

HOUSE BILL NO. 1359

Introduced by

Representatives Dorso, Clark

1 A BILL for an Act to amend and reenact sections 34-11.1-04.1, 44-04-09, and 44-04-10 of the
2 North Dakota Century Code, relating to the state nepotism law.

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

4 **SECTION 1. AMENDMENT.** Section 34-11.1-04.1 of the North Dakota Century Code
5 is amended and reenacted as follows:

6 **34-11.1-04.1. Discrimination on basis of marital status in state employment**

7 **prohibited - Exception.** Each state employee is, if otherwise qualified, entitled to work with
8 that state employee's spouse. A state agency may not discriminate against an employee or an
9 applicant for employment, with respect to working conditions, work place assignment, or other
10 privileges of employment, merely because the spouse of that employee or applicant is also an
11 employee of that state agency. However, the prohibition does not apply to employment of the a
12 spouse of a person who has the power to hire or fire, or to make evaluations of performance,
13 with respect to the position involved in violation of section 44-04-09.

14 **SECTION 2. AMENDMENT.** Section 44-04-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **44-04-09. Nepotism.** ~~No head of any executive or administrative department, either~~
17 ~~elective or appointive, of this~~ A state official or state employee, in the exercise of that official's
18 or employee's duties, may appoint his wife or her husband, as the case may be not serve in a
19 supervisory capacity over that official's or employee's parent by birth or adoption, spouse, son,
20 or daughter by birth or adoption, brother, or sister, to any position under the control or direction
21 of said head of such department by whole or half blood or by adoption, or son-in-law or
22 daughter-in-law by birth or adoption. A state official or state employee, in the exercise of that
23 official's or employee's duties, may not enter a personal service contract with any person that
24 serves in a supervisory capacity over that official's or employee's relative as identified in this

1 section. As used in this section, "supervisory capacity" means the authority to control or direct
2 an individual in an employment relationship. The term includes the authority to appoint,
3 employ, hire, assign, transfer, promote, evaluate, reward, discipline, demote, or terminate. This
4 section does not apply to an employment relationship or contract entered before the effective
5 date of this Act or to any temporary work arrangement necessary to meet urgent needs
6 resulting from an emergency.

7 **SECTION 3. AMENDMENT.** Section 44-04-10 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **44-04-10. Violation of provisions against nepotism - Penalty.** Any moneys paid out,
10 in violation of section 44-04-09, must be deducted from the salary of the ~~head of the~~
11 ~~department~~ state official or employee serving in the supervisory capacity.