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HELPFUL CAMPAIGN PRACTICES

North Dakota ✓otes 2008

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Alternate formats for persons with disabilities are available upon request.

FORWARD

This pamphlet is a compilation of laws found in the North Dakota Century Code. This compilation includes laws relating to political campaigns, political advertising, electioneering, election polls, and the penalties for improper election and campaign conduct. It's a reference source for candidates, political parties, district political committees, poll workers, voters, and others with an interest in election procedures. If you have questions regarding this pamphlet, please contact the Elections Division of the Secretary of State's office by calling 701-328-4146, emailing soselect@nd.gov, or writing to Secretary of State, Elections Division, 600 East Boulevard Avenue Department 108, Bismarck ND 58505-0500

DISCLAIMER

The following excerpts of North Dakota law are from the North Dakota Century Code (NDCC) and pertain to elections, election procedures, and campaign practices. Although every attempt has been made for accuracy, the reprint of these laws does not carry the same authority as the actual NDCC and should not be equated with the official NDCC. This compilation is only intended as a helpful resource and reference for consolidated related laws. For official and legal purposes, the official NDCC should be used.

In addition, the following excerpts of North Dakota law do not contain the material found in the legal notes following the various sections contained in the NDCC. These notes found in the NDCC may contain temporary provisions and effective dates along with the valuable summaries of applicable court rulings.

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NOTES

CHAPTER 16.1-10
CORRUPT PRACTICES

16.1-10-01. Corrupt practice – What constitutes. A person is guilty of corrupt practice within the meaning of this chapter if the person willfully engages in any of the following:

1. Expends any money for election purposes contrary to the provisions of this chapter.

2. Engages in any of the practices prohibited by section 12.1-14-02 or 12.1-14-03.

3. Is guilty of the use of state services or property or the services or property of a political subdivision of the state for political purposes.

16.1-10-02. Use of state or political subdivision services or property for political purposes.

1. No person may use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, commission, or political subdivision thereof, for any political purpose.

2. The following definitions must be used for the purposes of this section:
   a. "Political purpose" means any activity undertaken in support of or in opposition to 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 a duty of a state office or a position taken in any bona fide news story, commentary, or editorial.
   b. "Property" includes, but is not limited to, motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section may be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.
   c. "Services" includes, but is not limited to, the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.

16.1-10-03. Political badge, button, or insignia at elections. On the day of an election, no person may buy, sell, give, or provide any political badge, button, or any insignia to be worn at or about the polls on that day. No such political badge, button, or insignia may be worn at or about the polls on any election day.

16.1-10-04. Publication of false information in political advertisements – Penalty. A person is guilty of a class A misdemeanor if that person knowingly, or with reckless disregard for its truth or falsity, publishes any political advertisement or news release that contains any assertion, representation, or statement of fact, including information concerning a candidate's prior public record, which is untrue, deceptive, or misleading, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, constitutional amendment, or any other issue, question, or proposal on an election ballot, and whether the publication is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters or billboard advertisements, web sites, electronic transmission, or by any other public means. This section does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the political advertisement or news release.

16.1-10-04.1. Certain political advertisements to disclose name of sponsor – Name disclosure requirements. Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, or by any other similar public means, on behalf of or in opposition to any

candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, must disclose on the advertisement the name of the person, as defined in section 16.1-08.1-01, or political party paying for the advertisement. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible person from the political party, association, or partnership. The name of the person or political party paying for any radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible person from the political party, association, or partnership. In every political advertisement in which the name of the person or political party paying for the advertisement is disclosed, the first and last name of any named person must be disclosed. An advertisement paid for by an individual candidate or group of candidates must disclose that the advertisement was paid for by the individual candidate or group of candidates. The first and last name or names of the candidates paying for the advertisement are not required to be disclosed. This section does not apply to campaign buttons.

16.1-10-05. Paying owner, editor, publisher, or agent of newspaper to advocate or oppose candidate editorially prohibited. No person may pay or give anything of value to the owner, editor, publisher, or agent of any newspaper or other periodical, or radio or television station, to induce the person to advocate editorially or to oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent may accept such inducement.

16.1-10-06. Electioneering on election day – Penalty. Any person asking, soliciting, or in any manner trying to induce or persuade, any voter on an election day to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people, is guilty of an infraction. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure, and political advertisements promoting the candidacy of any individual, political party, or a vote upon any measure which are displayed on fixed permanent billboards, may not, however, be deemed a violation of this section.

16.1-10-06.1. Paying for certain election-related activities prohibited. No person may pay another person for:

1. Any loss or damage due to attendance at the polls;

2. Registering;

3. The expense of transportation to or from the polls; or

4. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

The provisions of this section do not apply to the hiring of a person whose sole duty it is to act as a challenger and to watch the count of official ballots.

16.1-10-06.2. Sale or distribution at polling place. No person may approach a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service. This prohibition applies in any polling place or within one hundred feet [30.48 meters] from any entrance leading into a polling place on election day.

16.1-10-07. Candidate guilty of corrupt practice to vacate nomination of office. If any person is found guilty of any corrupt practice the person must be punished by being deprived of the person's government job, or the person's nomination or election must be declared void, as the case may be. This section does not remove from office a person who is already in office and who has entered upon the

discharge of the person's duties where such office is subject to the impeachment provisions of the Constitution of North Dakota.

16.1-10-08. Penalty for violation of chapter. Any person violating any provision of this chapter, for which another penalty is not specifically provided, is guilty of a class A misdemeanor.

CHAPTER 12.1-12
BRIBERY-UNLAWFUL INFLUENCE OF PUBLIC SERVANTS

Election Related Excerpts

12.1-12-04. Trading in public office and political endorsement.

1. A person is guilty of a class A misdemeanor if he solicits, accepts, or agrees to accept, or offers, gives, or agrees to give, a thing of pecuniary value as consideration for approval or disapproval by a public servant or party official of a person for:
   a. Appointment, employment, advancement, or retention as a public servant; or
   b. Designation or nomination as a candidate for elective office.

2. In this section:
   a. "Approval" includes recommendation, failure to disapprove, or any other manifestation of favor or acquiescence.
   b. "Disapproval" includes failure to approve or any other manifestation of disfavor or nonacquiescence.
   c. "Party official" means a person who holds a position or office in a political party, whether by election, appointment, or otherwise.

3. Any appointment of a public servant made in violation of this section is void, but any official action taken by the appointee prior to conviction under this section is valid.

CHAPTER 12.1-14
OFFICIAL OPPRESSION-ELECTIONS-CIVIL RIGHTS
Election Related Excerpts

12.1-14-01. Official oppression. A person acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity is guilty of a class A misdemeanor if, knowing that his conduct is illegal, he:

1. Subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or
2. Denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity.

12.1-14-02. Interference with elections. A person is guilty of a class A misdemeanor if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.
2. Injures, intimidates, or interferes with another in order to prevent him or any other person from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.

12.1-14-03. Safeguarding elections. A person is guilty of a class A misdemeanor if, in connection with any election, he:

1. Makes or induces any false voting registration;
2. Offers, gives, or agrees to give a thing of pecuniary value to another as consideration for the recipient's voting or withholding his vote or voting for or against any candidate or issue or for such conduct by another;
3. Solicits, accepts, or agrees to accept a thing of pecuniary value as consideration for conduct prohibited under subsection 1 or 2; or
4. Otherwise obstructs or interferes with the lawful conduct of such election or registration therefor.

As used in this section, "thing of pecuniary value" shall include alcoholic beverages, by the drink or in any other container.

12.1-14-04. Discrimination in public places. A person is guilty of a class B misdemeanor if, whether or not acting under color of law, he, by force, or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin and because he is or has been exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.
2. Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin in order to intimidate him or any other person from exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.

12.1-14-05. Preventing exercise of civil rights – Hindering or preventing another aiding third person to exercise civil rights. A person is guilty of a class B misdemeanor if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or is about to exercise his civil rights, or because he has exercised his civil rights.
2. Intimidates or prevents another from aiding a third person to exercise his civil rights.

CHAPTER 39-01
DEFINITIONS AND GENERAL PROVISIONS
Election Related Excerpts

39-01-03. Motor vehicle owned by the state or an international peace garden not to be used for private use or in political activities. No person, officer, or employee of the state or of any department, board, bureau, commission, institution, industry, or other agency of the state, or of any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world, may use or drive any motor vehicle belonging to the state or to any department, board, bureau, commission, institution, industry, or other agency of the state, or of any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world, for private use, or while engaged in any political activity.

39-01-04. Political activity defined. The term "political activity" as used in this chapter includes any form of campaigning or electioneering, such as attending or arranging for political meetings; transporting candidates or workers engaged in campaigning or electioneering; distributing campaign literature, political guide cards, or placards; soliciting or canvassing for campaign funds; transporting electors to the polls on election day; and any other form of political work usually and ordinarily engaged in by state officers and employees during primary and general election campaigns.

39-01-05. Expenses not to be collected by state officers or employees engaged in political activity. A state officer or employee who uses or drives any privately owned motor vehicle while engaged in political activity may not collect or receive from this state any expense moneys for the use or operation of the motor vehicle while engaged in the political activity. A state officer or employee may not collect or receive any traveling expense reimbursement from this state for any time spent engaging in any political activity.

39-01-06. Collecting or receiving expense money wrongfully – Civil action for recovery – Liability of bond. Any officer or employee who collects or receives any expense moneys in violation of section 39-01-05 is subject to a suit for the recovery of the funds wrongfully collected or received by that person, and if that person's office or position is bonded by the state bonding fund, such fund also is liable therefor.

39-01-07. Penalty for violation of chapter. Any person violating any provision of this chapter for which another penalty is not specifically provided is guilty of a class A misdemeanor.

CHAPTER 44-08
MISCELLANEOUS PROVISIONS
Election Related Excerpts

44-08-19. Political activities by public employees prohibited while on duty – Definition.

1. No public employee may engage in political activities while on duty or in uniform. Although nothing in this section prevents any such employee from becoming or continuing to be a member or officer of a political club or organization, from attendance at a political meeting, from contributing to or otherwise supporting candidates of the employee's choice, from enjoying entire freedom from all interference in casting a vote or favoring candidates, or from seeking or accepting election or appointment to public office, the governing body of any political subdivision may adopt appropriate ordinances prohibiting public employees from engaging in political activities while such employees are on duty or in uniform.

2. For the purposes of this section, "political activities" means those activities defined by section 39-01-04.

CHAPTER 54-02
STATE EMBLEMS, SYMBOLS, AND AWARDS
Election Related Excerpts

54-02-01. Great seal - Permitted uses – Penalty for commercial use.

1. The great seal of the state is that prescribed in section2 of article XI of the Constitution of North Dakota. A description in writing of such seal must be deposited and recorded in the office of the secretary of state and must remain a public record. A reproduction of the great seal may be placed on any official form, document, or stationery of any agency, authority, board, body, branch, bureau, commission, committee, council, department, division, industry, institution, or instrumentality of the state or of any elected or appointed official of the state. A reproduction of the great seal may be placed on business calling cards produced for the use of an elected or appointed state official or state employee regardless of whether the cards are purchased by the official or employee or by the state. Any use of the great seal on any other object or thing by any of the foregoing state entities or officials is prohibited unless approved by the secretary of state; provided, however, that the state historical society and the parks and recreation department may, with the concurrence of the secretary of state, reproduce the great seal on any objects they offer for sale as souvenirs.
2. It is a class B misdemeanor for any person to:
   a. Place or cause to be placed the great seal, or any reproduction of the great seal, on any political badge, button, insignia, pamphlet, folder, display card, sign, poster, billboard, or on any other public advertisement, or to otherwise use the great seal for any political purpose, as defined in section 16.1-10-02.
   b. Place or cause to be placed on the great seal, or any reproduction thereof, any advertisement.
   c. Expose the great seal, or any reproduction thereof, to public view with any advertisement attached thereto.
   d. Utilize the great seal, or a copy or reproduction thereof, for any commercial purpose or except as provided in subsection 1, to utilize or place a copy or reproduction of the great seal on any stationery or business calling card of any person.

As used in this subsection, “advertisement” means any printed matter, device, picture, or symbol, no matter how presented to the senses, which informs the public that a good or service is available; and “commercial purpose” means with intent to produce a pecuniary gain through sale of a good or service. Notwithstanding any other provision of law, the secretary of state may grant a written request by a private vendor to reproduce official state forms and documents, containing a reproduction of the great seal, for resale to persons intending to submit the forms or documents to any state entity in the regular course of business. The secretary of state may also grant a written request by a publisher, educational institution, or author to reproduce the great seal in any research, reference, or educational publication containing a compilation of the great seals of other states.

POLITICAL ADVERTISING UNDER THE FEDERAL HIGHWAY BEAUTIFICATION ACT

Political Advertising is controlled by the Federal Highway Beautification Act which prohibits such advertising on, or adjacent to the highway right-of-way on roads, either on the Interstate or primary highway systems. Such zoning may be permitted in only commercial or industrial zoned areas, plus a few isolated exceptions. Candidates should obtain permits for signs which are in conforming areas. The Department of Transportation state or district offices may be contacted for more information or to provide individual attention to anyone needing assistance.

North Dakota Department of Transportation
DOT Building
608 East Boulevard Avenue
Bismarck ND 58505-0700
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CAMPAIGN DON'TS

As a candidate....

- Don't use any governmental (state, county, city, political subdivision) services or property (including telephone, postage, and building) for political purposes. NDCC § 16.1-10-02

- Don't give, sell, or wear political badges, buttons, or insignia on Election Day. No such political badge, button, or insignia may be worn at or about the polls on Election Day. NDCC § 16.1-10-03

- Don't allow government employees to work on campaigns while they are at work. NDCC § 16.1-10-02

- Don't pay another person for (1) loss or damage suffered due to voting attendance; (2) expense of transporting to or from the polls; (3) personal services to be performed on the day of a caucus, Primary Election, or any election which shall, directly or indirectly, affect the result of a caucus or election. NDCC § 16.1-10-06.1

- Don't serve on an election board or have a relative serve on an election board when you are a candidate on the ballot. NDCC § 16.1-05-02

- Don't give anything of value, or promise to give anything of value, including drinks, to another in return for the other's promise to vote or withhold his vote for or against any candidate. NDCC § 12.1-14-03

EXAMPLES OF DISCLAIMERS

- **Paid For By An Individual Person**: Paid for by Jane Doe
- **Paid For By A State Political Party**: Paid for by the North Dakota Democratic-NPL Party, John Doe, Chairman
- **Paid For By A District Political Party**: Paid for by District 35 Republican Party, Jane Doe, Chairman
- **Paid For By A Candidate Committee**: Paid for by Jane Doe 2000, John Smith, Treasurer
- **Paid For By A Committee/Citizens Group**: Paid for by Citizens for a Better South Bismarck, John Smith, Treasurer
- **Paid For By An Association**: Paid for by the North Dakota Public Employees Association, Jane Doe, Director
- **Paid For By The Candidate**: Paid for by John Smith **or** Paid for by candidate
- **Paid For By A Group Of Or Several Candidates**: Paid for by Jane Doe, John Smith, Joseph Jones **or** Paid for by candidates