

**HOUSE BILL NO. 1104**

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Registration for Professional Engineers and Land Surveyors)

1 A BILL for an Act to amend and reenact sections 43-19.1-02, 43-19.1-09, 43-19.1-10,  
2 43-19.1-11, 43-19.1-14, 43-19.1-15, 43-19.1-18, 43-19.1-19, 43-19.1-20, 43-19.1-22,  
3 43-19.1-24, 43-19.1-26, and 43-19.1-31 of the North Dakota Century Code, relating to the  
4 registration and regulation of professional engineers and land surveyors.

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

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

8 **43-19.1-02. Definitions.**

9 In this chapter unless the context otherwise requires:

- 10 1. "Board" means the state board of registration for professional engineers and land  
11 surveyors.
- 12 2. "Engineer" means a professional engineer.
- 13 3. "Engineer intern" means an individual who complies with the requirements for  
14 education, experience, and character and who has passed an examination in the  
15 fundamental engineering subjects, as provided in sections 43-19.1-12 and 43-19.1-15.
- 16 4. "Engineering surveys" means all survey activities required to support the sound  
17 conception, planning, design, construction, maintenance, and operation of engineered  
18 projects, which include locating or laying out alignments, positions, or elevations for  
19 the construction of fixed works. The term does not include the surveying of real  
20 property for the establishment of land boundaries, rights of way, easements, and the  
21 dependent or independent surveys or resurveys of the public land survey system.
- 22 5. "Executive director" means the individual hired by the board to perform the duties  
23 outlined in this chapter or such other duties as directed by the board.

- 1        6. "Land surveyor" means an individual engaged in the practice of land surveying.
- 2        ~~6.7.~~ "Land surveyor intern" means an individual who complies with the requirements for  
3        education, experience, and character and who has passed an examination in the  
4        fundamentals of mathematics and the basic principles of land surveying as required in  
5        this chapter and as established by the board.
- 6        ~~7.8.~~ "Practice of engineering and practice of professional engineering" means any service  
7        or creative work, the adequate performance of which requires engineering education,  
8        training, and experience in the application of special knowledge of the mathematical,  
9        physical, and engineering sciences to such services or creative work as consultation,  
10       investigation, evaluation, planning and design of engineering works and systems,  
11       engineering teaching of advanced engineering subjects or courses related thereto,  
12       engineering surveys, and the inspection of construction for the purpose of assuring  
13       compliance with drawings and specifications; any of which embraces such service or  
14       work, either public or private, in connection with any utilities, structures, buildings,  
15       machines, equipment, processes, work systems, or projects as are incidental to the  
16       practice of engineering. A person must be construed to practice or offer to practice  
17       engineering if the person practices any branch of the profession of engineering; if the  
18       person, by verbal claim, sign, advertisement, letterhead, card, or in any other way  
19       represents that the person is an engineer and is able to practice engineering in this  
20       state if the person through the use of some other title implies that the person is an  
21       engineer or that the person is registered under this chapter; or if the person holds out  
22       as able to perform, or does perform any engineering service or work or any other  
23       service that is recognized as engineering, for a valuable consideration for others,  
24       including the public at large.
- 25       ~~8.9.~~ "Practice of land surveying":
- 26       a.    Means making land boundary determinations by providing or offering to provide  
27       professional services using such sciences as mathematics, geodesy, and  
28       photogrammetry and involving the making of geometric measurements and  
29       gathering related information pertaining to the physical or legal features of the  
30       earth; improvements on the earth; and improvements on the space above, on, or  
31       below the earth and providing, utilizing, or developing the same into land survey

1 products such as graphics, data, maps, plans, reports, descriptions, or projects.

2 As used in this subsection, professional services include acts of consultation,

3 investigation, testimony evaluation, expert technical testimony, planning,

4 mapping, assembling, and interpreting gathered measurements and information

5 related to any one or more of the following:

6 (1) Determining by measurement the configuration or contour of the earth's  
7 surface or the position of fixed objects on the earth's surface;

8 (2) Determining by performing geodetic land surveys the size and shape of the  
9 earth or the position of any point on the earth;

10 (3) Locating, relocating, establishing, re-establishing, or retracing property lines  
11 or boundaries of any tract of land, road, right of way, or easement;

12 (4) Making any land survey for the division, subdivision, or consolidation of any  
13 tract of land;

14 (5) Locating or laying out alignments, positions, or elevations for the  
15 construction of fixed works;

16 (6) Determining by the use of principles of land surveying the position for any  
17 survey monument, boundary or nonboundary, or reference point and  
18 establishing or replacing any such monument or reference point; and

19 (7) Creating, preparing, or modifying electronic or computerized or other data  
20 for the purpose of making land boundary determinations relative to the  
21 performance of the activities in paragraphs 1 through 6.

22 b. Includes:

23 (1) Engaging in land surveying;

24 (2) By verbal claim, sign, advertisement, letterhead, card, or any other way  
25 representing to a person to be a professional land surveyor;

26 (3) Through the use of some other title implying to be a professional land  
27 surveyor or that the person is licensed or authorized under this chapter; and

28 (4) Holding out as able to perform or performing any land surveying service or  
29 work or any other service designated by the practitioner which is recognized  
30 as land surveying.

1     ~~9-10.~~ "Professional engineer" means an individual who by reason of special knowledge or  
2           use of the mathematical, physical, and engineering sciences and the principles and  
3           methods of engineering analysis and design, acquired by engineering education and  
4           engineering experience, is qualified to practice engineering, and who has been  
5           registered and licensed by the state board of registration for professional engineers  
6           and land surveyors.

7     ~~40-11.~~ "Professional land surveyor" means a land surveyor who complies with the  
8           requirements for education, experience, and character and who has been registered  
9           and licensed by the board.

10    ~~44-12.~~ "Responsible charge" means direct control and personal supervision of engineering or  
11           surveying work.

12    ~~42-13.~~ "Retired registrant" means a duly registered professional engineer or land surveyor  
13           who is not engaged in active professional practice and is not required to meet the  
14           continuing professional education requirements as prescribed by the board. A retired  
15           registrant is issued a certificate of registration indicating "retired" status.

16           **SECTION 2. AMENDMENT.** Section 43-19.1-09 of the North Dakota Century Code is  
17    amended and reenacted as follows:

18           **43-19.1-09. Receipts and disbursements.**

19           The ~~secretary of~~executive director for the board shall receive and account for all moneys  
20    derived under the provisions of this chapter and shall deposit and disburse the money derived  
21    under this chapter in accordance with section 54-44-12. ~~The secretary shall give a surety bond~~  
22    ~~to the state in such sum as may be required by the board. The premium on the bond is a proper~~  
23    ~~and necessary expense of the board. The secretary~~executive director shall receive such salary  
24    as the board shall determine. The board shall employ clerical or other assistants as are  
25    necessary for the proper performance of the board's work and shall make expenditures of this  
26    fund for any purpose the board determines is reasonably necessary for the proper performance  
27    of the board's duties under this chapter, including the expenses of the board's delegates to  
28    meetings of and membership fees to the national council of examiners for engineering and  
29    surveying and any of the organization's subdivisions. ~~Under no circumstances may the total~~  
30    ~~amount of warrants issued in payment of the expenses and compensation provided for in this~~  
31    ~~chapter exceed the amount of moneys collected.~~

1       **SECTION 3. 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.**

4       The board shall:

- 5       1.    Keep a record of the board's proceedings and of all applications for registration. The  
6            record must show the name, age, and last-known address of each applicant; the date  
7            of application, the place of business of such applicant, the applicant's education,  
8            experience, and other qualifications; type of examination required; whether the  
9            applicant was rejected; whether a certificate of registration was granted; the date of  
10           the action of the board; and such other information as may be deemed necessary by  
11           the board. The record of the board is prima facie evidence of the proceeding of the  
12           board and a transcript of board proceedings which is certified by the  
13           ~~secretary~~executive director under seal is admissible as evidence with the same force  
14           and effect as if the original were produced.
- 15       2.    Annually, in compliance with state law, submit a report of the board's transactions of  
16           the preceding year.

17       **SECTION 4. AMENDMENT.** Section 43-19.1-11 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19       **43-19.1-11. Roster.**

20       A complete roster showing the names and last-known addresses of all professional  
21       engineers and land surveyors must be made available by the ~~secretary of~~executive director for  
22       the board at intervals as established by board regulations. Copies of this roster must be made  
23       available to each registrant and all county auditors and city auditors and may be distributed or  
24       sold to the public.

25       **SECTION 5. AMENDMENT.** Section 43-19.1-14 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27       **43-19.1-14. Registration with examination - Professional engineers.**

28       An applicant otherwise qualified must be admitted to registration as a professional engineer  
29       if the applicant has successfully passed a ~~written~~board-approved examination ~~of at least eight-~~  
30       ~~hours~~ in the principles and practice of engineering, as prescribed by the board, and has one of  
31       the following additional qualifications:

- 1        1.    Is an engineer intern with a baccalaureate degree in engineering from an institution  
2                    offering accredited programs approved by the board as being of satisfactory standing,  
3                    who has a specific record of an additional four years or more of experience in  
4                    engineering work of a grade and character which indicates to the board that the  
5                    applicant may be competent to practice engineering.
- 6        2.    Is an engineer intern with a baccalaureate degree in engineering from a program that  
7                    is not accredited but is approved by the board, who has eight years or more of  
8                    progressive experience in engineering work of a character and grade which indicates  
9                    to the board that the applicant is competent to practice engineering.
- 10       3.    Is an engineer intern with a specific record of at least twenty years of lawful practice in  
11                   engineering work during at least ten years of which the applicant has been in  
12                   responsible charge of important engineering work which is of a grade and character  
13                   that indicates to the board that the applicant is competent to practice engineering, who  
14                   has been approved for the fundamentals of engineering examination by the board  
15                   before July 1, 2004, and who holds a valid engineer intern certificate as of January 1,  
16                   2006.
- 17       4.    Is an engineer intern who meets one of the educational requirements listed in  
18                   subsection 1, 2, or 5, who has been a teacher of engineering in a college or university  
19                   offering an approved engineering curriculum of four years or more, and who has had a  
20                   minimum of two years of nonteaching engineering experience that is of a character  
21                   and grade that indicates to the board that the applicant is competent to practice  
22                   engineering.
- 23       5.    Is an engineer intern with a baccalaureate degree in an engineering-related program,  
24                   who has at least twelve years of progressive experience in engineering work of a  
25                   character and grade which indicates to the board that the applicant is competent to  
26                   practice engineering.

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

1       **43-19.1-15. Additional qualifications of engineer interns.**

2       Except in the case of an individual who filed an application before July 1, 1967, and any  
3       subsequent reapplication by such individual, an applicant otherwise qualified must be admitted  
4       to certification as an engineer intern. An engineer intern is an individual who has:

- 5       1.    A baccalaureate degree in engineering from an institution that offers accredited  
6       programs approved by the board and has passed ~~the board's written~~ a board-approved  
7       examination ~~of at least eight hours~~ in the fundamentals of engineering shall be  
8       certified or enrolled as an engineer intern.
- 9       2.    A baccalaureate degree in engineering from a program that is not accredited but is  
10      approved by the board, who has a specific record of at least four years of experience  
11      in engineering work of a grade and character satisfactory to the board, and who  
12      passes ~~the board's written~~ a board-approved examination ~~of at least eight hours~~ in the  
13      fundamentals of engineering.
- 14      3.    A baccalaureate degree in an engineering-related program, who has a specific record  
15      of at least six years of experience in engineering work of a grade and character  
16      satisfactory to the board, and who passes ~~the board's written~~ a board-approved  
17      examination ~~of at least eight hours~~ in the fundamentals of engineering.

18      **SECTION 7. AMENDMENT.** Section 43-19.1-18 of the North Dakota Century Code is  
19      amended and reenacted as follows:

20      **43-19.1-18. Registration fees.**

21      The board shall establish registration fees for professional engineers, land surveyors,  
22      engineer interns, and land surveyor interns in the amount the board determines necessary to  
23      accomplish the purposes of the board as provided in this chapter. ~~The registration fees may not~~  
24      ~~exceed the amount of one hundred dollars for a one-year period or two hundred dollars for a~~  
25      ~~two-year period.~~ If the board denies the issuance of a certificate to an applicant, the fee paid  
26      may be retained as an application fee.

27      **SECTION 8. AMENDMENT.** Section 43-19.1-19 of the North Dakota Century Code is  
28      amended and reenacted as follows:

29      **43-19.1-19. Examinations.**

30      Written examinations must be held at such times and places as the board shall determine.  
31      Examinations required on fundamental engineering or land surveying subjects may be taken at

1 any time prescribed by the board. The ~~final~~professional examinations may ~~not be taken until the~~  
2 ~~applicant has completed a period of engineering or land surveying experience as provided in~~  
3 ~~this chapter~~be taken as soon as a candidate desires, without having to complete a specific  
4 amount of experience. The board shall establish the minimum passing grade on any  
5 examination. A candidate failing one examination may apply for re-examination, which may be  
6 granted upon payment of a fee established by the board. ~~Any candidate for registration having~~  
7 ~~an average grade that does not meet the standards set by the board may not apply for re-~~  
8 ~~examination for one year from the date of such examination.~~

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

11 **43-19.1-20. Certificates.**

12 The board shall issue a certificate of registration upon payment of the registration fee as  
13 provided for in this chapter to any applicant who in the opinion of the board has met the  
14 requirements of this chapter. Enrollment cards must be issued to those who qualify as engineer  
15 interns or land surveyor interns. Certificates of registration must carry the designation  
16 "professional engineer" or "professional land surveyor", must show the full name of the  
17 registrant without any titles, must be numbered, and must be signed by the chairman and the  
18 ~~secretary~~executive director under seal of the board. The issuance of a certificate of registration  
19 by the board is prima facie evidence the individual named on the certificate is entitled to all  
20 rights and privileges of a professional engineer or land surveyor during the term of which the  
21 certificate providing the same has not been revoked or suspended.

22 **SECTION 10. AMENDMENT.** Section 43-19.1-22 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **43-19.1-22. Expirations and renewals.**

25 A certificate of registration expires on December thirty-first of the year of issuance if  
26 registration is on an annual basis and of the year after issuance if issued on a biennial basis  
27 and becomes invalid after that date unless renewed. The ~~secretary of~~executive director for the  
28 board shall notify every registrant under this chapter of the date of the expiration of the  
29 registrant's certificate of registration and the amount of fee required for its renewal. The notice  
30 must be mailed or electronically sent to the registrant at the registrant's last-known address or  
31 electronic mail address at least one month in advance of the expiration of the registrant's

1 certificate. Renewal may be effected at any time before or during the month of December by the  
2 payment of a fee as established by the board, ~~not to exceed the fees established in section~~  
3 ~~43-19.1-18~~. Renewal of an expired certificate may be effected under rules adopted by the board  
4 regarding requirements for re-examination and penalty fees.

5 **SECTION 11. AMENDMENT.** Section 43-19.1-24 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **43-19.1-24. Code of ethics.**

8 The board shall cause to have prepared and shall adopt a code of ethics, a copy of which  
9 must be made available to every registrant and applicant for registration under this chapter, and  
10 which must be published in the roster provided under this chapter. Such publication constitutes  
11 due notice to all registrants. The board may revise and amend this code of ethics from time to  
12 time and shall notify each registrant of such revisions or amendments. The code of ethics  
13 applies to all certificate holders, individual and certificate of commercial practice, including  
14 specialists in a particular branch of the engineering or surveying profession.

15 **SECTION 12. AMENDMENT.** Section 43-19.1-26 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **43-19.1-26. Disciplinary action - Procedure.**

18 Any person may file charges of fraud, deceit, gross negligence, incompetence, misconduct,  
19 or violation of the code of ethics against any individual registrant. Such charges must be in  
20 writing and must be filed with the ~~secretary of~~ executive director for the board. All charges,  
21 unless dismissed by the board as unfounded or trivial, must be heard by the board ~~within six~~  
22 ~~months~~ following the filing of charges unless the accused registrant waives this requirement.  
23 The board may resolve a disciplinary action at any time through informal disposition as provided  
24 in section 28-32-22. The matters considered at the hearing must include all charges made in  
25 the original filing, together with any related or additional matters or charges that arise in  
26 connection with the investigation of the original charges, and which are set forth in a  
27 specification of issues for the hearing. The time and place for the hearing must be fixed by the  
28 board and a copy of the charges, together with a notice of the time and place of hearing, and a  
29 specification of the issues to be considered at the hearing must be served upon the accused  
30 registrant either personally or sent by registered mail to the last-known address of the registrant  
31 at least thirty days before the date fixed for hearing. At any hearing the accused registrant has

1 the right to appear in person or by counsel, or both; to cross-examine witnesses appearing  
2 against the accused; and to produce evidence and witnesses in defense of the accused. If the  
3 accused fails or refuses to appear, the board may proceed to hear and determine the validity of  
4 the issues set forth in the specification of issues or enter a default order under section 28-32-30.  
5 Following the hearing, the board members who did not serve on the investigative panel shall  
6 deliberate in executive session and if a majority of the board members who did not serve on the  
7 investigative panel vote in favor of sustaining all or part of the issues set forth in the  
8 specification of issues, the board shall make findings of fact and conclusions of law and shall  
9 issue the board's order and serve the findings, conclusions, and order upon the accused. In the  
10 order the board may reprimand, suspend, refuse to renew, or revoke the accused registrant's  
11 certificate of registration. Any registrant who feels aggrieved by any action of the board in  
12 denying, suspending, refusing to renew, or revoking that registrant's certificate of registration  
13 may appeal the board's action to the district court under the procedures provided by chapter  
14 28-32.

15 **SECTION 13. AMENDMENT.** Section 43-19.1-31 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **43-19.1-31. Violation and penalties.**

18 Any person that practices or offers to practice engineering or land surveying in this state  
19 without being registered in accordance with the provisions of this chapter; any person using or  
20 employing the words "engineer", "engineering", "professional engineer", "surveyor", "land  
21 surveyor", "professional land surveyor", or any modification or derivative of these terms in that  
22 person's name, form of business, or activity, except as authorized in this chapter; any person  
23 presenting or attempting to use the certificate of registration or the seal of another; any person  
24 giving any false or forged evidence of any kind to the board or to any member of the board in  
25 obtaining or attempting to obtain a certificate of registration; or any person falsely impersonating  
26 any other registrant of like or different name; any person attempting to use an expired or  
27 revoked or nonexistent certificate of registration practicing or offering to practice when not  
28 qualified; any person falsely claiming that person is registered under this chapter; or any person  
29 violating any of the provisions of this chapter is guilty of a class B misdemeanor. It is the duty of  
30 all duly constituted officers of the state, and of all political subdivisions of the state, to enforce  
31 the provisions of this chapter. In addition to any criminal penalty authorized under this section,

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- 1 the board may assess a civil penalty not to exceed two thousand five hundred dollars for each
- 2 violation of section 43-19.1-25. The civil penalty may be imposed by a court in a civil proceeding
- 3 or by the board through an administrative proceeding.