



AMERICANS *for* TAX REFORM

January 30, 2023

To: Members of the North Dakota House Judiciary Committee
From: Americans for Tax Reform
Re: Testimony in opposition to H.B. 1500 of ATR State Projects Director Doug Kellogg

Dear Chair Klemin, Vice Chair Karls, and Members of the Committee,

On behalf of Americans for Tax Reform (ATR) and our supporters across North Dakota I urge you to oppose and reject House Bill 1500. This legislation would place the privacy of North Dakotans who contribute to causes they believe in at risk, while making it more difficult for all non-profit advocacy organizations to exist.

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HB 1500 would inflict a number of damaging, unconstitutional consequences on North Dakotans. It would force the disclosure of the “original source of funds” for any contributors giving just \$200 to an organization, require the names, addresses, and employers for these contributors to be posted publicly online, and allow anyone to sue or lodge complaints over a group’s activities, all under the threat of criminal penalty and fine.

This bill would literally criminalize the constitutionally protected free speech and free association rights of North Dakotans, exposing those who give to non-profit 501(c)4 or (c)3 groups to harassment and intimidation in perpetuity. Further, the “original source of funds” standard would be the most invasive version of this unconstitutional disclosure policy, the only hope for enforcing such a requirement would be giving more power to government to invade our privacy.

While the bill mentions political activity, it clearly applies its aggressive disclosure and reporting standards to any entity that contributes a small amount of resources to make the public aware of legislation or a politician’s record.

It would also swamp the Secretary of State and/or ethics commission with complaints from various policy opponents designed to cause each other harm regardless of their merit.

While it is understandable that an organization that abuses its non-profit charter could draw the attention of legislators, there are existing legal consequences for such abuse – including losing its tax status and ability to raise funds.

Privacy is required to protect the rights of North Dakotans, and all Americans, to speak freely and petition their government. These principles are what allow Americans to support their favorite charities, government watchdogs, community and religious organizations, without fear that those in power who disagree will punish or intimidate them – or that an online mob will try to get them fired.

The Supreme Court recently made it clear that privacy in charitable giving is required to exercise free speech in *Bonta v. AFPF*, because intimidation is an obvious side effect of disclosure that would render the right to speech mute. Legislators should take care to not violate these principles and rights when making changes to campaign finance law.

Many of the bluest states, like New York, have deliberately attempted to expand the definition of electioneering to hamstring advocacy groups that organize in support of, or opposition to, legislation. Democrats in Congress have relentlessly pushed a similar approach with H.R. 1, which would have required disclosure of donors by non-profit groups and twisted definitions to turn policy advocacy into electioneering.

While defending speech and citizen privacy can still be a non-partisan issue, these trends should make red state lawmakers who support individual rights and limited government think twice when such policies are put before them.

The North Dakota legislature passed responsible legislation in response to the unconstitutional ballot measure approved by hoodwinked voters a few years ago. HB 1500 would undo these efforts to protect free speech in North Dakota.

For these reasons, Americans for Tax Reform strongly opposes HB 1500, and urges you to reject the bill.

Thank you.