Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

HOUSE BILL NO. 1359 (Representatives Dorso, Clark)

AN ACT to amend and reenact sections 34-11.1-04.1, 44-04-09, and 44-04-10 of the North Dakota Century Code, relating to the state nepotism law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- **SECTION 1. AMENDMENT.** Section 34-11.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:
- **34-11.1-04.1.** Discrimination on basis of marital status in state employment prohibited Exception. Each state employee is, if otherwise qualified, entitled to work with that state employee's spouse. A state agency may not discriminate against an employee or an applicant for employment, with respect to working conditions, work place assignment, or other privileges of employment, merely because the spouse of that employee or applicant is also an employee of that state agency. However, the prohibition does not apply to employment of the spouse of a person who has the power to hire or fire, or to make evaluations of performance, with respect to the position involved Compliance with section 44-04-09 is not discrimination under this section.
- **SECTION 2. AMENDMENT.** Section 44-04-09 of the North Dakota Century Code is amended and reenacted as follows:
- **44-04-09. Nepotism.** No head of any executive or administrative department, either elective or appointive, of this A state official or state employee, in the exercise of that official's or employee's duties, may appoint his wife or her husband, as the case may be not serve in a supervisory capacity over, or enter a personal service contract with, that official's or employee's parent by birth or adoption, spouse, son, or daughter by birth or adoption, stepchild, brother, or sister, to any position under the control or direction of said head of such department by whole or half blood or by adoption, brother-in-law or sister-in-law, or son-in-law or daughter-in-law. As used in this section, "supervisory capacity" means the authority to appoint, employ, hire, assign, transfer, promote, evaluate, reward, discipline, demote, or terminate. As used in this section, "evaluate" does not include evaluations by peers or subordinates. This section does not apply to an employment relationship or contract entered before the effective date of this Act; nor to any employment relationship or contract entered before the state official or employee assumed the supervisory capacity; nor to any temporary work arrangement necessary to meet a critical and urgent agency need.
- **SECTION 3. AMENDMENT.** Section 44-04-10 of the North Dakota Century Code is amended and reenacted as follows:
- **44-04-10. Violation of provisions against nepotism Penalty.** Any moneys paid out, in violation of section 44-04-09, must be deducted from the salary of the head of the department hiring or contracting state official or state employee.

Spe	Speaker of the House				President of the Senate			
Chi	Chief Clerk of the House					Secretary of the Senate		
This certifies that Assembly of Nor	at the with rth Dakota	nin bill o a and is	riginated ii known on	n the Ho	ouse of Repr ords of that b	esentatives of the ody as House Bil	e Fifty-sixth Le I No. 1359.	
House Vote:	Yeas	94	Nays	0	Absent	4		
Senate Vote:	Yeas	47	Nays	0	Absent	2		
					Chief Clerk of the House			
Received by the Governor at M. on							, 1999.	
Approved at	M	l. on			Gove	rnor	, 1999.	
Filed in this offic			day o	f			, 1999,	
					Secre	etary of State		