

**SENATE BILL NO. 2169**

Introduced by

Senator Poolman

1 A BILL for an Act to amend and reenact subsection 2 of section 50-22-02, subsections 1 and 2  
2 of section 50-22-02.1, and section 50-22-04 of the North Dakota Century Code, relating to  
3 registration of charitable organization and professional fundraiser and charitable organization's  
4 annual reporting.

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

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 50-22-02 of the North Dakota Century  
7 Code is amended and reenacted as follows:

8 2. The registration statement filed by a charitable organization must include a registration  
9 fee of twenty-five dollars and a financial statement of the organization's operation for  
10 its most recent twelve-month period immediately preceding the filing of the first  
11 registration statement. An initial registration filed by a charitable organization ~~in July or~~  
12 ~~August following the close of the annual reporting period described in section 50-22-04~~  
13 ~~is valid until September~~ through February first of the subsequent year. The registration  
14 continues unless revoked by a court of competent jurisdiction, ~~by~~ the secretary of  
15 state, or as provided in this chapter. If a charitable organization fails to file a  
16 registration statement or other information required to be filed by the secretary of state  
17 under this chapter, or otherwise violates this chapter, the secretary of state, upon  
18 notice by certified mail to ~~its~~ the charitable organization's last-known address, may  
19 deny or suspend the application for registration. An adjudicative proceeding under this  
20 chapter must be conducted in accordance with chapter 28-32 unless otherwise  
21 provided in this chapter. A notice required under this chapter or chapter 28-32 may be  
22 made by certified mail. In the event of revocation, the secretary of state shall retain the  
23 registration fee.

1           **SECTION 2. AMENDMENT.** Subsections 1 and 2 of section 50-22-02.1 of the North Dakota  
2 Century Code are amended and reenacted as follows:

3           1. A person may not act as a professional fundraiser subject to this chapter unless  
4           ~~that~~the person has registered with the secretary of state. The registration statement  
5           must be in writing in the form prescribed by the secretary of state and must be  
6           accompanied by a fee of one hundred dollars. The registration information must be  
7           available to the public as a matter of public record. Each registration expires on  
8           ~~September~~February first unless, ~~prior to September first~~before February second, the  
9           public fundraiser registers by filing a new registration statement, accompanied by a fee  
10          of one hundred dollars. The forms containing the registration information must include  
11          the following:

- 12          a. The name of the professional fundraiser.  
13          b. The street and mailing address and telephone number of the professional  
14          fundraiser.  
15          c. The type of fundraising to be conducted in this state.  
16          d. The name of the auditor, accountant, employee, agent, or other person who  
17          maintains or possesses the professional fundraiser's records.  
18          e. A list of all officers, agents, or employees to work under the applicant's direction.  
19          f. A list of all licensed charitable organizations with which the applicant has  
20          contracts within this state.

21          2. The professional fundraiser shall ~~also~~ include, as part of the registration statement, a  
22          bond in which the professional fundraiser is the principal obligor. The bond must be ~~in~~  
23          ~~the sum of~~at least twenty thousand dollars, with one or more responsible sureties  
24          whose liability in the aggregate as the sureties will at least equal that sum. ~~In order~~  
25          ~~to~~To maintain the registration, the bond must be in effect for the full term of the  
26          registration. The bond, which may be in the form of a rider to a larger blanket liability  
27          bond, must run to the state and to any person who may have a cause of action against  
28          the principal obligor of the bond for any liabilities resulting from the obligor's conduct of  
29          any activities subject to this chapter.

30           **SECTION 3. AMENDMENT.** Section 50-22-04 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **50-22-04. Information required to be filed annually.**

2       1. Every~~A~~ charitable organization that is required to file or that~~which~~ files a registration  
3       statement pursuant to section 50-22-02 shall file an annual report along with a ten  
4       dollar fee with the secretary of state on or before ~~September first~~February second of  
5       each year. ~~The report must be postmarked by the United States postal service or other-~~  
6       ~~carrier, in a properly addressed, postage prepaid, sealed envelope.~~

7               ~~The secretary of state may extend the filing date for the annual report of any~~  
8       ~~charitable organization, if a written application for extension is received before the~~  
9       ~~filing deadline an extension may be granted for a single year, or permanently at the~~  
10      ~~request of the charitable organization. A charitable organization with a fiscal year~~  
11      ~~ending within three months prior to the filing deadline may make a written request for~~  
12      ~~an extension to apply to reports for subsequent years until the fiscal year is changed.~~  
13      ~~A filing date may not be extended under this subsection beyond December first of any~~  
14      ~~given year an annual report is due.~~

15              Information submitted must be given as of the close of the business on the  
16      thirty-first day of December next preceding the date herein provided for the filing of the  
17      report, or, in the alternative, the date of the end of the fiscal year next preceding this  
18      report may be used.

19      2. The annual report must be filed on forms prescribed by the secretary of state and must  
20      include a financial statement covering the immediately preceding twelve-month period  
21      of operation. An officer of the charitable organization shall execute the financial  
22      statement which must include a balance sheet, statement of income and expense, and  
23      statement of functional expenses. The financial statement must be filed on or attached  
24      to forms furnished by the secretary of state and must be prepared in accordance with  
25      generally accepted accounting principles so as to make a full disclosure of the  
26      following, including necessary allocations between each item and the basis of the  
27      allocations:

- 28              a. Total receipts and total income from all sources;  
29              b. Cost of management and general;  
30              c. Program services;  
31              d. Cost of fundraising;

- 1 e. Cost of public education;
- 2 f. Funds or properties transferred out of state with explanation as to recipient and  
3 purpose, unless the information is not reasonably available, in which case the  
4 charitable organization may, with the approval of the secretary of state, provide a  
5 reasonable estimate of the amounts transferred;
- 6 g. Total net amount disbursed or dedicated within this state, broken down into total  
7 amounts disbursed or dedicated for each major purpose, charitable or otherwise,  
8 unless the information is not reasonably available, in which case the charitable  
9 organization, with the approval of the secretary of state, may provide a  
10 reasonable estimate of the required information;
- 11 h. Names of professional fundraisers used during the accounting year and the  
12 financial compensation and profit resulting to each professional fundraiser; and
- 13 i. Total compensation, including salaries, fees, bonuses, fringe benefits, severance  
14 payments, and deferred compensation, paid to employees by the charitable  
15 organization and all its affiliated organizations.
- 16 3. Unless otherwise required by this section, the financial statement does not need netto  
17 be certified.
- 18 4. Upon request of the secretary of state or attorney general, the charitable organization  
19 must promptly provide a copy of all tax or information returns, including all schedules  
20 and amendments, submitted by the charitable organization to the internal revenue  
21 service for the period covered by the annual report, except any schedules of  
22 contributors to the organization.
- 23 5. The secretary of state or attorney general may make a detailed examination of the  
24 accounts of any charitable organization conducting a solicitation for funds within this  
25 state. EveryA charitable organization subject to this chapter shall keep a full and true  
26 record in the form that will enable the charitable organization to accurately provide the  
27 information required by this chapter. The registration of a charitable organization is  
28 ineffective immediately upon ~~it~~the charitable organization's failure to file an annual  
29 report, including the payment of ~~all~~ required fees. Any such organization, if in default  
30 under this chapter, may not file a new registration statement until ~~it~~the organization  
31 files the required annual report with the secretary of state.

- 1        6. Failure to file the annual report and fee as required will mean the organization may not
- 2                solicit in this state.