

February 13, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2299

Page 1, line 3, replace "sections" with "section"

Page 1, line 3, after the first comma insert "subsection 3 of section 16.1-08.1-02, subsection 2 of section 16.1-08.1-03, sections"

Page 1, line 3, remove the second "and"

Page 1, line 4, replace "subsection 1 of section" with "16.1-08.1-03.3,"

Page 1, line 4, replace "sections" with "and"

Page 1, line 4, after the second comma insert "subsection 3 of section 16.1-08.1-03.8, subsection 2 of section 16.1-08.1-03.9, subsection 2 of section 16.1-08.1-03.10, subsection 2 of section 16.1-08.1-03.11, and sections"

Page 1, line 4, replace "and" with "16.1-08.1-05, 16.1-08.1-06,"

Page 1, line 5, after "16.1-08.1-06.1" insert ", and 16.1-08.1-07"

Page 1, line 5, remove "and"

Page 1, line 7, after "organizations" insert "; to provide a penalty; and to provide an effective date"

Page 1, line 22, overstrike "A person" and insert immediately thereafter "An individual"

Page 2, line 1, overstrike "A person" and insert immediately thereafter "An individual"

Page 2, line 1, overstrike "person's" and insert immediately thereafter "individual's"

Page 2, line 4, overstrike "A person" and insert immediately thereafter "An individual"

Page 2, line 4, overstrike "person's" and insert immediately thereafter "individual's"

Page 2, line 6, overstrike "A person" and insert immediately thereafter "An individual"

Page 2, line 6, overstrike "person's" and insert immediately thereafter "individual's"

Page 2, line 8, overstrike "A person" and insert immediately thereafter "An individual"

Page 2, line 9, overstrike "person's" and insert immediately thereafter "individual's"

Page 3, after line 6, insert:

"g. An independent expenditure."

Page 3, line 10, overstrike ""Direct expenditure" means an expenditure made by a corporation, cooperative"

Page 3, overstrike lines 11 through 14

Page 3, line 15, overstrike "6."

Page 3, line 15, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "for" insert "a political purpose or for"

Page 3, line 18, overstrike "direct"

Page 3, line 19, overstrike "or the nomination for election, or election, of any individual to office"

Page 3, line 19, overstrike "The term"

Page 3, line 20, overstrike "also means a" and insert immediately thereafter:

"b. A"

Page 3, line 21, overstrike "and includes the" and insert immediately thereafter ".

c. The"

Page 3, after line 22, insert:

"d. An independent expenditure."

Page 3, line 23, overstrike "7." and insert immediately thereafter "6."

Page 3, line 23, remove "expressly advocating the election or"

Page 3, replace lines 24 through 28 with "made for a political purpose or for the purpose of influencing the passage or defeat of a measure if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or a candidate committee or measure committee."

Page 3, line 29, replace "8." with "7."

Page 4, line 1, remove the overstrike over "8."

Page 4, line 1, remove "9."

Page 4, line 4, remove the overstrike over "9."

Page 4, line 4, remove "10."

Page 4, line 8, overstrike "direct"

Page 4, line 9, overstrike "contributions" and insert immediately thereafter "a contribution"

Page 4, line 9, overstrike "16.1-08.1-03.3" and insert immediately thereafter "16.1-08.1-03.5"

Page 4, line 21, remove the overstrike over "10."

Page 4, line 21, remove "11."

Page 4, line 25, remove the overstrike over "11."

Page 4, line 25, remove "12."

Page 5, line 4, remove "or activities undertaken as part of an independent"

Page 5, line 5, remove "expenditure as defined in this section"

Page 5, line 6, remove the overstrike over "12."

Page 5, line 6, remove "13."

Page 5, line 6, overstrike "persons" and insert immediately thereafter "an individual"

Page 5, after line 7, insert:

**"SECTION 2. AMENDMENT.** Subsection 3 of section 16.1-08.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall file the statement in the office of the secretary of state no later than the ~~twelfth~~thirty-second day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes complete from the beginning of that calendar year through the ~~twentieth~~fortieth day before the date of the election. Every candidate committee, or candidate for statewide office who does not have a candidate committee, and every candidate for legislative office shall file a complete statement for each calendar year no later than the thirty-first day of January of the following year, regardless of whether the candidate sought election during that calendar year.

**SECTION 3. AMENDMENT.** Subsection 2 of section 16.1-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

2. 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. A preelection statement must be filed no later than the ~~twelfth~~thirty-second day before any election at which the party has endorsed or will nominate a candidate and must be complete from the beginning of that calendar year through the ~~twentieth~~fortieth day before the election."

Page 7, line 11, after "makes" insert "an independent expenditure or makes"

Page 7, line 12, remove ", on behalf of, or in opposition to"

Page 7, replace lines 17 through 28 with:

**"SECTION 6. 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 except that a direct contribution may be made to a measure committee as provided in section 16.1-08.1-03.5.~~
  - b. ~~To aid any corporation, limited liability company, or association organized or maintained for political purposes as defined in this chapter.~~
  - c. ~~To aid any candidate for public office or for nomination to 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~~ A corporation, cooperative corporation, limited liability company, or association may establish, administer, and solicit contributions to a separate and segregated fund to be utilized for political purposes by ~~at~~ the 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 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. ~~2.~~ 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~~ thirty-second day before

any primary, special, or general election and must be complete from the beginning of the calendar year through the ~~twentieth~~fortieth 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.

~~4.3.~~ 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.

~~5.4.~~ 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.

~~6.5.~~ 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.

~~7.6.~~ 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.

~~8.7.~~ 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.

~~9.8.~~ 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 7. AMENDMENT.** Section 16.1-08.1-03.5 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.5. ~~Allowable corporate~~Corporate contributions and expenditures - Report required.**

1. ~~Corporations, cooperative corporations, limited liability companies, and associations may make contributions to a measure committee, as described in section 16.1-08.1-01, for the purpose of promoting passage or defeat of initiated or referred measures.~~ Corporations, cooperative corporations, limited liability companies, and associations may make expenditures and contributions for promoting any general political philosophy or belief deemed in the best interest of the employees, stockholders, patrons, or members of the corporation, cooperative corporation, limited liability company, or association other than a "political purpose" as defined by this chapter. A corporation, cooperative corporation, limited liability company, or association may not make a contribution for a political purpose.
2. A corporation, cooperative corporation, limited liability company, or association may make a donation of property or money to a state political party or nonprofit entity affiliated with or under the control of a state political party for deposit in a separate and segregated fund. Money in the fund must be used exclusively by the state political party or nonprofit entity affiliated with or under the control of a state political party for purchasing, maintaining, or renovating a building and for the purchase of fixtures for the building. A state political party or nonprofit entity affiliated with or under the control of a state political party receiving a donation under this subsection shall file a statement with the secretary of state no later than the thirty-first day of January of each calendar year. The statement must include the name and mailing address of each donor, the amount of each donation, the date each donation was received, all expenditures made from the fund during the previous calendar year, and cash on hand in the fund at the start and close of the reporting period. Any income and financial gain generated from a building purchased, maintained, or renovated from donations authorized under this subsection and not otherwise authorized by law must be deposited in the building fund and must be reported when the political party or nonprofit entity files the statement required under this subsection.
3. A corporation, cooperative corporation, limited liability company, or association may make a contribution to a measure committee for the purpose of promoting the passage or defeat of an initiated or referred measure or make a contribution to any other person that makes an independent expenditure. A corporation, cooperative corporation, limited liability company, or association may make ~~a direct~~an independent expenditure for a political purpose or for the purpose of promoting passage or defeat of initiated or referred measures. ~~A direct expenditure~~The corporation, cooperative corporation, limited liability company, or association shall file a statement disclosing a contribution or an independent expenditure made under this subsection with the secretary of state within forty-eight hours after making the contribution or independent expenditure. The statement must include:

- a. The full name of the corporation, cooperative corporation, limited liability company, or association;
- b. The complete address of the corporation, cooperative corporation, limited liability company, or association;
- c. ~~The name and telephone number of the person completing the report of the recipient of the contribution or independent expenditure;~~
- d. ~~The~~ if the contribution or independent expenditure is related to a measure, the title of the measure and whether the contribution or independent expenditure is made in support of or opposition to the measure;
- e. ~~The~~ if the contribution or independent expenditure is related to a measure, the election date on which the measure either will appear or did appear on the ballot;
- f. The amount of the contribution or independent expenditure;
- g. The cumulative total amount of contributions and independent expenditures since the beginning of the calendar year ~~in support of or opposition to the measure~~ which are required to be reported under this subsection;
- h. The telephone number and the printed name and signature of the ~~person~~ individual completing the report, attesting to the report being true, complete, and correct; and
- i. The date on which the report was signed."

Page 8, line 2, after "make" insert "independent expenditures or"

Page 8, line 2, remove ", on behalf of, or in opposition to"

Page 8, line 4, after "makes" insert "an independent expenditure or makes"

Page 8, line 5, remove ", on behalf of, or in opposition to"

Page 8, line 7, after the second "the" insert "independent expenditure or the"

Page 8, line 13, after "the" insert "independent expenditure or"

Page 8, line 13, overstrike "made"

Page 8, after line 13, insert:

**"SECTION 9. AMENDMENT.** Subsection 3 of section 16.1-08.1-03.8 of the North Dakota Century Code is amended and reenacted as follows:

3. A multicandidate political committee required to file a statement under this section shall file the statement in the office of the secretary of state no later than the ~~twelfth~~ thirty-second day before the date of any primary, special, or general election. The statement must be complete from the beginning of that calendar year through the ~~twentieth~~ fortieth day before the date of the primary, special, or general election. The political committee shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year in which the political committee received a reportable contribution.

**SECTION 10. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.9 of the North Dakota Century Code is amended and reenacted as follows:

2. A candidate or a candidate committee described in this section shall file a statement with the secretary of state no later than the ~~twelfth~~thirty-second day before the date of the 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~~fortieth day before the date of the election.

**SECTION 11. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.10 of the North Dakota Century Code is amended and reenacted as follows:

2. A candidate or a candidate committee described in this section shall file a statement with the county auditor no later than the ~~twelfth~~thirty-second day before the date of the 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~~fortieth day before the date of the election.

**SECTION 12. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.11 of the North Dakota Century Code is amended and reenacted as follows:

2. A candidate or a candidate committee described in this section shall file a statement with the city auditor no later than the ~~twelfth~~thirty-second day before the date of 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~~fortieth day before the date of the election."

Page 9, line 6, remove "certified"

Page 9, line 10, remove "certified"

Page 10, line 3, remove "other than a measure committee"

Page 10, line 5, replace "nineteen" with "thirty-nine"

Page 10, line 8, remove the overstrike over "~~16.1-08.1-03.1,~~"

Page 10, replace lines 12 through 18 with:

**"SECTION 15. 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, or other

person filing the statement shall pay a fine to the secretary of state equal to ~~five~~two hundred 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~~two hundred 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.
3. 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 sections 16.1-08.1-03.10 and 16.1-08.1-03.11.

**SECTION 16. AMENDMENT.** Section 16.1-08.1-06 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Any statement required by this chapter to be filed with the secretary of state must be:
  - a. Deemed properly filed when ~~deposited with or~~electronically 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~~ten 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. Any statement and data filed electronically must be made available on the internet to the public free of charge within twenty-four hours after filing.
4. 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."

Page 11, after line 9, insert:

**"SECTION 18. AMENDMENT.** Section 16.1-08.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-07. Penalty.**

Except as otherwise provided, any person who willfully violates any provision of this chapter is guilty of ~~an infraction~~a class A misdemeanor."

Page 11, after line 11, insert:

**"SECTION 20. EFFECTIVE DATE.** Section 16 of this Act becomes effective on May 1, 2014."

Renumber accordingly