

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1426

2001 HOUSE JUDICIARY

HB 1426

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1426

House Judiciary Committee

Conference Committee

Hearing Date 01-30-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 1819
Committee Clerk Signature <i>Joan Davis</i>			

Minutes: Chairman DeKrey opened the hearing on HB 1426. Relating to initiated or referred measure contribution statements definitions and contribution reporting; relating to federal campaign committee contributions and contributions made to other candidates.

Rep Grande: Introduced HB 1426. Reviewed sections one and three deal with clarifying the person soliciting or accepting contributions for the purpose of aiding or opposing the circulation of passage of state wide initiative and referendum and measures placed on a state wide ballot by action of the legislature and any election shall report contributions received pursuant to chapter 16.1-08.1 to the secretary of state. Section two defines what a corporation is, including a non-profit corporation. Section four applies a forty eight hour reporting of the contribution in excess of \$500.00 to political parties and committees. Section four also changes to forty eight hours reporting contributions from any contributions by, changes it to any contributions in excess of \$500.00. I will leave section five to Rep Belter.

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House Judiciary Committee  
Bill/Resolution Number HB 1426  
Hearing Date 01-30-01

Rep Belter: District 22, I am here in support of HB 1426. There is some here from the Secretary of States Office who will answer questions. I was interested in section 5. This bill will repeal section five. The purpose is to try and get a handle on funds.

Cory Fong: here representing Secretary Of States Office (see attached testimony).

Rep Delmore: In the first part have we eliminated people who file petitions to put on the ballot. have we eliminated the filing at the beginning of circulation?

Cory Fong: NO.

Rep Delmore: Once the amount gets to \$500.01, they have forty eight hours to report.

Cory Fong: That is correct.

Rep Maragos: In the first section, are we eliminating conflict between 16.1-01-12 and 16.1-08.1. why is there a conflict.

Cory Fong: The conflict is that they are doubling up. We are suggesting 16.1-08.1 is more detailed.

Rep Maragos: I'd like to know who is filing petitions, not just before the election is being held.

Cory Fong: I can understand, if the committee so chooses, we can clean up the language.

Rep Maragos: why don't we amend that language.

Cory Fong: I can make the amendments.

Chairman DeKrey: Yes, bring the amendments.

Rep Fairfield: Why did you pick \$500.00. Are there other places that that threshold is used?

Cory Fong: There is a \$200.00 threshold that is the most common, this is the only place \$500.00.

Rep Fairfield: What is the history, why was that number chosen?

Cory Fong: I don't know. I can do research.

Page 3

House Judiciary Committee

Bill/Resolution Number HB 1426

Hearing Date 01-30-01

Rep Fairfield: Why would we pick \$200.00 amount to report throughout the campaign, but the day before the election, not worthy of reporting.

Cory Fong: Again I can do some research on it.

Rep Fairfield: Contributions by political committees, have we dealt with that at all.

Cory Fong: Political committees like PAC.

Rep Fairfield: Contributions to political committees, don't they have to report.

Cory Fong: This doesn't deal with that.

Chairman DeKrey: Are there any more questions for Cory, if not thank you for appearing.

Anyone else wishing to testify on HB 1426, anyone in opposition? We will close the hearing on HB 1426.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1426 b

House Judiciary Committee

Conference Committee

Hearing Date 2-13-01

Tape Number	Side A	Side B	Meter #
1		xx	2093--2709
Committee Clerk Signature <i>John DeKrey</i>			

Minutes: Chair DeKrey : Let's look at HB1426. Do you have an amendment Cory

Cory Fong, Sec. State : Here is the amendment. (SEE ATTACHED)

Rep. Eckre : What does happen if Rep. Kroeber's bill HB1370, which does some of this, passes and this bill passes? Do they both go to the senate?

Chair DeKrey : L.C. has a procedure that marries them together.

Rep. Delmore : How many times, with the changes we've made, upon submission do they have to report?

Cory : They would have to report once with the election report. They have a pre-election report and year end.

Rep. Grande : I move the amendments

Rep. Kretschmar : I second.

**VOICE VOTE: ALL YES. PASSED.**

Chair DeKrey : What do you wish?

Page 2  
House Judiciary Committee  
Bill/Resolution Number HB1426 b  
Hearing Date 2-13-01

Rep. Kretschmar : I move a DO PASS AS AMENDED.

Rep. Maragos : I second.

VOTE: 12 YES and 0 NO with 3 absent. PASSED. Rep. Disrud will carry the bill.

VR  
2/13/01

**HOUSE AMENDMENTS TO HB 1426 HOUSE JUDICIARY 02-14-01**  
Page 1, line 18, after "state" insert "upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a pre-election report by persons soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1."

**HOUSE AMENDMENTS TO HB 1426 HOUSE JUDICIARY 02-14-01**

Page 3, line 13, after "measure" insert an underscored comma

Page 3, line 14, overstrike "prior to" and insert immediately thereafter "before" and after "candidate" insert ", political party, committee,"

Page 3, line 16, overstrike "or" and insert immediately thereafter ", 16.1-08.1-03," and after the comma insert "or 16.1-08.1-03.3"

Renumber accordingly



Date: 02-13-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB-1426

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Vice-Chr Kretschmar Seconded By Rep Maragos

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR --Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney					
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham					

Total (Yes) 12 No 0

Absent 3

Floor Assignment Rep Disrud

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1426: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 18, after "state" insert "upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a pre-election report by persons soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1"

Page 3, line 13, after "measure" insert an underscored comma

Page 3, line 14, overstrike "prior to" and insert immediately thereafter "before" and after "candidate" insert ", political party, committee,"

Page 3, line 16, overstrike "or" and insert immediately thereafter ", 16.1-08.1-03," and after the comma insert "or 16.1-08.1-03.3"

Renumber accordingly

2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1426

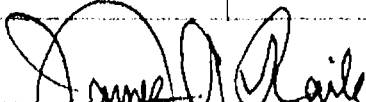
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1426

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date March 15, 2001

Tape Number	Side A	Side B	Meter #
2	X		7.1-28.2
March 22, 2001 2	X		10.2-20.9
Committee Clerk Signature 			

Minutes: **Chairman Krebsbach** opened the hearing on HB 1426 which relates to initiated or referred measure contribution statements definitions and contribution reporting; and relates to federal campaign committee contributions and contributions made to other candidates.

Introducing the legislation to the committee was **Representative Bette Grande**, District 41, primary sponsor of the bill. She reviewed the bill section by section with the committee.

**Senator C. Nelson** inquired if by definition, technical amendments means germane to the content of these 5 sections. **Corey Fong**, representing the Secretary of States Office presented testimony in support of HB 1426. A copy of his written testimony is attached. **Senator T. Mathern** indicated that this area noted in section 5 was hotly contested when it was added two sessions ago. Who is promoting that we change this? Is this something you came up with or are people saying that we should change this? How does this get to this level? **Corey Fong** noted that it was coming from the Secretary of States Office. He noted that there have been very few filers. We have to send out this permission statement. It is complex. It has to explain when a

permission statement is required, who has to sign it, the candidate who gives a contribution has to sign it, the candidate who receives the contribution has to report. This all has to be filed in 48 hours. We send these to every candidate that has reporting requirements. That means all statewide candidates and all legislative candidates. Yet it rarely applies to any candidates at all. It has been very cumbersome to administer. **Senator C. Nelson** indicated that she has problems with section 6. Because you say mailing and then you say it's okay for someone to walk into the office. We've had all sorts of bills about modes of technology. By saying that if a statement is mailed as being properly filed when it is postmarked and directed to the Secretary of State within the prescribed time. She is questioning the fact that technological means are not included. As elections become more sophisticated this will be the wave of the future. **Corey Fong** indicated that we agree and hope that we will get to the stage of electronic filing because this committee heard some other campaign finance bills where we see that coming. It will certainly make our lives a lot more easier now if we are posting on the web if they are filed electronically. **Senator Kilzer** inquired if these amendments are adopted if there is a large contribution that goes from one campaign to the state political party and then to another candidate, would that be traceable. **Mr. Fong** indicated absolutely. The contribution from the candidate to the state party would have to show up on the state party's report and then if they gave that to the candidate, the candidate receiving that would also have to show that. It would be more difficult to do the connection but it definitely would be traceable. The repealer of that section certain does not take away the requirements that individual candidates, political parties are going to have to report anything they receive over \$200.00. That still is going to have to be required. **Senator T. Mathern** inquired about the issue of non profits. What nonprofit can do is somewhat regulated by the IRS. He was wondering if your change here relates to all of their activities or just relate to

their cash contributions and does that question of law relate to nonprofit activities in general or just prohibiting cash. **Mr. Fong** indicated it only pertains to their activities as it pertains to the campaign finance chapter which governs the contributions made for political purposes or for the promotion or defeat of a candidate. There was no additional testimony offered in support of, in neutral position on, or in opposition to HB 1426. **Chairman Krebsbach** closed the hearing on HB 1426. On March 22, 2001 the discussion on HB 1426 was reopened by **Chairman Krebsbach**. **Corey Fong** with the Secretary of States Office appeared before the committee to review the amendments which were proposed for HB 1426. He reviewed them section by section. **Senator C. Nelson** indicated that this bill is being done to make things consistent with some of the other campaign contribution bills that have been in this committee. **Mr. Fong** indicated that was correct. **Senator Wardner** moved to adopt the amendments as explained by Mr. Fong for HB 1426. **Senator Kilzer** seconded the motion. Roll call Vote indicated 6 Yeas, 0 Nays, 0 Absent or Not Voting. A motion for Do Pass as Amended was made by **Senator Wardner** seconded by **Senator Kilzer**. Roll Call Vote indicated 6 Yeas, 0 Nays, 0 Absent or Not Voting. **Senator Wardner** will carry the bill.

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1426

Page 1, line 2, replace the second and with ", subsection 3 of section 16 1-08.1-03.3.", and after "16 1-08.1-04" insert "and 16.1-08.1-06"

Page 3, line 11, after the period insert "Even if a person required to report according to this section has not received any contributions in excess of one hundred dollars during the reporting period, the person shall file a statement as required by this chapter."

**SECTION 4. AMENDMENT.** Subsection 3 of section 16 1-08.1-03.3 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. All political committees formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A yearend statement covering the entire calendar year must be filed no later than the thirty-first day of the following year. A preelection statement must be filed no later than the twelfth day before any primary special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election. Even if a political committee has not received any contributions or made any expenditures in excess of two hundred dollars during the reporting period, the political committee shall file a statement as required by this chapter.

Page 3, line 24, after the period insert:

**"SECTION 6. AMENDMENT.** Section 16.1-08.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

### **16.1-08.1-06. Contributions statement requirements.**

1. A statement required by this chapter to be filed with the secretary of state must be:
  - a. ~~Deemed properly filed when deposited in an established post office within the prescribed time, postage affixed, and directed with or delivered to the secretary of state, but if it~~ within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the secretary of state within the prescribed time. If a statement is not received by the secretary of state, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt.
  - b. Preserved by the secretary of state for a period of four years from the date of filing. The statement is to be considered a part of the public records of the secretary of state's office and must be open to public inspection.
2. If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state is closed, the statement must be filed on the next available day on which the office of the secretary of state is open. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total

contribution for the purposes of the statements required by this chapter. Aggregate contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.

3. Unless otherwise provided by law, any candidate, political party, committee, or person may not be charged a fee for filing any statement with the secretary of state under this chapter.

Rerumber accordingly



Date: 7/22/01  
 Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HR 1426 (Engrossed)**

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt Amendments

Motion Made By Senator Wardner Seconded By Senator Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator Carolyn Nelson	✓	
Senator Dick Dever, Vice-Chr.	✓		Senator Tim Mathern	✓	
Senator Ralph Kilzer	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0  
 Absent 0  
 Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3/22/01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HF 1426 (Engrossed)

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Sen. Wardner Seconded By Sen. Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator Carolyn Nelson	✓	
Senator Dick Dever, Vice-Chr.	✓		Senator Tim Mathern	✓	
Senator Ralph Kilzer	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Wardner

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

HB 1426, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "and sections" with "section", replace the second "and" with ", subsection 3 of section 16.1-08.1-03.3, sections", and after "16.1-08.1-04" insert ", and 16.1-08.1-06"

Page 3, line 11, after the period insert "Even if a person required to report according to this section has not received any contributions in excess of one hundred dollars during the reporting period, the person shall file a statement as required by this chapter."

**SECTION 4. AMENDMENT.** Subsection 3 of section 16.1-08.1-03.3 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. All political committees formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A yearend statement covering the entire calendar year must be filed no later than the thirty-first day of the following year. A pre-election statement must be filed no later than the twelfth day before any primary, special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election. Even if a political committee has not received any contributions or made any expenditures in excess of two hundred dollars during the reporting period, the political committee shall file a statement as required by this chapter.

Page 3, after line 24. Insert:

**"SECTION 6. AMENDMENT.** Section 16.1-08.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-06. Contributions statement requirements.**

1. A statement required by this chapter to be filed with the secretary of state must be:
  - a. Deemed properly filed when deposited in an established post office within the prescribed time, postage affixed, and directed with or delivered to the secretary of state, but if it within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the secretary of state within the prescribed time. If a statement is not received by the secretary of state, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt.
  - b. Preserved by the secretary of state for a period of four years from the date of filing. The statement is to be considered a part of the public

records of the secretary of state's office and must be open to public inspection.

2. If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state is closed, the statement must be filed on the next available day on which the office of the secretary of state is open. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total contribution for the purposes of the statements required by this chapter. Aggregate contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.
3. Unless otherwise provided by law, any candidate, political party, committee, or person may not be charged a fee for filing any statement with the secretary of state under this chapter."

Renumber accordingly

2001 TESTIMONY

HB 1426

ALVIN A. JAEGER  
SECRETARY OF STATE

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## SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE, DEPT. 100  
BISMARCK, ND 58505-0500

January 30, 2001

TO: Representative Duane DeKrey & Members of the House Judiciary Committee  
FR: Al Jaeger, Secretary of State (presented on his behalf by Cory Fong)  
RE: **HB 1426 – Campaign Contributions**

House Bill 1426 is intended to clean up and clarify a variety of sections of the election code pertaining to campaign finance, campaign contributions, and reporting.

### Section 1

Subsection 11 of section 16.1-01-12 of the NDCC currently provides that circulators of initiative petitions are required to accompany their submission of petitions to the Secretary of State with a summary of all "expenditures and revenues" collected to support the circulation of the measure.

However, this requirement conflicts with the detailed provisions outlined in the campaign finance chapter, Chapter 16.1-08.1, that require committees organized to support the passage or defeat of measures to report all contributions received in excess of \$100 to the Secretary of State by the 12<sup>th</sup> day before the election that the measure appears on the ballot.

Section 1 of HB 1426 eliminates this conflict in section 16.1-01-12 by simply making reference to the more exhaustive reporting requirements for measures and measure committees outlined in Chapter 16.1-08.1.

### Section 2

The absence of the term "nonprofit corporations" in the campaign finance chapter creates confusion as to whether nonprofit corporations are prohibited, as are corporations, cooperative corporations, and limited liability companies, from making direct contributions for political purposes.

Section 2 of HB 1426 eliminates this confusion by defining corporations, for the purposes of the campaign finance chapter to include nonprofit corporations.

### Section 3

Section 16.1-08.1-03.1 outlines the contribution reporting requirements for measure committees. However, inconsistencies between the language found in subsections 1 and 2 of the provision imply that the contribution reporting requirements vary depending upon the type of measure being supported or opposed. The current language also excludes committees supporting or opposing measures placed upon the ballot by legislative action from falling under the contribution reporting requirements outlined in

section 16.1-08.1-03.1.

Section 3 of HB 1426 makes the language in subsections 1 and 2 of section 16.1-08.1-03.1 consistent, and by doing so, clarifies that the contribution reporting requirements outlined in section 16.1-08.1-03.1 apply to all committees organized to support or oppose all statewide measures, including measures placed upon the ballot by legislative action.

#### Section 4

Throughout the campaign finance chapter the reporting of contributions by various entities (candidates, political parties, PACs, committees, and measure committees) is prompted when a contribution exceeds a certain amount, usually \$200 or \$100. However, 48 hour reporting of contributions by candidates and measure committees, as required in section 16.1-08.1-04, is prompted by the receipt of "any contribution of five hundred dollars or more."

Section 4 of HB 1426 changes the 48-hour reporting threshold and makes it consistent with other reporting thresholds found in Chapter 16.1-08.1 by prompting reporting by the receipt of "any contribution in excess of five hundred dollars."

In addition, under current law, 48-hour reporting only applies to candidates and measure committees. Section 4 of HB 1426 expands the requirement of 48-hour reporting to include political parties and committees in addition to candidates and measure committees.

#### Section 5

During the 1997 Legislative Session, a provision was approved and added to the campaign finance chapter as section 16.1-08.1-03.6. Section 16.1-08.1-03.6 essentially prohibits a candidate from receiving a contribution in excess of \$200 from another candidate's campaign contributions, from contributions made to a person who was a candidate within the previous 6 years, or from a federal campaign committee account unless the contribution is accompanied by a permission statement from the contributor stating that the original contributors gave permission to contribute to another candidate.

The provisions found in section 16.1-08.1-03.6 have been cumbersome to administer and have lead to unnecessary confusion among filers, wasted resources and time, and ultimately, very few filings. Not to mention, the original purpose and objective of the provisions found in section 16.1-08.1-03.6 can easily be skirted.

Section 5 of HB 1426 eliminates this cumbersome and problematic provision of the campaign finance chapter by repealing section 16.1-08.1-03.6.

For these reasons, the Secretary of State's office urges a due pass on HB 1426.

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## SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

February 9, 2001

TO: Representative Duane DeKrey & Members of the House Judiciary Committee  
FR: Cory Fong, Secretary of State's Office  
RE: HB 1426 – Campaign Contributions – Proposed Amendments

### Proposed Amendments to House Bill No. 1426

Page 1, line 18, after "secretary of state." insert "upon submission of the petitions. Disclosures of contributions received according to this section do not take the place of pre-election reporting by persons soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly pursuant to chapter 16.1-08.1."

Page 3, line 13, after "referred measure" insert ",."

Page 3, line 14, overstrike "prior to" and immediately insert thereafter "before"

Page 3, line 14, after "that candidate" insert ", political party, committee."

Page 3, line 16, overstrike "or" and immediately insert thereafter ", 16.1-08.1-03,"

Page 3, line 16, after "16.1-08.1-03.1," insert "or 16.1-08.1-03.3"

Renumber accordingly



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## SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

March 15, 2001

**TO:** Senator Krebsbach & Members of the Senate Government & Veterans Affairs Committee  
**FR:** Al Jaeger, Secretary of State (presented on his behalf by Cory Fong)  
**RE:** **HB 1426 - Campaign Contributions**

House Bill 1426 is intended to clean up and clarify a variety of sections of the election code pertaining to campaign finance, campaign contributions, and the reporting requirements found in Chapter 16.1-08.1.

Since the passage of HB 1426, our office has uncovered additional inconsistencies and problems in Chapter 16.1-08.1 that we wish to correct using HB 1426 as the vehicle. As a result, I am offering a set of amendments to HB 1426 that I will explain as I go through each section of the bill.

### Section 1

Subsection 11 of section 16.1-01-12 currently provides that circulators of initiative petitions are required to accompany their submission of petitions to the Secretary of State with a summary of all "expenditures and revenues" collected to support the circulation of the measure.

Section 1 of HB 1426 clarifies that a report filed under subsection 11 of section 16.1-01-12 is to be filed pursuant to the detailed provisions already outlined in the campaign finance chapter, Chapter 16.1-08.1. These detailed provisions require measure committees to report all contributions received in excess of \$100 to the Secretary of State.

The changes also specify that a contribution report filed by the sponsors and circulators of an initiative petition at the time of filing their signatures with the Secretary of State, does not eliminate the requirement of also filing a pre-election report with the Secretary of State as is required by Chapter 16.1-08.1.

### Section 2

The absence of the term "nonprofit corporations" in the campaign finance chapter creates confusion as to whether nonprofit corporations are prohibited, as are corporations, cooperative corporations, and limited liability companies, from making direct contributions for political purposes.

Section 2 of HB 1426 eliminates this confusion by defining corporations, for the purposes of the campaign finance chapter to include nonprofit corporations.

### Section 3

Section 16.1-08.1-03.1 outlines the contribution reporting requirements for measure committees. However, inconsistencies between the language found in subsections 1 and 2 of the provision imply that the contribution reporting requirements vary depending upon the type of measure being supported or opposed. The current language also excludes committees supporting or opposing measures placed upon the ballot by legislative action from falling under the contribution reporting requirements outlined in section 16.1-08.1-03.1.

Section 3 of HB 1426 makes the language in subsections 1 and 2 of section 16.1-08.1-03.1 consistent, and by doing so, clarifies that the contribution reporting requirements outlined in section 16.1-08.1-03.1 apply to all committees organized to support or oppose all statewide measures, including measures placed upon the ballot by legislative action.

### Amendment

Currently, candidates and political parties are required to file campaign contribution statements even if they don't have any reportable contributions to report. This is not required of measure committees and PACs. The proposed amendments to Section 3 along with the proposed addition of a new Section 4 to the bill would require measure committees and PACs to also file campaign contribution statements even if they don't have any reportable contributions to report. This change is intended to bring consistency to all the reporting requirements outlined under Chapter 16.1-08.1.

### Section 4 (To become Section 5 if proposed amendments are approved)

Throughout the campaign finance chapter the reporting of contributions by various entities (candidates, political parties, PACs, committees, and measure committees) is prompted when a contribution exceeds a certain amount, usually \$200 or \$100. However, 48 hour reporting of contributions by candidates and measure committees, as required in section 16.1-08.1-04, is prompted by the receipt of "any contribution of five hundred dollars or more."

Section 4 of HB 1426 changes the 48-hour reporting threshold and makes it consistent with other reporting thresholds found in Chapter 16.1-08.1 by prompting reporting by the receipt of "any contribution in excess of five hundred dollars."

In addition, under current law, 48-hour reporting only applies to candidates and measure committees. Section 4 of HB 1426 expands the requirement of 48-hour reporting to include political parties and committees in addition to candidates and measure committees.

**Section 6 If proposed amendments are approved**

Section 16.1-08.1-06 indicates that only contribution reports that are mailed to the Secretary of State are deemed properly filed with the Secretary of State. The Secretary of State regularly receives contribution statements in person and we have deemed them properly filed. The amendments to Section 16.1-08.1-06 made by the addition of a new Section 6 of the bill is intended to resolve this conflict.

Section 54-04-09 requires a \$10 fee to be charged for documents to be filed with the Secretary of State. We recently learned that this includes the filing of campaign contribution reports by candidates, political parties, political committees, PACs, and measure committees. Currently, our office does not charge for filing campaign contribution reports, and we don't think we should start. It is already challenging enough to get candidates, political parties, political committees, PACs, and measure committees to file their reports without charging a fee. The proposed amendments restrict the Secretary of State from charging a fee for the filing of contribution statements according to Chapter 16.1-08.1.

**Section 5 (To become Section 7 if proposed amendments are approved)**

During the 1997 Legislative Session, a provision was approved and added to the campaign finance chapter as section 16.1-08.1-03.6. Section 16.1-08.1-03.6 essentially prohibits a candidate from receiving a contribution in excess of \$200 from another candidate's campaign contributions, from contributions made to a person who was a candidate within the previous 6 years, or from a federal campaign committee account unless the contribution is accompanied by a permission statement from the contributor stating that the original contributors gave permission to contribute to another candidate.

The provisions found in section 16.1-08.1-03.6 have been cumbersome to administer and have lead to unnecessary confusion among filers, wasted resources and time, and ultimately, very few filings. Not to mention, the original purpose and objective of the provisions found in section 16.1-08.1-03.6 can easily be skirted.

HB 1426 eliminates this cumbersome and problematic provision of the campaign finance chapter by repealing section 16.1-08.1-03.6.

For these reasons, the Secretary of State's office urges a do pass on HB 1426.