

HOUSE BILL NO. 1375

Introduced by

Representatives Brandenburg, Grande, Haas, Kasper

Senator Dever

1 A BILL for an Act to create and enact section 16.1-08.1-02.1 of the North Dakota Century Code,
2 relating to state political party convention statements; and to amend and reenact subsection 11
3 of section 16.1-08.1-01, sections 16.1-08.1-03.2 and 16.1-08.1-03.3, subsections 1 and 4 of
4 section 16.1-08.1-03.9, subsections 2, 3, 4, and 5 of section 16.1-08.1-03.11, section
5 16.1-08.1-05, and subsection 1 of section 16.1-08.1-06 of the North Dakota Century Code,
6 relating to campaign finance.

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

8 **SECTION 1. AMENDMENT.** Subsection 11 of section 16.1-08.1-01 of the North
9 Dakota Century Code is amended and reenacted as follows:

10 11. "Public office" means every ~~statewide or legislative~~ office to which persons can be
11 elected by vote of the people under the laws of this state.

12 **SECTION 2.** Section 16.1-08.1-02.1 of the North Dakota Century Code is created and
13 enacted as follows:

14 **16.1-08.1-02.1. State political party convention revenue and expense statement**
15 **required.**

16 1. State political parties shall establish separate and segregated accounts for the
17 management of state nominating conventions. All revenue obtained and
18 expenditures made for the planning and running of a state convention must be
19 accounted for in these accounts.

20 2. A postconvention statement must be filed with the secretary of state sixty days
21 after the close of the state nominating convention. The reporting period for the
22 postconvention statement begins on the first day of January of the reporting year
23 and ends thirty days after the close of the state nominating convention.

- 1 3. A year-end statement covering the entire calendar year must be filed with the
2 secretary of state no later than the thirty-first day of January of the following year
3 even if no convention revenue was received or expenditures made within the
4 calendar year.
- 5 4. The statement filed according to this section must show the following:
- 6 a. The cash on hand in the filer's convention accounts at the start and close of
7 the reporting period;
- 8 b. The gross total of all revenue received and expenditures made of two hundred
9 dollars, or less;
- 10 c. The gross total of all revenue received and expenditures made in excess of
11 two hundred dollars;
- 12 d. The aggregated totals of all revenue received from a single person or entity in
13 excess of two hundred dollars, the name of each person or entity, the mailing
14 address of each person or entity, the date of the most recent receipt of
15 revenue from each person or entity, and the purpose or purposes for which
16 the aggregated revenue total was received from each person or entity;
- 17 e. The aggregated totals of all expenditures made to a single person or entity in
18 excess of two hundred dollars, the name of each person or entity, the mailing
19 address of each person or entity, the date of the most recent expense made
20 to each person or entity, and the purpose or purposes for which the
21 aggregated expenditure total was disbursed to each person or entity; and
- 22 f. A political party shall report the occupation, employer, and principal place of
23 business of each person from whom five thousand dollars or more of revenue
24 was received in the aggregate during the reporting period.
- 25 5. For the purposes of this section, the term entity is defined as any group consisting
26 of or representing more than one person.
- 27 6. If a net gain from the convention is transferred to the accounts established for the
28 support of the nomination or election of candidates, the total transferred must be
29 reported as a contribution in the statements required by section 16.1-08.1-03.
- 30 7. If a net loss from the convention is covered by a transfer from the accounts
31 established for the support of the nomination or election of candidates, the total

1 transferred must be reported as an expenditure in the statements required by
2 section 16.1-08.1-03.

3 **SECTION 3. AMENDMENT.** Section 16.1-08.1-03.2 of the North Dakota Century Code
4 is amended and reenacted as follows:

5 **16.1-08.1-03.2. Political committee registration.** A statewide candidate, statewide
6 candidate committee, political action committee, multicandidate committee, or a ~~political~~
7 measure committee, as described in section 16.1-08.1-01, ~~other than a political party and a~~
8 ~~committee organized in support of an individual legislative candidate,~~ shall register its name,
9 address, and its agent's name and address with the secretary of state each calendar year in
10 which it receives any contribution. The registration must be completed within fifteen business
11 days of the receipt of any contribution or expenditure made and must be submitted with a
12 registration fee of twenty-five dollars. A political committee that organizes and registers
13 according to federal law and makes a disbursement in excess of two hundred dollars to a
14 nonfederal candidate seeking public office, a political party, or political committee in this state is
15 not required to register as a political committee according to this section if the political
16 committee reports according to section 16.1-08.1-03.7. Registration under this section does not
17 reserve the name for exclusive use nor does it constitute registration of a trade name under
18 chapter 47-25.

19 **SECTION 4. AMENDMENT.** Section 16.1-08.1-03.3 of the North Dakota Century Code
20 is amended and reenacted as follows:

21 **16.1-08.1-03.3. Campaign contributions by corporations, cooperative**
22 **corporations, limited liability companies, and associations prohibited - Violation -**
23 **Penalty - Political action committees authorized.**

- 24 1. A corporation, cooperative corporation, limited liability company, or association
25 may not make a direct contribution:
- 26 a. To aid any political party, political committee, or organization.
 - 27 b. To aid any corporation, limited liability company, or association organized or
28 maintained for political purposes.
 - 29 c. To aid any candidate for ~~political~~ public office or for nomination to ~~political~~
30 public office.

- 1 d. For any political purpose or the reimbursement or indemnification of any
2 person for money or property so used.
- 3 e. For the influencing of any measure before the legislative assembly, except in
4 accordance with chapter 54-05.1.
- 5 2. This section does not prohibit the establishment, administration, and solicitation of
6 contributions to a separate and segregated fund to be utilized for political purposes
7 by a corporation, cooperative corporation, limited liability company, or association.
8 It is unlawful for:
- 9 a. The person or persons controlling the fund to make contributions or
10 expenditures utilizing money or anything of value secured by physical force,
11 job discrimination, financial reprisals, or the threat of them; or utilize money
12 from dues, fees, treasury funds, or other money required as a condition of
13 membership in an association, or as a condition of employment; or utilize
14 money obtained in any commercial transaction. Moneys from fees, dues,
15 treasury funds, or money obtained in a commercial transaction may, however,
16 be used to pay costs of administration of the fund.
- 17 b. Any person soliciting an employee, stockholder, patron, or member for a
18 contribution to the fund to fail to inform the employee or member of the
19 political purposes of the fund at the time of the solicitation or of the general
20 political philosophy intended to be advanced through committee activities.
- 21 c. Any person soliciting an employee or member for a contribution to the fund to
22 fail to inform the employee or member at the time of the solicitation of the right
23 to refuse to contribute without any reprisal.
- 24 d. Any contribution to be accepted without keeping an accurate record of the
25 contributor and amount contributed and of amounts expended for political
26 purposes.
- 27 e. Any contribution to be accepted from any person who is not an employee,
28 stockholder, patron, or member of the corporation, cooperative corporation,
29 limited liability company, or association maintaining the political action
30 committee.

- 1 f. Any expenditure, ~~except a contract, promise, or agreement, express or~~
2 ~~implied, to make any expenditure,~~ made for political purposes to be reported
3 under this section before control of the expenditure has been released by the
4 political action committee except if there is a contract, promise, or agreement,
5 expressed or implied, to make such expenditure.
- 6 3. All political action committees, as described in section 16.1-08.1-01, formed for the
7 purpose of administering the segregated fund provided for in this section shall file a
8 statement showing the name and mailing address of each contributor of an amount
9 in excess of two hundred dollars in the aggregate for the reporting period and a
10 listing of all expenditures of an amount in excess of two hundred dollars in the
11 aggregate made for political purposes with the secretary of state. The statement
12 must include the amount of each reportable contribution and the date it was
13 received and the amount of each reportable expenditure and the date it was made.
14 A year-end statement covering the entire calendar year must be filed no later than
15 the thirty-first day of January of the following year. A preelection statement must
16 be filed no later than the twelfth day before any primary, special, or general
17 election and must be complete from the beginning of the calendar year through the
18 twentieth day before the election. Even if a political action committee has not
19 received any contributions or made any expenditures in excess of two hundred
20 dollars during the reporting period, the political action committee shall file a
21 statement as required by this chapter. A statement filed according to this section
22 during the reporting period must show the following:
- 23 a. The gross total of all contributions received and expenditures made in excess
24 of two hundred dollars;
- 25 b. The gross total of all contributions received and expenditures made of two
26 hundred dollars, or less; and
- 27 c. The cash on hand in the filer's account at the start and close of the reporting
28 period.
- 29 4. A political action committee shall report the occupation, employer, and principal
30 place of business of each person, or the political committee if not already

1 registered according to state or federal law, who contributed five thousand dollars
2 or more in the aggregate during the reporting period.

3 5. A person may not make a payment of that person's money or of another person's
4 money to any other person for a political purpose in any name other than that of
5 the person who supplies the money and a person may not knowingly receive the
6 payment nor enter nor cause the payment to be entered in that person's account or
7 record in any name other than that of the person by whom it actually was
8 furnished.

9 6. If an officer, employee, agent, attorney, or other representative of a corporation,
10 cooperative corporation, limited liability company, or association makes any
11 contribution prohibited by this section out of corporate, cooperative corporation,
12 limited liability company, or association funds or otherwise violates this section, it is
13 prima facie evidence of a violation by the corporation, cooperative corporation,
14 limited liability company, or association.

15 7. A violation of this section may be prosecuted in the county where the contribution
16 is made or in any county in which it has been paid or distributed.

17 8. It is a class A misdemeanor for an officer, director, stockholder, manager,
18 governor, member, attorney, agent, or representative of any corporation,
19 cooperative corporation, limited liability company, or association to violate this
20 section or to counsel or consent to any violation. Any person who solicits or
21 knowingly receives any contribution in violation of this section is guilty of a class A
22 misdemeanor.

23 9. Any officer, director, stockholder, manager, governor, member, attorney, agent, or
24 representative who makes, counsels, or consents to the making of a contribution in
25 violation of this section is liable to the company, corporation, limited liability
26 company, or association for the amount so contributed.

27 **SECTION 5. AMENDMENT.** Subsections 1 and 4 of section 16.1-08.1-03.9 of the
28 North Dakota Century Code are amended and reenacted as follows:

29 1. A judicial district candidate or a candidate committee for a judicial district candidate
30 shall make and file a statement in accordance with this section. The candidate or
31 candidate committee shall include in the statement:

- 1 a. The name and mailing address of all contributors who made contributions in
- 2 excess of two hundred dollars in the aggregate for the purpose of influencing
- 3 the nomination for election, or election, of the candidate;
- 4 b. The aggregated amount of the contributions from each listed contributor; ~~and~~
- 5 c. The date the last contribution was received from each listed contributor;
- 6 d. The gross total of all contributions received of two hundred dollars, or less;
- 7 and
- 8 e. The cash on hand in the filer's account at the start and close of the reporting
- 9 period.
- 10 4. A candidate or a candidate committee described in this section shall be required to
- 11 file a year-end statement with the secretary of state ~~for any year in which a~~
- 12 ~~contribution was received~~, regardless of whether the candidate sought election
- 13 during that calendar year.

14 **SECTION 6. AMENDMENT.** Subsections 2, 3, 4, and 5 of section 16.1-08.1-03.11 of
15 the North Dakota Century Code are amended and reenacted as follows:

- 16 2. A candidate or a candidate committee described in this section shall file a
- 17 statement with the ~~county~~ city auditor no later than the twelfth day before the date
- 18 of ~~the~~ any election in which the candidate's name appears on the ballot or in which
- 19 the candidate seeks election through write-in votes. The reporting period for each
- 20 of these statements is from the beginning of that calendar year through the
- 21 twentieth day before the date of the election.
- 22 3. A candidate or a candidate committee described in this section shall also be
- 23 required to file a complete year-end statement with the ~~county~~ city auditor no later
- 24 than the thirty-first day of January in the year immediately following the date of the
- 25 election in which the candidate's name appeared on the ballot or in which the
- 26 candidate sought election through write-in votes. Even if the candidate or
- 27 candidate committee has not received any contributions in excess of two hundred
- 28 dollars during the reporting period, the candidate or candidate committee shall file
- 29 a statement as required by this section.
- 30 4. A candidate or a candidate committee described in this section shall be required to
- 31 file a year-end statement with the ~~county~~ city auditor for any year in which a

1 contribution was received, regardless of whether the candidate sought election
2 during that calendar year.

- 3 5. A statement required by this section to be filed with the county city auditor must be:
- 4 a. Deemed properly filed when deposited with or delivered to the county city
5 auditor within the prescribed time. A statement that is mailed is deemed
6 properly filed when it is postmarked and directed to the county city auditor
7 within the prescribed time. If the county city auditor does not receive a
8 statement, a duplicate of the statement must be promptly filed upon notice by
9 the county city auditor of its nonreceipt.
- 10 b. Preserved by the county city auditor for a period of four years from the date of
11 filing. The statement is to be considered a part of the public records of the
12 county city auditor and must be open to public inspection.

13 **SECTION 7. AMENDMENT.** Section 16.1-08.1-05 of the North Dakota Century Code
14 is amended and reenacted as follows:

15 **16.1-08.1-05. Audit by secretary of state - Requested audits - Reports.**

- 16 1. If a substantial irregularity is evident or reasonably alleged, the secretary of state
17 may arrange an audit of any statement filed pursuant to this chapter, to be
18 performed by a certified public accountant of the filer's choice, subject to approval
19 by the secretary of state. If an audit of a statement arranged by the secretary of
20 state under this subsection reveals a violation of this chapter, the candidate,
21 political party, or political committee filing the statement shall pay a fine to the
22 secretary of state equal to five percent of the aggregate of contributions and
23 expenditures found to be in violation or an amount sufficient to pay the cost of the
24 audit, whichever is greater. If an audit of a statement arranged by the secretary of
25 state under this subsection does not reveal a violation of this chapter, the cost of
26 the audit must be paid for by the secretary of state.
- 27 2. If a substantial irregularity is reasonably alleged, the secretary of state may
28 arrange an audit of any statement filed pursuant to this chapter, performed by a
29 certified public accountant of the filer's choice, subject to approval by the secretary
30 of state, upon written request by any interested party made to the secretary of state
31 within thirty days following receipt of a statement by the secretary of state. The

1 request must be made in writing, recite a substantial irregularity and a lawful
2 reason for requesting an audit, and be accompanied by a bond in an amount
3 established by the secretary of state sufficient to pay the cost of the audit. If an
4 audit of a statement arranged by the secretary of state under this subsection
5 reveals a violation of this chapter, the candidate, political party, or political
6 committee filing the statement shall pay a fine to the secretary of state equal to five
7 percent of the aggregate of contributions and expenditures found to be in violation
8 or an amount sufficient to pay the cost of the audit, whichever is greater, and the
9 bond shall be returned to the person submitting it. If an audit of a statement
10 arranged by the secretary of state under this subsection does not reveal a violation
11 of this chapter, the cost of the audit must be satisfied from the bond filed with the
12 secretary of state.

13 An audit may not be made or requested of a statement for the sole reason that it was not timely
14 filed with the secretary of state. An audit made or arranged according to this section must audit
15 only those items required to be included in any statement, registration, or report filed with the
16 secretary of state according to this chapter. The secretary of state may collect any payment
17 obligation arising out of this section by civil action or by assignment to a collection agency, with
18 any costs of collection to be added to the amount owed and to be paid by the delinquent filer.
19 Any remaining moneys collected by the secretary of state after an audit is paid for under this
20 section must be deposited in the state's general fund. This section does not apply to
21 statements filed according to ~~section 16.1-08.1-03.9~~ sections 16.1-08.1-03.10 and
22 16.1-08.1-03.11.

23 **SECTION 8. AMENDMENT.** Subsection 1 of section 16.1-08.1-06 of the North Dakota
24 Century Code is amended and reenacted as follows:

- 25 1. ~~Except for a statement required to be filed under section 16.1-08.1-03.9, any other~~
26 Any statement required by this chapter to be filed with the secretary of state must
27 be:
- 28 a. Deemed properly filed when deposited with or delivered to the secretary of
29 state within the prescribed time and in the format established by the secretary
30 of state. A statement that is mailed is deemed properly filed when it is
31 postmarked and directed to the secretary of state within the prescribed time.

1 If the secretary of state does not receive a statement, a duplicate of the
2 statement must be promptly filed upon notice by the secretary of state of its
3 nonreceipt. After a statement has been filed, the secretary of state may
4 request or accept written clarification along with an amended statement from
5 a candidate, political party, or political committee filing the statement when
6 discrepancies, errors, or omissions on the statement are discovered by the
7 secretary of state, the candidate, political party, or political committee filing the
8 statement, or by any interested party reciting a lawful reason for requesting
9 clarification and an amendment be made. When requesting an amended
10 statement, the secretary of state shall establish a reasonable period of time,
11 not to exceed ten days, agreed to by the candidate, political party, or political
12 committee, for filing the amended statement with the secretary of state.
13 b. Preserved by the secretary of state for a period of four years from the date of
14 filing. The statement is to be considered a part of the public records of the
15 secretary of state's office and must be open to public inspection.