



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

1224 West Owens Avenue
Bismarck ND 58501
1-800-932-8791 • (701)255-4127
www.ndsba.org

HB 1141

Testimony of Amy De Kok House Industry, Business & Labor Committee January 27, 2025

Chairman Warrey and members of the House Industry, Business & Labor Committee, thank you for the opportunity to provide testimony today. My name is Amy De Kok, and I proudly serve as the executive director for the North Dakota School Boards Association. NDSBA is a private nonprofit membership association that represents and supports public school districts and their governing school boards across the state of North Dakota. I am here to testify in opposition to HB 1141.

History and Mission of NDSBA

The North Dakota School Boards Association was created in 1967 to bring together school board members from all parts of the state and to stimulate their interest in matters pertaining to public schools, including their ongoing improvement. For the past 58 years, NDSBA's mission has been to support North Dakota school boards in their governance role through education, services, information, and legislative advocacy. The Association is governed by a seven-member board of directors (made up of local school board members) elected by delegates at our annual convention. The board includes a president, vice president, past president, and four regional directors.

Services Provided by NDSBA

NDSBA offers a wide range of services to its member schools, providing critical support that enhances governance, improves efficiency, helps ensure compliance with federal and state law and regulations, and strengthens advocacy efforts. Key services include:

- **Access to general guidance, assistance, and resources:** NDSBA expert staff provide daily guidance, assistance, and resources to board members and their administrative team (including superintendents, business managers, and principals) regarding day-to-day school district operations and related issues.
- **Board and Leadership Training:** NDSBA staff provide customized board training to meet the specific needs of individual boards and administrative teams. At the invitation of a school board, association staff travel to districts to deliver tailored training sessions. NDSBA also offers free

monthly webinars addressing frequently asked questions, popular topics, and timely issues. These sessions help board members and leadership teams deepen their understanding and sharpen their skills.

- **Business Manager Certification Program:** This Program is administered by NDSBA and the ND Association of School Business Managers and was established in 2013 thanks to a grant from the ND Legislature. The program provides business managers with in-depth training on statutory and regulatory requirements, school finance, data and records, and school business administration practices.
- **State-wide and Regional Professional Development and Events:** NDSBA provides its members and their administrative teams with a variety of training and networking opportunities, including the New Member Seminar, Law Seminar, Annual Convention, Negotiations Seminar, Nonrenewal and Discharge Sessions, Elections Training, and Threat Assessment Training.
- **Legislative Advocacy:** NDSBA represents school boards at the state level, testifying on education-related bills, tracking legislative issues, and keeping our members updated and informed on the important issues being discussed by the ND Legislature.
- **Legal Services Program:** School board members, superintendents, and business managers of member school districts utilize this service to obtain general legal information and resources on the numerous legal issues affecting their districts. NDSBA in-house attorneys provide general information and resources to member districts and their representatives about open meetings and open records, personnel matters, board procedure, negotiations, student discipline, staff evaluations, federal and state legal requirements applicable to schools, and when legal counsel should be hired.
- **Legal Direct Program:** In addition to general legal services, NDSBA in-house attorneys offer fee-based direct legal services at below-market rates for member school districts. School districts are often hesitant to retain private legal counsel even when recommended to do so due to the cost associated with private legal services. For these reasons, our members benefit greatly by having an option for discounted legal services available to them. NDSBA is in a unique position to provide this service to our members at below-market rates through our fee-based program, NDSBA Legal Direct.
- **Legal Services Affiliation:** NDSBA maintains relationships with attorneys specializing in school law, offering referrals and a list of affiliate attorneys for member districts.

- **NDUC Group Account:** Membership grants access to the North Dakota Unemployment Compensation Group Account, allowing districts to pool deposits and manage claims efficiently.
- **Policy Services:** Members gain access to over 600 legally reviewed policy templates and can opt for policy review, maintenance, and webhosting services. As of this fall, 187 school districts, special education units, and CTE units have enrolled in NDSBA’s policy services program.
- **Superintendent Search:** NDSBA offers a fee-based service to assist districts in hiring a superintendent. These customized search services are tailored to meet the unique needs of individual districts and their communities.
- **Service Awards & Scholarships:** NDSBA annually recognizes and rewards local board members for their commitment to professional development and public service.

HB 1141 proposes to prohibit the state and any political subdivision from using 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 last ten years. While we appreciate the intent to ensure transparency and accountability in the use of public funds, this bill raises significant concerns regarding its broad scope, unintended consequences, and the impact on the ability of public institutions, including school districts, to access essential resources and advocacy.

Impact on Public School Districts

Public school districts rely on membership associations like ours to provide essential services, professional development, and collective advocacy. We are uniquely positioned to represent the collective voice of educators and school boards, providing expertise and support in navigating complex educational policies, regulations, and funding issues. If HB 1141 were to pass, NDSBA would likely be forced to close its doors after 58 years of faithful service to public schools and public schools would no longer have access to the kinds of services we provide.

Restrictions on Advocacy and Collective Action

By prohibiting membership in any organization that has, within the past ten years, taken a position on candidates or ballot measures, HB 1141 would effectively disqualify many reputable and valuable organizations from partnering with public institutions. This restriction would:

- Severely limit access to professional associations that offer critical policy analysis and advocacy on behalf of public education and other matters of public concern.
- Undermine the collective ability of school boards to engage in discussions on legislative proposals and ballot measures that directly impact education funding, curriculum standards, and governance.

Unintended Consequences

I don't believe NDSBA has ever endorsed or publicly taken a position on any candidate running for elective office. NDSBA is a non-partisan and non-political organization. NDSBA has on very few occasions publicly weighed in on ballot measures over its 50 plus-year existence. In the past 7 ½ years that I've been employed with the Association, NSDBA has taken a position on a ballot measure only one time – Measure 4, which sought to eliminate local governments' ability to levy property taxes. Local property taxes are an important source of funding for K-12 public education in North Dakota (constituting just over 25% of K-12 revenue sources). NDSBA did not solicit or utilize any public funds in its efforts to respond to Measure 4 and its potential impacts.

Notwithstanding NDSBA's history with respect to ballot measures, the ten-year timeframe outlined in HB 1141 is excessively restrictive and does not account for the evolving nature of advocacy. Many organizations take policy positions or engage in ballot initiatives as part of their mission to advance public welfare. Preventing membership based on past activity would:

- Penalize organizations for their historical advocacy efforts, regardless of the relevance or context of those efforts to their current work.
- Create a chilling effect on civic engagement, discouraging organizations from taking principled stances on issues of public importance.

Potential for Legal Challenges

HB 1141 raises potential constitutional concerns related to free speech and the right to association. By restricting public institutions from associating with organizations based on their past advocacy, the bill could be subject to legal challenges under the First Amendment. The right to free speech protects not only the ability to express views but also the freedom to associate with others who share common interests and objectives. Courts have consistently held that government actions impeding such associations are subject to strict scrutiny.

Specifically, public institutions and their representatives, such as school boards, have a vested interest in affiliating with organizations that advocate on their behalf to promote sound educational policies. Preventing membership or collaboration based on prior advocacy positions would:

- **Infringe upon the protected right to association** by limiting the ability of public entities to collaborate with expert organizations.
- **Impair free speech rights** by penalizing organizations for exercising their right to participate in public discourse.

Given these potential conflicts with constitutional protections, HB 1141 is likely to face significant legal challenges, which would be costly and time-consuming for the state.

In closing, I strongly urge the committee to reject HB 1141 and issue a DO NOT PASS recommendation. The bill's broad prohibitions would disrupt valuable partnerships between public entities and nonprofit organizations, hinder access to critical resources and advocacy, and raise serious constitutional questions. We respectfully request that the legislature explore more balanced approaches to transparency and accountability that do not jeopardize the important work of associations supporting public education and other important public services.

Thank you for considering my testimony. I am happy to answer any questions the committee may have.