

2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1253

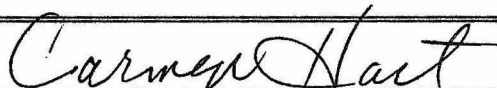
2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1253
2/12/2015
23735

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prohibiting the personal use of campaign funds; and to provide a penalty

Minutes:

Attachment 1

Chairman Kasper opened the hearing on HB 1253.

Rep. Ben Hanson, District 16, appeared in support. Attachment 1(:06-4:15)

Rep. Dockter Would it be okay under this bill to buy three Lincoln Day dinner tickets and I give the two to other people?

Rep. Hanson No, because the Lincoln Day dinner is clearly a fundraiser for a political party.

Rep. B. Koppelman If you have volunteers working on your campaign and I wanted a gift certificate as a prize for them, wouldn't that violate No. 1 in your bill?

Rep. Hanson I don't feel it is a personal benefit. I feel you are giving it to them as a reward for their political activity working for you.

Rep. B. Koppelman Should we also add on to this list that you can't use campaign donations to fund other campaigns?

Rep. Hanson I have found that what the precedent has been is that a person that gives money to a campaign believes in that campaign and trusts them to use that as political funds. If there would be campaign funds left in my bank account for some reason like getting another job, the solution has tend to be to give to other PACs, county organizations, your district, or other campaigns.

Vice Chair Rohr The other thing that this might contradict are the letters that donors give to you specific to your campaign.

Rep. Hanson I don't understand the question.

Vice Chair Rohr Don't you think this might be duplicative?

Rep. Hanson Surely, but not with everyone. Not every donation I ever see certainly comes with instructions nor do I think it should have to.

Rep. Karls This bill tells us what we already know. There is no reporting vehicle. How do you enforce this?

Rep. Hanson Currently we are to report any contributions over \$200. Where do you report that in current law?

Rep. Karls We are the ones who set the campaign disclosure laws.

Rep. Hanson Exactly, and that is why this bill is great.

Rep. B. Koppelman Shouldn't the accountability remain the way it is now?

Rep. Hanson When I found out that as a candidate, I was very bothered by it when we have to report what we raise and where we are at multiple times per year. When asking about the parameters of it, I was told there are no restrictions here. You can take these and use them for whatever.

Rep. Louser How is that enforced in other states?

Rep. Hanson We report what we get in that is over \$200. We don't report cash on hand, and we don't report expenditures. Most other states public officials are sought to be kept accountable by reporting basic things like cash on hand and sometimes expenditures. I have to think that is how they are able to enforce that.

Rep. Mooney In other states they are submitting similar to a financial statement--receipts vs expenses?

Rep. Hanson In general, they are not submitting a financial statement. They are submitting what we submit with a little more detail.

Chairman Kasper I am assuming the intent of your bill is to not prohibit the candidate in political activity, but to prohibit the candidate in using political donations for personal activity. What if a candidate is invited to Iowa by a political party or a political function going on in the state and does go, would it be your intent to prohibit the candidate from using his or her political contribution account to pay the expenses to attend that event?

Rep. Hanson No, it is not my intent to restrict that.

No opposition or neutral.

The hearing was closed.

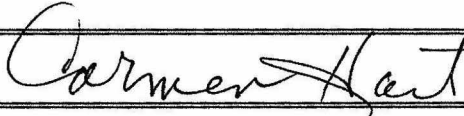
2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1253
2/13/2015
23831

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prohibiting the personal use of campaign funds; and to provide a penalty

Minutes:

"Click to enter attachment information."

Chairman Kasper opened the meeting on HB 1253. He briefly reviewed the bill.

Rep. Dockter made a motion for a DO NOT PASS. I think it would be a nightmare for paperwork.

Vice Chair Rohr seconded the motion.

Rep. Wallman I am going to vote against the do not pass, because we already do this and so I don't think there is any harm in having it on the books so it is just codified.

Rep. M. Johnson I signed off on this bill, but I am going to support the do not pass. As I have learned thus far, I have come to trust everybody. I don't think we need to codify what already happens.

A roll call vote was taken. 10 Yeas, 4 Nays, 0 Absent.

Rep. Dockter will carry the bill.

Date: 2-13-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1253**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Dochter Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chair Karen Rohr	X		Rep. Gail Mooney		X
Rep. Jason Dochter	X		Rep. Mary Schneider		X
Rep. Mary C. Johnson	X		Rep. Kris Wallman		X
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Dochter

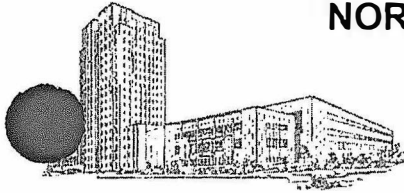
If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1253: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).
HB 1253 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1253



NORTH DAKOTA HOUSE OF REPRESENTATIVES

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600 EAST BOULEVARD
BISMARCK, ND 58505-0360

#1 1253
272-15


Representative Ben Hanson

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COMMITTEES:
Industry, Business and Labor
Transportation

HB 1253 Testimony; Rep. Ben Hanson

House Committee on GVA:

February 12th, 2015 testimony in regards to HB 1253; A BILL for an Act to create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to prohibiting the personal use of campaign funds; and to provide a penalty.

Mr. Chair, fellow committee members, for the record my name is Ben Hanson and I am a representative from District 16 in Fargo and West Fargo. I stand before you today to testify in favor HB 1253.

As I studied North Dakota's campaign finance laws and disclosure requirements when embarking on my first legislative campaign in 2012, I was stunned to find out there were no restrictions on what campaign funds could be used for. Money is money after all and dollars put into a campaign account spend just as easily on a nice dinner as they do campaign fliers.

I looked a bit more into this and discovered that North Dakota is indeed a rare state to not have such restrictions on the books. In total *forty-five* other states, ranging in population and political philosophy from California to Alaska. What I have presented to you today is a version of Alaska's laws.

Members of the committee, I would imagine most voters would cringe at the idea of their elected officials taking campaign funds from individuals, unions, PAC's or any other group that can contribute to campaigns in North Dakota and then turning around and buying themselves a car with it. I didn't introduce this bill because I suspect its happening, I am making sure that we keep our state's reputation for clean politics preserved.

Statutes Governing Candidate and Candidate Committee Use of Campaign Funds

1253
2-12-15
D. 2

State	Prohibition on Candidate's Personal Use of Campaign Funds
<p>Alabama Ala.Code 1975 § 17-5-7; Ala. Code § 36-25-6</p>	<p>YES Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use. Ala. Code § 36-25-6</p>
<p>Alaska § 15.13.112.</p>	<p>YES Campaign contributions held by a candidate or group may not be: (1) used to give a personal benefit to the candidate or to another person;</p>
<p>Arizona A.R.S. § 16-915.01</p>	<p>YES Surplus monies shall not be used for or converted to the personal use of the designating individual, in the case of an individual's exploratory committee, or a candidate, in the case of a candidate's campaign committee, or any person related to the candidate by blood or marriage. Nothing in this subsection precludes the repayment of a loan made by the designating individual or candidate to his campaign.</p>
<p>Arkansas A.C.A. § 7-6-203</p>	<p>YES "candidate shall not take any campaign funds as personal income."</p>
<p>California Cal.Gov.Code § 89513; 89512;</p>	<p>Basically yes, unless personal use is "directly related to a political legislative, or governmental purpose."</p>
<p>Colorado C.R.S.A. § 1-45-106</p>	<p>YES "In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate."</p>
<p>Connecticut C.G.S.A. § 9-607</p>	<p>Yes "No goods, services, funds and contributions received by any committee under this chapter shall be used or be made available for the personal use of any candidate or any other individual. No candidate, committee, or any other individual shall use such goods, services, funds or contributions for any purpose other than campaign purposes permitted by this chapter."</p>
<p>Delaware 15 Del.C. § 8020</p>	<p>Not explicitly; the list of permitted expenditures is rigorously defined though</p>
<p>Florida F.S.A. § 106.1405</p>	<p>YES "A candidate or the spouse of a candidate may not use funds on deposit in a campaign account of such candidate to defray normal living expenses for the candidate or the candidate's family, other than expenses actually incurred for transportation, meals, and lodging by the candidate or a family member during travel in the course of the campaign."</p>

Georgia Ga. Code Ann., § 21-5-33	Essentially Yes "Contributions and interest thereon, if any, shall not constitute _____ personal assets of such candidate or such public officer."
Hawaii HRS § 11-381; HRS § 11-382	YES "Campaign funds shall not be used . . . [f]or personal expenses." § 11-382
Idaho I.C. § 67-6610C	YES "A contribution shall not be converted by any person to personal use."
Illinois 10 ILCS 5/9-8.10	Essentially 10 ILCS 5/9-5: In no case shall these funds be used for the personal aggrandizement of any committee member or campaign worker.
Indiana IC 3-9-3-4	YES "Money received by a candidate or committee as a contribution may not be used for primarily personal purposes by the candidate or by any other person except as described in subsection (a)."
Iowa I.C.A. § 68A.302	YES "A candidate and the candidate's committee . . . shall not use campaign funds for personal expenses or personal benefit."
Kansas K.S.A. 25-4157a	YES "No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate . . ."
Kentucky KRS § 121.175	Essentially "No candidate, committee, or contributing organization shall permit funds in a campaign account to be expended for any purpose other than for allowable campaign expenditures."
Louisiana LSA-R.S. 18:1505.2	YES "I. (1) On and after January 1, 1991, contributions received by a candidate or a political committee may be expended for any lawful purpose, but such funds shall not be used, loaned, or pledged by any person for any personal use unrelated to a political campaign, the holding of a public office or party position, or, in the case of a political committee, other than a candidate's principal campaign committee or subsidiary committee, the administrative costs or operating expenses of the political committee . . ."
Maine 21-A M.R.S.A. § 1017	Surplus cash greater than \$100 may not be converted to the candidate's personal use.

<p>Maryland MD Code, Election Law, § 13-247</p>	<ul style="list-style-type: none">• Expenditures must be election related; that is, they must enhance the candidate's election chances, such that they would not have been incurred if there had been no candidacy.• Expenditures, including loans, may not be for the personal use of the candidate or any other individual.• Except as expressly authorized by law, expenditures must be made by the treasurer*.• Except as expressly authorized by law, expenditures must be by check signed by the treasurer from the campaign bank account.• Expenditures must be supported by receipts or vouchers, which must be kept with the treasurer's books and records.
<p>Massachusetts M.G.L.A. 55 § 6</p>	<p>YES</p> <p>“A political committee organized or operating on behalf of a candidate . . . may receive, pay and expend money or other things of value for reasonable and necessary expenses directly related to the campaign of such candidate but shall not make any expenditure that is primarily for the candidate's or any other person's personal use . . .”</p> <p>For the purposes of this section the term “personal use” shall not include expenses relating to the provision of constituent or legislative services or to the opening or maintaining of a legislative district office, provided that (a) said expenses are not otherwise paid, provided or reimbursed by the commonwealth or any other governmental body.</p> <p>For purposes of this section the term “personal use” shall include the payment of fines, penalties, restitution or damages incurred for a violation of chapters 268A and 268B, but shall not include payments made in relation to allegations of violations of such chapters.</p>
<p>Michigan M.C.L.A. 169.209; M.C.L.A. 169.221a</p>	<p>169.245. Transfer of unexpended funds between candidate committees; status of transferred funds; disbursement of funds not eligible for transfer upon termination of candidate committee</p> <p>Currentness</p> <p>Sec. 45. (1) A person may transfer any unexpended funds from 1 candidate committee to another candidate committee of that person if the contribution limits prescribed in section 52 or 69¹ for the candidate committee receiving the funds are equal to or greater than the contribution limits for the candidate committee transferring the funds and if the candidate committees are simultaneously held by the same person. The funds being transferred shall not be considered a qualifying contribution regardless of the amount of the individual contribution being transferred.</p>

	<p>(2) Upon termination of a candidate committee, unexpended funds in the candidate committee that are not eligible for transfer to another candidate committee of the person under subsection (1) shall be disbursed as follows:</p> <p>(a) Given to a political party committee.</p> <p>(b) Given to a tax exempt charitable organization, as long as the candidate does not become an officer or director of or receive compensation, either directly or indirectly, from that organization.</p> <p>(c) Returned to the contributors of the funds upon termination of the campaign committee.</p> <p>(d) If the person was a candidate for the office of state representative, given to a house political party caucus committee.</p> <p>(e) If the person was a candidate for the office of state senator, given to a senate political party caucus committee.</p> <p>(f) Given to an independent committee.</p> <p>(g) Given to a ballot question committee.</p>
<p>Minnesota M.S.A. § 211B.12</p>	<p>YES "Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use."</p>
<p>Mississippi Miss. Code Ann. § 25-4-119</p>	<p>No ban on personal use of campaign funds.</p> <p>No elected or appointed official shall derive any pecuniary benefit, directly or indirectly, as a result of such elected or appointed official's duties under Sections 21-19-33, 27-109-1, 27-109-3, 27-109-7, 27-109-9, 67-1-71, 87-1-5, 95-3-25, 97-33-1, 97-33-7, 97-33-9, 97-33-17, 97-33-25, and 97-33-27. Any person convicted of a violation of this section shall be punished pursuant to the provisions of this article.</p>
<p>Missouri V.A.M.S. 130.034</p>	<p>YES "Contributions as defined in section 130.011, received by any committee shall not be converted to any personal use."</p>
<p>Montana MCA 13-37-240</p>	<p>YES "In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit."</p>
<p>Nebraska Neb.Rev.St. § 49-1446.02; Neb.Rev.St. § 49-1446.03</p>	<p>Essentially (see 49-1446.02)</p>
<p>Nevada N.R.S. 294A.160</p>	<p>YES "It is unlawful for a candidate to spend money received as a contribution for the candidate's personal use."</p>

<p>New Hampshire N.H. Rev. Stat. § 664:4-b</p>	<p>YES "Such surplus campaign contributions, however, shall not be used for personal purposes."</p>
<p>New Jersey N.J.S.A. 19:44A-11.2</p>	<p>Essentially "campaign expenses" means any expense ... other than those items or services which may reasonably be considered to be for the personal use of the candidate, any person associated with the candidate or any of the members of a legislative leadership committee; and "member of the candidate's immediate family" means the candidate's spouse, child, parent, or sibling, and the child, parent, or sibling of the candidate's spouse.</p>
<p>New Mexico N. M. S. A. 1978, § 1-19-29.1</p>	<p>Essentially</p>
<p>New York McKinney's Election Law § 14-130</p>	<p>YES "Contributions received by a candidate or a political committee may be expended for any lawful purpose. Such funds shall not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position."</p>
<p>North Carolina N.C.G.S.A. § 163-278.16B</p>	<p>Yes "(c). Contributions made to a candidate or candidate campaign committee do not become a part of the personal estate of the individual candidate."</p>
<p>North Dakota</p>	<p>NO Secretary of State Al Jaeger: Only need to report what's given. Not required to report how it's spent. Only parties have to report their expenditures.</p>
<p>Ohio R.C. § 3517.13</p>	<p>YES "No beneficiary of a campaign fund or other person shall convert for personal use, and no person shall knowingly give to a beneficiary of a campaign fund or any other person, for the beneficiary's or any other person's personal use, anything of value from the beneficiary's campaign fund . . ."</p>
<p>Oklahoma T. 74, Ch. 62, App. 257:10-1-20</p>	<p>YES "Contributions accepted by a candidate committee may not be converted by any person to any personal use . . ."</p>
<p>Oregon O.R.S. § 260.407</p>	<p>YES "Amounts received as contributions by a candidate or the principal campaign committee . . . may not be: (A) Converted by any person to any personal use other than to defray any expenses incurred in connection with the person's duties as a holder of public office or to repay to a candidate any loan the proceeds of which were used in</p>

	connection with the candidate's campaign . . .”
Pennsylvania 25 Pa. Stat. Ann. § 3254.1; 25 Pa. Stat. Ann. § 3241	
Rhode Island Gen.Laws 1956, § 17-25-7.2	YES “The personal use by any elected public office holder or by any candidate for public office, as defined in § 17-25-3, of campaign funds contributed after April 29, 1992, is prohibited. For the purposes of this section, “personal use” is defined as any use other than expenditures related to gaining or holding public office and for which the candidate for public office or elected public official would be required to treat the amount of the expenditure as gross income under § 61 of the Internal Revenue Code of 1986, 26 U.S.C. § 61, or any subsequent corresponding Internal Revenue Code of the United States, as from time to time amended.”
South Carolina Code 1976 § 8-13-1348; Code 1976 § 8-13-1370	YES “No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use.” Code 1976 § 8-13-1348
South Dakota	NO no law restricts the use of cash for personal use by anybody. South Dakota Secretary of State Jason Gant says that any campaign money converted to personal use would need to be reported to the IRS for tax purposes.
Tennessee T. C. A. § 2-10-114	YES “The disbursement of campaign funds for a candidate's own personal use is not permitted. For the purpose of this section, “personal use” means any use by which the candidate for public office or elected public official would be required to treat the amount of the expenditure as gross income under 26 U.S.C. § 61, or any subsequent corresponding Internal Revenue Code section.”
Texas V.T.C.A., Election Code § 253.035	YES “A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use.”
Utah U.C.A. 1953 § 20A-11-104	YES (1)(a) As used in this chapter, “personal use expenditure” means an expenditure that: (i)(A) is not excluded from the definition of personal use expenditure by Subsection (2); and (B) primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or (ii) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.

Vermont 17 V.S.A. § 2924	YES "A candidate who has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use, other than to reduce personal campaign debts or as otherwise provided in this chapter."
Virginia VA Code Ann. § 24.2-948.4	YES "It shall be unlawful for any person to convert any contributed moneys, securities, or like intangible personal property to his personal use or to the use of a member of the candidate's "immediate family" as that term is defined in § 30-101."
Washington West's RCWA 42.17A.445	YES , there exist only limited circumstances in which candidate can use contributions for personal use.
West Virginia W. Va. Code, § 3-8-9	YES section 146-3-7 of the West Virginia Legislative rules 7.3. No person may receive or utilize excess campaign assets for personal economic benefit or use.
Wisconsin W.S.A. 11.25	Essentially "No person, committee or group may make or authorize a disbursement or the incurrence of an obligation from moneys solicited for political purposes for a purpose which is other than political, except as specifically authorized by law."
Wyoming	NO This subsection does not limit political contributions by political parties, nor expenditures by a candidate from his own funds nor from his candidate's campaign committee funds. Wyo. Stat. Ann. § 22-25-102 (West)