

2025 SENATE INDUSTRY AND BUSINESS

SB 2144

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2144
1/15/2025

A bill relating to information required in applications for professional employer services licensure, confidential records maintained by the secretary of state, notification provided to and fees charged by a notary public, notification provided to the registrant of a trade name and fees charged by the secretary of state; and to exempt records maintained by the secretary of state; and to provide a penalty.

9:00 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chairman Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Taxpayer identification numbers
- Possible data breeches
- Unused collected data
- Notary public
- Fee section updates
- Filing code removal
- Remote notarization
- Cybersecurity of remote notarization

9:01 a.m. Senator Klein, District 14, testified in favor and introduced the bill.

9:02 a.m. Sandra McMerty, Deputy of Secretary of State, testified in favor and submitted testimony #29147.

9:08 a.m. Beth Herzog, Information Management Unit Administrator at North Dakota Secretary of State, answered the committee's questions.

9:12 a.m. Sandra McMerty answered committee questions.

9:20 a.m. John Ward, North Dakota Land Title Association, testified in favor.

9:23 a.m. Chairman Barta closed the hearing.

Additional written testimony:

Bill Anderson, Vice President of Government Affairs and member of National Notary Association, submitted testimony #29049 in favor.

Audrey Oswald, Committee Clerk



January 14, 2025

Honorable Jeff Barta, Chair
Senate Industry and Business Committee
North Dakota Legislature
State Capitol
600 East Boulevard Avenue
Bismark, ND 58505

RE: SENATE BILL 2144 (KLEIN, ET AL.) — NNA SUPPORT

Dear Senator Barta,

On behalf of the National Notary Association and our North Dakota members and customers, I write in support of Senate Bill 2144 (Klein, et al.) that authorizes Notaries Public to charge a technology fee when performing notarial acts for remotely located individuals (remote notarial acts).

The \$5 maximum fee for a notarial act currently authorized under NDCC 44-06.1-28 is insufficient to compensate Notaries for using technology to perform notarial acts. Gone are the days when an inexpensive ink pen and rubber stamp Notary seal are the only tools needed to perform notarial acts. With electronic transactions, Notaries must use a technology system that is developed by third parties. Whether companies offering technology platforms charge a per transaction or subscription fee, the current maximum fee for a notarial act will not cover the cost to the Notary to use the system.

The only issue we have is that the bill as introduced applies narrowly to notarial acts for remotely located individuals under NDCC 44-06.1-13.1. NDCC 44-06.1-18 also authorizes Notaries to perform notarial acts with respect to an electronic record utilizing a tamper-evident technology (so-called "in-person electronic notarial acts"). Electronic notarial acts performed in the physical presence of a Notary Public also require the use of technology to sign and notarize the documents. We would urge and will support an amendment authorizing Notaries Public who perform these notarial acts to charge a technology fee as they would for a remote notarial act.

Respectfully,

A handwritten signature in blue ink that reads "Bill Anderson".

Bill Anderson
Vice President, Government Affairs

SENATE INDUSTRY & BUSINESS
SENATOR JEFF BARTA, CHAIRMAN

TESTIMONY PRESENTED BY

SANDY McMERTY, DEPUTY SECRETARY OF STATE

Chairman Barta and members of the committee, I am Sandy McMerty, and I serve as deputy for Secretary of State Michael Howe. I am here today to ask for your support of SB2144. This bill provides technical clean-up language and improvements for sections of code impacting our office's functions in the areas of business, licensing, and notaries public. It seeks to create efficiencies and modernize interactions with customers and provide additional protections to the agency related to the data we collect.

OVERVIEW OF BILL SECTIONS

SECTION 1, SECTION 2, and SECTION 8: These sections remove references to the collection of taxpayer identification numbers, such as FEINs or social security numbers. The agency DOES NOT use any taxpayer identification numbers in its processes, and the collection and storage of this data creates a significant risk to the agency. Based on conversation with the NDIT Government Risk Team Lead, the cost of remediation for a security breach involving SSNs or FEINs not used in the work of our agency is estimated at \$242 per record. With over 200,000 records in the business/contractor areas of our system, this would reach into the multi-millions of dollars of impact to the state. Quite simply, collecting data we do not use is simply bad practice and creates significant risk to the agency and state of North Dakota.

Section 1 and Section 2 remove references for collection of this data in the Professional Employer Organizations Chapter – NDCC 43-55-03 and 43-55-09. Section 8 repeals two separate code references for the collection of this data in the Fictitious Partnership Name Chapter – NDCC 45-11-10 and the Trade Names Chapter – NDCC 47-25-08.

SECTION 3: This section is modernization of language in the Notary Chapter – NDCC 44-06.1-20. The language changes proposed will allow for notification of the expiration of a notary's commission to be sent electronically (for example, by email), in addition to mail.

SECTION 4: This section also applies to notaries public and is intended to allow notaries to pass on any fee they may incur in using communication technology to perform a remote notarization. Attached at the end of my

testimony you will find an amendment we are requesting to this section of the bill. The amendment as presented is supported by the National Notary Association and was created in collaboration with stakeholders to ensure it doesn't create unnecessary restrictions in the proposed language.

SECTION 5: This section seeks to provide modernization of language to allow for notification of renewal for expiring trade names to be sent electronically (for example the use of email) in addition to mail, within the Trade Name Chapter – NDCC 45-25-04.

SECTION 6: This section provides updates to the Trade Name Chapter – NDCC 45-25-07. It has minor language changes in the first four subsections to create consistency with other business statutes.

We are requesting the addition of a new subsection 5 which seeks to address instances of misrepresentation of information and our ability to protect a record's integrity by correcting those misrepresentations (for example where an individual may try to use another's identity to create a trade name). This may occur when a bad actor attempts to register a business trade name under the address of a private individual or to appear as an affiliate of a parent organization while having no connection with that organization. If contacted by an individual who has been misrepresented, or if we determine there might be an attempted misrepresentation, we don't have any authority to cancel a trade name under existing language. This section seeks to create a 30-day notification window upon notification or discovery of a misrepresentation, similar to what we have in other sections of code, where we can seek greater information from the filing party and the party that may have been misrepresented. It would also allow for a cancellation of a trade name by our office under if the misrepresentation is not corrected by the entity in which such misrepresentation was present and align 47-25 with other business statutes that have similar language.

SECTION 7: The changes proposed in this section would help create efficiencies for our customers and remove an unused fee within the Secretary of State Chapter – NDCC 54-09-04. Removal of subsection 1 relates to copy requests for filings with the secretary of state for which we can charge .50 cents per page. Businesses and others may request copies of records on file with our office. A request for copies puts a pause of what could be hours or days in what could be a streamlined, one-step process. Currently, if we receive a copy request, staff must search records and calculate the number of pages in the request to provide an estimate (# of pages X .50 cents). The staff then presents a quote to the requester, and if they wish to proceed, they can then pay and receive the digital documents. If the copy fee was removed, this process could be streamlined with the requester being able to make payment for a copy request without staff needing to manually calculate the fee. This would also create the

possibility for our office to update our online system so that copy requests may be submitted and paid for online through the FirstStop portal. Total revenue generated by copy requests in the 2021-2023 biennium were \$10,472 special, \$276 general funds. This cost is outweighed by the cost of staff time to conduct the counting of pages to provide copy request estimates. We are requesting removal of this in statute to create efficiencies for our customers. The agency would still be able to charge .25 cents for any open records request. This change removes unneeded delays and staff time in processing requests for businesses online.

The striking of subsection 3 is removal of a fee for filing a certificate for appointment of an attorney. Our team could find no record of anyone requesting this filing since our online records started in 2019, and our longtime staff have no memory of ever receiving such a filing. This removal just seeks to clean-up outdated language.

That brings my summary of the bill to a close and I urge your support for SB2144.

PROPOSED AMENDMENT TO SENATE BILL NO. 2144

Page 3, after line 15, replace the remainder of Section 4 with:

3. A notary public may charge a technology fee when performing a notarial act for a remotely located individual under section 44-06.1-13.1 and with respect to an electronic record under section 44-06.1-18 if:
 - a. The notary has incurred fees for utilizing technology to perform the notarial act.
 - b. The notary and the person requesting the notarial act agree upon the technology fee in advance.
 - c. The notary explains to the person requesting the notarial act the technology fee is separate from the notarial act fee.

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee

Fort Union Room, State Capitol

SB 2144
1/21/2025

A bill relating to information required in applications for professional employer services licensure, confidential records maintained by the secretary of state, notification provided to and fees charged by a notary public, notification provided to the registrant of a trade name, and fees charged by the secretary of state; and to provide a penalty.

11:06 a.m. Chairman Barta opened the hearing

Members present: Chairman Barta, Vice-Chair Boehm, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

Discussion Topics:

- ND Land Title Association
- Secretary of State's Office
- National Notary Association

11:06 a.m. Chairman Barta updated committee on funding possibilities and led committee discussion on the bill.

11:08 a.m. Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2144
1/27/2025

A bill relating to information required in applications for professional employer services licensure, confidential records maintained by the secretary of state, notification provided to and fees charged by a notary public, notification provided to the registrant of a trade name, and fees charged by the secretary of state; and to provide a penalty.

11:43 a.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chairman Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Amendment changes or advances
- Notary concern
- ND Title Company
- Fictitious tradenames and trademarks
- Social security number or fees exemption or redaction
- Section eight repeal and additional language

11:45 a.m. Sandra McMerty, Deputy Secretary of State testified in neutral.

11:49 a.m. Senator Klein moved to adopt amendment LC# 25.0648.01001.

11:49 a.m. Senator Boehm seconded the motion.

| Senators | Vote |
|---------------------|------|
| Senator Jeff Barta | Y |
| Senator Keith Boehm | Y |
| Senator Mark Enget | Y |
| Senator Greg Kessel | Y |
| Senator Jerry Klein | Y |

Motion passed 5-0-0.

11:50 a.m. Senator Klein moved a Do Pass As Amended.

11:50 a.m. Senator Boehm seconded the motion.

| Senators | Vote |
|---------------------|------|
| Senator Jeff Barta | Y |
| Senator Keith Boehm | Y |
| Senator Mark Enget | Y |
| Senator Greg Kessel | Y |
| Senator Jerry Klein | Y |

Senate Industry and Business Committee
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Motion passed 5-0-0.

Senator Klein will carry the bill.

11:51 Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

January 27, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2144

Introduced by

Senators Klein, Barta, Roers

Representatives Schauer, Warrey

1 A BILL for an Act to amend and reenact subsection 2 of section 43-55-03, section 43-55-09,
2 subsection 8 of section 44-06.1-20, and sections 44-06.1-28, 47-25-04, 47-25-07, and 54-09-04
3 of the North Dakota Century Code, relating to information required in applications for
4 professional employer services licensure, confidential records maintained by the secretary of
5 state, notification provided to and fees charged by a notary public, notification provided to the
6 registrant of a trade name, and fees charged by the secretary of state; ~~to repeal sections~~
7 ~~45-11-10 and 47-25-08 of the North Dakota Century Code, relating to exempt records~~
8 ~~maintained by the secretary of state;~~ and to provide a penalty.

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

10 **SECTION 1. AMENDMENT.** Subsection 2 of section 43-55-03 of the North Dakota Century
11 Code is amended and reenacted as follows:

- 12 2. Each applicant for licensure shall provide the secretary of state with the following
13 information:
- 14 a. The name of the professional employer organization and any name under which
15 the professional employer organization intends to conduct business in this state.
 - 16 b. The designation of organization of the applicant whether domestic or foreign; a
17 corporation, limited liability company, general partnership, limited partnership,
18 limited liability partnership, limited liability limited partnership, sole proprietor, or
19 any other person subject to a governing statute; and the jurisdiction of origin of
20 the organization.

Sixty-ninth
Legislative Assembly

- 1 c. The address of the principal place of business of the professional employer
- 2 organization and the address of each office it maintains in this state.
- 3 ~~d. The professional employer organization's taxpayer or employer identification~~
- 4 ~~number.~~
- 5 e. The date of the end of the applicant's fiscal year.
- 6 ~~f.e.~~ A list of jurisdictions in which the professional employer organization has
- 7 operated in the preceding five years, including any alternative names, names of
- 8 predecessors, and, if known, successor business entities.
- 9 ~~g.f.~~ A statement of ownership, which must include the name and address of any
- 10 person that owns or controls twenty-five percent or more of the equity interests of
- 11 the professional employer organization.
- 12 ~~h.g.~~ A statement of management, which must include the name and address of any
- 13 individual who serves as president, chief executive officer, or otherwise has the
- 14 authority to act as a senior executive officer of the professional employer
- 15 organization.
- 16 ~~i.h.~~ A bond as provided under section 43-55-05.
- 17 ~~j.i.~~ A copy of the employer's quarterly contribution and wage report to job service
- 18 North Dakota for the quarter ending immediately before the date submitted to the
- 19 secretary of state. A professional employer organization that has not filed an
- 20 employer's quarterly contribution and wage report with job service North Dakota
- 21 shall submit a bond in the amount as provided under section 43-55-05.

22 **SECTION 2. AMENDMENT.** Section 43-55-09 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-55-09. Confidential records.**

- 25 ~~1. The social security number or federal tax identification number disclosed or contained~~
- 26 ~~in an application filed with the secretary of state under this chapter is confidential. The~~
- 27 ~~secretary of state shall delete or obscure any social security number or federal tax~~
- 28 ~~identification number before a copy of an application is released to the public.~~
- 29 2. All audited financial reports and the employers' quarterly contribution and wage report to
- 30 job service North Dakota are confidential except to the extent necessary for the proper
- 31 administration of this chapter by the secretary of state or the attorney general.

SECTION 3. AMENDMENT. Subsection 8 of section 44-06.1-20 of the North Dakota Century Code is amended and reenacted as follows:

8. The secretary of state shall notify each notary public, in a manner as prescribed by the secretary of state, at least thirty days before the expiration of the notary public's term of the date ~~upon~~on which the notary public's commission will expire. ~~The notice must be addressed to the notary public at the last known place of residence.~~

SECTION 4. AMENDMENT. Section 44-06.1-28 of the North Dakota Century Code is amended and reenacted as follows:

44-06.1-28. Fees to be charged for notarial acts - Penalty.

1. A notary public is entitled to charge and receive not more than five dollars per notarial act. A notary who charges a fee exceeding that amount is guilty of an infraction. It is an infraction for any person other than the notary public to impose or collect any monetary fee, charge, or commission in connection with the notarization of any document.
2. A notary may charge a travel fee when traveling to perform a notarial act if:
 - a. The notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and
 - b. The notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee and neither specified nor mandated by law.
3. A notary may charge a technology fee when performing remote notarizations a notarial act under section 44-06.1-13.1 or 44-06.1-18 if:
 - a. The notary ~~has incurred fees for use of the communication~~ using technology to perform the notarial act;
 - b. The ~~fee charged to notary~~ and the person requesting the notarial act ~~does not exceed the actual cost to the notary for use of the communication~~ technology agree upon the technology fee in advance; and
 - c. The notary explains to the person requesting the notarial act the technology fee is separate from the notarial act fee.

SECTION 5. AMENDMENT. Section 47-25-04 of the North Dakota Century Code is amended and reenacted as follows:

1 **47-25-04. Trade names - Registration - Fees - Renewal - Notice.**

2 1. For the registration of a trade name under this chapter, the registrant shall pay to the
3 secretary of state a fee of twenty-five dollars for an original registration, a fee of
4 twenty-five dollars for an assignment, and a fee of ten dollars for a consent to use of a
5 similar name or any other change in the original registration under this chapter. A
6 registration remains in force for a period of five years from the date of the original
7 registration and may be renewed within ninety days before its expiration date by
8 reregistering in the same manner as an original registration. The secretary of state
9 shall notify the registrant ~~by mail~~ in a manner as prescribed by the secretary of state at
10 least ninety days before the expiration of the registration.

11 2. The secretary of state may destroy all registrations or renewals one year after
12 expiration.

13 **SECTION 6. AMENDMENT.** Section 47-25-07 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **47-25-07. Cancellation.**

16 The secretary of state shall cancel from the register:

- 17 1. ~~Any~~A registration ~~concerning~~for which the secretary of state receives a voluntary
18 request for cancellation from the registrant or the assignee of record on forms
19 prescribed by the secretary of state. In the case of a registrant who is a deceased
20 individual, the request for cancellation may be made by the personal representative of
21 the registrant's estate.
- 22 2. ~~Any~~A registration ~~concerning~~for which a state district court finds any of the following:
23 a. That the registered trade name has been abandoned.
24 b. That the registrant is not the owner of the trade name.
25 c. That the registration was granted improperly.
26 d. That the registration was obtained fraudulently.
27 e. That the trade name registered is so similar to a trade name registered by
28 another person as to be likely to cause confusion or mistake or to deceive.
- 29 3. ~~Any~~A registration a district court orders canceled on any grounds.

1 4. ~~Any~~A trade name when the registrant is a corporation, limited liability company, limited
2 partnership, limited liability partnership, or limited liability limited partnership that has
3 ceased to exist for six months.

4 5. A trade name in which a misrepresentation has been made of any material matter. The
5 secretary of state may not cancel a trade name under this subsection unless the
6 secretary of state has given notice of not less than thirty days to the registrant and any
7 parties that may be misrepresented at the address or electronic address on file with
8 the secretary of state.

9 **SECTION 7. AMENDMENT.** Section 54-09-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-09-04. Fees.**

12 1. The secretary of state shall charge and collect the following fees:

13 ~~1. For a copy of any law, resolution, record, or other document or paper on file in the~~
14 ~~secretary of state's office, fifty cents per page.~~

15 2. a. Unless otherwise provided by law, for affixing the signature of the secretary of
16 state, certificate, or seal, or combination thereof to any document, ten dollars.

17 ~~3. For filing a certificate of appointment of attorney, five dollars.~~

18 4. b. For searching records and archives of the state, five dollars. For the purposes
19 of this section, a search of records conducted by the secretary of state for which a fee
20 must be collected includes the following:

21 a. (1) A search of a filed document that is active or archived, an archived index, or
22 an index of business name changes to identify specific information to satisfy
23 a request;

24 b. (2) A search of any record for which written verification of the facts of the
25 search is required; and

26 e. (3) For every search of records when the request for the search is contained in
27 a list compiled by the requester.

28 The secretary of state may provide, at no charge, information from
29 publications or reference materials published or maintained by the secretary
30 of state and verbal confirmation of any element of information maintained in
31 a computer database.

- 1 5- c. For filing any ~~paper~~transaction not otherwise provided for, ten dollars.
- 2 6- d. For filing any process, notice, or demand for service, the fee provided in section
- 3 10-01.1-03.
- 4 7- e. For preparing any listing or compilation of any information recorded or filed in the
- 5 office of the secretary of state, forty dollars for each record type requested.
- 6 Unless otherwise agreed to by the secretary of state, the information must be
- 7 provided in an electronic format. If provided in a paper format, an additional fee of
- 8 fifty cents per page may be charged.
- 9 2. An individual required to file an oath of office with the secretary of state may not be
- 10 charged for filing the oath of office, nor may a state or county officer be charged for
- 11 filing any document with the secretary of state when acting in the officer's official
- 12 capacity. All fees when collected must be paid by the secretary of state into the state
- 13 treasury at the end of each month and placed to the credit of the state. Unless
- 14 otherwise provided by law, the secretary of state shall retain a handling charge from
- 15 filing fees tendered when a document submitted to the secretary of state under any
- 16 law is rejected and not perfected. The handling charge is five dollars or fifty percent of
- 17 the filing fee, whichever is greater, but may not exceed one hundred dollars.
- 18 3. If, upon due presentment, any check, draft, money order, or other form of lawful
- 19 payment provisionally accepted in payment of any filing fee authorized to be charged
- 20 and collected by the secretary of state, is not honored or paid, or if no lawful form of
- 21 payment accompanies the filing, any record of credit or payment must be canceled or
- 22 reversed as though no credit had been given or payment attempted and the filing or
- 23 action is void. The secretary of state may return to the last-known address of the filer
- 24 any record or document that was attempted to be filed or may retain as unfiled the
- 25 record or document for a reasonable time to permit proper payment and filing.
- 26 4. This section does not apply to fees submitted for filing in, or information obtained from,
- 27 the computerized central notice system, to the computerized Uniform Commercial
- 28 Code central filing database, or to the computerized statutory liens database.

29 — **SECTION 8. REPEAL.** ~~Sections 45-11-10 and 47-25-08 of the North Dakota Century Code~~

30 ~~are repealed.~~

**REPORT OF STANDING COMMITTEE
SB 2144**

Industry and Business Committee (Sen. Barta, Chairman) recommends **AMENDMENTS** ([25.0648.01001](#)) and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2144 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2144

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2144
3/10/2025

A BILL for an Act to amend and reenact subsection 2 of section 43-55-03, section 43-55-09, subsection 8 of section 44-06.1-20, and sections 44-06.1-28, 47-25-04, 47-25-07, and 54-09-04 of the North Dakota Century Code, relating to information required in applications for professional employer services licensure, confidential records maintained by the secretary of state, notification provided to and fees charged by a notary public, notification provided to the registrant of a trade name, and fees charged by the secretary of state; and to provide a penalty

9:30 a. m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Security issue
- Collecting unused data
- Email notification
- Notaries, fees to consumer
- Remote & electronic notaries
- Notary technology fee

9:30 a.m. Senator Jerry Klein, District 14, Fessenden, ND, introduced and testified.

9:32 a.m. Sandra McMerty, Deputy Commissioner, ND Secretary of State, testified in favor and submitted testimony #39783.

9:43 a.m. Nic Hacker, ND Land Title Association, The Title Team, testified in favor.

9:50 a.m. Representative Koppelman moved Do Pass.

9:50 a.m. Representative Bahl seconded the motion.

| Representatives | Vote |
|------------------------------------|------|
| Representative Jonathan Warrey | Y |
| Representative Mitch Ostlie | Y |
| Representative Jorin Johnson | Y |
| Representative Landon Bahl | Y |
| Representative Collette Brown | Y |
| Representative Lisa Finley-DeVille | Y |
| Representative Karen Grindberg | Y |
| Representative Jim Kasper | Y |

| | |
|----------------------------------|---|
| Representative Ben Koppelman | Y |
| Representative Dan Ruby | Y |
| Representative Mike Schatz | Y |
| Representative Austin Schauer | Y |
| Representative Daniel R. Vollmer | Y |

Motion passed 13-0-0

9:50 a.m. Representative Grindberg will carry the bill.

9:50 a.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2144 ([25.0648.02000](#))**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2144 was placed on the Fourteenth order on the calendar.

HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE
REPRESENTATIVE JONATHAN WARREY, CHAIR

TESTIMONY PRESENTED BY

SANDY McMERTY, DEPUTY SECRETARY OF STATE

Chairman Warrey and members of the committee, I am Sandy McMerty, and I serve as deputy for Secretary of State Michael Howe. I am here today to ask for your support of SB2144. This bill provides technical clean-up language and improvements for sections of code impacting our office's functions in the areas of business, licensing, and notaries public. It seeks to create efficiencies and modernize interactions with customers and provide additional protections to the agency related to the data we collect.

OVERVIEW OF BILL SECTIONS

SECTION 1 and SECTION 2: These sections remove references to the collection of taxpayer identification numbers, such as FEINs or social security numbers. The agency DOES NOT use any taxpayer identification numbers in its processes, and the collection and storage of this data creates a significant risk to the agency. Based on conversation with the NDIT Government Risk Team Lead, the cost of remediation for a security breach involving SSNs or FEINs not used in the work of our agency is estimated at \$242 per record. With over 200,000 records in the business/contractor areas of our system, this would reach into the multi-millions of dollars of impact to the state. Quite simply, collecting data we do not use is simply bad practice and creates significant risk to the agency and state of North Dakota.

Section 1 and Section 2 remove references for collection of this data in the Professional Employer Organizations Chapter – NDCC 43-55-03 and 43-55-09.

SECTION 3: This section is modernization of language in the Notary Chapter – NDCC 44-06.1-20. The language changes proposed will allow for notification of the expiration of a notary's commission to be sent electronically (for example, by email), in addition to mail.

SECTION 4: This section also applies to notaries public and is intended to allow notaries to pass on any fee they may incur using communication technology to perform a remote or electronic notarization. North Dakota law allows notaries public commissioned in this state to perform remote or electronic notarizations. Both require the

notary to use a third-party technology platform, which they may incur fees to use. For remote notarizations, these platforms allow for the notary to verify that the individual is who they say they are, and the session is recorded and stored.

Our agency worked with the North Dakota Land Title Association, as well as the National Notary Association, to ensure the language suggested here provides for the opportunity for individuals using this technology to pass along these fees without burdening any current processes.

SECTION 5: This section seeks to provide modernization of language to allow for notification of renewal for expiring trade names to be sent electronically (for example the use of email) in addition to mail, within the Trade Name Chapter – NDCC 47-25-04.

SECTION 6: This section provides updates to the Trade Name Chapter – NDCC 47-25-07. It has minor language changes in the first four subsections to create consistency with other business statutes.

We are requesting the addition of a new subsection 5 which seeks to address instances of misrepresentation of information and our ability to protect a record's integrity by correcting those misrepresentations (for example where an individual may try to use another's identity to create a trade name). This may occur when a bad actor attempts to register a business trade name under the address of a private individual or to appear as an affiliate of a parent organization while having no connection with that organization. If contacted by an individual who has been misrepresented, or if we determine there might be an attempted misrepresentation, we don't have any authority to cancel a trade name under existing language. This section seeks to create a 30-day notification window upon notification or discovery of a misrepresentation, similar to what we have in other sections of code, where we can seek greater information from the filing party and the party that may have been misrepresented. It would also allow for a cancellation of a trade name by our office if the misrepresentation is not corrected by the entity in which such misrepresentation was present and align 47-25 with other business statutes that have similar language.

SECTION 7: The changes proposed in this section update the fees section of our code. The changes suggested help to create efficiencies for our customers and remove an unused fee within the Secretary of State Chapter – NDCC 54-09-04. Removal of subsection 1 relates to copy requests for filings with the secretary of state for which we can charge .50 cents per page. Businesses and others may request copies of records on file with our office. A request for copies puts a pause of what could be hours or days in what could be a streamlined, one-step process.

Currently, if we receive a copy request, staff must search records and calculate the number of pages in the request to provide an estimate (# of pages X .50 cents). The staff then presents a quote to the requester, and if they wish to proceed, they can then pay and receive the digital documents. If the copy fee was removed, this process could be streamlined with the requester being able to make payment for a copy request without staff needing to manually calculate the fee. This would also create the possibility for our office to update our online system so that copy requests may be submitted and paid for online through the FirstStop portal. Total revenue generated by copy requests in the 2021-2023 biennium were \$10,472 special, \$276 general funds. This cost is outweighed by the cost of staff time to conduct the counting of pages to provide copy request estimates. We are requesting removal of this in statute to create efficiencies for our customers. The agency would still be able to charge .25 cents for any open records request. This change removes unneeded delays and staff time in processing requests for businesses online.

The striking of subsection 3 is removal of a fee for filing a certificate for appointment of an attorney. Our team could find no record of anyone requesting this filing since our online records started in 2019, and our longtime staff have no memory of ever receiving such a filing. This simply removes that outdated language.

That brings my summary of the bill to a close and I urge your support for SB2144.