

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1583

Introduced by

Representatives Kasper, Henderson, Koppelman, Louser, S. Olson, Steiner

Senators Magrum, Paulson, Weston

1 A BILL for an Act to amend and reenact ~~subsection 8 of section 16.1-08.1-01 and sections~~
2 ~~16.1-08.1-03.2, 16.1-08.1-03.7, and~~ 16.1-10-04 of the North Dakota Century Code, relating to
3 ~~registration and disclosure requirements for a person making independent expenditures and~~
4 false political advertisements; and to provide a penalty.

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

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

8 ~~— 8. "Independent expenditure" means an expenditure made for a political purpose or for~~
9 ~~the purpose of influencing the passage or defeat of a measure if the expenditure is~~
10 ~~made without the express or implied consent, authorization, or cooperation of, and not~~
11 ~~in concert with or at the request or suggestion of, any candidate, committee, or~~
12 ~~political party.~~

13 ~~— **SECTION 2. AMENDMENT.** Section 16.1-08.1-03.2 of the North Dakota Century Code is~~
14 ~~amended and reenacted as follows:~~

15 ~~— **16.1-08.1-03.2. Political committee and candidate registration.**~~

16 ~~— 1. A political committee as defined in section 16.1-08.1-01 shall register its name, mailing~~
17 ~~address, telephone number, and nongovernment issued electronic mail address, its~~
18 ~~agent's name, mailing address, telephone number, and nongovernment issued~~
19 ~~electronic mail address, and a designation as to whether the committee is~~
20 ~~incorporated solely for the purpose of liability protection, with the secretary of state. A~~

1 candidate who does not have a candidate committee shall register the candidate's
2 name, mailing address, telephone number, and nongovernment issued electronic mail
3 address with the secretary of state. If the candidate has an agent, the candidate also
4 shall register the agent's name, mailing address, telephone number, and
5 nongovernment issued electronic mail address with the secretary of state. The
6 registration required under this section for a candidate or political committee that has
7 not previously registered with the secretary of state must be submitted within fifteen
8 business days of the receipt of any contribution or expenditure made.

9 ~~2. A candidate or political committee required to be registered under this section must~~
10 ~~register with the secretary of state each year during which the candidate holds public~~
11 ~~office or during which the political committee receives contributions, makes~~
12 ~~expenditures for political purposes, or has a balance in the campaign account. An~~
13 ~~individual who no longer holds public office or an individual who no longer seeks public~~
14 ~~office must register with the secretary of state each year in which contributions are~~
15 ~~received, expenditures are made for political purposes, or has a balance in the~~
16 ~~campaign account.~~

17 ~~3. A political committee that organizes and registers according to federal law and makes~~
18 ~~an independent expenditure or makes a disbursement in excess of two hundred~~
19 ~~dollars to a nonfederal candidate seeking public office, a political party, or political~~
20 ~~committee in this state is not required to register as a political committee according to~~
21 ~~this section if the political committee reports according to section 16.1-08.1-03.7.~~

22 ~~4. Registration by a political committee under this section does not reserve the name for~~
23 ~~exclusive use nor does it constitute registration of a trade name under chapter 47-25.~~

24 ~~SECTION 3. AMENDMENT. Section 16.1-08.1-03.7 of the North Dakota Century Code is~~
25 ~~amended and reenacted as follows:~~

26 ~~16.1-08.1-03.7. Political committees that organize and register according to~~
27 ~~organizing~~
28 ~~and registering under federal law that make making independent expenditures or~~
29 ~~disbursements to nonfederal candidates, political parties, and political committees.~~

29 ~~A political committee that organizes~~
30 ~~organizing and registers according to~~
31 ~~registering under~~
~~federal law and makes~~
~~receiving a contribution, making an independent expenditure or makes,~~
~~or making a disbursement in excess of two hundred dollars to a nonfederal candidate seeking~~

1 ~~public office or to a political party or political committee in this state shall file a copy of that~~
2 ~~portion of the committee's federal report detailing the independent expenditure or the~~
3 ~~disbursement made. The political committee shall file a copy of the committee's federal report,~~
4 ~~and supplementary information as necessary under this section, disclosure statement with the~~
5 ~~secretary of state at the time of filing the report with the applicable federal agency. The report~~
6 ~~and supplementary information must include:~~

- 7 ~~— 1. The name, mailing address, and treasurer of the political committee;~~
8 ~~— 2. The recipient's name and mailing address;~~
9 ~~— 3. The date and amount of the independent expenditure or disbursement; and~~
10 ~~— 4. The ultimate and true source of funds listed by contributor and subcontributor of any~~
11 ~~amount over two hundred dollars collected or used to make the independent~~
12 ~~expenditure or disbursement including:~~
13 ~~— a. The name and address of the contributor;~~
14 ~~— b. The total amount of the contribution; and~~
15 ~~— c. The date the last contribution was received.~~

16 ~~— 1. Before the thirty first day before a primary, general, or special election, a corporation,~~
17 ~~cooperative corporation, limited liability company, affiliate, subsidiary, or association~~
18 ~~subject to this subsection shall file a campaign disclosure statement, including all~~
19 ~~contributions received and expenditures made from January first through the fortieth~~
20 ~~day before the election. A statement required to be filed under this subsection may be~~
21 ~~submitted for filing beginning on the thirty ninth day before the election. The statement~~
22 ~~must include:~~

- 23 ~~— a. The ultimate and true source of funds listed by a contributor and subcontributor of~~
24 ~~any amount over one thousand dollars collected or used to make the~~
25 ~~independent expenditure or disbursement, including:~~
26 ~~— (1) The name and address of the contributor;~~
27 ~~— (2) The total amount of the contribution; and~~
28 ~~— (3) The date the last contribution was received;~~
29 ~~— b. The total of all aggregated contributions from contributors exceeding one~~
30 ~~thousand dollars during the reporting period;~~

- ~~c. The total of all contributions received from contributors that contributed one thousand dollars or less each during the reporting period;~~
- ~~d. For expenditures exceeding two hundred dollars in the aggregate, made on behalf of another person in support of or in opposition to the election or nomination of a candidate to public office or the passage or defeat of a measure:~~
 - ~~(1) The name and mailing address of the person for which the expenditures were made;~~
 - ~~(2) The total amount of the expenditures;~~
 - ~~(3) The date the last expended amount was made on behalf of that person; and~~
 - ~~(4) The expenditure category of the expenditures;~~
- ~~e. The aggregate total of all expenditures made for a political purpose exceeding two hundred dollars;~~
- ~~f. The aggregate total of all expenditures made for a political purpose of two hundred dollars or less;~~
- ~~g. If the expenditure is related to a measure or petition, the title of the measure or petition and whether the expenditure is made in support of or opposition to the measure or petition; and~~
- ~~h. If the expenditure is related to a candidate, the name of the candidate and whether the expenditure is made in support of or opposition to the candidate.~~
- ~~2. Beginning on the thirty ninth day before the election through the day before the election, a person that files a statement under subsection 1 must file a supplemental statement within forty eight hours of the start of the day following the receipt of a contribution or aggregate contribution from a contributor exceeding one thousand dollars. The statement must include:~~
 - ~~a. The name and mailing address of the contributor;~~
 - ~~b. The total amount of the contribution received during the reporting period; and~~
 - ~~c. The date the last contributed amount was received.~~
- ~~3. Before February first, a corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association subject to this subsection shall file a campaign disclosure statement, including all contributions received and expenditures made from January first through December thirty first of the previous year. A statement required to~~

- 1 ~~be filed under this subsection may be submitted for filing beginning on January first;~~
2 ~~The statement must include:~~
- 3 ~~a. The ultimate and true source of funds listed by a contributor and subcontributor of~~
4 ~~any amount over one thousand dollars collected or used to make the~~
5 ~~independent expenditure or disbursement, including:~~
- 6 ~~(1) The name and address of the contributor;~~
7 ~~(2) The total amount of the contribution; and~~
8 ~~(3) The date the last contribution was received;~~
- 9 ~~b. The total of all aggregated contributions from contributors exceeding one~~
10 ~~thousand dollars during the reporting period;~~
- 11 ~~c. The total of all contributions received from contributors that contributed one~~
12 ~~thousand dollars or less each during the reporting period;~~
- 13 ~~d. For expenditures exceeding two hundred dollars in the aggregate, made on~~
14 ~~behalf of another person in support of or in opposition to the election or~~
15 ~~nomination of a candidate to public office or the passage or defeat of a measure:~~
- 16 ~~(1) The name and mailing address of the person for which the expenditures~~
17 ~~were made;~~
- 18 ~~(2) The total amount of the expenditures made;~~
19 ~~(3) The date the last expended amount was made on behalf of that person; and~~
20 ~~(4) The expenditure category of the expenditures;~~
- 21 ~~e. The aggregate total of all expenditures made for a political purpose exceeding~~
22 ~~two hundred dollars; and~~
- 23 ~~f. The aggregate total of all expenditures made for a political purpose of two~~
24 ~~hundred dollars or less;~~
- 25 ~~g. If the expenditure is related to a measure or petition, the title of the measure or~~
26 ~~petition and whether the expenditure is made in support of or opposition to the~~
27 ~~measure or petition; and~~
- 28 ~~h. If the expenditure is related to a candidate, the name of the candidate and~~
29 ~~whether the expenditure is made in support of or opposition to the candidate.~~

30 **SECTION 1. AMENDMENT.** Section 16.1-10-04 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-10-04. Publication of false information in political advertisements - Penalty.**

- 2 1. A person is guilty of a class A misdemeanor if ~~that~~the person knowingly, or with
3 reckless disregard for its truth or falsity, publishes ~~any~~a political advertisement or news
4 release ~~that contains any~~containing an assertion, representation, or statement of fact,
5 including information concerning a candidate's prior public record, which is untrue,
6 deceptive, or misleading, ~~whether~~ on behalf of or in opposition to any candidate for
7 public office, initiated measure, referred measure, constitutional amendment, or any
8 other issue, question, or proposal on an election ballot, and ~~whether the publication is~~
9 published by radio, television, newspaper, pamphlet, folder, display cards, signs,
10 posters, billboard advertisements, websites, electronic transmission, social media, or
11 ~~by~~ any other public means or commercial medium.
- 12 2. This section does not apply to a newspaper, television or radio station, or other
13 commercial medium that is not the source of the political advertisement or news
14 release.
- 15 3. A candidate who is the subject of an untrue, deceptive, or misleading advertisement
16 under this section may commence a civil action to recover civil damages. A candidate
17 who successfully recovers civil damages under this section must be awarded the full
18 amount of all costs and attorney's fees incurred by the candidate during the pendency
19 of the civil proceedings.