

## **SCR 4013 - Testimony by Dustin Gawrylow, ND Watchdog Network (#266)**

Mr. Chairman and Members of the Committee,

I would like to thank Representative Toman for drafting and introducing this bill, as it has been a long-standing issue.

### **Executive Summary**

Government entities have been avoiding the Corrupt Practices Act by using taxpayer resources to campaign on ballot measures since the Act was expanded in 2011.

The North Dakota League of Cities has been training government officials on how to campaign against ballot measures without violating the Corrupt Practices Act ban on using public funds.

The Corrupt Practices Act in North Dakota Century Code 16.1-10 historically prohibited the use of public resources to promote candidates. In 2011, the law was expanded to include a ban on ballot measure involvement.

The 2011 bill did not go far enough because it did not prohibit government entities from endorsing and funding private organizations that would then support or oppose ballot measures.

The Keep It Local ND (KIL-ND) ballot measure committee is an example of this loophole. Cities, counties, parks, and schools cannot spend money to campaign against ballot measures, but they can give money to private organizations that then spend that money for or against ballot measures.

Government entities become members of private organizations such as the League of Cities, the Association of Counties, and the School Board Association. These publicly-funded private organizations can then use those dollars in ways their government members cannot. Once the dollars from the government members of these private organizations are given to the private organizations, they are considered private dollars and no longer subject to the Corrupt Practices Laws of North Dakota.

This is basically money laundering of taxpayer dollars, but it is perfectly legal.

There is a solution to this problem that the legislature should consider: prohibit public funds from being contributed to organizations involved in campaigns for and against ballot measures.

Proposed legislation:

Prohibits government entities from endorsing, joining, or contributing to any private organization that is involved with campaign activities supporting or opposing ballot measures.

Creates personal liability for elected officials who vote to violate this prohibition, and ensures due process for such accusations.

Grants the Ethics Commission jurisdiction over complaints, and requires the Ethics Commission to refer violations to a states' attorney for prosecution.

Allows a states' attorney to nix over-zealous Ethics Commission findings, but also grants the Ethics Commission the ability to appeal that decision to the North Dakota Supreme Court.

Representative Nathan Toman (R-Mandan) has taken the lead in drafting the legislation needed to fix this problem.

The pressure on legislators that want to fix these problems is immense, and lobbying organizations backed by taxpayer dollars essentially have bottomless pockets. This is an issue and a challenge that needs to be tackled.

Attachments:


2015 Case regarding Strasburg and Consolidated Construction

North Dakota Watchdog Network articles on this topic

## Draft Language for Request for Attorney General Opinion

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**From** Dustin Gawrylow <dgawrylow@watchingnd.com>  
**Date** Tue 9/8/2015 10:53 AM  
**To** mbrandenburg@nd.gov <mbrandenburg@nd.gov>  
**Cc** kennbek@bektel.com <kennbek@bektel.com>; Kelly Krumm <krumm@bektel.com>

 2 attachments (489 KB)

Emmon Co Record Page 3 - Sept 3rd.pdf; Strasburg Application with Minutes.pdf;

Representative Brandenburg,

Below is a draft text for a request to the AG for an opinion, with the cited documents attached.

### Request for Attorney General Opinion

I am requesting your legal opinion with regard to the Strasburg School Board's decision to hire an agent of a construction firm to manage a school bond election for the school board, and whether such action would violate the corrupt practices act (N.D.C.C. 16.1-10) as it pertains to ballot measures.

A scheduled school bond election is to take place on October 6th, 2015 regarding the approval of bonded indebtedness for the purposes of construction.

A firm by the name of Consolidated Construction Co. and its agent, Jim Perras have been intimately involved in the planning and public debate process leading up to the election; and Perras has obtained a defector leadership role in a local "task force" created by the Strasburg Public School.

According to the meeting minutes provided by the school board to the Department of Public Instruction as part of their application for construction loan funds, Jim Perras of Consolidated Construction was hired to "help with the bond referendum package, brochures, presentation boards, and bond materials". (PDF attached)

No approved amount was give, however the official newspaper of Emmons County (Emmons County Record) reported that the amount was \$5,000. (PDF attached)

At its July 29 meeting, the board hired Jim Perras of Consolidated [Construction] "to help with the bond referendum package, brochures, presentation boards, bond materials," according to the board's July 29 minutes. The fee approved was \$5,000.

North Dakota's corrupt practices act prohibits public funds from being used to promote a certain vote on ballot measures. My question to the Attorney General is two-fold:

1. Can a governing body pay a private entity (that has a clear conflict of interest), to essentially manage and promote a bond referendum and be insulated from responsibility under the corrupt practices act?
2. Does the hiring of an entity or person with a vested interest in the outcome inherently constitute a violation of the spirit of the corrupt practices act?

On behalf of concern constituents, I thank you for your consideration on this matter.



# SCHOOL CONSTRUCTION APPROVAL REQUEST

NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION

SCHOOL FINANCE AND ORGANIZATION

SFN 52304 (02-14)

County Name Emmons	District Number 15	District Name Strasburg School
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Application Type *(please check one)*

- Request for Approval of Construction in Excess of \$100,000 but \$250,000 or less  
*(facility plan not required)*
- Request for Approval of Construction in Excess of \$100,000 and also in Excess of \$250,000  
*(facility plan required)*

If your district has filed a facility plan with the Department of Public Instruction within the last three years, you need only to file forms 1, 2, 8, 15, 22, and 23 with this request to update your plan on file.

Number of Sections of Land in District 354.9	Taxable Valuation of the District 5,754,185
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Status of Accreditation *(please check one)*

- Accredited     Accredited warned     Accredited with commendation     Not accredited

Nature of Project *(explain why the project is needed – attach additional sheets if necessary)*

This project is needed because our 1935 building has toxic mold and is strongly recommended not to be used due to poor air quality. Also, education has significantly changed since our last facility improvement, and we need to reduce operating costs.

This project will combine our two campuses into one K-12 facility on the existing elementary school site. The combined facility will provide many educational benefits to our students, including new science, music, and media center spaces; a new kitchen and multi-purpose room to replace our 1935 facility; Title 1 and Special Needs space; locker rooms; and handicap accessibility improvements.

Our combined facility will enable staff to work more closely together, reduce operating costs, and avoid future maintenance costs to our existing 1935 building and adjacent high school.

Please see the facilities planning document for more detail.

Emergency Construction Due to the Destruction of Current Buildings or Facilities by Fire, Wind, or Other Acts of God?

- Yes     No

### Estimated Cost of Project

Construction Materials	\$ 4,113,386
Architect's Fees	\$ 290,331
Site Improvements	\$ 125,500
Furniture and Movable Equipment	\$ 30,000
Contingent and Incidental Expenses	\$ 260,783
<b>TOTAL COST OF PROJECT</b>	<b>\$ 4,820,000</b>

**Funds Available to District for this Project**

Building Fund \$ 82,000	
Bonds \$ 3,900,000	
General Fund \$ 838,000	
Other Source(s) \$	Identify Source(s)
TOTAL \$ 4,820,000	

**School Enrollment Numbers**

Grade 1 6	Grade 7 13
Grade 2 4	Grade 8 8
Grade 3 10	Grade 9 10
Grade 4 15	Grade 10 11
Grade 5 14	Grade 11 9
Grade 6 8	Grade 12 15
Enrollment Total 123	

**Explain Why Project is Needed**

This project will combine our two campuses into one K-12 facility on the existing elementary school site. The combined facility will provide many educational benefits to our students, including new science, music, and media center spaces; a new kitchen and multi-purpose room to replace our 1935 facility; Title 1 and Special Needs space; locker rooms; and handicap accessibility improvements. Providing one entrance ensures a safer environment for both students and staff.

Our combined facility will enable staff to work more closely together, reduce operating costs by at least \$40,000 per year, and avoid future maintenance costs by approximately 2,000,000 over the next 10 years.

Will this project enhance or facilitate delivery of educational services in the district?  Yes  No

Explain.

Yes, bringing new life and school pride into a small community is vital part in enhancing student success. It creates the opportunity of more efficient, productive structures that use resources responsibly both fiscally and governmentally. Most importantly, the rationale for this project is to create a safe learning environment for all children K-12 that enters our doors in Strasburg Public School.

In the case of new construction or renovation affecting more than 50% of the existing structures square footage, describe the circumstances in your district that result in stable or increasing student population.

Strasburg receives students from the Bakker School District, and we are also cooperating with the Zeeland School District with our sports/Title 1 programs. The student population in our District has been steady, but we lose students to open enrollment due to our deteriorated facilities. We believe that our enrollment will increase when this project improves our facilities to today's educational services/standards.

President's Signature

*Bonnie Keller*

Date

8-3-2015

Business Manager's Signature

*Terri Huss*

Date

8-3-2015

**July 29th, 2015 Special Board Meeting Unofficial Minutes**

A special meeting of the Strasburg Public School Board was called to order by President Bernice Keller on July 29th at 8:00 am. Other members present were Renee Ternes, Tom Schaeffbauer, Robert Heidrich and Ida Scherr. Tracy Mittleider, Bryan Schumacher, Mark Mittleider and Jon Martinson present.

Agenda items-NDSBA guest, construction approvals/tuck pointing review, options for future building improvements, CCC bond referendum assistance approval, transportation-bus routes, administrative assistant applications.

Jon Martinson from ND School Board Association gave a presentation to the members on school board meetings. Items discussed were: boardsmanship-role of president, role of board, role of superintendent, board meetings, board minutes, Robert's rules of order, and board committees. Also discussed-executive sessions, setting the agendas, classified staff salary compression, budget development, negotiations, superintendent evaluation, background checks, professional development for board members.

Options for future building improvements. Mike Barsness, from CCC Inc., discussed various capital maintenance improvements from the building plan that could be extended down the road. After more discussion the board decided on a bond referendum amount. Ida Scherr made a motion for the building project bond referendum amount to be \$3,900,000.00. Renee Ternes seconded. Scherr-yes, Heidrich-yes, Schaeffbauer-yes, Ternes-yes, Keller-yes. Carried.

Robert Heidrich made a motion to hire Jim Perras, CCC (Consolidated Construction Co. Inc.) to help with the bond referendum package, brochures, presentation boards, bond materials. Tom Schaeffbauer seconded. All voting yes, motion carried.

Tom Schaeffbauer made a motion to approve the school construction approval request and loan application for the building project and to submit the application to the Department of Public Instruction. Ida Scherr seconded. All voting yes, motion carried.

Tuck pointing project- Tom Schaeffbauer & Robert Heidrich reported on the job done so far, all the trips they have made to town to check out the work. The full Board will go over to the north building to inspect the job later in the meeting.

Transportation, bus routes were discussed because of a request from a parent from Zeeland who wants their children to attend Strasburg School. After more discussion Robert Heidrich made a motion to go back to four bus routes for 2015-2016 year because of the new family on the route. Ida Scherr seconded. All voting yes, motion carried. The bus drivers will work on how the routes will run, discussed the town students and the routes, and discussed Bryan Schumacher will help schedule bus drivers for the extra curricular trips.

Administrative assistant applications were discussed. Interviews are set for Thursday & Friday of this week.

**July 29th, 2015 Special Board Meeting Unofficial Minutes**

Discussed the tuck pointing job after the board inspected it. Tom Schaeffbauer moved to table the tuck pointing job until he comes back and fixes the areas the board is not satisfied with. Ida Scherr seconded. All voting yes, motion carried.

Ida Scherr moved to adjourn the meeting. Renee Ternes seconded. All voting yes, motion carried.

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Bernice Keller, President

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Terri Kuss, Business Mgr.



***Attach school board minutes indicating project authorization.***

**School Construction Approval Process:**

- 1) Approval is required for any project costing in excess of \$100,000.
- 2) Notify the Department of Public Instruction at least 60 days before submission of application for assistance.
- 3) File completed application with the Department of Public Instruction, School Finance Unit. If the project is over \$250,000 the district must complete the facilities plan and submit with application for construction approval.
- 4) The State Superintendent acts on the application within 60 days of receipt. The decision is based on:
  - a) The potential utilization of the project by a future reorganized district,
  - b) The need for the project,
  - c) Educational utility of the project, and
  - d) Capacity to pay for the project.
  - e) In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population.
- 5) The decision of the state superintendent may be appealed to the State Board of Public School Education. The State Board must act in 60 days.
- 6) The district must submit architectural plans to the Department of Public Instruction prior to commencement of approved construction.
- 7) Districts should review appropriate sections of North Dakota Century Code:
  - 1) 15.1-36 – School Construction
  - 2) 15.1-09-34 – Contracts by School Boards – Bids – Penalty
  - 3) 48-01.2 – Public Improvement Bids and Contracts
  - 4) 54-44.7 – Architect, Engineer, and Land Surveying Services

# Dirty Secrets Of Government: Is It Time To Give The "Corrupt Practices Act" Some Teeth?

Governmental entities have been skirting the spirit of the laws against using taxpayer resources to campaign on ballot measures since the Corrupt Practices Act was expanded in 2011.



DUSTIN GAWRYLOW  
OCT 04, 2024 · PAID



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Last week, I mentioned how the North Dakota League of Cities was training local officials how to avoid violating the state's corrupt practices act prohibiting governmental entities from taking a position and campaigning either for or against ballot measures.



## The Curious Timing Of Fargo's Economic Outlook Downgrade

DUSTIN GAWRYLOW · SEPTEMBER 24, 2024

[Read full story →](#)

In fact, the North Dakota League of Cities has been training city officials on [how to campaign against Measure 4 without violating North Dakota's Corrupt Practices Act ban on using public funds to oppose or support ballot measures.](#)

(This is a section of law that is never enforced, if it was, organizations like the League of Cities, ND Association of Counties, ND County Auditors and Treasurers Association, ND County Commissioners Association, ND Recreation and Park Association, ND State Association of City & County Health Officials, ND Township Officers Association, and the ND School Boards Association would probably not be able [to be funded with public dollars as they are and then join coalitions against ballot measures.](#))

I had several people ask me to dig into that particular issue a little deeper.

The Corrupt Practices Act in North Dakota Century Code 16.1-10 historically applied to prohibiting public resources from being used to promote candidates. It wasn't until 2011 that the law was expanded via [Senate Bill 2327](#) to include a ban on ballot measure involvement. (I was heavily involved with this legislation at the time.)



Attachment 1  
2327

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<b>Subject: Taxpayer Funded Campaigning Reform</b>	<b>Bill: SB2327</b>
<b>Testimony Provided By: Dustin Gawrylow</b>	<b>Lobbyist #160</b>
<b>Presented To: House GVA Committee</b>	<b>March 11th, 2011</b>

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Senate Bill 2327 addresses the concept known as "taxpayer funded campaigning" which is the practice of using taxpayer dollars to either advocated for more taxpayer dollars, or against tax reductions or other pro-taxpayer measures or legislation.

We have seen in the past, situations where taxpayer funded entities are actively politically. This bill would stop the practice of using public funds, employee time public equipment, and public property against the taxpaying public's interests.

Last session this reform was passed by both chambers, but disagreements in conference committees forced the House to kill it on approval of the conference report.

If a taxpayer funded entity wants to be politically active, they can form a PAC (Political Action Committee), raise money privately, and file campaign disclosure reports just like any candidate or other group.

This bill does not seek or intend to limit the individual rights of anyone involved in government – only to restrict the use of public funds in the campaigning process.

We would like to see amendments to this that strictly define what is education. Our suggestion would be to allow taxpayer funded entities to create "fact sheets" to refer voters who want to know more about an issue.

Another area of question that would need more clarification is the issue of penalties. We don't need another law on the books that lacks a penalty. We have enough of those kinds of laws regarding open meetings and open records violations which only create more paperwork for the Attorney General's office.

It's time that the law be consistent and treat all entities equally when involved in politics, policy making, and campaigning. The taxpayers have funded both sides of campaigns long enough.

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*The North Dakota Taxpayers' Association is a membership-funded advocacy group designed to get taxpayers a voice in legislative matters. NDTA is 100% in-state funded, and counts over 500 North Dakotans as current members. NDTA is the only organization with a full time lobbyist dedicated to advocating on behalf of the taxpayer.*

**North Dakota Taxpayers' Association**  
NDTaxpayers.com • 1720 Burnt Boat Drive Suite 102 • Bismarck, ND 58503 • (701) 751-2530

If you read the history of that bill with committee testimony you will find that it was certainly harder than it should be to restrict government entities from putting their

weight for or against ballot measures.



## A Loophole The Size Of The Grand Canyon

But, that bill simply did not go far enough - because it did not prohibit governmental entities from endorsing and funding private organizations that would then go do the dirty work of supporting or opposing ballot measures.

The [Keep It Local ND \(KIL-ND\) ballot measure committee](#) is a prime example of this loophole being exploited to the fullest.

You see, while cities, counties, parks, and schools cannot spend money to campaign against ballot measures - they can give money to private organizations who then spend that money for or against ballot measures.

So cities become members of the League of Cities, counties join the [Association of Counties](#), school boards join the [School Board Association](#), etc, etc.

Then these publicly-funded private-organizations can start a [ballot measure committee](#) and use those dollars in ways their government members can't.

Once the dollars from the government members of these private organizations are given to the private organizations, they are considered private dollars and no longer subject to the Corrupt Practices Laws of North Dakota.

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*It's basically money laundering of taxpayer dollars - but it is perfectly legal.*

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## **The Solution: Amend The Law To *\*Also\** Prohibit Government Entities From Joining, Endorsing, and Contributing To Organizations That Campaign On Ballot Measures**

There is a solution to this problem that the legislature could and should consider next session - prohibit public funds from being contributed to organizations involved in campaigns for and against ballot measures.

Below is proposed language does several things:

1. Prohibits government entities from endorsing, joining, or contributing to any private organization that is involved with campaign activities supporting or opposing ballot measures.
2. Creates personal liability for elected officials who vote to violate this prohibition, and ensures due process for such accusations.
3. Grants the Ethics Commission jurisdiction over complaints, and requires the Ethics Commission to refer violations to a states' attorney for processcution.
4. Allows a states' attorney to nix over-zealous Ethics Commission findings, but also grants the Ethics Commission the ability to appeal that decision to the North Dakota Supreme Court.

**Amending and reenacting NDCC 16.1-10-02 Subsection 1 relating to corrupt practices to prohibit public funds from benefiting private organizations that participate in political activities otherwise illegal for public entities:**

16.1-10-02. Use of state or political subdivision services or property for political purposes.

1. No person may use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, commission, or political subdivision thereof, for any political purpose.

2. The state nor any agency, department, bureau, board, commission, nor any political subdivision thereof shall use public funds to be a member of or otherwise contribute to any private organization that has in the last ten years endorsed candidates or taken a position on ballot measures.

3. The state nor any agency, department, bureau, board, commission, nor any political subdivision thereof shall lend its name or endorsement to any private organization that has in the last ten years endorsed candidates or taken a position on ballot measures.

4. Duly elected and sworn officials may be personally liable for violations of this section and entitled to due process.

5. Violations of this section shall be under the investigative jurisdiction of the North Dakota Ethics Commission and subject to criminal referral under ethics commission procedure.

6. Upon referral by the Ethics Commission, a county states' attorney shall initiate prosecutorial proceedings unless the determination of the Ethics Commission is found to lack legal standing. The Ethics Commission may seek appeal of such a negative decision directly to the state supreme court if the commission's legal council and a majority of the commissioners approve such an appeal.

27. The following definitions must be used for the purposes of this section:

***Note For Legislators: If you would like to get the process of having such a bill drafted, I will help you find co-sponsors. If you are a legislator, and would like to be put on the co-sponsor contact list for this bill once there is a prime sponsor, let me know.***

**Allowing This Loophole To Continue Equates To Supporting Taxpayer Dollars Being Used Against The Taxpayers**

Measure 4 isn't the only measure where this happens, it's just the current and most obvious example.

Regardless of where you stand on ballot measures like Measure 4, the notion that taxpayer dollars can be funnelled through a private entity to skirt the spirit of the law is ridiculous and can only service to add to the animosity citizens have with their own government.

This is a practice that is currently legal until it's not.



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### Discussion about this post

Comments

Restacks



Write a comment...



Jodi Carlson Oct 5

...

Thanks Dustin. Hopefully a legislator(s) with integrity will take this on so it will never happen again!

♡ LIKE (1)    💬 REPLY

↑ SHARE



Brent N. Winkelman Oct 4

...

Thank you for calling out this criminal behavior.

♡ LIKE (1)    💬 REPLY

↑ SHARE





# Ethics Reform: Taxpayer-Funded Campaigning

Representative Nathan Toman is courageously seeking co-sponsors to join him in an effort to close one of the worst systemic abuses of taxpayer money that happens more often than people realize.



DUSTIN GAWRYLOW  
DEC 20, 2024 · PAID



3



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***{[Note To Legislators: If you have a bill you think I should know about, that you want me to help recruit co-sponsors for, and that you want me to promote it (assuming it fits the mission of the North Dakota Watchdog Network) please let me know by replying to this article.]}***

Back in October, I wrote about the longstanding need to put teeth into the [Corrupt Practices Act](#), and close a loophole that allows cities, counties, parks, and schools to spend money to campaign against ballot measures by giving money to private organizations which then spend that money for or against ballot measures.

## Dirty Secrets Of Government: Is It Time To Give The "Corrupt Practices Act" Some Teeth?

DUSTIN GAWRYLOW · OCTOBER 4, 2024



Last week, I mentioned how the North Dakota League of Cities was training local officials how to avoid violating the state's corrupt practices act prohibiting governmental entities from taking a position and campaigning either for or against ballot measures.

[Read full story](#) →

The [Keep It Local ND \(KIL-ND\) ballot measure committee](#), which successfully killed Measure 4, is a prime example of this loophole being exploited to the fullest.

Cities become members of the League of Cities, counties join the [Association of Counties](#), school boards join the [School Board Association](#), etc, etc.

Then these publicly-funded private-organizations can start a [ballot measure committee](#) and use those dollars in ways their government members can't.

Once the dollars from the government members of these private organizations are given to the private organizations, they are considered private dollars and no longer subject to the [Corrupt Practices Laws of North Dakota](#).

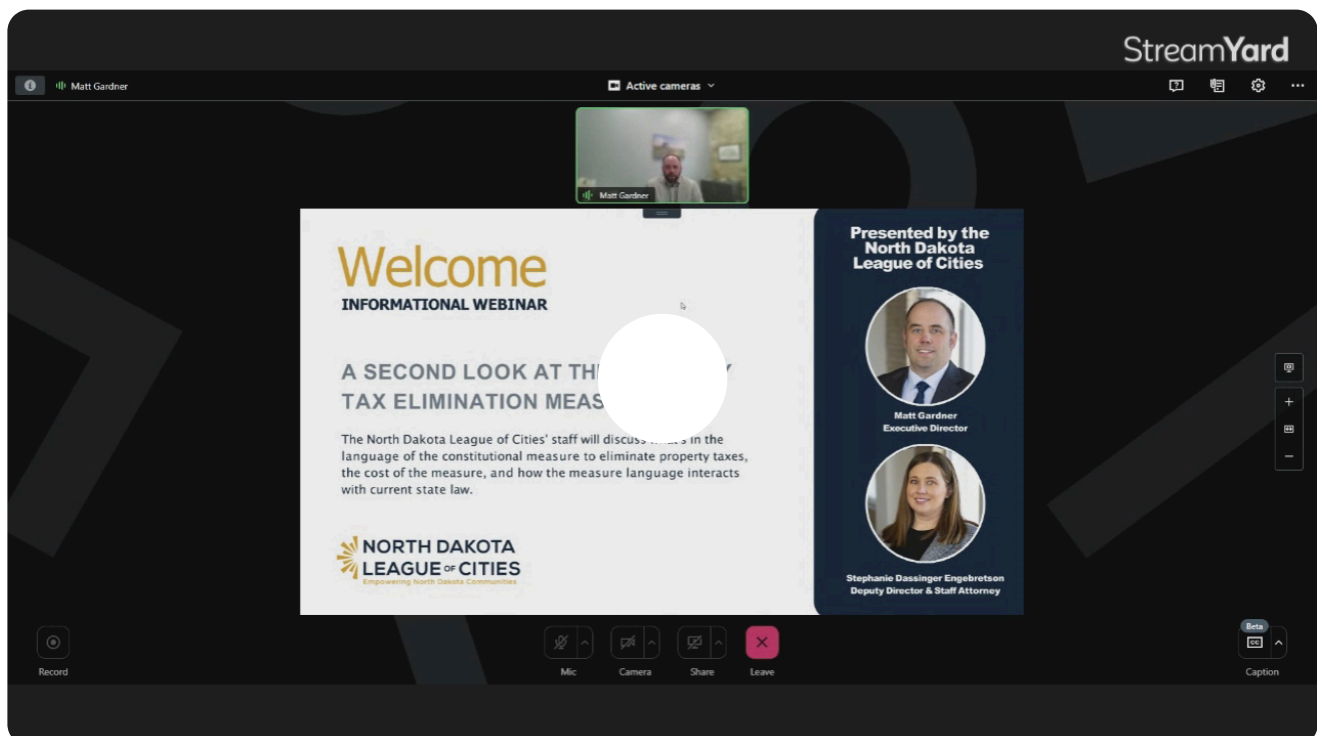
[As I wrote in October](#), prior to 2011, state law only prohibited spending money promoting candidates - spending money on ballot measures was fair game up until that point.

*It's basically money laundering of taxpayer dollars - but it is perfectly legal.*

But, that 2011 bill simply did not go far enough - because it did not prohibit governmental entities from endorsing and funding private organizations that would then go do the dirty work of supporting or opposing ballot measures.

Even so, [as was documented in September](#), the North Dakota League of Cities was actively training government officials and employees on how to avoid violating the Corrupt Practices Act.

In fact, the North Dakota League of Cities has been training city officials on [how to campaign against Measure 4 without violating North Dakota's Corrupt Practices Act ban on using public funds to oppose or support ballot measures](#).



(This is a section of law that is never enforced, if it was, organizations like the League of Cities, ND Association of Counties, ND County Auditors and Treasurers Association, ND County Commissioners Association, ND Recreation

and Park Association, ND State Association of City & County Health Officials, ND Township Officers Association, and the ND School Boards Association would probably not be able to be funded with public dollars as they are and then join coalitions against ballot measures.)

As I wrote in October, there is a solution:

## **The Solution: Amend The Law To \*Also\* Prohibit Government Entities From Joining, Endorsing, and Contributing To Organizations That Campaign On Ballot Measures**

There is a solution to this problem that the legislature could and should consider next session - prohibit public funds from being contributed to organizations involved in campaigns for and against ballot measures.

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1. Prohibits government entities from endorsing, joining, or contributing to any private organization that is involved with campaign activities supporting or opposing ballot measures.
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4. Allows a states' attorney to nix over-zealous Ethics Commission findings, but also grants the Ethics Commission the ability to appeal that decision to the North Dakota Supreme Court.

## **Behind The Numbers**

According to numbers provided by The North Dakota Association of Counties (and sent to me unsolicited by an activist), in 2024, of the \$7,141,585 revenue brought in up until October 31st, 2024, \$606,465 of that was from "County Dues" - meaning

County Commissioners cut checks from your [primarily property] tax dollars to The North Dakota Association of Counties.

**North Dakota Association of Counties  
 Combined Statement of Revenues and Expenditures  
 for Period Ending October 31, 2024**

	2024 Actual Year-to-Date	2024 Budget	% of Budget
<b>OPERATING REVENUES</b>			
County Dues	606,465.00	727,750.00	83.3%
General Revenue	173,344.68	152,140.00	113.9%
Publication Services	42,789.97	47,700.00	89.7%
Conference/Workshop Services	237,881.10	236,630.00	100.5%
Cooperative Services	5,543,837.22	6,591,600.00	84.1%
Subsidiary Reimbursements	20,399.86	22,000.00	92.7%
Building Income	204,552.60	250,010.00	81.8%
DJS-Juvenile Justice Grant	312,315.48	500,000.00	62.5%
<b>TOTAL OPERATING REVENUES</b>	<b>\$7,141,585.91</b>	<b>\$8,527,830.00</b>	<b>83.7%</b>
<b>OPERATING EXPENDITURES</b>			
Salaries	1,673,748.13	2,051,540.00	81.6%
Overhead	668,616.78	845,870.00	79.0%
Travel	86,431.87	111,500.00	77.5%
Supplies	10,706.39	13,600.00	78.7%
Fees & Services	52,549.11	65,290.00	80.5%
Other Operating	39,277.56	53,080.00	74.0%
Building Operations Expense	280,716.73	361,640.00	77.6%
Legislative Services	11,613.68	19,600.00	59.3%
Publication Services	27,920.00	42,790.00	65.2%
Conference/Workshop Services	202,652.12	206,000.00	98.4%
Cooperative Services	3,408,517.52	4,416,950.00	77.2%
DJS Grant Pass Thru	312,315.48	500,000.00	62.5%
<b>TOTAL EXPENDITURES</b>	<b>\$6,775,065.37</b>	<b>\$8,687,860.00</b>	<b>78.0%</b>
<b>EXCESS REVENUES OVER EXPEND.</b>	<b>\$366,520.54</b>	<b>(\$160,030.00)</b>	
<b>NONOPERATING REVENUES</b>			
Variable Investment Income	\$685,489.04	\$261,000.00	262.6%

While the campaign finance report for the KIL-ND (Keep It Local ND) committee opposing Measure 4 did not receive cash from the North Dakota Association of Counties as of November 1st - their executive director Aaron Birst did travel the state for the Association of Counties campaigning against Measure 4. I'm not sure what his salary is, but if the Corrupt Practices Act were enforced to the fullest extent

of the spirit of the law, that would count as a “public resource” being used for campaigning and prohibited by the law.

However, other organizations funded with tax dollars did give cash directly to KIL-ND:

<a href="#">North Dakota League of Cities</a>	410 E Front Ave Bismarck, ND 58504	09/13/24	\$20,000.00
<a href="#">North Dakota School Boards Association</a>	1224 W Owens Ave Bismarck, ND 58501	08/29/24	\$35,000.00

The North Dakota League of Cities and The North Dakota School Boards Association are some heavy-hitters in the lobbying world. At \$20,000 for the League of Cities and \$35,000 for the School Boards Association, these are the easiest to declare as potential violators, if this were enforced.

None of these organizations are fully funded with tax dollars, but there is an old phrase that gets used a lot in government: “money is fungible” - meaning, once it is in a bank account you can’t separate which is which.

(Note: Other organizations like Chambers of Commerce also take some public money, but there is often a mix of grants and contracts to sort. The Greater North Dakota Chamber did contribute \$50,000 to KIL-ND. For the purposes of this article, I am not tallying those dollars, but they would be subject to enforcement if there was enforcement if the organization receives public grants or membership dues, but not contracts for services.)

## A Legislator Stands Up To Take The Lead

Representative Nathan Toman (R-Mandan) has taken the lead in drafting the legislation needed to fix this problem.

**16.1-10-02. Use of state or political subdivision services or property for political purposes - Ethics commission.**

1. ~~No~~A person may not use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, commission, or political subdivision ~~thereof~~of the state, for any political purpose.
2. ~~The following definitions must be used for the purposes of this section:~~The state or any agency, department, bureau, board, commission, or political subdivision may not use public funds to be a member of, contribute to, or endorse a private organization that has endorsed a candidate or publicly supported or opposed a ballot measure within the ten years immediately preceding the date of the contemplated use of public funds.
3. An individual holding public office may be held personally liable for violations of this section if the individual is performing an action outside the scope of the individual's official duties as an officeholder.
4. An individual alleging a violation under this section may file a complaint with the ethics commission as authorized under section 54-66-05. The procedures outlined in chapter 54-66 apply to a complaint filed under this subsection.

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Sixty-ninth  
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5. If the ethics commission believes a complaint contains allegations of criminal conduct, the commission shall refer the matter to the state's attorney of the county in which the alleged criminal conduct occurred.
6. Upon receiving a referral under subsection 5, the state's attorney shall prosecute the violation. If the state's attorney refuses to prosecute the action, the commission shall refer the matter to the attorney general for prosecution if authorized by a majority of commissioners of the commission. If the commission authorizes the attorney general to prosecute the action, the attorney general shall file the action with the supreme court. The supreme court shall exercise original jurisdiction and shall hear and rule on the case in the same manner as a criminal proceeding in a district court of this state.
7. As used in this section:





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This bill does what was suggested above and back in October.

*(Note to legislators wanting to sign on to this bill: the document code is 25.0592.01000 and the sponsor is Toman.)*

While this is a straight forward bill to eliminate taxpayer-funded campaigning against measures, we've never fixed the issue of taxpayer-funded lobbying during the legislative session by the very organizations using the loophole to skirt the law against using public resources and fund for or against ballot measures. (This is likely something that will need to be address by citizens using a ballot measure. The odds of the legislature standing up to these powerful lobbying organizations are not high.)

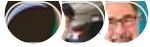
The pressure on legislators that want to fix these problems is immense, and lobbying organizations backed by taxpayer dollars essentially have bottomless pockets.

This is an issue and a challenge that needs to be tackled.

This will one of the North Dakota Watchdog Network's flagship bill for the 2025 session coming up.

I encourage any legislator that wishes to help support this to sign on and let Representative Toman know you've got his back!

**Citizens: you can [contact your legislators by clicking here](#), and letting them know you support efforts to reduce taxpayer-funded campaigning, and taxpayer-funded lobbying!**



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Marvin Nelson Dec 20



I will bet the Western Dakota Energy Association easily defeats any effort to limit using tax money to lobby.

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