

OFFICES AND OFFICERS

CHAPTER 496

SENATE BILL NO. 2282
(Holmberg)

ELECTED OFFICIALS QUALIFICATION DATE

AN ACT to amend and reenact sections 27-05-02 and 44-01-03 of the North Dakota Century Code, relating to the date state and district officers qualify for office.

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

SECTION 1. AMENDMENT. Section 27-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-02. Election and term of office of district judges. There shall be elected in each judicial district of this state the number of judges for such district provided for by law. Any judge so elected shall take office on the first Monday in January next succeeding his election and shall hold office for six years or until his successor is elected and has qualified.

SECTION 2. AMENDMENT. Section 44-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-01-03. When state and district officers shall qualify. Except when otherwise specially provided, all state and district officers shall qualify on or before the first day of January next succeeding their election, or within ten days thereafter, and on said first day of January or within ten days thereafter, shall enter upon the discharge of the duties of their respective offices, provided that when a person is elected to fill an unexpired term in a district office then vacant or then held by an appointee, such person may qualify and enter upon the discharge of the duties of such office at any time after receiving a certificate of election to that office but not later than the tenth first day of January next succeeding the date of his election to the unexpired term of office.

Approved March 27, 1985

CHAPTER 497

HOUSE BILL NO. 1073
(Legislative Council)
(Interim Judiciary "B" Committee)

FILLING VACANCY IN COUNTY, DISTRICT, OR SUPREME COURT

AN ACT to amend and reenact sections 44-02-03 and 44-02-04 of the North Dakota Century Code, relating to filling a vacancy in the office of district or county judge or supreme court justice.

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

SECTION 1. AMENDMENT. Section 44-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-02-03. Vacancy in state or district office - How filled. Any vacancy in a state or district office, except in the office of a member of the legislative assembly, ~~shall~~ must be filled by appointment by the governor. A vacancy in the office of a supreme court justice or district court judge must be filled as provided in chapter 27-25. If during a vacancy in the office of governor, the lieutenant governor and the secretary of state ~~shall be~~ are impeached, displaced, resign, or die, or from mental or physical disease or otherwise become incapable of performing the duties of the office of governor as provided by sections ~~72 2~~ and ~~77 7~~ of article V of the Constitution of North Dakota, then the succession to the office of governor ~~shall be~~ is the speaker of the house, president pro tem of the senate, attorney general, in the order named. Each succeeding person named shall hold the office of governor until the vacancy is filled by election or until any disability of the preceding person in the line of succession is removed.

SECTION 2. AMENDMENT. Section 44-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-02-04. Vacancy in county office - Appointment. A vacancy in any county office, other than that of county commissioner, ~~shall~~ must be filled by the board of county commissioners, with the exception that if a vacancy has occurred in the office of state's attorney by reason of his removal under section 44-11-01, the appointment ~~shall~~ must be made by the board of county commissioners by and with the advice and consent of the governor. A vacancy in the office of

county judge must be filled as provided in chapter 27-26. The board of county commissioners may declare a county office to be vacant whenever the officeholder is unable to perform the duties of the office for six months or more. However, if within one year the officeholder should become able to perform his duties the county commissioners may, for good cause shown, reinstate such officeholder.

Approved March 14, 1985

CHAPTER 498

HOUSE BILL NO. 1074
(Legislative Council)
(Interim Judiciary "B" Committee)

CITIZENSHIP OF NOTARIES PUBLIC

AN ACT to amend and reenact section 44-06-01 of the North Dakota Century Code, relating to the qualifications of notaries public.

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

* SECTION 1. AMENDMENT. Section 44-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-01. Appointment and qualification of notaries public. The secretary of state shall appoint in each county in this state ~~from among the citizens of either sex~~ one or more notaries public, who shall hold office for six years unless sooner removed by the secretary of state. Each notary shall have power and authority anywhere in the state to administer oaths and perform all other duties required of him by law. A person, to be eligible to such appointment, at the time of appointment, must have the qualifications of an elector as to age, and residence, and citizenship.

Approved February 6, 1985

* NOTE: Section 44-06-01 was also amended by section 1 of House Bill No. 1381, chapter 499.

CHAPTER 499

HOUSE BILL NO. 1381
(Representative Unhjem)
(Senator Lips)

BONDS OF NOTARIES PUBLIC

AN ACT to create and enact a new section to chapter 44-06 of the North Dakota Century Code, relating to the duty of certain sureties to notify the secretary of state concerning claims against the bonds of notaries public; and to amend and reenact sections 44-06-01 and 44-06-03 of the North Dakota Century Code, relating to the term of office and bonding requirements of notaries public.

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

* SECTION 1. AMENDMENT. Section 44-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-01. Appointment and qualification of notaries public. The secretary of state shall appoint in each county in this state ~~from among the citizens of either sex~~ one or more notaries public, who shall hold office for six years unless sooner removed by the secretary of state. Each notary shall have power and authority anywhere in the state to administer oaths and perform all other duties required of ~~him~~ by law. A person, to be eligible to such appointment, at the time of appointment, must have the qualifications of an elector as to age, and residence, and citizenship.

** SECTION 2. AMENDMENT. Section 44-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-03. Oath and bond of notary public - Approval of bond. Each notary public, before entering upon the duties of ~~his~~ the office, shall take the oath prescribed for civil officers and give to the state a bond in the penal sum of seven thousand five hundred dollars conditioned for the faithful discharge of the duties of ~~his~~ the office. Such bond may be furnished by a surety or bonding company authorized to do business in this state or by one or more sureties, and shall be subject to approval as follows:

* NOTE: Section 44-06-01 was also amended by section 1 of House Bill No. 1074, chapter 498.

** NOTE: Section 44-06-03 was also amended by section 17 of Senate Bill No. 2116, chapter 336.

1. If it is a surety bond, it shall be subject to approval by the secretary of state, and such approval shall be without charge.
2. If it is a personal bond, it shall be subject to approval by the clerk of the district court of the county of which the notary public is a resident, or of the county to which such county is attached for judicial purposes.

SECTION 3. A new section to chapter 44-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

Notice by surety to secretary of state of claim against bond. If a surety or bonding company giving a bond under section 44-06-03 receives a claim against that bond with respect to a notary public, that surety or bonding company shall notify the secretary of state of the outcome of said claim.

Approved March 22, 1985

CHAPTER 500

HOUSE BILL NO. 1290
(Wald)RESIDENTIAL PREFERENCE FOR PUBLIC
CONTRACTS

AN ACT to amend and reenact sections 44-08-01 and 44-08-02 of the North Dakota Century Code, relating to the preference to North Dakota contractors for public construction contracts; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 44-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-01. Preference to North Dakota bidders and, sellers, and contractors. The department of accounts and purchases office of management and budget, or any board, commission, city council, board of city commissioners, board of education, board of park commissioners, school board, or any other governing body of any political subdivision of the state, or of any state institution, in purchasing any goods, merchandise, supplies, or equipment of any kind, or contracting to build or repair any building, structure, road, or other real property, shall give preference to bidders or, sellers, or contractors resident in North Dakota. The preference shall be equal to the preference given or required by the state of the nonresident bidder, seller, or contractor. In specifying or purchasing goods, merchandise, supplies, or equipment to be purchased, such board shall not specify any trademarked or copyrighted brand or name, nor the product of any one manufacturer, nor any patented product, apparatus, device, or equipment, where the same will prevent proper competition, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit.

SECTION 2. AMENDMENT. Section 44-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-02. "Resident North Dakota bidder or, seller, and contractor" defined. The term "a resident North Dakota bidder or, seller, or contractor" when used in section 44-08-01, unless the context thereof clearly provides otherwise, shall mean a bidder or, seller,

or contractor who ~~shall~~ ~~have~~ has maintained a bona fide place of business within this state for at least one year prior to the date on which a contract was awarded.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 31, 1985

CHAPTER 501

HOUSE BILL NO. 1250
(Martinson, Conmy, Rydell, A. Hausauer, Winkelman)

STATE EMPLOYEE EXPENSE ALLOWANCES

AN ACT to amend and reenact sections 44-08-04 and 54-06-09 of the North Dakota Century Code, relating to mileage, meals, and lodging expense allowances for state employees.

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

SECTION 1. AMENDMENT. Section 44-08-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-04. Expense account - Amount allowed - Verification. 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 within this state 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 which 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. Upon approval of the claim, it shall be paid as an allowance at the following rates for each quarter of any twenty-four-hour period:

1. First quarter shall be from six a.m. to twelve noon and the sum shall not exceed three dollars and fifty cents. No reimbursement may be made if travel began after seven a.m.
2. Second quarter shall be from twelve noon to six p.m. and the sum shall not exceed five dollars.

3. Third quarter shall be from six p.m. to twelve midnight and the sum shall not exceed eight dollars and fifty cents.
4. Fourth quarter shall be from twelve midnight to six a.m. and the sum shall be the actual lodging expenses not to exceed ~~thirty~~ thirty-five dollars.
5. Provided, however, that the preceding four subsections shall not be applicable unless the person concerned has been out of the headquarters or normal place of employment for four hours or overnight.

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt or the certificate of a member of the legislative assembly shall be required for the fourth quarter.

Such persons engaged in travel outside state boundaries shall receive ~~twenty-three~~ thirty dollars a day for meals and in addition thereto actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed.

Those persons engaged in foreign travel shall receive reimbursement for meals at a rate not to exceed two times the regular out-of-state meal allowance. Verification by receipt for such foreign travel expense shall be required only for the lodging expense claimed.

The head of any department, institution, or agency of this state may set a rate for such expenses less than those set forth in this section for any person or persons under his authority. Verification of any other type of expense not prescribed by this section shall be as prescribed by the office of the budget except no receipt shall be required for taxi or cab fares up to and including the sum of ten dollars. 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. ~~The travel expenses of the governor, governor's personal traveling aides, lieutenant governor, judges of the supreme court, district courts, and county courts, and members of the legislative assembly shall not be limited by the expense allowance limitations prescribed by this section.~~

SECTION 2. AMENDMENT. Section 54-06-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-09. Mileage and travel expense of state officers and employees. State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, shall be allowed and paid for mileage and travel expense the following amounts:

1. The sum of twenty cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle or twenty-seven cents per mile [1.61 kilometers] if the travel is by truck, the use of which is required by the employing subdivision, agency, bureau, board, or commission. The sum of ~~thirty~~ thirty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by private airplane. Mileage by private aircraft shall be computed by actual air mileage when only one state employee or official is traveling; if two or more state employees or officials are traveling by private aircraft, the actual mileage shall be based on the road mileage between the geographical points. Reimbursement for private airplane travel shall be calculated as follows:
 - a. If reimbursement is for one properly authorized and reimbursable passenger, reimbursement shall be paid on a per-mile basis as provided in this subsection.
 - b. If reimbursement is claimed for a chartered private aircraft, reimbursement may not exceed the cost of regular coach fare on a commercial flight, if one is scheduled between the point of departure, point of destination, and return, for each properly authorized and reimbursable passenger on the charter flight; or, where there is no such regularly scheduled commercial flight, the actual cost of the charter.

No reimbursement shall be paid for leased private aircraft, except for leased or rented private aircraft from a recognized fixed base aviation operator who is in the business of leasing and renting private aircraft and is located on an airport open for public use. In order to be reimbursed for the chartering of a private aircraft pursuant to subdivision b, the charter agreement must receive prior approval from the director of the office of management and budget who shall take comparable travel costs and the savings of time into account in making his decision. If only one person shall engage in such travel in a motor vehicle exceeding at any geographical point one hundred fifty miles [241.40 kilometers] beyond the borders of this state, reimbursement shall be limited to eighteen cents per mile [1.61 kilometers] for the out-of-state portion of the travel beyond the first one hundred fifty miles [241.40 kilometers]. When official travel is by motor vehicle or airplane owned by the state or by any department or political subdivision thereof, no allowance shall be made or paid for such mileage.

2. Except as provided in subsection 1, when travel is by rail or certificated air taxi commercial operator or other

common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.

3. Notwithstanding the other provisions of this section, state employees permanently located outside the state or on assignments outside the state for an indefinite period of time, exceeding at least thirty consecutive days, shall be allowed and paid twenty cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle, and the one hundred fifty mile [241.40 kilometer] restriction imposed by subsection 1 shall not apply.

Before any allowance for any such mileage or travel expenses shall be made, the official, deputy, assistant, clerk, or other employee shall file with the director of the office of management and budget an itemized statement showing the mileage traveled, the hour of departure and return, the days when and how traveled, the purpose thereof, and such other information and documentation as may be prescribed by rule of the office of the budget or specifically requested by such office, verified by his certification. The statement shall be submitted to the office of the budget for approval and shall be paid only when approved by the office of the budget.

Approved April 16, 1985

CHAPTER 502

SENATE BILL NO. 2416
(Senators Wogsland, Stenehjem, Holmberg)
(Representatives Nalewaja, Goetz)

STATE TRAVEL ADVANCES

AN ACT to amend and reenact section 44-08-04.2 of the North Dakota Century Code, relating to travel advances for state officers and employees.

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

SECTION 1. AMENDMENT. Section 44-08-04.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-04.2. Travel advances.

1. Any state agency ~~may~~ shall advance at the request of the agency head for employees of that agency funds to be used by officials or employees of that agency for payment of meal and lodging expenses incurred while the official or employee is traveling on official business outside of this state, provided that such out-of-state travel must be for a period planned to be in excess of five days per month, whether or not consecutive, and provided that the funds advanced do not exceed twenty-five dollars per day eighty percent of estimated expenses for the period. Travel advance warrant-checks shall be issued on vouchers signed by the chief executive officer of the agency involved. Funds advanced for meals and lodging under this section shall be accounted for as required under section 44-08-04 for out-of-state travel.
- 2- Any state agency may advance funds to be used by officials or employees of that agency for payment of meal and lodging expenses incurred while the official or employee is traveling on official business in this state, provided that such in-state travel must be for a period planned to be in excess of five days, and provided that the funds advanced do not exceed eighty percent of estimated expenses for the period. Travel advance warrant-checks shall be issued on vouchers signed by the chief executive

officer of the agency involved. Funds advanced for meals and lodging under this section shall be accounted for as required under section 44-08-04 for out-of-state travel.

- 3- 2. As used in this section, and section 44-08-04.1:
- a. "Official business outside of this state" includes travel to attend training courses, where the training is necessary to satisfy federal program requirements.
 - b. "State agency" means agencies, boards, commissions, bureaus, offices, departments, institutions, and any other state governmental entities, and specifically includes the legislative and judicial branches of state government.

Approved March 22, 1985

CHAPTER 503

SENATE BILL NO. 2464
(Dotzenrod)

PUBLIC OFFICIAL REMOVAL

AN ACT to amend and reenact sections 44-11-02, 44-11-10, and 44-11-13 of the North Dakota Century Code, relating to the number of persons who must sign a complaint seeking the gubernatorial removal of a public official, the fees of the special commissioner and payment of stenographer's expenses, and payment of costs upon dismissal and the filing of an indemnity bond with regard to gubernatorial removal of public officials.

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

SECTION 1. AMENDMENT. Section 44-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-02. Charges - How made - By whom prosecuted. The complaint or charges against any such official authorized to be removed by the governor shall be entitled in the name of the state of North Dakota and shall be filed with the governor. It may be made upon the relation of any five fifty qualified electors of the county in which the person charged is an officer, or upon the relation 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. Such complaint and charges shall be filed by the attorney general when directed to do so by the governor. 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. 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 2. AMENDMENT. Section 44-11-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-10. Fees of special commissioner - Stenographer - Witnesses. The fees of the special commissioner provided for by this chapter shall

be ~~six~~ one hundred dollars per day, and in addition thereto, he shall receive his mileage from his residence to the place of trial the same as is allowed by law to sheriffs. He shall have power to ~~may~~ employ a stenographer, ~~who shall be paid fifteen cents per folio for the original transcript of testimony and five cents per folio for copies required and pay the expenses of the stenographer.~~ Such expenses shall be itemized by the commissioner and filed with his report and findings and audited and allowed by the governor. Witnesses giving testimony before such commissioner, the number to be limited by the commissioner, shall be allowed the same fees as witnesses in district court. In proceedings to remove a county officer, such fees shall 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 commissioner, or board of township supervisors, in the same manner as other claims against the municipality are paid.

SECTION 3. AMENDMENT. Section 44-11-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-11-13. Costs on dismissal of charges - Bond. When charges are preferred against any of the officers mentioned in section 44-11-01 by qualified veters electors other than the state's attorney or attorney general, as provided in section 44-11-02, and upon such hearing it shall appear that such charges were not preferred in good faith, then all of the costs of the proceedings under this chapter, not exceeding the sum of ~~three~~ five hundred dollars, in the discretion of the governor, may be taxed to the persons making such charges. When such charges are made by such relators there shall be filed, together with such charges, a good and sufficient indemnity bond in the sum of ~~three~~ five hundred dollars, to be approved by the governor, binding such relators to the payment of such costs upon the failure to maintain such charges as herein provided.

Approved April 11, 1985