

**FIRST ENGROSSMENT
with House Amendments****ENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4038**

Introduced by

Senators Andrist, Grindberg, Kilzer, Triplett

Representatives Monson, Rust

(Approved by the Delayed Bills Committee)

1 A concurrent resolution to create and enact a new section to the Constitution of North Dakota,
2 relating to the use of public property for political purposes.

STATEMENT OF INTENT

4 This measure prohibits the use of state or political subdivision property or services for political
5 purposes.

6 **BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**
7 **REPRESENTATIVES CONCURRING THEREIN:**

8 That the following proposed new section to the Constitution of North Dakota is agreed
9 to and must be submitted to the qualified electors of North Dakota at the primary election in
10 2010, in accordance with section 16 of article IV of the Constitution of North Dakota.

11 **SECTION 1.** A new section to the Constitution of North Dakota is created and enacted
12 as follows:

- 13 1. A person may not use any property belonging to or leased by, or any service that
14 is provided to or carried on by, either directly or by contract, the state or a political
15 subdivision, for any political purpose. For the purposes of this section:
16 a. (1) "Political purpose" means any activity undertaken in support of or in
17 opposition to a statewide initiated or referred measure, a constitutional
18 amendment or measure, a political subdivision ballot measure, or the
19 election or nomination of a candidate to public office and includes using
20 "vote for", "oppose", or any similar support or opposition language in
21 any advertisement whether the activity is undertaken by any person. In
22 the period thirty days before a primary election and sixty days before a
23 special or general election, "political purpose" also means any activity
24 in which a candidate's name, office, district, or any term meaning the

- 1 same as "incumbent" or "challenger" is used in support of or in
2 opposition to the election or nomination of a candidate to public office.
- 3 (2) "Political purpose" does not include:
- 4 (a) Undertaking activities in the performance of a duty of a public
5 office or a position taken in any bona fide news story,
6 commentary, or editorial;
- 7 (b) Discussing or taking a position at a public meeting in support of
8 or in opposition to a measure or amendment; or
- 9 (c) Hosting a public forum at which support of or opposition to a
10 measure or amendment is presented.
- 11 b. "Property" includes real or personal property, money, or any other item of
12 value. However, this section may not be construed to prohibit any candidate,
13 political party, committee, or organization from using any public building for
14 such political meetings as may be required by law, or to prohibit a candidate,
15 party, committee, or organization from hiring the use of any public building for
16 any political purpose if the lease or hiring is otherwise permitted by law.
- 17 c. "Services" includes the use of an employee during regular working hours for
18 which the employee has not taken annual or sick leave or other
19 compensatory leave.
- 20 3. This section does not limit the freedom of speech of any officer or employee of the
21 state or a political subdivision in that individual's personal capacity.