

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
HOUSE BILL NO. 1141**

Introduced by

Representatives Toman, Hendrix, Holle, D. Johnston, Rohr, Frelich, Morton

Senators Boehm, Paulson, Magrum

1 A BILL for an Act to amend and reenact section 16.1-10-02 of the North Dakota Century Code,
2 relating to using public services or property for a political purpose.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 16.1-10-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-10-02. Use of state or political subdivision services or property for political**
7 **purposes - Ethics commission.**

8 1. ~~No~~A person may not use any property belonging to or leased by, or any service which
9 is provided to or carried on by, either directly or by contract, the state or any agency,
10 department, bureau, board, commission, or political subdivision ~~thereof~~of the state, for
11 any political purpose.

12 2. ~~The following definitions must be used for the purposes of this section:~~The state or
13 any agency, department, bureau, board, commission, or political subdivision may not
14 use public funds to be a member of, contribute to, or endorse a private organization
15 that has endorsed a candidate or publicly supported or opposed a ballot measure
16 within the ten years immediately preceding the date of the contemplated use of public
17 funds.

18 An individual or private organization may not use public funds collected from a
19 political subdivision or any agency or department of the state to, directly or indirectly,
20 endorse or oppose a candidate for elective office or a ballot measure.

21 ~~3.~~ An individual holding public office may be held personally liable for violations of this
22 section if the individual is performing an action outside the scope of the individual's
23 official duties as an officeholder.

24 ~~4.3.~~ 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.~~

The ethics commission may investigate an alleged violation under this section and may assess a civil penalty for a violation of this section up to [insert a monetary amount as determined by the legislature.]

~~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:

- a. "Political purpose" means any activity undertaken in support of or in opposition to a statewide initiated or referred measure, a constitutional amendment or measure, a political subdivision ballot measure, or the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of public office or a position taken in any bona fide news story, commentary, or editorial. Factual information may be presented regarding a ballot question solely for the purpose of educating voters if the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of the ballot question.
- b. "Property" includes motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in

1 this section may be construed to prohibit any candidate, political party, committee,
2 or organization from using any public building for such political meetings as may be
3 required by law, or to prohibit such candidate, party, committee, or organization from
4 hiring the use of any public building for any political purpose if such lease or hiring is
5 otherwise permitted by law.

6 c. "Public funds" means funds received by a political subdivision or an agency or
7 department of the state through taxation, appropriation, fees, grants, or other
8 revenue sources, which are used to pay dues or contributions to a private
9 organization.

10 e.d. "Services" includes the use of employees during regular working hours for which
11 such employees have not taken annual or sick leave or other compensatory
12 leave.

13 **SECTION 2. AMENDMENT.** Section 16.1-10-08 of the North Dakota Century Code is

14 amended and reenacted as follows:

15 **16.1-10-08. Penalty for violation of chapter.**

16 Any person violating any provision of this chapter, for which another criminal penalty is not
17 specifically provided, is guilty of a class A misdemeanor.