

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1375
(Representatives Brandenburg, Grande, Haas, Kasper)
(Senator Dever)

AN ACT to create and enact section 16.1-08.1-02.1 of the North Dakota Century Code, relating to state political party convention statements; and to amend and reenact subsection 11 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 section 16.1-08.1-03.9, subsections 2, 3, 4, and 5 of section 16.1-08.1-03.11, section 16.1-08.1-05, and subsection 1 of section 16.1-08.1-06 of the North Dakota Century Code, relating to campaign finance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

1. State political parties shall establish separate and segregated accounts for the management of state nominating conventions. All revenue obtained and expenditures made for the planning and running of a state convention must be accounted for in these accounts.
2. A postconvention statement must be filed with the secretary of state sixty days after the close of the state nominating convention. The reporting period for the postconvention statement begins on the first day of January of the reporting year and ends thirty days after the close of the state nominating convention.
3. A year-end statement covering the entire calendar year must be filed with the secretary of state no later than the thirty-first day of January of the following year even if no convention revenue was received or expenditures made within the calendar year.
4. The statement filed according to this section must show the following:
 - a. The cash on hand in the filer's convention accounts at the start and close of the reporting period;
 - b. The gross total of all revenue received and expenditures made of two hundred dollars, or less;
 - c. The gross total of all revenue received and expenditures made in excess of two hundred dollars;
 - d. The aggregated totals of all revenue received from a single person or entity in excess of two hundred dollars, the name of each person or entity, the mailing address of each person or entity, the date of the most recent receipt of revenue from each person or entity, and the purpose or purposes for which the aggregated revenue total was received from each person or entity;

- e. The aggregated totals of all expenditures made to a single person or entity in excess of two hundred dollars, the name of each person or entity, the mailing address of each person or entity, the date of the most recent expense made to each person or entity, and the purpose or purposes for which the aggregated expenditure total was disbursed to each person or entity; and
- f. A political party shall report the occupation, employer, and principal place of business of each person from whom five thousand dollars or more of revenue was received in the aggregate during the reporting period.
- 5. For the purposes of this section, the term entity is defined as any group consisting of or representing more than one person.
- 6. If a net gain from the convention is transferred to the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as a contribution in the statements required by section 16.1-08.1-03.
- 7. If a net loss from the convention is covered by a transfer from the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as an expenditure in the statements required by section 16.1-08.1-03.

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

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

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

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

- 1. A corporation, cooperative corporation, limited liability company, or association may not make a direct contribution:
 - a. To aid any political party, political committee, or organization.
 - b. To aid any corporation, limited liability company, or association organized or maintained for political purposes.
 - c. To aid any candidate for ~~political~~ public office or for nomination to ~~political~~ public office.
 - d. For any political purpose or the reimbursement or indemnification of any person for money or property so used.

- e. For the influencing of any measure before the legislative assembly, except in accordance with chapter 54-05.1.
2. This section does not prohibit the establishment, administration, and solicitation of contributions to a separate and segregated fund to be utilized for political purposes by a corporation, cooperative corporation, limited liability company, or association. It is unlawful for:
 - a. The person or persons controlling the fund to make contributions or expenditures utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of them; or utilize money from dues, fees, treasury funds, or other money required as a condition of membership in an association, or as a condition of employment; or utilize money obtained in any commercial transaction. Moneys from fees, dues, treasury funds, or money obtained in a commercial transaction may, however, be used to pay costs of administration of the fund.
 - b. Any person soliciting an employee, stockholder, patron, or member for a contribution to the fund to fail to inform the employee or member of the political purposes of the fund at the time of the solicitation or of the general political philosophy intended to be advanced through committee activities.
 - c. Any person soliciting an employee or member for a contribution to the fund to fail to inform the employee or member at the time of the solicitation of the right to refuse to contribute without any reprisal.
 - d. Any contribution to be accepted without keeping an accurate record of the contributor and amount contributed and of amounts expended for political purposes.
 - e. Any contribution to be accepted from any person who is not an employee, stockholder, patron, or member of the corporation, cooperative corporation, limited liability company, or association maintaining the political action committee.
 - f. Any expenditure, ~~except a contract, promise, or agreement, express or implied, to make any expenditure,~~ made for political purposes to be reported under this section before control of the expenditure has been released by the political action committee except if there is a contract, promise, or agreement, expressed or implied, to make such expenditure.
 3. All political action committees, as described in section 16.1-08.1-01, 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 year-end statement covering the entire calendar year must be filed no later than the thirty-first day of January 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 action committee has not received any contributions or made any expenditures in excess of two hundred dollars during the reporting period, the political action committee shall file a statement as required by this chapter. A statement filed according to this section during the reporting period must show the following:
 - a. The gross total of all contributions received and expenditures made in excess of two hundred dollars;

- b. The gross total of all contributions received and expenditures made of two hundred dollars, or less; and
 - c. The cash on hand in the filer's account at the start and close of the reporting period.
4. A political action committee shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, who contributed five thousand dollars or more in the aggregate during the reporting period.
 5. A person may not make a payment of that person's money or of another person's money to any other person for a political purpose in any name other than that of the person who supplies the money and a person may not knowingly receive the payment nor enter nor cause the payment to be entered in that person's account or record in any name other than that of the person by whom it actually was furnished.
 6. If an officer, employee, agent, attorney, or other representative of a corporation, cooperative corporation, limited liability company, or association makes any contribution prohibited by this section out of corporate, cooperative corporation, limited liability company, or association funds or otherwise violates this section, it is prima facie evidence of a violation by the corporation, cooperative corporation, limited liability company, or association.
 7. A violation of this section may be prosecuted in the county where the contribution is made or in any county in which it has been paid or distributed.
 8. It is a class A misdemeanor for an officer, director, stockholder, manager, governor, member, attorney, agent, or representative of any corporation, cooperative corporation, limited liability company, or association to violate this section or to counsel or consent to any violation. Any person who solicits or knowingly receives any contribution in violation of this section is guilty of a class A misdemeanor.
 9. Any officer, director, stockholder, manager, governor, member, attorney, agent, or representative who makes, counsels, or consents to the making of a contribution in violation of this section is liable to the company, corporation, limited liability company, or association for the amount so contributed.

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

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

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

2. A candidate or a candidate committee described in this section shall file a statement with the ~~county~~ city auditor no later than the twelfth day before the date of ~~the~~ any election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the twentieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the ~~county~~ city auditor no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the ~~county~~ city auditor for any year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the ~~county~~ city auditor must be:
 - a. Deemed properly filed when deposited with or delivered to the ~~county~~ city auditor within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the ~~county~~ city auditor within the prescribed time. If the ~~county~~ city auditor does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the ~~county~~ city auditor of its nonreceipt.
 - b. Preserved by the ~~county~~ city auditor 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 ~~county~~ city auditor and must be open to public inspection.

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

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

1. If a substantial irregularity is evident or reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, to be performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state. If an audit of a statement arranged by the secretary of state under this subsection reveals a violation of this chapter, the candidate, political party, or political committee filing the statement shall pay a fine to the secretary of state equal to five percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be paid for by the secretary of state.
2. If a substantial irregularity is reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state, upon written request by any interested party made to the secretary of state within thirty days following receipt of a statement by the secretary of state. The request must be made in writing, recite a substantial irregularity and a lawful reason for requesting an audit, and be accompanied by a bond in an amount established by the secretary of state sufficient to pay the cost of the audit. If an audit of a statement arranged by the secretary of state under this subsection reveals a violation of this chapter, the candidate, political party, or political

committee filing the statement shall pay a fine to the secretary of state equal to five percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater, and the bond shall be returned to the person submitting it. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be satisfied from the bond filed with the secretary of state.

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

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

1. ~~Except for a statement required to be filed under section 16.1-08.1-03.9, any other~~ Any statement required by this chapter to be filed with the secretary of state must be:
 - a. Deemed properly filed when deposited with or delivered to the secretary of state within the prescribed time and in the format established by the secretary of state. 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 the secretary of state does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt. After a statement has been filed, the secretary of state may request or accept written clarification along with an amended statement from a candidate, political party, or political committee filing the statement when discrepancies, errors, or omissions on the statement are discovered by the secretary of state, the candidate, political party, or political committee filing the statement, or by any interested party reciting a lawful reason for requesting clarification and an amendment be made. When requesting an amended statement, the secretary of state shall establish a reasonable period of time, not to exceed ten days, agreed to by the candidate, political party, or political committee, for filing the amended statement with the secretary of state.
 - 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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1375.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 43 Nays 0 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State