a continuing need for this section of law.

Considering that no filing has been made in 18 years and that the files will be retained with the State Archives, I request the committee to give this bill repealing this section of law a Do Pass recommendation.

49-09-14. Utility property transfers filed with secretary of state.

Every general conveyance, lease, deed of trust, mortgage, assignment, or satisfaction thereof, made by any public utility, corporation, or limited liability company of any franchise, right of way, real estate, fixtures, poles, wires, pipes, conduits, and general equipment used in carrying on the business of a public utility in pursuance of law shall be executed and acknowledged in the manner in which a conveyance of real estate by a corporation or a limited liability company is required to be executed and acknowledged to entitle a copy of the same to be filed. A copy shall be filed in the office of the secretary of state, who shall issue the secretary of state's certificate specifying the day and hour of its reception and where filed, and such certificate shall be evidence of the fact of filing. Every such filing of any copy of the instrument, from the time of reception, shall have the same effect as to any property in this state described therein as the record of any similar instrument in the office of a recorder may have by law as to property in the county in which such recorder holds office and shall be notice of the rights and interests of the grantee, lessee, or mortgagee to the same extent as if it were recorded in each of the several counties in which any property therein described may be situated.

Source: S.L. 1879, ch. 46, § 18; R.C. 1895, § 2958; R.C. 1899, § 2958; R.C. 1905, § 4277; S.L. 1911, ch. 246, § 1; C.L. 1913, § 4624; S.L. 1921, ch. 128, § 1; 1925 Supp., § 4624; R.C. 1943, § 49-0914; S.L. 1949, ch. 295, § 1; 1957 Supp., § 49-0914; S.L. 1967, ch. 98, § 34; 1993, ch. 54, § 106; 2001, ch. 120, § 1.