

**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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill 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. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State